

13 for Defendant Nichols.

14 * * * * *

15 PROCEEDINGS

16 (Reconvened at 1:40 p.m.)

17 THE COURT: Please be seated.

18 All right. We'll continue with 741 -- or
excuse me.

19 Not 741. 4.

20 MS. WILKINSON: No. 110.

21 THE COURT: I'll get it right yet. 110.
Thank you.

22 (Juror No. 110 was recalled to the stand.)

23 THE COURT: All right. If you'll resume,
please, we

24 have some questions from counsel. Mr. Mearns.

25 MR. MEARNS: Thank you, your Honor.

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Juror No. 110 - Voir Dire

1 VOIR DIRE EXAMINATION

2 BY MR. MEARNS:

3 Q. Good afternoon, ma'am.

4 A. Good afternoon.

5 Q. As the Judge introduced me before we broke for
lunch, my

6 name is Jeff Mearns and I'm one of the prosecutors in
this case

7 who will be presenting our evidence. I'd just like to
follow
8 up with a couple of the items on the questionnaire and
follow
9 up on a couple of the questions that the Court asked
you before
10 we broke.

11 Beginning with your service in the Navy. I
understand
12 from the questionnaire that you started there in about
February
13 of '88; is that right?

14 A. Yes.

15 Q. Okay. Why did you enlist? Why did you join the
military?

16 A. My husband had been in the Navy and for schooling.
To get
17 money for my schooling. And I just thought that it
would be
18 something like that I would like to do. Part of a
team, you
19 know, stuff like that.

20 Q. And did you find that the experience in general was
what
21 you had expected?

22 A. Pretty much.

23 Q. Were you disappointed when you needed to be
discharged for
24 medical reasons? Was it something that you were hoping
to
25 continue at that point?

Juror No. 110 - Voir Dire

1 A. I had wanted to, yes.

2 Q. What kind of work did you do as a Seabee? I
understand you

3 weren't out on ships, but you were stationed in Japan
for a

4 while. What kind of work did you do?

5 A. We were maintenance for the Marine Corps bases, and
I ran

6 supply.

7 Q. Okay. And you're now with the Postal Service?

8 A. Yes.

9 Q. Okay. And you've been there about a little over
two years;

10 is that right?

11 A. About two and a half, yes.

12 Q. And you indicated that you work the graveyard
shift?

13 A. Yeah.

14 Q. And that's what, midnight to 8, something like --

15 A. Yeah.

16 Q. Is that a shift that you picked?

17 A. Yes, it is.

18 Q. Why did you pick that?

19 A. Well, that's when most of the work is there, you

know,

20 where you have to distribute it to the carriers and
stuff like

21 that. And you don't have to deal with a lot of people.

22 There's only maybe eight on our shift. And I go in and
open it

23 up, and I just enjoy doing the work.

24 Q. As opposed to being distracted by --

25 A. Well, no. Just not having much to do, because
after 8:30,

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Juror No. 110 - Voir Dire

1 we don't do much, so --

2 Q. Okay. Having been in the Navy and now working for
the

3 Postal Service, you were essentially a -- in the
federal

4 employment in the military and I guess quasi-federal
employment

5 as a Postal Service worker. You understand some of the

6 allegations in the case that -- that you may hear
testimony if

7 you were a juror about victims who were also federal
employees?

8 A. Yes.

9 Q. Would there be anything about that testimony and
your

10 present working -- your present position or your
position with

impartial 11 the Navy that would prevent you from being a fair and

12 juror?

still 13 A. No. Because whether you're federal or not, you're

14 just part of a working force or whatever.

any 15 Q. So you don't feel that that would disqualify you in

16 way?

17 A. No.

your 18 Q. I'd like to follow up on briefly just about some of

dogs? 19 interests. You told us this morning that you had two

20 A. Yes.

about some 21 Q. Okay. And I also see on page 16, Question 70,

you 22 of the books that you've read. And the first book that

handwriting 23 listed there was a book by -- if I'm reading your

24 correctly was called Joe Dogs?

25 A. Yes.

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kind of 1 Q. But I suspect that wasn't necessarily about the

2 four-legged canine types; right?

was a 3 A. No. He was in the Mafia and turned informant. It

4 true story.

that's 5 Q. And I see then the book below that, Donnie Brasco,

6 also a book about the Mafia?

7 A. Yes.

enjoy 8 Q. Okay. And you indicated just below that that you

9 reading true stories about the Mafia?

10 A. Yes.

born in 11 Q. Tell us how you developed that interest. You were

Denver. 12 Fargo, North Dakota, spent most of your adult life in

13 A. I was married to an Italian.

14 Q. Okay.

15 A. Pure-blooded Italian.

16 Q. Have you read Salvatore Gravano's book?

17 A. Not yet. I do have it, though.

page 27, 18 Q. Okay. Which brings me to my next question. On

have any 19 Question 121, there at the top, which asks you if you

guilty and 20 opinions about a case in which a witness has pleaded

will help 21 has agreed to testify. And you wrote there, "If it

22 in stopping more crime."

about 23 Could you elaborate for us a little bit more
witness. 24 what -- what -- your views about that kind of a
you've 25 A. Well, I feel if, you know -- like with the Mafia,

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Juror No. 110 - Voir Dire

somebody 1 got a huge organized crime base or whatever. And if
eventually 2 can help you in breaking that down into parts to
You 3 stop it all, I think it's good for that kind of stuff.
come in 4 know, just to identify areas where law enforcement can
5 and take care of crime.

would you 6 Q. If such a witness were to testify in this case,
mind? 7 be able to consider his or her testimony with an open

8 A. I believe so.

9 Q. Finally, I'd just like to follow up briefly on some
those are 10 questions about possible punishment in this case, and
Question 11 the questions just a little bit after that on page 28,
questionnaire 12 124. And as the Court indicated to you, the
13 essentially asked us for your opinions or your views

about

14 punishment including the death penalty, and you told us
a
15 little bit about on the questionnaire what your -- what
your
16 view -- view of capital punishment is. You indicate in
17 response to one of the -- the Court's questions about
Jeffrey
18 Dahmer that one of the -- or some of the factors that
you would
19 consider in determining appropriate punishment were the
20 sickness of the crime and the number of people
involved. By
21 people involved, did you mean the number of victims who
were --
22 who were killed in a particular case?

23 A. Yes.

24 Q. The Court then told you a little bit about what the
law
25 actually is, what the process that we'll follow if we
get into

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1 a penalty phase and what the law is. You indicated on
page 30
2 in Question 129 that you agreed strongly with the
proposition
3 that jurors should follow the Court's instructions. Is
that

4 correct?

5 A. Yes.

6 Q. Okay. Is that your same view with respect to the
Court's
in the
7 instructions regarding the law in punishment as well as
8 guilt phase?

9 A. Yes.

10 Q. If we get to a penalty phase in this case, as the
Court
second
11 explained, we'll have a kind of a second hearing or
12 trial. You understand that now?

13 A. Yes.

14 Q. Okay. And the Court outlined briefly that in this
hearing,
factors
15 or in this trial, you will hear evidence of aggravating
16 from the Government -- that is, certain facts which
suggest
17 that -- that the death penalty is a justified sentence
-- and
18 that you may hear evidence of mitigating factors --
that is,
19 evidence that shows that death is not justified for
this crime
20 or for this individual defendant. Do you understand
from the
21 Court's instructions that as a juror, you must be able
to
22 consider all of those facts before you reach a decision
as to

23 what the appropriate punishment will be?

24 A. Yes.

25 Q. Do you understand that it's important and in fact,
that the

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1 law demands that you keep an open mind, no matter how
heinous

2 the crime or no matter how many victims are involved?

3 A. Yes, I do.

4 Q. Can you do that? Can you keep an open mind before
you

5 determine an appropriate punishment?

6 A. Yes, I think I'm very open-minded.

7 MR. MEARNS: Thank you.

8 Thank you, your Honor.

9 THE COURT: Mr. Tigar.

10 VOIR DIRE EXAMINATION

11 BY MR. TIGAR:

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. The Judge has already introduced me, also. I'm
Michael

15 Tigar. And along with Ron Woods here, we're the
lawyers

16 appointed by the United States District Court in

Oklahoma to

17 help Terry Nichols.

18 And our job will be to -- as soon as the
Government

19 puts on a witness, to cross-examine that witness and to
present

20 any exhibits we want to at that time and then when the
21 Government is finished with its case, to put on
witnesses of

22 our own. That's what we're going to do.

23 A. Okay.

24 Q. And I wanted to ask you some questions first about
your

25 military service. I know others have, but as a -- as a
Seabee,

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1 what was your rating?

2 A. I was a construction mechanic.

3 Q. Construction mechanic. And then you got to E4; is
that

4 right --

5 A. Yes, sir.

6 Q. -- in your time?

7 A. Yes.

8 Q. And how does that work at the base there in
Okinawa? Do

9 you report to a naval officer who is a supply officer?
10 A. No. We had our own little unit of Seabees. There
were
11 anywhere from 10 to 15 at any time, and we did have our
own
12 OIC, and then he would report to the top sergeants over
on
13 Foster.
14 Q. Oh, I see. So -- and the top sergeant was a Marine
Corps
15 sergeant --
16 A. Yes.
17 Q. -- like an E8 or E9 or something like that?
18 A. Yes.
19 Q. Okay. Now, you mentioned that your supervisor or
somebody
20 at work said well, you won't get on this jury; you're a
federal
21 employee?
22 A. Right. Yes, they have all -- they have all told me
that.
23 Q. Who all has told you that?
24 A. My immediate supervisor and his supervisor.
25 Q. Okay. And what did you think when they said that?

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1 A. I didn't think that was true; because for one
thing, I got

2 the reply to go to Jefferson County.

3 Q. Uh-huh.

4 A. And then they said -- after that, they said the
same thing,

5 and I said, well --

6 Q. Did they explain what they meant by that?

7 A. No. That was just their statement.

8 Q. Okay. Did -- I mean, was it -- did you think they
were

9 telling you because of this case you wouldn't get on it
or just

10 in general, they didn't think people would get on
juries that

11 were federal employees?

12 A. No. I believe it was the case.

13 Q. Oh, I see. What about the case did you understand
them to

14 be saying?

15 A. Just because it was a federal -- because it
happened in a

16 federal building and I'm a federal employee.

17 Q. Okay. All right. Now, you mentioned -- if you
would turn,

18 please, to page -- I can't remember if it's 33 or 34 of
the

19 questionnaire, but I will have that in a moment. Yes.
33, if

20 you would, please. That you were asked if you'd read
or --

21 Question 144. If you'd read or heard anything about

the

22 Oklahoma City bombing, indicate where you heard or
read; and

23 then TV news, radio news, newspaper, conversations, and
hear

24 other people. Those are the ones that you checked.

25 A. Yes.

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1 Q. Could you tell me what -- what is your source of TV
news?

2 A. Well, at the time, I had just started at the post
office.

3 So if I catch five minutes of news, I'm lucky. And
it's just

4 the local stations.

5 Q. Okay. And what is your shift? You say it's the
graveyard

6 shift. What hours does the post office consider
graveyard?

7 A. 12 -- well, their graveyard is 11 to 7, but mine is
8 midnight to 8:30.

9 Q. And how about radio news? What's your source of
that?

10 A. I just hear the little blips in the morning --

11 Q. Okay.

12 A. -- on my headset.

13 Q. And -- oh, on your headset. Do you -- do you

listen to the

14 radio at work or --

15 A. Yes.

16 Q. Okay. And you have a -- what --

17 A. Earphones.

18 Q. Earphone kind of radio?

19 A. Yeah.

20 Q. I don't want to give any brand names here because I
don't

21 want to give them publicity. But it's one of those
little

22 AM-FM deals?

23 A. Yeah.

24 Q. And how about newspaper?

25 A. No. Mostly, I read the sports if I do get to read
it.

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1 Q. Okay. All right. Well, what were -- I just want
to know

2 what you were referring to when you said you had read
or heard

3 something about this Oklahoma City situation in the
newspaper,

4 what you meant.

5 A. Well, like headlines.

6 Q. Okay.

7 A. You know, you read the thing under the headlines.

8 Q. Right. And how about conversations? Did you talk
with

9 folks about it?

10 A. Well, sure. You know, like right after it had
happened.

11 See, I was told at work; and I didn't even believe it
until I

12 got home that night, you know. I didn't --

13 Q. Yeah.

14 A. You know, because I really don't talk to that many
people

15 at work, so . . .

16 Q. When were you -- were you working at the post --
Postal

17 Service at the time, April 19, 1995?

18 A. Yes.

19 Q. Okay. And --

20 A. I was working the day shift then.

21 Q. Okay. And you heard about it there and people were
talking

22 about it?

23 A. Yes, sir.

24 Q. And have you kept up from time to time talking
about it

25 with other people at work?

Juror No. 110 - Voir Dire

1 A. No, sir.

2 Q. Okay. Well, if you'd turn the page. Now, let's
see. Turn

3 over two pages to 3 -- to page 36, Question 158. "I
know the

4 government building was blown up and 168 people died.
McVeigh

5 was sentenced to death."

6 Now, from what you've seen, heard, and read,
do you

7 remember how the explosive device was delivered?

8 A. A truck, I believe.

9 Q. And do you know from what you've seen, heard, or
read where

10 Terry Nichols was on that day?

11 A. No.

12 Q. Okay. Do you know whether he was -- have you seen
or read

13 whether he was in Oklahoma City or someplace else or
whatever?

14 A. No, sir.

15 Q. Do you have any recollection, any memory from what
you've

16 seen, heard, or read how Terry Nichols first came in
contact

17 with law enforcement?

18 A. No.

19 Q. Do you have any memory of how Tim McVeigh came in
contact

20 with law enforcement?

21 A. No.

1 -- 22 Q. Okay. Now, you mentioned that on -- the next page,

you tell 23 Question 159, that he may have been part of it. Could

may have 24 me a little more about that, what do you mean, that he

25 been part of it? What is your impression?

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Juror No. 110 - Voir Dire

and read 1 A. Well, from what, you know, I've seen on the news

been 2 in the paper and stuff, is that he possibly could have

that much 3 part of it. That's all I know. I really don't know

4 about it, to tell you the truth.

when you 5 Q. Okay. Did you -- do you remember where you were

6 heard that Timothy McVeigh had been convicted?

7 A. At work, probably.

there? 8 Q. And was there any reaction at work from the people

9 A. No.

10 Q. How did you feel about that?

know that 11 A. I felt unsure, you know, because I really don't

gone on 12 much about the case. I don't know much about what has

another. 13 and stuff; so to me, I couldn't judge one way or

questions, 14 Q. Okay. Now, turning back to some of these other

you've 15 you mentioned you -- you own, and I don't know whether

16 read, a book or books by John Grisham.

17 A. Yes.

18 Q. Okay. Have you read any of his books?

19 A. Yes.

20 Q. They --

21 A. He's done A Time to Kill.

Lawyer 22 Q. Correct. A Time to Kill; right. The Client, The

23 (sic), The Pelican Brief?

24 A. I did read The Pelican Brief.

25 Q. The Chamber.

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Juror No. 110 - Voir Dire

1 A. And The Firm.

We're -- 2 Q. Well -- yeah. This is not a current events test.

3 he does write about lawyers.

4 A. Yes.

5 Q. And I'm just wondering from -- from reading those
books, do

6 you have any opinion about lawyers, the criminal
justice system

7 based on that?

8 A. Not really. I just like the way his lawyers have
to go

9 through to get -- you know, what they want.

10 Q. What they -- okay. And you also said -- and I
think the

11 prosecutor asked you about it -- you liked stories
about the

12 Mafia; right?

13 A. Yes.

14 Q. Okay. And I want to ask a little bit about that
because

15 you -- you mentioned that if there was a witness who
had made

16 some plea bargain with the Government, you'd be able to
17 consider that witness's testimony with an open mind;
right?

18 A. Yes.

19 Q. And I want to follow up a little bit about that.
You do

20 have Mr. Gravano's book, you say?

21 A. Yes.

22 Q. Okay. And you know his nickname?

23 A. "Sammy The Bull."

24 Q. "Sammy The Bull." Do you have any view about the

25 appropriateness of the Government making a bargain with

2855

Juror No. 110 - Voir Dire

1 somebody who has committed multiple murders to turn
them

2 into -- to have them be an informant?

3 A. No. Like I say, if it'll help them to achieve in
breaking

4 more of the crime or whatever, I agree with it.

5 Q. Okay. And if the Judge were to give you
instructions about

6 how to consider the testimony of someone who had made a
bargain

7 with the Government or who had received immunity, would
you be

8 able to follow those instructions?

9 A. I believe so.

10 Q. Okay. Would you be able to follow the instructions
about

11 that or any other question about what -- you know, how
to look

12 at witnesses' testimony, even if they disagreed with
your own

13 view coming into the situation?

14 A. I believe so.

15 Q. Okay. Now, could you turn, please, to page 30 of
your

16 questionnaire. I'd like to ask you about that.
Question 132,

17 could you expand on that answer for me. How did you --
how did
18 you evaluate what happened at Waco?
19 A. Well, I believe that Koresh should have allowed
people to
20 leave. He should have gotten the children out of
there. If he
21 has a problem with the government, the laws, whatever
the
22 problem was, he needed to take care of that himself.
He didn't
23 need to involve innocent lives.
24 Q. Okay. Well, then -- oh, one more question. You
raise
25 dogs -- or you have two?

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Juror No. 110 - Voir Dire

1 A. Yeah. Yeah.
2 Q. Do you -- how do you train -- do you creep train
your dogs
3 or -- do you --
4 A. No.
5 Q. -- obedience training?
6 A. Yes. Obedience.
7 Q. Obedience-type training. And have you read any
books on
8 training, you know, how to work with dogs, that have
stuck in

9 your mind?

10 A. Yes, I have. From the Monks of Skete.

Horse 11 Q. Okay. And I notice you also mention you read The

12 Whisperer?

13 A. Yes.

of 14 Q. And did -- what did you think of the theory of --

15 gentling horses that The Horse Whisperer --

16 A. I believe it's true.

17 Q. That's true. Looking forward to the movie of that?

18 A. No. The movies are never as good as the book.

talk some 19 Q. All right. Well, now, I would like to turn and

you 20 about this issue of -- of punishment, and that was --

at page 21 answered some questions about it on your questionnaire

that we 22 28 and 29. But before I ask you about that, let me say

and Ron 23 certainly do not -- just talking about Terry Nichols

there; that 24 Woods and I -- concede that we're ever going to get

vigorous 25 is, we intend to put on evidence and to put forward a

put the 1 defense here on the -- on the charges themselves and

2 Government to its proof. And you don't have any
problem with

3 the concept of reasonable doubt, do you?

4 A. Not at all.

5 Q. Okay. Or the presumption of innocence?

6 A. Not at all.

7 Q. Terry Nichols is presumed innocent as he sits
there. Okay.

8 But this is our only chance to talk to you about this.
So if

9 we ever did get to a punishment phase, we can't call
everybody

10 back in and say, Well, what do you think about this?

11 Now, had you, before you filled out this

12 questionnaire, given thought to the appropriateness of
the

13 death penalty, of capital punishment?

14 A. Not really. It's not something I think about, no.

15 Q. Had you thought about it in the -- and ever
discussed it

16 while you were in the military?

17 A. Oh, I'm sure along the line somewhere, yeah.

18 Q. And how about have you followed any recent cases in
which

19 the death penalty was an issue?

20 A. Not that I can recall.

21 Q. Okay. When you wrote at 128B, "For crimes such as
Jeffrey

22 Dahmer's, I would use it" -- and I think you said that
that was
23 because -- well, no. Tell me, what is it about the
Jeffrey
24 Dahmer situation that you think made the punishment
25 appropriate?

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Juror No. 110 - Voir Dire

1 A. Well, just the -- the sickness of the crime and the
victims
2 involved, how he did it.

3 Q. Okay. And then at 128D, I think you also told the
Judge if
4 it's a sick type of murder; right?

5 A. Yes.

6 Q. Now, your -- are you clear from what the Judge said
and --
7 about the process that the only way a punishment phase
ever

8 happens in a -- this kind of a case is if the jury
convicts of
9 the offenses charged; right?

10 A. Yes.

11 Q. And then there's a second trial?

12 A. Yes.

13 Q. Okay. And the Judge mentioned and I think the
prosecutor

of 14 did that at that second trial, there would be evidence
like 15 aggravating factors and mitigating factors, something
factors" mean 16 that. What did the term -- what did "mitigating
17 to you? What kinds of things did it make you think of?
18 A. Just certain things involved with what had gone on.
specific 19 Q. Okay. And can you -- can you be a little more
of? 20 what kinds of things you were -- you would be thinking
You know, 21 A. Well, I guess possibly the mind-set at the time.
22 what it took to come to that.
-- the 23 Q. Okay. And were you thinking of anything about what
none of 24 reason I'm having difficulty posing questions is that
25 us knows what the evidence will be in this case.

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Juror No. 110 - Voir Dire

1 A. Uh-huh.
2 Q. So we're not supposed to use this as an opportunity
to 3 put -- try to put into your mind things we think might
be 4 coming up. That's not what this is about.
5 A. Uh-huh.

6 Q. So let me shift focus a little bit. Did you think
that the
7 death penalty verdict as to that jury's verdict against
Timothy
8 McVeigh was -- was the right thing?
9 A. I guess so.
10 Q. Okay. And what went into your thinking about that
based on
11 what you saw, heard, or read, understanding you didn't
see what
12 the jury saw?
13 A. Well, to me, I just had to trust in what the jurors
in the
14 court had done, because I wasn't there.
15 Q. And do you remember the Judge saying that even in a
case
16 where two people are charged with the exact same crime,
the
17 sentences must be separately considered and may well be
18 different?
19 A. Yes.
20 Q. Do you remember that?
21 A. Yes.
22 Q. And do you remember reacting to that? I mean, as I
sat
23 there, it seemed like you -- you took -- you paid
special
24 attention when the Judge said that.
25 A. Because I never realized that.

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Juror No. 110 - Voir Dire

Tell
1 Q. Okay. Well, what did -- what did that mean to you?
2 me what it was that caused you to -- to react, if you
did.
3 A. Because, to me, that is a very fair way to handle
things.
4 A lot of times, things don't seem fair. So even though
you're
5 charged with the same crimes, it should be tried
differently.
6 Q. Okay. And when you say "a lot of times things
don't seem
7 fair," could you give me some examples of that, things
that
8 you're -- you know, that you've been aware of where it
just
9 didn't seem fair?
10 A. Do you mean as far as the legal system or --
11 Q. Yeah. Right.
12 A. Or just -- O. J.
13 Q. O. J.
14 A. That didn't seem fair from the beginning.
15 Q. Okay. What was unfair about that, that -- as you
saw it?
16 And again, there's no such thing as a right or wrong
answer
17 here. We're just trying to get your candid views of

it, how

18 you saw it.

19 A. Because I think they convicted him before they even
tried

20 to find anybody else. To me, he was the chosen one to
be

21 proven as guilty or whatever.

22 Q. I see. And did -- so did you -- based on what you
-- let

23 me back up a little. Did you follow the trial? Did
you have a

24 chance to do that?

25 A. No.

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Juror No. 110 - Voir Dire

1 Q. Okay. So you weren't one of those folks that were
glued to

2 the television set?

3 A. No.

4 Q. Okay.

5 A. I don't have time for that.

6 Q. And did you -- did you feel like that the verdict
of the

7 jury was right or wrong, or did you not think it your
place to

8 judge? What did you feel?

9 A. I felt it was right.

10 Q. Well, let's come back to this sentences must be
separately
11 considered. As you sat there and thought about this
concept
12 that had been introduced to you, what -- what kinds of
things
13 occurred to you as reasons?

14 A. You mean to try them separately?

15 Q. Yeah. Well, or just how -- how you look at -- at
two
16 different people that are, you know, basically charged
with the
17 same thing, what sorts of things you're thinking about.

18 A. Well --

19 MR. MACKEY: Judge, objection.

20 A. Two different --

21 THE COURT: You go ahead and complete your
answer.

22 A. It's two different people, so it's -- even though
it's the
23 same crime, it should be handled differently, because
things
24 will be different because there are two people.

25 BY MR. TIGAR:

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Juror No. 110 - Voir Dire

1 Q. Okay. And when you talk about people in this way,
is it --

no such 2 do you understand or is it your understanding there's

3 thing as an automatic death penalty in America?

4 A. Yes.

up Adolph 5 Q. Okay. That is, you could -- you know, if you dig

-- 6 Hitler and put him on trial and convict him of anything

7 MR. MACKEY: Objection.

8 THE COURT: Overruled.

9 BY MR. TIGAR:

of a 10 Q. By the -- I should stop and say that it is the duty

is a 11 lawyer to object whenever that lawyer thinks that there

rulings 12 reason to do it. His Honor is there to -- to make the

juror in 13 and -- and move it along. And if you're selected as a

14 this case, you'll see a lot more.

15 A. Okay.

It's 16 Q. And it's not just because the prosecutor objected.

there 17 because -- I reckon I'll do some, too. So you won't be

18 counting the balls and strikes, will you?

19 A. No.

the 20 Q. Okay. You just -- the Judge will rule and go on to

21 next thing. Okay?

22 A. Okay.

23 Q. So are you telling me -- are you open to the idea
that

24 every individual human being is different?

25 A. Oh, yes.

2863

Juror No. 110 - Voir Dire

1 Q. And would you then be -- have an open mind; that
is, no

2 matter if you were on a jury -- I'm not talking about
this

3 case. Somebody is convicted of a terrible, terrible
crime,

4 whatever it is. It could be Jeffrey Dahmer.

5 A. Uh-huh.

6 Q. Would you still be open to listen to evidence about
that

7 individual human being and willing to consider the
whole range

8 of punishment; that is to --

9 A. Yeah.

10 Q. -- say, the death penalty, life without possibility
of

11 parole or back to the judge to impose some lesser
sentence?

12 A. Yes.

13 Q. And you're -- you're confident you could do that?

14 A. I believe so.

15 Q. Okay. Well, when you say I -- when you say "I
believe so,"
16 if I ask my wife, Do you love me, and she says, I
believe so,
17 I'd ask the next one. But you're telling me as -- with
as much
18 conviction as you have, you're saying yes?
19 A. Yes.
20 Q. Okay. One last question. Your supervisors raised
this
21 issue. You know, gee, how does a person get on a jury
in a
22 case where there's a lot of federal employees have lost
their
23 lives? There is no question there may very well be
pictures of
24 federal -- people who worked for the federal
government,
25 federal employees, children, dead and injured, a lot of

2864

Juror No. 110 - Voir Dire

1 evidence of that kind which is emotionally very, very
tough
2 to -- to see.
3 A. Uh-huh.
4 Q. Do you think that you'd be able to see that and,
given your
5 time -- all your time you spent with the federal
government

6
consider the

working and still even with all that be able to

was

7 question did the Government prove that Terry Nichols

8 knowingly, intentionally involved in that?

9 A. Yes.

today

10 Q. You can do that. So can you look Terry in the eye

11 and say that you'd give him a fair trial?

12 A. Oh, yes.

13 MR. TIGAR: Thank you, very much.

14 THE COURT: Well, you're done for now.

15 JUROR: Okay.

to

16 THE COURT: This is all the questions you have

us,

17 answer now. And we appreciate very much your time with

18 including the time spent waiting. We can't answer your

the

19 question, though, now of whether you're going to be on

other

20 jury; so bear with us a bit longer while we talk to

a change

21 people, and then we will get back to you. If you have

town,

22 of address or phone number or if you are called out of

let us

23 something like that, we want you to get back to us and

24 know right away. Will you?

25 JUROR: Yes, sir.

18 case of the United States against Terry Lynn Nichols?

19 A. Yes.

20 Q. And that you received a jury summons as one of
those who,

21 through a chance selection process, got the call --

22 A. Yes.

23 Q. -- to possible service here. You answered a
preliminary

24 questionnaire, and then you came out to -- after
getting

25 notice, you came out to the Jefferson County
Fairgrounds'

2866

Juror No. 741 - Voir Dire

1 auditorium building and met with those of us who were
there,

2 got some explanations, instructions, and answered a lot
more

3 questions.

4 A. Yes.

5 Q. You have to answer out loud.

6 A. Yes.

7 Q. Okay. And you recall that on that day, I was there
and

8 introduced myself and talked about the case and also

9 the people who were with me who are with me again and
are in

10 this room with you now.

11 And that includes the lawyers for the
Government,

12 prosecutors: Mr. Lawrence Mackey, the first one. Ms.
Beth

13 Wilkinson. They are joined now by Mr. Patrick Ryan,
next to

14 Ms. Wilkinson, and Mr. Geoffrey Mearns. They were not
with us

15 at Jefferson County.

16 But we did have with us Mr. Michael Tigar, Mr.
Ronald

17 Woods, attorneys for Terry Nichols, who was, of course,
also

18 there.

19 And then I explained something about the case,
20 probably things that you already knew, but we had to go
over it

21 to be certain; and we want to do that again, just so
it's clear

22 what we're talking about here.

23 A. Okay.

24 Q. And again, to make clear some of the reasons for
the

25 questions we've asked you here and the questions we're
going to

2867

Juror No. 741 - Voir Dire

1 ask you now. So you'll recall that I mentioned that

all of

2 this arises out of an explosion that happened in
Oklahoma City,
3 Oklahoma, on April the 19th of 1995, which destroyed a
federal
4 office building there with deaths and injuries
resulting; that
5 charges were then filed in the United States District
Court in
6 Oklahoma City, charging a man named Timothy James
McVeigh,
7 along with Terry Nichols -- and as the indictment, the
charging
8 document reads, "and other persons not named" -- with
forming a
9 conspiracy or a criminal agreement to bomb that
building and to
10 kill and injure the people in it; and that the
indictment goes
11 on to charge them with carrying out such a bombing and
with the
12 murders of eight law enforcement people -- agents who
were in
13 the building. To those charges, the named defendants,
14 Mr. McVeigh and Mr. Nichols, entered pleas of not
guilty,
15 thereby creating the issues to be tried.

16 The case then was moved from Oklahoma City to
here in
17 Denver because of a concern about getting a jury in the
18 community where it happened. And then I entered an
order that

19 separated the named defendants for trial so that there
would be
20 separate trials of the evidence as it relates to
Timothy
21 McVeigh and the evidence as it may relate to Terry
Nichols,
22 finding that it would be unfair to have both men in
front of
23 the same jury at the same time because of differences
expected
24 in the evidence against them; that there has been a
trial of
25 the evidence as it relates to Timothy McVeigh and a
jury found

2868

Juror No. 741 - Voir Dire

1 him guilty. Then there was an additional trial on the
question
2 of punishment; and after hearing that evidence or
information,
3 a jury recommended by its response that he be put to
death, and
4 that trial is over. We're now ready to start the trial
of
5 Terry Nichols.

6 What happened in Mr. McVeigh's trial cannot
now be
7 considered by anyone in connection with Mr. Nichols'
trial. To
8 do so would violate the very reason for separate orders

--

9 separate trials; that it would be fundamentally unfair
to do
10 that. And just so that it is clear, you know, I don't
know
11 what the evidence in this trial to come before the
Court is
12 going to be. I heard the evidence in the McVeigh trial
because
13 I presided at that trial. But I, of course, approach
this
14 trial not knowing what's going to happen, and that's
true of
15 all of the jurors, as well. Do you understand?
16 A. Yes.
17 Q. And then, in addition to that explanation, I gave
some
18 preliminary or brief instructions about the things that
are
19 required in our criminal justice system and required by
the
20 United States Constitution as fundamental law that in
this
21 country, no matter who you are or what you're charged
with or
22 in what court you are, you're presumed to be innocent.
And
23 that presumption of innocence carries throughout the
trial and
24 entitles that person to an acquittal, a verdict of not
guilty,
25 unless the jurors coming in with open minds and
considering

Juror No. 741 - Voir Dire

1 fairly only the evidence presented in the course of the
trial
2 and following the law as given in the instructions to
the Court
3 decides that the case is proven beyond a reasonable
doubt.

4 You've heard of that before?

5 A. Yes.

6 Q. And a part of what I said, too, was that no
defendant,
7 whoever he or she may be, has any burden or duty of
proving
8 anything at trial. It's the Government who files the
charges.
9 It's the Government who has to bring in the evidence by
way of
10 the witnesses and exhibits and try to prove it. And a
11 defendant in a case, as I said, need not offer any
evidence and
12 certainly doesn't have to take the witness stand and
answer any
13 questions or explain anything. A defendant may simply
remain
14 silent and challenge the Government's evidence. And if
that
15 occurs, then no one can draw any inference or
suggestion that
16 he's got something to hide or that -- you know, think

along the

17 lines of, well, if he's really innocent, why didn't he
tell us
18 that. He's not required to. And there are reasons why
a
19 defendant does not testify. And of course, the jury --
what I
20 tell juries in final instructions in cases like that is
you
21 can't even talk about it in your deliberation. That's
out of
22 bounds. You understand that, as well?

23 A. Yes.

24 Q. Now, not only do I need to know if you understand
these
25 things, but also whether you agree with them.

2870

Juror No. 741 - Voir Dire

1 A. Yes. I agree with them.

2 Q. All right. And you would be bound by them if you
were to
3 serve on this jury?

4 A. Yes.

5 Q. So you understand, to put it plainly, that Mr.
Nichols sits

6 with us this afternoon presumed to be innocent of these
7 charges?

8 A. Yes.

9 Q. Now, I want to go over with you some of the things
you've
10 told us. We're not going to repeat all these questions
over
11 again to see if your answers are different. It's not
that kind
12 of thing. And we recognize that we've asked you some
personal
13 things so we've invaded your privacy some, but we'll
try not to
14 do that any more than absolutely necessary. And as I
told you,
15 we have taken your answers and copied them and provided
them --
16 provided those copies to the people in front of you but
not to
17 anyone else. And your name will not be used. We keep
that
18 private. And of course, those of us who have copies of
what
19 you've told us will not use them for any purpose other
than
20 what we're doing right now.

21 A. Okay.

22 Q. All right.

23 A. Did everybody notice it's my birthday?

24 Q. We did. Yeah. I'm glad you're pleased that it's
your
25 birthday.

Juror No. 741 - Voir Dire

1 A. Well, I had other plans, but --

2 Q. I'm sure you did. There are some of us who would
rather

3 forget about birthdays. You're looking forward to
yours, and

4 we do sort of, you know -- there are better ways to
spend a

5 birthday than sitting back there or sitting here. But
we'll be

6 done with this in a while, and then you can go
celebrate in

7 your own way.

8 A. Okay.

9 Q. Also, though, along the line of the privacy, as I
said,

10 we're not going to use your name here and we're not
going to

11 ask you anything, I think, that would identify you.
And it is

12 for this privacy reason, too, that we take these
precautions

13 about the way in which you come in and out of the
building

14 here, the courthouse, so that the media people cannot,
you

15 know, take your picture and publish it or show it on
television

16 or that -- that's the reason for that and the only
reason.

17 So let's talk a little about what happened

when you

18 came into the world 28 years ago. That was here in
Denver, you

19 were born?

20 A. Yes.

21 Q. And you've lived in this state ever since; is that
right?

22 A. That's correct.

23 Q. And you now live in Weld County?

24 A. Yes.

25 Q. Now, are you on a farm there?

2872

Juror No. 741 - Voir Dire

1 A. We're -- we have a small acreage, 5 acres.

2 Q. Okay. And do you do something with it other than
just

3 enjoy the space?

4 A. We have cows and chickens and turkeys and goats.

5 Q. You're making a lot of use of 5 acres --

6 A. Yeah. Yeah.

7 Q. -- then. And by "we," you're married?

8 A. Yes.

9 Q. Have two young children?

10 A. Yes.

11 Q. And you -- as I understand it from page 7, I guess
it is --

12 employment --

no. That isn't the page. I was looking at your

13 there,

yeah. It was page 9. And you've had several jobs

14 right?

including one in an elementary school over in Milliken;

15 A. Yes.

16 firm,

Q. And then you took a job here quite recently with a

17 mother.

and then you left it in August to be a stay-at-home

18 A. Yes.

19 farm.

Q. And also take care of all of the creatures on the

20 A. Yes.

21 there

Q. Had you intended to stay with that job that you had

22 that you mention here as the last job before changing?

23 time and it

A. Yes, I did, but they only -- I only worked part-

24 busy,

was two hours a day; and there wasn't enough to keep me

25 so they let me go.

2873

Juror No. 741 - Voir Dire

well as --

1 Q. I see. Didn't work out from their standpoint as

2 A. Right.

a place 3 Q. -- yours, I guess. Now, your husband does work at

4 over in Milliken; right?

5 A. Yes.

school? 6 Q. And he's been at that plant, what, ever since high

7 A. Uh-huh.

worked as a 8 Q. And on 10, you indicate that at one time, you

9 day-care provider.

10 A. Yes.

11 Q. Was that in your home?

12 A. Yes. It was an in-home day care.

your 13 Q. Okay. So you took some children in in addition to

14 own?

15 A. Yes.

about a 16 Q. Well, you know that in this case we're talking

will begin 17 trial that, first of all, is uncertain as to when it

don't know 18 in terms of the taking of the testimony because we

doing right 19 how long we're going to be involved with what we're

trial 20 now, selecting the jury. But once that is done and the

take, but 21 goes forward, we can't tell anybody how long it will

understand 22 it could take several months to try the case. You

23 that commitment?

24 A. Yes.

25 Q. Have you talked about that with your husband?

2874

Juror No. 741 - Voir Dire

1 A. Yes. We have quite a few friends in the community
that
2 have said if something comes up, they could help us
out,
3 so . . .

4 Q. By taking care of the children?

5 A. Yes.

6 Q. You're not now worried about that?

7 A. I am concerned about it because it's a big
adjustment for
8 the kids.

9 Q. Yeah. Yeah.

10 A. But there's not much I can do, so -- just try to
make it
11 work if it -- if it happens.

12 Q. Does your husband work a regular shift?

13 A. Yes. He -- he works a four-on, four-off, twelve-
hour
14 shift, days and nights rotating.

15 Q. Okay. So then your friends and neighbors can take
over

16 when he's not there?

17 A. Yes. His parents are also retired.

18 Q. And they live in this area?

19 A. Yes. They live close to us, in Brighton.

ask of
20 Q. Okay. Well, we know that's something difficult to

this
21 you, but, obviously, all persons serving on a jury like

the
22 have some at least inconvenience, if not hardship in

understand
23 interruptions of their regular life routine. You

24 that?

25 A. Yes.

2875

Juror No. 741 – Voir Dire

education
1 Q. You told us here when you were talking about your

field
2 that you would like to go back to school in the medical

3 in some way.

4 A. Yes.

5 Q. Do you have --

6 A. Eventually. No plans --

7 Q. All right.

8 A. -- yet.

9 Q. So you're thinking when the children are older or

--

10 A. Yes.

11 Q. And that's just something you've had in your mind
as a possible career opportunity --

13 A. Yes.

14 Q. -- is that right? And you did go to the University
of Northern Colorado and then to a business school?

16 A. Yes.

17 Q. You told us here that you read The Fence Post.

18 A. Yes.

19 Q. And that's a publication that goes to people in the
20 agricultural field and it's a weekly?

21 A. Yes.

22 Q. Have you -- do you have particular parts of that
that you read more than others or --

24 A. The farm ads, the auction updates.

25 Q. Is that what you're most interested in?

2876

Juror No. 741 - Voir Dire

1 A. Basically for the auctions is what we get it for.

2 Q. Yeah. Have you gone to a lot of farm auctions to
pick up equipment and --

3

just
the place,
4 A. We don't really buy big equipment, but, you know,
5 little things that we could use around the -- around
6 we do pick up.

that.
7 Q. Some people go to those auctions because they enjoy

8 A. Oh, I love them.

9 Q. Farm auctions.

10 A. Yeah. They're fun.

11 Q. You go with some frequency?

summer.
12 A. I haven't really. I've been to maybe four this

13 And they -- my first one was this summer, so . . .

out-of-
they lost
14 Q. Okay. A lot of times, those are people -- going-
15 business sales, farmers who are quitting business or

16 their farm through -- to the bank, that kind of thing.

17 A. Yes.

18 Q. Right?

19 A. Yes.

jury or
20 Q. Now, you understand that -- you've never been on a
21 followed any trials closely, have you?

22 A. No.

strange,
23 Q. So what we're doing here is kind of new to you and

24 is it?

25 A. Very intimidating.

2877

Juror No. 741 – Voir Dire

1 Q. Intimidating?

2 A. Yes.

3 Q. Well, don't feel that way. We're -- you know, not
4 intimidating. It's a very serious matter, obviously,
and a

5 heavy responsibility to serve on a jury. And that's
why it's a

6 little austere, I suppose, but sort of reminds us all
of the

7 importance of the work that we do. And of course, the
first

8 thing that happens after jury selection is that the
jury judges

9 the evidence and that, as we have already discussed,
considers

10 whether -- what they heard and saw as evidence in the
trial.

11 Not everything comes in. You know, there are rules of
evidence

12 that control what can be heard and considered by a
jury. But

13 then, the jury decides, as I've already discussed with
you,

14 whether the evidence shows guilt or not. And the court
gives

15 assistance in that because at the end of all of the

taking of

16 the evidence, the court, in what are called
instructions on the

17 law, outlines to the jury what has to be proved, what
are the

18 essential elements of the crimes charged, and says,
Now, these

19 things have to be proved beyond a reasonable doubt.
And then

20 it's up to the jurors, 12 in number, to reflect on what
they've

21 heard, discuss it, and decide, now, has this crime been
proved

22 beyond a reasonable doubt or not. So if the jury has a

23 reasonable doubt after that full consideration, they
must come

24 in with a verdict of not guilty. If the jury decides
that the

25 evidence has shown guilt beyond a reasonable doubt, the
verdict

2878

Juror No. 741 – Voir Dire

1 is guilty. In cases that do not involve the possible
sentencing,
2 punishments of death or life in prison, then the

3 the next stage, is done by a judge. So sentencing is
not

4 something that jurors ordinarily do in the federal
system. And

5 we're talking about federal courts. You understand

that, I

6 suppose, do you?

7 A. Yes.

8 Q. And so when there is a guilty verdict in such a
case, the

9 court takes over, as it were, and then goes on to
another

10 hearing at a later time. And in between the time of
the jury's

11 verdict and the time of this hearing, a lot of
information is

12 collected about the circumstances of the crime, what
was

13 involved, and the consequences and so forth, but also a
lot

14 about the defendant himself, or herself, things that go
to

15 making up that individual's life. And it is sort of a
life

16 history, including, you know, where the person was born
and

17 raised and what kind of family relationships there have
been,

18 any marriages, the employment history, whether there
have been

19 any criminal history, other crimes, whether the person
-- what

20 kind of jobs the person has done, whether the person
has

21 contributed to society, things about his or her
psychological

22 makeup, all of the things that you could identify as
making one

23 human being distinct from all others, these individual
24 characteristics. And then there's a hearing at which
the judge
25 hears from both sides, the prosecution and the defense,
about

2879

Juror No. 741 - Voir Dire

1 these things and makes then a judgment -- a sentence
that is
2 individual to that person, not only the crime, but the
3 defendant; take that into consideration and say, This
is the
4 punishment deserved by this person for this crime. You
follow
5 me on that?

6 A. Yes.

7 Q. It is different when there is, in Federal Court,
the issue
8 of life or death. And the crimes charged in this case
under
9 the statute carry the possibilities of a sentence to
death, a
10 sentence to life in prison without ever getting out, no
11 possibility of release, or a sentence lesser than those
two.
12 But life-and-death decisions in the federal system are
not left
13 to judges. We ask jurors to do that. You understand
that?

14 A. Yes.

15 Q. Now, did you have that knowledge before you came
out to the

16 fairgrounds; that the jury may have to decide a life-
or-death

17 issue?

18 A. Yes.

19 Q. So you were anticipating perhaps being asked some
questions

20 about that?

21 A. Yeah. Yes.

22 Q. And you remember we did ask you some questions
about it?

23 A. Yes.

24 Q. And I want you to turn, if you will, to page 28 and
29.

25 Well, actually, back on 27 is where we explained there
at 124

2880

Juror No. 741 - Voir Dire

1 what we were doing in asking these questions, and I'm
sure you

2 probably recall this. Do you?

3 A. Yes.

4 Q. And then please take a moment to read what answers
you

5 wrote on pages 28 and 29.

6 A. Okay.

7 Q. Now, we asked you there for your views without
giving you
8 any instructions about the law or even the procedure
involved
9 because we wanted to know something about your thinking
just
10 coming in here without being first instructed about the
process
11 and the procedure, and you answered in that way. Had
you
12 thought very much about the death penalty before you
answered
13 these questions?

14 A. I -- I don't remember ever -- you know, it's
something that
15 maybe I've discussed with friends and stuff before.

16 Q. Yeah. Sometimes a book or a movie or sometimes
reading
17 about a case that's before the public where somebody
has been
18 sentenced to death or executed for a crime causes
people to
19 discuss it. And, you know, there's a wide range of
opinion
20 about this. People have very strong views at the
extremes.
21 Some people say can't be considered, not a human thing
to do,
22 the courts should not be involved in that kind of
punishment,
23 and others say, you know, you kill somebody, you get
killed.

24 And then a lot in between. So what I understand you to
be
25 saying is you haven't taken a position like that
before, a

2881

Juror No. 741 - Voir Dire

1 specific position. Am I right about that?
2 A. I definitely believe in the death penalty, but I
also
3 believe that there are things in between, depending on
what,
4 you know, is involved in the case or --
5 Q. And your answers here suggest to me that you're
thinking
6 mostly about the crime.
7 A. Right.
8 Q. The circumstances of the crime.
9 A. Correct.
10 Q. And of course, there are only certain crimes where
this
11 issue comes up. And essentially, just to be -- keep it
simple,
12 the crimes involved killing other people. I mean,
these are
13 murder cases where this comes up. You understand?
14 A. Yes.
15 Q. And you also understand that the jury is not
involved in

16 this until it's already -- the jurors have already
decided that

17 the defendant committed the crime.

18 A. Yes.

19 Q. And therefore, was involved in some way in the
killing of

20 other people. Right?

21 A. Yes.

22 Q. Now, I -- is it your view that before having this
23 conversation, that death is appropriate there, but it
still

24 also depends on the crime? How it was done or how many
people

25 were killed, something like that?

2882

Juror No. 741 - Voir Dire

1 A. Gosh --

2 Q. I'm not trying to speak for you. I just want you
to tell

3 us.

4 A. Yes. And I also think that a person's background
and

5 things like that may make a difference. Maybe things
that they

6 were exposed to or -- I think that's something that
should also

7 be taken into consideration.

8 Q. All right. And if two or more persons were
involved in the

9 same crime resulting in death, are you open to the
notion that

10 the sentences may be different?

11 A. Yes.

12 Q. Now, I want to give you a little more information
and then

13 ask you another question. What we do in a case
involving this

14 life-or-death choice where the jur -- a jury is making
the

15 decision, is -- and of course, to repeat again, if
there's a

16 not guilty verdict, none of this applies. It's only in
the

17 event that a jury decides the evidence proved guilt
beyond a

18 reasonable doubt. Then we go to another trial, really,
a

19 second trial or a penalty phase hearing. And this is
like for

20 the jury what I've talked about for the judge in other
types of

21 sentencing decisions; and that is, getting a lot more
22 information.

23 So at the second stage or trial with a jury's
24 punishment decision, it proceeds like the trial on the
evidence

25 did. Both sides are involved. The Government lawyers
offer

Juror No. 741 – Voir Dire

1 information about the crime and the consequences of it,
things
2 that tend to suggest that death is the deserved
punishment.
3 The defense offers information about the defendant. It
can
4 also offer additional information about the crime but
generally
5 focuses on the defendant as a unique and individual
human being
6 and, therefore, everything about him or her dealing
with the
7 person's origins -- I mean, sort of what I already
explained
8 about what judges consider in making individualized
sentencing
9 decisions. So that includes then the life history of
the
10 person being judged. And that, I think, is a phrase
that you
11 could focus on: Not only is the crime being judged,
but the
12 person is being judged. And ultimately, you know, the
issue is
13 whether this person should die for this crime. And
here we are
14 talking about this, of course, in a trial that hasn't
begun
15 when we're still working with the presumption of
innocence.

16 But I don't want you to be misled by the fact that
we're
17 talking about it. We have to consider all the
possibilities
18 now, you understand.
19 A. Yes.
20 Q. And then at the end of this second trial or penalty
phase
21 hearing, the court instructs the jury again and tells
the
22 jurors, well, now, this is what you've heard and here's
what
23 you can consider from this information to be
aggravating
24 factors, things that suggest death punishment, and
these are
25 the things that, from the information you've heard, you
can

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1 consider on the contrary; that death is not a deserved
usually
2 punishment for this defendant. And the instructions
know,
3 refer to those as "mitigating factors," suggesting, you
then ask
4 as I said, death is not deserved for this person. And
questions are by
5 the jury to ask itself some questions, and the

heard, 6 way of helping the jurors consider what they have
any of 7 aggravating and mitigating. And of course, we can't do
will be. 8 this in advance because I don't know what any of that
isn't like 9 But there's no formula. There's no equation, and it
10 adding up one side and the other and working with the
decided by 11 difference. It is, in the end, a question to be
they've 12 jurors as a reasoned moral decision based on everything
13 heard.

I've 14 Now, do you follow along with these things
15 explained?

16 A. Yes.

over with 17 Q. Do you have any question about anything I've gone
18 you?

19 A. No. I understand them.

is that 20 Q. So the question that you must ask -- answer for us
would be 21 with this explanation in mind, do you think that you
whether 22 able to base your decision, if it came to that, about
just 23 the defendant should be sentenced to life or death, not
giving 24 considering the circumstances of the crime, but also

personal 25 full consideration to everything about him, his

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a human 1 background, his individual characteristics, his life as
2 being?

3 A. Yes.

questions 4 THE COURT: All right. Thank you. We have

longer 5 from counsel in addition, so please bear with us a bit

6 and answer their questions, if you will.

7 Ms. Wilkinson.

8 MS. WILKINSON: Thank you, your Honor.

9 VOIR DIRE EXAMINATION

10 BY MS. WILKINSON:

11 Q. Good afternoon. How are you doing?

12 A. Okay.

and I'm 13 Q. My name is Beth Wilkinson, as the Judge told you,

presenting 14 just one of the prosecutors who's responsible for

15 the evidence against Mr. Nichols in this case.

this 16 I heard you tell the Judge that you thought

17 process was a little intimidating, which we can

understand. Of

18 course, I'm tempted to ask you what part of the process
is most
19 intimidating; but since you're under oath, I won't make
you
20 tell us that.

21 Did you and your husband plan all along to
live on
22 this farm? Was this a dream that you had that you had
talked
23 about for a while?

24 A. Yes. But it was a dream we didn't think we'd be
able to do
25 until we retired.

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1 Q. So you were just lucky in that you were able to do
it this
2 young?

3 A. Yes.

4 Q. And you've just lived there for a little over a
year; is
5 that right?

6 A. Yes.

7 Q. And who does most of the work on the farm?

8 A. We both do really. We do share.

9 Q. Do you? And is it quite a bit of work?

easy for 10 A. It's not too bad. We keep it to where it's pretty
11 us.

and son. 12 Q. Do your boys help you? Well, you have a daughter

13 A. Yes. The kids help us.

any 14 Q. Do both your children help you? And will that be

your 15 problem for you if you're asked to sit on a jury? Will

16 neighbors also help you with some of those things?

17 A. Yes.

you don't 18 Q. You said that in your questionnaire -- I saw that

TV. I 19 have much time for reading the newspaper or watching

working on 20 take that because you're a full-time mom and also

21 your farm; is that true?

22 A. Yes. I volunteer at the schools quite a bit.

have? I 23 Q. Where do you get any news that you -- that you do

of 24 mean, is it the majority from TV or is it a little bit

news? 25 everything or neighbors, or how do you get most of your

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1 A. Majority from TV.

2 Q. And do you watch one specific station?

3 A. No.

4 Q. Whatever happens to be on the dial that --

5 A. Yeah.

6 Q. That's it. Do you watch local news or do you watch
7 national news or --

8 A. Local news.

9 Q. And do you usually watch that while you're cooking
dinner

10 or is that something you watch before you go to bed?

11 A. I -- it's not even on a daily basis, honestly.
Maybe once

12 every two weeks, I get a chance to listen to the news.

13 Q. And I take it that then you don't follow, as you
said, many

14 stories, regardless of whether it's a trial or not?
You're not

15 really able to keep up day to day --

16 A. No.

17 Q. -- with many of the stories over the news? Was
that true

18 back in April of 19, 1995, on the day of the bombing?
Do you

19 remember watching news that day of the bombing?

20 A. Yes. I had a day-care parent that came in and had
told me

21 what had happened around 5 and then I turned on the
television

22 and saw.

center 23 Q. Did that parent tell you that there was a day-care
24 in the building?
25 A. Yes.

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Juror No. 741 - Voir Dire

about 1 Q. And did you have some discussion with that parent
2 that fact?

I turned 3 A. No, I didn't. She left right away and that's when
4 it on, right after she left and --

you were 5 Q. And I saw what you put in your questionnaire that
6 following that to see how many lives were lost when it
7 first happened.

8 A. Yes.

9 Q. Is that accurate? Do you remember what your first
10 impressions were when you turned on the TV and you saw
11 the devastation?

that 12 A. Just disbelief, I guess. I just couldn't believe
13 something like that had happened and --

something 14 Q. And did you follow it for many days or was it

15 that you really, because of --

16 A. Yes, I did try to listen to the news more often
after that

17 to hear what was going on and how they were recovering
and --

18 Q. So would be fair to say that you were more
interested in

19 the recovery of the victims than you were in the
investigation

20 and who was caught and all that?

21 A. Yes.

22 Q. That was more what kind of was of interest to you?

23 A. Yes.

24 Q. So you don't know a whole lot about this case, I
take it?

25 A. I don't know a whole lot about it, no.

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1 Q. And do you know much about Mr. Nichols?

2 A. No, I don't.

3 Q. Do you know much about Mr. McVeigh?

4 A. No.

5 Q. Did you follow some of the news recently when Mr.
McVeigh's

6 trial was going on here in Denver?

7 A. Yes. I heard the reports when they came up with
the

8 decision and --

9 Q. Is that really what most of your memories are --
excuse
10 me -- kind of that there was a decision on the verdict;
that he
11 was guilty and that he would be sentenced to death?
12 A. Yes.

13 Q. I take it you didn't follow all the evidence or
anything
14 like that?
15 A. I didn't follow any of it.

16 Q. Okay. I guess there's not too many reports of that
on farm
17 news, which you told us you listen to on the radio;
right?
18 A. No.

19 Q. And do you listen to that regularly?
20 A. I used to. I don't anymore. When I was working
for the
21 sod place, I was. For the fertilizer.

22 Q. I know you asked the court permission to go to a
big
23 celebration recently. Did you already attend that or
is that
24 something that's coming up in the future?
25 A. I'm supposed to leave on Wednesday.

1 Q. And how long will you be gone for that?

2 A. Until Tuesday.

3 Q. Is that going to be a family reunion as well as an
4 anniversary celebration?

5 A. Yes.

6 Q. I'd like to just ask you a few questions about the
7 questionnaire, if you wouldn't mind.

8 A. Okay.

9 Q. If you could turn to page 25. And see at the
bottom of
10 page -- Question 116. Two parts to that question.

11 A. Yes. Yes.

12 Q. And the second one, I'm not sure if this is our
copying
13 machine or what, but it says if yes and you checked yes
and no.

14 Or it looks like you did.

15 A. Yes, I did.

16 Q. So does that mean you can be persuaded to change
your mind?

17 A. Yes. I'm -- I -- when I make an opinion, I'm --
you know,

18 I usually feel pretty confident in my opinion, but I
realize

19 that I am not perfect all the time and if people give
me

20 something to really make me change my mind to really
give me

21 proof that what I was thinking may be incorrect, then I

-- I'm

it to 22 able to, you know, change my mind, but I don't just do

23 follow the crowd, either.

with 11 24 Q. Well, do you think you'd have any problem sitting

until the 25 other jurors and hearing all the evidence, waiting

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to some 1 very end of the case and deliberating with them, coming

opinions 2 consensus on the verdict where you would exchange your

this 3 and your viewpoints and come together on a verdict in

4 case?

5 A. No.

first 6 Q. As his Honor explained, that's obviously only the

verdict is. 7 stage in a case like this, depending on what your

guilty of 8 If your fellow jurors decided that a defendant was

understand 9 the crimes that had been charged in this case, you

10 that would only be the first determination you'd make?

11 A. Yes.

12 Q. You'd have to go into that second phase again with

an open

13 mind, no matter what the crime was and no matter what
evidence

14 you heard about the defendant's role in the crime or
whatever

15 the crime was?

16 A. Yes.

17 Q. Did you understand that?

18 A. Yes.

19 Q. And would you have any problem doing that, going
into that

20 second phase, even though you found someone guilty in
thinking

21 I'm going to look at everything about this person which
you

22 mentioned to the -- his Honor and about the crime
before you

23 make a decision as to the punishment?

24 A. I don't believe I would, no.

25 Q. I think you said in your questionnaire even on page
29,

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Juror No. 741 - Voir Dire

1 which is that last question about the death penalty --
it's at

2 the top there. 29.

3 A. Uh-huh.

4 Q. This would be a very difficult decision, but that

you

5 realize that you have to -- it's a job of the jury to
decide

6 the appropriate punishment and you'd have to put your
beliefs

7 aside. Do you still agree with that today?

8 A. Yes.

9 Q. And it sounds like that's pretty much what his
Honor told

10 you. That you have to listen to his instructions in
the second

11 phase and keep an open mind until the very end of it.

12 A. Yes.

13 Q. Do you understand that when there are -- when
you're making

14 that kind of sentencing decision, his Honor said there
could be

15 a lot of factors that you consider and there could be
multiple

16 people charged with the same -- the same crimes. And
you could

17 have defendants who have different penalties or
punishments or

18 you could have defendants have the same penalty and
that the

19 important thing isn't ultimately what the penalty
decision is,

20 but that you -- you consider each person individually.

21 A. Yes.

22 Q. And you recognize that that is something that, if
you sat

23 on a jury like this, you would have to do. You would
have to
24 put aside the McVeigh verdict and consider Mr. Nichols
separate
25 and apart?

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Juror No. 741 - Voir Dire

1 A. Yes.

2 Q. And you wouldn't have any problem doing that, would
you?

3 A. No, I wouldn't.

4 Q. You told us that we asked you a few questions about
your

5 views on gun control and you said you believe that
people

6 should be allowed to have guns, but they should -- we
should

7 have stricter licensing procedures and training
required. Is

8 that true?

9 A. Yes.

10 Q. And you also checked that you are familiar with the
NRA.

11 Are you or your husband a member of that organization?

12 A. No.

13 Q. Have you ever received any literature or anything
like that

14 about gun registration or training or anything like
that?

15 A. No.

16 Q. Have you or your husband ever had any training for
the use
17 of firearms?

18 A. Yes.

19 Q. So that's something you've done yourself or your
family?

20 A. Yes.

21 Q. I'd like to go back to one other topic that relates
to the
22 death penalty. And I don't want to be too personal,
but you

23 told us that you were a Catholic; is that right?

24 A. Yes.

25 Q. But you're moderately involved with the church?

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Juror No. 741 - Voir Dire

1 A. Yes.

2 Q. Does that mean you go to church every once in a
while or
3 something you practice more at home?

4 A. We practice more at home and not necessarily
Catholicism.

5 Just I teach my children to believe in -- in God and we
hardly
6 ever go to church, honestly, but --

7 Q. So it's more of a spiritual training for your

children?

8 A. Yes. Yes.

9 Q. Are you aware of the teachings, if there are any,
by the

10 Catholic Church on the death penalty?

11 A. Yes. They are opposed to it.

12 Q. And would that affect you in any way if you were
called in

13 here to decide -- where you would have to consider
whether

14 someone should live or die?

15 A. No.

16 Q. Is that what you had in mind when you said you have
to put

17 any beliefs aside or anything like that?

18 A. Well, not really because I'm -- I agree with the
death

19 penalty so --

20 Q. Okay. When you say you agree with the death
penalty, do

21 you mean that you agree with it in principle; that it
should be

22 something that should be considered as a penalty for
certain

23 crimes?

24 A. Yes.

25 Q. And if you were asked about whether certain crimes
should

Juror No. 741 - Voir Dire

1 receive the death penalty as we asked you in here, did
you

2 understand when you were asked that, you were just
being asked

3 generally what your own personal beliefs were?

4 A. Yes.

5 Q. And now you've heard the Judge instruct you on the
law?

6 A. Yes.

7 Q. And can you tell us that if you were called as a
juror in a

8 case like this where there could be a decision on -- as
to

9 capital punishment, that you could deliberate with your
fellow

10 jurors and come to a decision about whether someone
should live

11 or die?

12 A. I think I could, yes.

13 Q. You hesitate.

14 A. It's easy to say that, but -- it's a difficult
decision.

15 Q. Can you tell me what you think would be most
difficult

16 about that decision?

17 A. I mean, there's a lot of factors that you need to
consider

18 and going through each of those factors and considering
each of

19 them and -- it would -- it would just -- it would be a
20 difficult decision.

21 Q. Would it assist you if the Court would give you the
22 instructions on factors you could consider --

23 A. Yes.

24 Q. -- and things that you could weigh?

25 A. Yes.

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as given 1 Q. And would you be able to follow those instructions
2 by his Honor?

3 A. Yes.

appreciate 4 MS. WILKINSON: Thank you, very much. I
5 you answering my questions.

6 JUROR: Thank you.

7 THE COURT: Mr. Woods.

8 MR. WOODS: Thank you, your Honor.

9 VOIR DIRE EXAMINATION

10 BY MR. WOODS:

11 Q. Good afternoon.

12 A. Afternoon.

I'm one 13 Q. As the Judge introduced me, my name is Ron Woods.

in 14 of the lawyers that was appointed by the District Court
accused of 15 Oklahoma to help represent Terry Nichols who stands
the 16 this case. Mr. Mike Tigar and myself were appointed by
17 judge to help Mr. Nichols in that.

an 18 The fact that he did not have money to pay for
help 19 attorney and that the Court had to appoint lawyers to
20 them -- represent him, would that be a disadvantage to
21 Mr. Nichols, in your mind, if you were on the jury?

22 A. No.

animals that 23 Q. Okay. On your small farm, in addition to the

24 you have, are you raising any crops at all or garden?

25 A. We have a small garden, yes.

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use on 1 Q. Okay. And what type of fertilizer, if any, do you
2 the plants?

that's what 3 A. Well, I was working at a fertilizer company so
4 we used this year and it was pig fertilizer.

fertilizer? 5 Q. Okay. By "fertilizer company," a commercial

6 A. Yes. It's fairly new.

7 Q. Okay. And you mentioned pig fertilizer. What
other types

8 of fertilizer did they handle?

9 A. That's all they handle right now.

10 Q. Okay. All right. Are you familiar with commercial
11 fertilizers that are nonanimal, that are, say, ammonium
nitrate

12 or other types of commercially available fertilizer?

13 A. I -- I'm sure I've probably heard of some, but I
don't know

14 which they are.

15 Q. Okay. You have no familiarity with them? You have
not

16 worked with them?

17 A. No.

18 Q. Okay. How long did you work at the fertilizer
company?

19 A. Not real long. Probably four to six months.

20 Q. All right. You know, there's been a lot of talk
here by

21 both the Judge and the prosecutor that -- discussing
the

22 penalty stage of the trial. I want to make sure that
you

23 understand we're not conceding that we're going to a
penalty

24 stage of this trial. The Government has a theory about
25 Mr. Nichols being involved in this case. We disagree
with that

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1 theory. And when they put their witnesses on, we will
2 thoroughly cross-examine their witnesses and, as the
Judge told
3 you, we don't have to put on witnesses, but we are. We
will
4 call a number of witnesses to show contradictions in
the
5 Government's theory about this case. So I wanted to
let you
6 know that even though there's all of this talk about
7 punishment, we're certainly not conceding that we're
getting
8 there. But as the Court pointed out to you, in the
event that
9 there is a guilty verdict, then we can't call you back
in and
10 have these same type of conversations with you at that
time.
11 This is our only opportunity to talk to you about the
12 punishment stage of the crime. And it may seem a
little
13 unusual to focus on that before the trial starts, but
that's
14 the reason. Do you understand --
15 A. Yes.
16 Q. -- why we're doing that? Okay.

17 A. Yes.

18 Q. I want to talk about the publicity on the case.

You

19 indicated on page 33 that you've heard or read about

the

20 Oklahoma City bombing case on TV news, radio news,

21 conversations, and heard other people discussing the

case.

22 From what you've heard or read or seen, do you recall

how many

23 people were killed in the bombing?

24 A. Now, I don't. No.

25 Q. Can you give me an approximation?

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1 A. I'm not -- no.

2 Q. Okay. Do you know whether or not there were any

children

3 involved --

4 A. Yes.

5 Q. -- that were killed?

6 A. Yes, I do know there were children.

7 Q. And you related to us that you heard from one of

your

8 parents who came to pick up their child at the day-care

center

9 that they related to you there was a day-care center in

the

10 federal building?
11 A. Yes.
12 Q. Okay. Now, concerning that issue, if you were on
the jury,
13 there will be photographs and testimony concerning the
deaths
14 and injuries of adults and children. I assume you
would -- you
15 would anticipate that that type of evidence would be in
a trial
16 of this nature; is that correct?
17 A. Yes.
18 Q. And you understand that that would be very
emotional and
19 heart-rendering (sic) testimony; is that correct?
20 A. Yes.
21 Q. Do you think that if you were on a jury that you
could not
22 only look at that evidence, but also coolly, factually
analyze
23 the evidence and see whether or not the Government's
theory
24 about Terry Nichols' involvement is proved beyond a
reasonable
25 doubt without letting all the emotion influence your
decision?

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1 A. I believe I could, yes.

2 Q. All right. From the publicity that you've seen,
read, or
3 heard, do you recall how Mr. McVeigh was arrested in
the case?

4 A. No, I don't.

5 Q. All right. Do you recall how Mr. Nichols initiated
contact
6 with the federal authorities?

7 A. No.

8 Q. Do you recall whether or not he was even in
Oklahoma City
9 at the time of the bombing?

10 A. No.

11 Q. Okay.

12 A. I really feel like I'm out of it.

13 Q. This is not a test.

14 A. Thanks a lot.

15 Q. As the Judge mentioned to you, there are no wrong
or right
16 answers. We're just trying to ask you questions to get
your
17 true feelings and also your knowledge about the case in
case it
18 might influence your decision in the voting in the
case.

19 A. Okay.

20 Q. And I take it that farm news didn't have a whole
lot of
21 information about the case on it --

22 A. No.

23 Q. -- that you heard?

24 A. No.

25 Q. Okay. And The Fence Post didn't cover it in
detail?

2901

Juror No. 741 - Voir Dire

at the 1 A. No. They don't cover any news stories unless it's
2 rodeo or a stock show.

that 3 Q. All right. On your farm, have you come to learn

hardware 4 because there are no mechanics readily available or a

ingenuity 5 store next door, that you've had to utilize your own

6 in fixing things?

7 A. Yes.

have 8 Q. And that there are a lot of items on the farm that

what 9 multiple uses that can be used for something other than

10 they were designed for, to help repair items?

11 A. Yes.

12 Q. Like baling wire and such as that?

13 A. Yes.

14 Q. All right. You mentioned that you've read some

John

15 Grisham books; is that correct?

16 A. Yes. I think I've read one.

17 Q. Do you remember which one it was?

18 A. No, I don't. The one that they made the movie out
of. The
19 most popular one.

20 Q. There's been about four movies, I think. Let me
ask you

21 this, from reading of the book and -- did you see the
movie,

22 also?

23 A. No, I didn't -- I knew it was on television, but I
didn't

24 see it.

25 Q. Okay. Did you form any opinions about prosecutors
and the

2902

Juror No. 741 - Voir Dire

1 criminal justice system or about lawyers that represent
people

2 accused of crimes?

3 A. From that book?

4 Q. From the Grisham book, yes.

5 A. No. I -- I love to read and I read several books
and to be

6 honest, I couldn't even tell you what the story was
about now.

way or
7 Q. Okay. Didn't influence your opinion of lawyers one
8 the other?
9 A. No.
then,
10 Q. Okay. Well, let's go to the question of penalty,
11 since the Court and the prosecutor have covered that in
such
12 detail. I wanted to direct you first to page 29,
Question E.
13 A. Okay.
to decide
14 Q. Your last sentence there, it is the job of a jury
-- put
15 an appropriate punishment and beliefs must be set aside
asking
16 aside. Did you understand the Court, when he started
both
17 questions about this, that many people have beliefs on
that it
18 sides of the death penalty issue? Some people believe
been found
19 is the appropriate verdict for any defendant that's
that it
20 guilty of a premeditated murder. Some people believe
the
21 should never be imposed on any defendant regardless of
aside your
22 crime. Do you understand that you don't have to set
have
23 beliefs one way or the other, that it's okay for you to
24 beliefs on the death penalty in this case?

25 A. Yes. But I also think, you know, it's -- it
depends on

2903

Juror No. 741 - Voir Dire

1 what comes out.

2 Q. Right.

3 A. And what the details of the crime and everything
were.

4 Q. Right. And I take it that was the basis of your
answer

5 back on page 28 when the questionnaire asked in what
kind of

6 cases, if ever, is it appropriate to impose the
punishment of

7 life in prison without the possibility of ever being
released

8 and you answered the taking of another life. The next
question

9 is in what kind of cases, if ever, is it appropriate to
impose

10 the punishment of death. You answered the taking of
another

11 life. Those are both cases in which murder has
occurred;

12 right?

13 A. Correct.

14 Q. And you're making some distinction there in your
mind, I

15 take it, as to the type of murder cases that it's

appropriate

16 for life without release and those type of murder cases
where

17 it's appropriate for a death penalty; is that correct?

18 A. Yes.

19 Q. Can you distinguish for me and the Court as to what
type of

20 murder cases you're thinking about when you make that
21 distinction?

22 A. No. I really can't. I just -- there's -- there's
more

23 than one thing to be considered, I believe. And -- and
you put

24 them all together and, hopefully, from that, you can
make your

25 decision.

2904

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1 Q. Okay. When you say there's more than one factor to
be

2 taken into consideration, I want to focus still on the
taking

3 of another life. You've given answers the same for
both life

4 imprisonment and the death penalty. Is there any
distinction

5 in your mind as to murders, the taking of another life?

6 A. I guess I'm basing it on -- on the person and --
and what

7 their environment maybe was or things that they were
exposed to

8 or --

9 Q. Okay.

10 A. Taking into account the person.

11 Q. Yes, ma'am. And when the court told you that at a
12 punishment hearing, if a jury gets to that stage, that
they

13 will have already found a defendant guilty of
deliberate

14 premeditated murder, the court told you there would be
15 aggravating circumstances that would be offered into
evidence

16 and there would be mitigating circumstances offered
into

17 evidence. What did you understand the Judge to mean
when he

18 mentioned mitigating factors?

19 A. Things that may have influenced a decision that was
made,

20 whether it was right or wrong; things that may have
helped to

21 form the decision.

22 Q. Okay. Well -- and you understand that at that
stage, the

23 jury's already found that the defendant had the
premeditation

24 and the intent to commit the crime. The jury -- that's
not a

25 question for the jury anymore. That they have already
found

Juror No. 741 - Voir Dire

1 that issue.

2 A. Yes.

3 Q. All right. What did you understand, then, to mean
the
evidence?

4 A. The things that -- I don't know how to answer that.
The
happened

5 A. The things that -- I don't know how to answer that.
6 things that you need to consider that this is what
7 and -- more the factual, I guess.

8 Q. Okay. And then again the mitigation: Can you
expand on
9 that a little bit as to what you understood it to mean?

10 A. Maybe the reasons that this person made the
decision,
11 things that influenced to make this decision of
whatever you

12 found him guilty or not guilty of or --

13 Q. All right. Are you saying the circumstances of the
14 defendant?

15 A. Yes. Yes. What caused him --

16 Q. The personal circumstances?

17 A. -- to -- maybe outside influences or things like
that that

18 may have played a factor in the decision-making.

19 Q. Okay. Are you limiting it just to the
circumstances of the

20 defendant as to the decision to commit the crime?

21 MR. MACKEY: Objection, Judge.

22 THE COURT: Sustained.

23 BY MR. WOODS:

24 Q. Okay. Can you think of any other mitigating
circumstances

25 that you would be willing to consider --

2906

Juror No. 741 - Voir Dire

1 MR. MACKEY: Objection.

2 MR. WOODS: -- in a penalty stage?

3 THE COURT: Overruled.

4 You can answer. We go through these
objections --

5 MR. WOODS: Thank you.

6 THE COURT: -- and rulings, and we'll do a lot
of it

7 at trial but also do a little of it before we ever
start the

8 trial where there's some disagreements about the
formation of

9 questions. So ignore that. That's not --

10 JUROR: Okay.

11 THE COURT: -- something for you to consider.

12 MR. WOODS: Sometimes, I'll be objecting;
sometimes

13 they will. Okay.

14 JUROR: Okay. I understand what you're asking
me.

15 And right now, I can't think of anything; but you're --
the

16 other things that may influence what -- what happened
on one

17 side.

18 BY MR. WOODS:

19 Q. Okay. And from what I understand of your answers
to the

20 Court, you're certainly going to keep an open mind and
look at

21 both sides, the mitigating factors and the aggravating
factors,

22 if you were on a jury deciding the penalty; is that
correct?

23 A. Yes.

24 Q. And you're not going into a decision like that with
a

25 pre-formed opinion that one particular punishment
should be

2907

Juror No. 741 - Voir Dire

1 assessed for that crime?

2 A. No.

3 Q. Okay. If you were chosen on this jury, can you
look

4 Mr. Nichols in the eye and say, Mr. Nichols, I will
give you a

5 fair trial?

6 A. Yes.

7 MR. WOODS: Okay. Thank you, very much.

8 THE COURT: Well, we're done with our
questioning of

9 you. We cannot tell you whether you're going to be on
this

10 jury or not. We don't make these decisions as we go
along, one

11 person at a time. So please continue to follow the
cautions

12 that you have and as I instructed when we discharged
you for

13 the day from the fairgrounds. It's the same here: Be
careful.

14 Don't talk about the case. Follow the point of view
that we're

15 going to see you again; that you're going to be back in
here

16 and sitting on this jury and responsible for the
decisions

17 we've been talking about, approaching the case with an
open

18 mind. And you can go ahead and go on your trip. We
agreed to

19 that. So you don't have to worry about this while
you're on

20 your trip.

21 JUROR: Thank you.

22 THE COURT: But if there are any changes, a
delay in
23 getting back or something, we ask you to get in touch
with us.

24 JUROR: Okay.

25 THE COURT: And we'll be getting back to you
as to

2908

1 whether you're going to serve.

2 JUROR: Okay.

3 THE COURT: And we hope that you do have a
very happy

4 birthday now, what's left of it. You're excused.

5 JUROR: Do I leave this here?

6 THE COURT: Pardon?

7 JUROR: Do I leave this here?

8 THE COURT: Just take it with you and it'll be
9 collected.

10 We'll take a recess before -- before the next
one. So

11 we'll take 20 minutes.

12 (Recess at 3:10 p.m.)

13 (Reconvened at 3:29 p.m.)

14 THE COURT: Please be seated.

15 740 -- no. 337.

16 Would you please raise your right hand and
take the
17 oath from the clerk here.

18 (Juror No. 337 affirmed.)

19 THE COURTROOM DEPUTY: Thank you.

20 THE COURT: Please be seated there in the
chair near

21 the microphone. And that swivels around some, so you
can make

22 yourself comfortable. You don't have to talk into the

23 microphone. It will pick you up anywhere near.

24 VOIR DIRE EXAMINATION

25 BY THE COURT:

2909

Juror No. 337 - Voir Dire

1 Q. You understand that when that oath refers to asking
you

2 questions about the case now on trial, it refers to the
case of

3 United States against Terry Lynn Nichols.

4 A. Yes, I do.

5 Q. And that you received a jury summons a while back,
several

6 weeks ago, advising that your name came up on a
computer

7 system, a chance selection system, as possibly a juror
in the

8 case.

9
answering some

10
to go out

11
County,

12
place, I

13
to

 You responded to the summons with a --
 questions for us about you, and then you got a notice
 to the fairgrounds' auditorium building in Jefferson
 and at that -- on September 17; and at that time and
 met with you and other members of the panel. You have
 answer aloud so that --

14 A. That's correct.

15 Q. -- we can record your answer.

16
17
who were

18
same

19
afternoon.

20
first

21
22
have

23
who have

24
September.

25
Ronald

 And at that time, I introduced to you people
 there with me, and I want to do that again because the
 people and a few more are with us here today this
 So to refresh your memory, we have here at the
 table, Government's counsel table, Mr. Lawrence Mackey,
 Ms. Beth Wilkinson. They were with me. And now we
 joining them Mr. Patrick Ryan and Mr. James Orenstein,
 been added. They weren't there on the 17th of

 We did have, though, Mr. Michael Tigar and Mr.

Juror No. 337 - Voir Dire

present 1 Woods, attorneys for Terry Nichols; and Mr. Nichols is
2 again, of course.

I don't 3 And just to sort of refresh memory here -- and

4 really doubt that you remember, but we have to sort of
5 establish a foundation for what we do here -- you
recall that I

6 explained to you and the others present the background
of the

7 case, how it begins with an explosion that destroyed a
federal

8 office building in Oklahoma City, Oklahoma, on April 19
of

9 1995, with death and injury resulting to people in that
10 building; that then later charges were filed in
Oklahoma City

11 in the Federal Court there by the Government through
Government

12 lawyers alleging or charging that a man named Timothy
James

13 McVeigh and Terry Lynn Nichols and other persons not
named in

14 the indictment were in a conspiracy to bomb that
building and

15 to kill and injure people in it and that they did
things to

16 carry that out, accomplish that objective. And also

the

17 charges include charges of first-degree murder of eight
law
18 enforcement agents who were in the building and died in
the
19 explosion. You follow -- you remember that, of course.

20 A. Yes, I do.

21 Q. And that I then explained that the procedural
background of

22 the matter is that the case was transferred for trial
from

23 Oklahoma City to Denver because of a concern about
asking

24 people in that community to serve on a jury and that
after the

25 case was transferred to Denver, I entered an order
requiring

2911

Juror No. 337 - Voir Dire

1 separate trials to be held so that there would be a
trial of

2 the evidence as it relates to Mr. McVeigh separately
from a

3 trial as to the evidence as it may relate to Mr.
Nichols, on

4 the ground that it would not be fair to either man to
be in

5 court at the same time because of differences in these
cases,

6 and it would be right, really, as a matter of

fundamental

as to -- 7 fairness, to have separate juries decide the evidence

8 as it relates to the two men.

9 And we did that, separate trials; and Mr. McVeigh's

10 case has been tried here in this court; and a jury came in with

11 a verdict of guilty as to Mr. McVeigh. And then there was

12 another trial with that jury on the issue of punishment, and

13 the jury recommended death as the sentence for Mr. McVeigh.

14 And you're probably aware of that independently of my

15 telling you that.

16 A. Yes, sir.

17 Q. And then I explained, of course, that that outcome can in

18 no way be considered in this case because that would violate

19 the very reason for having separate trials. There is no

20 spill-over effect; and what happened in Mr. McVeigh's case will

21 be something that cannot be considered here. So that it is

22 very clear, I presided at that trial, heard the evidence; but I

23 don't know what the evidence is going to be at this trial.

judge 17 detailed instructions can only be considered after the
of time 18 has heard the evidence and knows what it is; but ahead
points that 19 we can certainly review with prospective jurors the
all 20 are under the United States Constitution applicable to
what the 21 persons who are accused in criminal courts, no matter
often 22 charges are, who the person is, beginning with what we
person 23 refer to as the presumption of innocence: that each
against 24 accused is presumed to be innocent of the charges made
25 that person. You understand that point?

2913

Juror No. 337 – Voir Dire

1 A. Yes, your Honor, I do.
2 Q. And then no person who is accused has any duty or
burden to 3 prove himself not guilty at his trial. In fact, there
is no 4 burden or duty of proving anything. You don't have to
come in, 5 if you're a defendant, with witnesses; and certainly no
any 6 defendant has to take the stand as a witness and answer

7 questions or explain anything to a jury because a
defendant in
8 a criminal case can simply remain silent and challenge
the
9 Government's evidence and require of the Government
that it
10 come through with what it alleges by trying to prove
it. And
11 these lawyers who are here for the prosecution will try
to do
12 that by calling witnesses and introducing exhibits, and
all
13 that's done under certain rules that govern what a jury
can
14 hear and consider. And we refer to those as the rules
of
15 evidence.

16 And there will be controversy in all trials as
to what
17 can be heard, and a judge rules on objections, and so
forth,
18 and then at the end of the trial does give the
instructions in

19 detail on the law and then asks the jury to decide:
Well, has

20 the evidence proven to your satisfaction beyond a
reasonable

21 doubt that these things that are required to be proved
to show

22 the crimes charged were committed are proved?

23 And if the jury, after considering it all and
talking

24 it over, has left a reasonable doubt in their minds as

to

25 whether the evidence shows guilt, then there is a clear
duty to

2914

Juror No. 337 – Voir Dire

1 return a verdict of not guilty and give the benefit of
the

2 doubt to the defendant.

3 You've heard all this before.

4 A. Yes, your Honor, I have.

5 Q. And I must ask you whether you agree with these
fundamental

6 principles of our law.

7 A. Yes, I do.

8 Q. And do you have any hesitation about accepting them
and

9 being bound by them in this case if you were to serve
with us

10 here?

11 A. No, none whatsoever.

12 Q. Okay. Now, I want to go over a few things that
you've told

13 us on your questionnaire; and you have it there with
you now.

14 Before I do, I want to reemphasize the privacy
interests that

15 we respect here and, insofar as it is possible to do
so,

16 recognizing that this is a public trial, want to keep
your name
17 out of it and also in the course of this questioning
try to
18 avoid things that would specifically identify you.
And, you
19 know, privacy is important to us insofar as it can be
20 accommodated, and that's why we arrange for you to come
and go
21 from the courthouse so that you can't be seen by others
and
22 particularly that you can't be photographed by the
media people
23 and have your picture published and on television or
any of
24 that sort of thing.
25 So that's why these somewhat strange, to you,

2915

Juror No. 337 - Voir Dire

1 arrangements may -- maybe seem strange, but that's why
we do
2 it. You understand it's solely to protect privacy
insofar as
3 we can.
4 Now, of course we're meeting here in an open
5 courtroom. This is a public matter, and so what is
said here
6 is public, you understand.
7 A. Yes, your Honor.

8 Q. Okay. Now, we're not going to go over all this
9 questionnaire all over again and ask you these
questions.
10 We're accepting your answers; but in a few situations,
we want
11 you to simply explain or expand, and then we have some
12 questions that are not on the questionnaire.
13 I will ask you some questions, and then a
lawyer on
14 each side will have a chance to ask you some more; so
bear with
15 us as we go through yet more questions. I'm sure it
may be
16 hard for you to think that we have any more questions.
You've
17 answered 166 of them, but bear with us, if you will.
18 A little bit about you to begin with: My
19 understanding is you're native to Colorado, born in
Denver?
20 A. That's correct.
21 Q. And have lived in Colorado continuously; is that
right?
22 A. That's correct.
23 Q. And you now live in the higher elevations west of
town in
24 the woods; right?
25 A. Yes, Pine Junction.

Juror No. 337 – Voir Dire

in among 1 Q. And that is a mountain setting where the homes are
2 the trees and small acreages for each home?

around 3 A. Yes, around -- 1 to 2 acres. Most of the homes are
4 1 to 2 in our subdivision.

from the 5 Q. Okay. And as I understand it, you're now retired
6 work that you did --

7 A. That's correct.

you have a 8 Q. -- correct? At Porter Hospital was where you --
9 nursing degree and you've practiced as a nurse.

10 A. That's correct. Registered nurse.

at Porter 11 Q. Yes. And indeed, you were a supervisor, I guess,
12 before retirement?

the 13 A. The last five years I was a nursing supervisor on
14 weekends.

unit and 15 Q. And you worked with obstetrics -- in an obstetrics
16 also pedi -- adolescent?

1968 to 17 A. Yes, I worked in the obstetrics unit about a year,
18 '69 -- about three years, I guess, and I was in the
adolescents

nursing 19 for three years; and the last five years, I was a

20 supervisor on weekends for the hospital.
21 Q. For the whole hospital?
22 A. The hospital, yes.
23 Q. Emergency room and everything?
24 A. I made rounds on the whole hospital.
25 Q. Okay. And then you retired about when?

2917

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1 A. 1983.
2 Q. And you're doing some volunteer work.
3 A. That's correct.
4 Q. Part-time now. And what do you do in that regard?
5 A. We have a little dog that we use for pet therapy
over at
6 Porter Hospital as well as a nursing home. We go once
a week
7 one place or the other. He visits patients. And we
also
8 volunteer for the Colorado Share Program. We
distribute food
9 with that program about once a month.
10 Q. And the dog is literally for petting; right?
11 A. Right.
12 Q. I mean, it gives some comfort to the people --
13 A. That's correct.

14 Q. -- who are --

love 15 A. We put him right in bed with the patients, and they

16 it.

17 Q. Sure. Husband is also retired?

18 A. That's correct.

19 Q. And he was an engineer in aerospace work?

Marietta 20 A. He was a technician, not an engineer, at Martin

21 for 35 years.

22 Q. For a number of years?

23 A. 35, uh-huh.

24 Q. And retired what, about the same time you did?

25 A. No, he retired about four years ago.

2918

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Englewood. 1 Q. Okay. There was a time that you lived in

2 A. Yes, sir.

page 8, 3 Q. And as I understand it from page -- your answer on

for 4 he at that time worked as an auxiliary police officer

5 Englewood, did he?

the 6 A. He was a volunteer at that time before he moved to

7 mountains. I think it was -- they called it the

auxiliary

8 police or police reserve. He was involved with the
volunteer

9 Englewood Police Department.

10 Q. For traffic control?

11 A. From what I remember -- it's been so long since
he's been

12 out, I don't remember exactly. I remember he used to
do

13 traffic control at parades and this kind of thing. He
wasn't

14 able to continue when we moved up because of the
distance

15 involved. We moved up to the mountains, and he dropped
out.

16 Q. Did he come to know and did you come to know some
police

17 officers for Englewood?

18 A. He knew the chief. I don't remember any other in
19 particular that he knew. He hasn't kept in contact
with any of

20 them.

21 Q. Okay. And you have a son who is a practicing
attorney.

22 A. That's correct.

23 Q. And page 3 is where we're looking. Now, I'm not
asking you

24 his name. Again, we're being a little careful about
25 identifications here for the reasons I've already
mentioned.

Juror No. 337 - Voir Dire

1 But is he now city attorney in the community you show
there?

2 A. Yes. He is city attorney -- it's a rural
community,
3 mountain community, and he also has a private practice.

4 Q. Yes. It's not a full-time job being city attorney?

5 A. No. He has a private practice; that's correct.

6 Q. And is his private practice in the same community?

7 A. Yes, it is.

8 Q. And does he have partners or associates with him?

9 A. No. No, he's in by himself.

10 Q. And do you know what he does in the private
practice?

11 A. Well, vaguely. He doesn't discuss any cases with
me. I

12 know he does a lot of domestic work and he does defense
work on

13 like DUIs, traffic tickets, this kind of thing.

14 Q. How long has he been the city attorney up there?

15 A. A couple of years. About -- about two years, I
think.

16 Q. How long has he been in practice?

17 A. He graduated from law school in 1991, and he was in

18 practice in Denver for a little while; and he moved up
to

19 Georg -- I'm not supposed to say the community.

20 Q. That's all right.

21 A. I think he's been up there, oh, about five years.

22 Q. Was he with a firm here in Denver?

23 A. He was in private practice in Denver. No, he was
-- he had

24 a partner but he wasn't with a firm. He did that only
for

25 about a year.

2920

Juror No. 337 - Voir Dire

1 Q. And has he done defense -- criminal defense work
beyond the

2 DUIs and DWAIIs and so forth?

3 A. Not that I know of. I don't think he's done
anything

4 really major. He doesn't really discuss it with me.
But as

5 far as I know, it's been mainly, you know, little
things.

6 Q. Well, when you got your jury summons, did you
mention to

7 him that you had received a jury summons?

8 A. Yes.

9 Q. And did he have a reaction to that?

10 A. Well, he said he had one piece of advice. He said,
"Tell

11 the truth."

12 Q. Good advice. And when you then went farther to --
into the
13 process -- further into the process with coming out to
14 Jefferson County Fairgrounds, answering this
questionnaire, did
15 you mention that to him, also?

16 A. Yes.

17 Q. And did he have a response to that?

18 A. Well, that was when he told me to tell the truth.

19 Q. I see.

20 A. I didn't really tell him I was going to be
questioned
21 because I didn't know originally.

22 Q. Sure. And one of the things when you left there,
you and

23 the others -- I cautioned you about being careful as
you listen

24 to news on radio or television and read newspapers and
25 magazines and so forth, to avoid things that may
influence you;

2921

Juror No. 337 - Voir Dire

1 and of course, we know that that's not an easy thing to
do and

2 that certainly somebody can stumble across something or
3 inadvertently run into something. Has that happened in
your

4 case?

like to
control
going to
avoid
weekend.

5 A. Not really. I've been very careful. 10:00, we
6 watch the 10:00 news, and I sit with the mute -- remote
7 in my hand and turn it off when I see that they're
8 talk about it; so I've really been very careful to
9 everything. And we only take the newspapers on the

anything

10 Q. What papers do you take?
11 A. The Rocky Mountain News, but I've avoided reading
12 about it in the paper.

your

13 Q. Did you talk with your husband about possible --
14 possibly being involved in this service on this jury?

main
thing.
is. He

15 A. We discussed it as to what it would involve. The
16 thing would be the commuting, you know, this kind of
17 We've discussed that, but not actually what the case
18 knows that I can't talk about that.

at
because we

19 Q. Right. Of course, when you do the volunteer work
20 Porter, bringing in the dog, you make the commute?
21 A. We commute to town two or three times a week
22 have relatives here and all our family is in Denver.

23 Q. All right. Now, I wanted to ask you about a matter

you

24 referred to here -- on page 12. We asked you about
employment

25 with various types of organizations; and on page 12,
you marked

2922

Juror No. 337 - Voir Dire

1 "Any court, state or federal." Are you talking about
your

2 son's work there?

3 A. Which question?

4 Q. I'm sorry. Page 12, at the top of the page --
really, the

5 question is on the preceding page asking you whether
anybody in

6 your immediate family works with anything like that.

7 A. Yes, I was talking about my son.

8 Q. Okay. That's what I assumed.

9 A. Because he does -- he is employed by the county up
there.

10 Q. And goes to court on behalf of the --

11 A. Well, he does prosecution with the county and
defense work

12 in his own practice, so he -- I thought I'd put that
down.

13 Q. We appreciate that. I just wanted to be certain.

14 You also mention on page 19 on Question 87
that in

15 addition to your husband, your daughter has also done
some work
16 with police; and I think that's referred to above at
85, also.
17 A. Yes. When she was in high school, she was in the
-- I
18 think they called Explorer Program; and then when she
19 graduated, she also went in the police reserve. She
didn't
20 follow that career later on, but she was in the reserve
for a
21 while.
22 Q. Was that also Englewood?
23 A. Yes, uh-huh.
24 Q. All right. And -- excuse me. On page 22 at
Question
25 101 --

2923

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1 A. Uh-huh.
2 Q. -- where were you living then? What community?
3 A. We were living where we are now. We had just been
up there
4 a few months.
5 Q. And was this a -- something that happened in a
neighboring
6 house?
7 A. Yes. It was several houses away from us.

8 Q. Did someone die in this?

I -- a
9 A. Yes. I think it was a domestic problem, from what
said
10 knock came at the door early in the morning, and a man
his
11 that -- I think it was a friend of his had just shot
said,
12 sister. Being a nurse, I asked if I could help; and he
or not.
13 well, he didn't know if the man was still in the house
and
14 So of course, I didn't go. He just called the police,
The man
15 the -- I think he shot his sister and killed himself.
16 was dead and his sister was wounded.

17 Q. All right. So it was a brother/sister?

18 A. Yeah. I think it was a domestic-type thing.

19 Q. To your knowledge, an apparent murder/suicide?

20 A. That's what I understood, yes.

21 Q. Did you go over there to assist?

22 A. I did after the sheriff arrived, and there really
wasn't --
squad
23 I did administer first aid to the woman until a rescue
24 arrived.

25 Q. And then it was -- she died --

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1 A. I don't believe she died. I think she --

2 Q. Oh, she didn't?

3 A. She was wounded. She didn't die. I don't believe
she

4 died. They took her to the hospital. From what I
remember,

5 she did survive.

6 Q. Oh. And I take it on page 23 at Question 104,
that's

7 really the same incident?

8 A. Yes. Yes, it is.

9 Q. And then we asked you some questions in this case
about

10 your opinions concerning penalty and particularly the
matter of

11 the possible punishments for a crime of being put in
prison for

12 all the rest of your life without ever being released
and the

13 punishment of death. You recall -- and I'm looking at
page 28,

14 page 29, but it really starts on page 27 where there is
an

15 explanation about those questions. Please take a
moment to

16 read your answers to yourself.

17 A. On page 27?

18 Q. Yes. Well, 28 are where the answers are. If you
want to

to. 19 go back and look at 27 for the explanation, feel free

20 A. Well, I've skimmed over it. I think I remember.

Item E. 21 Q. And on page 29, there is another answer there under

22 A. Okay.

23 Q. All right. Now, you understand that as the explanation

24 recites, the reason for asking these questions is that we

25 would -- we wanted to know something about your views coming

2925

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1 into court, as it were, without giving you any detailed
2 information about the law or the procedure that is involved in

3 this decision on punishment. We know and you know that the

4 question of whether there ought to be a death penalty or

5 whether there ought to be sentences to prison for life without

6 ever any chance of release -- these are matters on which there

7 is disagreement, public disagreement. And there are views

8 expressed by people sort of at the extremes and then a lot in

9 between. And by the extremes, there are some who say

that if

10 you take a life, you give your life. I mean, life for
life.

11 And there are those who say there should never be a
death

12 penalty in court because -- well, for a variety of
reasons but

13 that the death penalty itself is wrong and should never
be

14 imposed.

15 And then there is a lot in between. Right?

16 A. That's correct.

17 Q. And what I would like you to tell us first is
whether the

18 subject of the death penalty and whether it should be a
part of

19 the law is something that you considered at any length
before

20 confronting it here on this questionnaire?

21 A. Well, I've had my opinion about it for a long time.
I

22 don't know that the questionnaire really changed my
opinion.

23 Q. Has your opinion changed from time to time, though,
as

24 you've thought about it --

25 A. No.

1 Q. -- over time?

2 So would it be accurate to say that what
you've said

3 here is pretty much not only what you thought on
September 17

4 but what you think today and what you've thought for
some time?

5 A. I believe it does.

6 Q. And I want to explore it just a bit with you and to
explain

7 something about why we've asked it. And, of course, we
talk

8 about the death penalty here, even though, as we've
already

9 reviewed, Mr. Nichols is presumed to be innocent of the
crimes

10 charged against him; so the expectation must be that we
would

11 never be involved with a decision about his punishment.
But

12 the procedures that are involved and the law that's
involved

13 requires jury participation in this question if it
should come

14 to that; so that's why we have to talk about it. And
the --

15 well, let me just explain that in cases that don't
involve

16 life-or-death decisions on punishment, there the
determination

17 of a sentence is made by a judge. There are
differences among

18 the states, but we're just focusing on the Federal
Court system
19 now because that's where we are. And in other kinds of
20 criminal cases, the jury does what we've already talked
about:
21 Listens to the evidence, follows instructions and
decides
22 whether the evidence proves guilt beyond a reasonable
doubt.
23 If it doesn't, the verdict is not guilty and it's all
over.
24 If, on the other hand, the jury is persuaded
that the
25 evidence shows guilt beyond a reasonable doubt, the
verdict is

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1 guilty and it's still over as far as the jury is
concerned
2 because they're not involved in the next stage, which
is what
3 is the sentence, what's appropriate punishment.
4 And that is done by a judge; and there is a
hearing on
5 that at a later time. And between the time the jury
returns
6 the verdict of guilty and that sentencing hearing, a
lot of
7 information is gathered, both with respect to
circumstances of

evidence 8 the crime that go beyond, you know, what was heard in
community and 9 at the trial, things like the consequences to the
10 to people involved and so forth.

11 And then there is also a lot of information
gathered

12 about the defendant himself, and that includes such
information

13 as the defendant's background, where he was born and
raised,

14 early years, family relationships, marriage
relationships, his

15 work history, whether there has been any prior
involvement with

16 the law, any previous convictions for anything, things
about

17 his psychological makeup, his character, his attitude
about the

18 particular offense, and his role in the offense,
recognizing

19 that where two or more persons are charged with the
same crime,

20 they may have different roles. Understand that
explanation?

21 A. Yes, I do.

22 Q. And then a judge hears from both sides and makes a
23 decision: Well, for this crime and for this defendant,
24 considering this person as a unique individual human
being,

25 this is the punishment, so-many years in prison, or
whatever.

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1 Now, when it's life or death, we don't have
judges
2 make that decision in the federal system. We ask a
jury to do
3 that, so that people coming out of the community and
sort of
4 representing the conscience of the community are the
people who
5 decide. And that's why we wanted to know something
about your
6 approach to the question of punishment before talking
about how
7 it's done and the procedure and more detail of what is
8 involved.

9 And as I understand what you're telling us
here -- and
10 please -- please remember I'm not trying to suggest
changes in
11 your answers or anything; I just want to be certain
that we do
12 understand what you say.

13 You say, first of all, it's a very serious
question,
14 very serious decision to make, and that it -- and I'm
looking
15 now at A, where you're looking at the question of sort
of
16 isolating a person because he or she might be dangerous

to

17 society in the sense, I suppose, of committing new
crimes. Is

18 that what you're saying?

19 A. Yes.

20 Q. And then under B, you say, well, for certain kinds
of

21 cases, but it should be considered very seriously
before

22 imposition. And I want to just go on to the next ones
because

23 these sort of expand on that, I guess. Under D you're
24 expanding to say premeditated murder if the evidence is
strong

25 enough to prove the case beyond a reasonable doubt.
That's

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1 what you wrote. Correct?

2 A. Yes, that's correct.

3 Q. Now, I want to just make clear to you that the
proof beyond

4 a reasonable doubt has to be there before we ever talk
about

5 punishment, and these are two very separate issues.
One is has

6 the evidence proved guilt beyond a reasonable doubt.
The other

7 is what to do about it with respect to the individual

8 defendant; and they don't mix together, so that in the
9 evidentiary stage with respect to guilt, the only
question for
10 the jury is this is what the Government has to prove
for this
11 offense, did they do it? Does the evidence satisfy you
beyond
12 a reasonable doubt? And if not, then, you know, it's
not
13 guilty, and we never get to the question of punishment.
And
14 the jury must not mix those because you can't think
about
15 punishment when you're determining the evidence. In
those
16 cases where judges sentence, we tell the jury, Don't
guess at
17 or think about punishment, that's not your job, that's
the
18 judge's job. That's the instruction.

19 Well, of course we don't say that in a case
like this
20 where the statute provides for the possibility of these
21 life-or-death sentences, because it would be the jury's
job but
22 not the first stage.

23 A. I see.

24 Q. Okay.

25 A. Okay. I'm glad you cleared that up.

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1 Q. Pardon me?

2 A. I'm glad you cleared that up because I didn't
understand

3 it.

4 Q. Sure, and we didn't want you to -- we didn't want
to give

5 all of this to you beforehand because we wanted to have
some

6 idea what your thinking has been beforehand.

7 Let me just expand on what happens in the
event of a

8 guilty verdict in a case of this type and that is that
there is

9 a second trial before the same jurors, same jury who,
having

10 made a decision that the evidence satisfied them beyond
a

11 reasonable doubt, is now faced with the question of
sentence.

12 And just as I've described a moment ago about what
judges want

13 to know, so jurors need to know a lot more than what
they heard

14 at the trial; and that's why there is a second phase or
stage

15 and really a second trial. And it is at that time that
we

16 proceed with the lawyers on both sides coming forward
with

17 information beyond what was heard at the trial. And as
far as
18 the Government lawyers are concerned, they would be
bringing in
19 information to support the view that death is the just
sentence
20 to be imposed for the crime and for the person tried
and found
21 guilty. The defense would be coming forward with
information
22 to suggest to the jury that despite the crime, the
sentence
23 should not be death; the defendant as an individual
does not
24 deserve death as a punishment. You understand?
25 A. Yes, I do.

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1 Q. And at the end of all of that -- and we can't
really
2 anticipate what that might be, just as we can't
anticipate what
3 the evidence might be in the case, because we don't
know. But
4 we have to talk about it in general terms therefore.
But at
5 the end of that second stage or second trial, the Court
again
6 gives the jury instructions; and in these instructions,
it is

7 outlined for the jury what was provided in that
information and
8 those things which can be considered as aggravating
factors and
9 those things that could be considered as mitigating
factors and
10 then suggest to the jury that you ask certain questions
in
11 analyzing that, because you will have to make a
reasoned
12 analysis of the information as an aid in making the
judgment.

13 But it isn't formulaic. It isn't like add
this column
14 and subtract this column or anything like that, because
it
15 doesn't lend itself to some formula or equation. What
it lends
16 itself to is the good judgment of 12 people.
Understand?

17 A. Yes, I do.

18 Q. And in cases, as I've described, where there is
more than
19 one defendant involved in the same crime, the decision
made
20 with respect to one defendant does not control the
decision as
21 to another because the -- both the aggravating and
mitigating
22 factors may be different. And certainly the mitigating
factors
23 would be different, because these are the things that
go to

of us 24 make up an individual's life, the uniqueness that each
life and 25 has as a result of our own experiences and outlooks on

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1 what we do with our lives. Understand?
2 A. Yes, sir.
3 Q. Any question now about anything I've reviewed with
you so 4 far?
5 A. No, I don't believe so.
6 Q. So here's what we need to hear from you; and please
think 7 carefully and answer this. But before that, just to
make it 8 absolutely clear, let me explain -- I've already told
you what 9 a jury decided with respect to Timothy McVeigh. Right?
10 A. Right.
11 Q. Now, that can't control or even be considered if a
jury is 12 asked to decide about Terry Nichols. You understand
that? 13 A. Yes, I do.
14 Q. So just as you can't consider -- you as a juror
could not 15 consider the outcome with respect to evidence on the
guilt

16 phase, neither can you consider the outcome in another
case

17 with another defendant on the penalty phase.
Understand that?

18 A. Yes.

19 Q. So considering the explanation that I've given
about what

20 is involved and the process that is involved, tell us
whether

21 you think that you would be able, sitting on a jury, to
base a

22 decision, which really comes down to a moral decision
about

23 whether a defendant should be sentenced to life or
death -- and

24 base that decision not only on the circumstances of the
crime

25 but also giving due regard for the background and
individual

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1 characteristics of all of the things presented to you
about the

2 defendant as a human being? Do you believe that you
can do

3 that?

4 A. Yes, I do. I know so little about Mr. Nichols'

5 involvement. I don't remember. And since I was a
potential

6 juror I haven't made it my point to remember --

7 Q. Of course.

8 A. -- exactly how he was involved. I feel I would be
coming

9 into it with an open mind because I don't know anything
about

10 his involvement at this point.

11 Q. And if you did know anything about it, you'd have
to set

12 that aside?

13 A. Right.

14 Q. Because the jury has to decide not on what somebody
has

15 said out there or that they remember in conversation or
in

16 reading anything about it because we go according to
the rules

17 of evidence. What's presented in court is often quite
18 different from what people writing about a case may

expect.

19 And, of course, again, what has happened in the past in
another

20 case, Mr. McVeigh's case, can't be considered in this
case.

21 We're on a clean page.

22 A. Yeah, I understand that; and now that I've been
called for

23 potential jury (sic), I'm really grateful that you
didn't allow

24 live broadcasts and TV cameras in the courtroom,
because I

25 think I probably would have known a lot more than I do.

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1 Q. Well, again, I'm separating the question of whether
the
2 evidence may support the charge from the question of
what
3 punishment should be imposed. Those are two separate
things,
4 you understand?

5 A. I understand that now. I didn't really understand
how that
6 worked, but I do now and I --

7 Q. And so is your answer that you're open-minded with
respect
8 to both stages if it came to that?

9 A. I feel that I am. I feel a great responsibility
and
10 obligation to be open-minded and unbiased because I
know why
11 the trial was moved here in order to give this man a
fair
12 trial, and I would feel as a juror that I would have a
very
13 deep responsibility to make sure that I did my part to
ensure
14 that he did get a fair trial.

15 Q. And, you know, every trial is not only a test of
the

criminal

16 evidence but it's a test of the fairness of the

17 justice system?

18 A. That's true.

19 Q. You appreciate that?

on this

20 A. Very much so. I would take it very seriously to be

21 jury.

22 Q. Okay.

state of

23 A. There is a lot of trust put on the jurors from the

moved

24 Colorado because of -- the circumstance is that it was

the

25 here. I think it's a great obligation, you know, to do

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1 right thing in this case to be fair.

2 Q. And the right thing is just that, to be fair?

happened and

3 A. Is to listen to the evidence and decide what

verdict.

4 then, you know, follow your instructions and reach a

5 Q. Okay.

6 A. That would be my opinion.

also fair

7 THE COURT: Well, speaking of fairness, it's

8 to let lawyers on each side have some questions to put

to you

9 and you to answer them; so please bear us with a bit
longer.

10 And, Mr. Ryan, do you have some questions for
the

11 Government?

12 MR. RYAN: Yes, your Honor. Thank you.

13 VOIR DIRE EXAMINATION

14 BY MR. RYAN:

15 Q. Good afternoon.

16 A. Good afternoon.

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

18 Oklahoma City. How are you?

19 A. Just fine. How are you?

20 Q. Doing okay. Were you with us on Friday, or --

21 A. No.

22 Q. Today was your first day?

23 A. Today is my first day.

24 Q. Well, we've heard some about your children, but we
haven't

25 heard anything about your grandchildren. Do they live
in the

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1 area?

a 2 A. Yes. I have a granddaughter lives in Littleton and
3 grandson in Colorado Springs. My son has two
stepchildren,
4 which I guess you would consider my step-grandchildren,
5 don't think I put on the questionnaire.

6 Q. Yeah. And the two children you're speaking of are
your
7 daughter's children?

8 A. One is my daughter, one is my son's.

9 Q. Would you tell us a little more detail about your
nursing

10 career? I understood that you graduated from
University of
11 Colorado with a nursing degree; but kind of take me in
short
12 form, if you would, from that point to your retirement.

13 A. Graduated in 1968 with a degree in nursing. I
started at
14 Porter Hospital, I worked in the critical care unit for
about a
15 year, and then I worked in the obstetrics unit for -- I
think

16 it was about three years until they moved the
obstetrics unit
17 to another hospital, to Swedish. At that point they
had an
18 adolescent unit that was a new unit, and I worked in
there for,
19 oh, four or five years.

20 And then they offered me a position of a

supervisor,

21 nursing supervisor. I worked part-time. I always have
worked

22 part-time. I worked evening shift two days a week
doing that,

23 and it was -- supervising the hospital as well as doing
the

24 staffing, working out problems with doctors and
patients,

25 doctors and staff.

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1 I got a little tired of the commuting because
of where

2 I lived and I asked if I could cut down, and so they
said they

3 would put me on weekends, every other weekend in the
same

4 position, but it would be on the day shift. And I
worked there

5 until I quit in 1983. I've worked there five years at
that.

6 Q. What did your work in the adolescent unit consist
of?

7 A. Just staff nurse, medications -- just a regular
staff

8 nurse, you know, patient care.

9 Q. Now, you indicated that you have a son who is a
lawyer.

10 A. That's correct.

Oklahoma 11 Q. Have you talked to him at all about the event in

12 City?

13 A. No. I haven't.

14 Q. Or about the Timothy McVeigh trial?

15 A. Not really. I don't see him that often. When I
do, it's

16 more of a social thing. We don't really -- haven't
really

17 discussed the trial at all.

18 Q. Sure. I understand that. I was just curious to
find out

19 if he had ever expressed his view about the trial of
Timothy

20 McVeigh in any respect.

21 A. Not that I can remember.

22 Q. Now, you have a daughter who has previously had
some

23 connection with law enforcement?

24 A. Yes. She was in the police reserve in Englewood.

25 Q. What interested her in that?

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1 A. I'm not really sure. Maybe it was because her dad
was in

2 the police reserves and I think she thought it would be

3 exciting.

4 Q. Was it for her?

5 A. I think it was for a while. She kind of lost
interest in

6 it after a while and --

7 Q. On balance, how did she view that experience?

8 A. I think she liked the experience. I think she
liked the

9 excitement of it. I don't know how exciting it was,
but I

10 think she liked the prestige feeling and it was
difficult. We

11 moved to the mountains and she wanted to stay in it.
My

12 husband would wait for her after work, and she stayed
in it

13 for, oh, a couple years; and then she moved out of --
into her

14 own apartment.

15 Q. Does your husband feel the same way about his
experience

16 with police auxiliary?

17 A. From what I remember, he did. That was so long
ago, and I

18 was busy raising two children. I don't remember really
-- I'm

19 sure he liked it.

20 Q. Did either one -- does the experience of either
your

21 husband or your daughter with the police auxiliary

22 connection -- do you see that interfering in any way
with your

23 ability to fairly decide this case?

24 A. No, I really don't, because it's been -- it's been,
you

25 know, back in the past; and I don't remember a whole
lot about

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1 either one of their involvement in it.

2 Q. Right.

3 A. I wasn't involved personally. I know they went to
4 meetings.

5 Q. Could you tell me a little more about your
husband's work

6 with his employer? You say he worked there for 35
years.

7 Could you be a little more specific about what he
actually did?

8 A. He was an electronics technician. I know he worked
-- near

9 the test stands testing the missiles for -- right at
first, and

10 he worked on the Titan program. I know towards the
end, I

11 think he was doing -- I think they called him an
electronic

12 developer. I don't know exactly what he was doing,
doing more

13 installation, wiring electronics, that kind of thing.

that
14 Q. Now, he also had spent some time in the Navy. Is
15 right?
16 A. Yes, before we were married, he did.
17 Q. Was he on board ship?
I think
18 A. No. I think he was an electronics technician, and
19 he was in the fire department for a short time.
fondly?
20 Q. Does he talk about the days when he was in the Navy
it's been
21 A. Yes. He doesn't talk about it too often because
22 a long time ago, but he does.
23 Q. Let me ask you about an answer that you gave in the
Waco.
24 questionnaire concerning the events at Mt. Carmel at
response
25 That was Question 132, if you want to look at your

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1 there. It's on page 30, I believe.
2 A. Okay.
3 Q. Do you recall that incident?
4 A. I recall it, not vividly, but I do recall it.
arrest
5 Q. Did you take some interest in that -- the attempted
6 of Mr. Koresh and then the following days that ensued?

really
knew
about
else. I
you
would be

7 A. Well, I watched it on the news. I didn't take a
8 great interest. I mean, I didn't watch programs that I
9 like "20/20" or something that was going to be talking
10 it. I watched it on the news along with everything
11 mean, I knew it was happening, but I didn't take it --
12 know, I wasn't obsessed with watching programs I knew
13 talking about it, specials or anything like that.

14 Q. What was your take on what happened at Waco?

to
they
the
it was
was, a
that

15 A. Well, from what I remember, I wasn't real sure what
16 think. I felt that they were -- were at fault because
17 were breaking the law by holding (sic) up, I guess, in
18 building they were in. I don't remember exactly what
19 that even did it, whether it was a cult or whoever it
20 religious order. Like I say, I didn't focus in on it
21 much.

there
violence went

22 With the resolve of it, I wondered if maybe
23 should have been some more negotiation before the
24 in; but, you know, I realize -- hindsight is always
20/20.

25 Q. Right. Now, do you recall the verdict of guilty on

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1 Mr. McVeigh?

2 A. Yes, sir.

3 Q. Were you at home, or do you recall where you were?

4 A. I was at home.

5 Q. What did you think when you heard that?

6 A. I thought that if the jury had looked at the
evidence and

7 decided that that was the just thing to do -- that they
had

8 seen the evidence, and I felt that they -- you know, if
they

9 felt that's what the verdict should be, then I agreed.

10 Q. Do you recall that there was some period of time
between

11 when the jury returned the verdict of guilty and later
when the

12 jury returned a verdict of death? Do you recall those
being

13 two separate events?

14 A. I remember that they were two separate things. I
don't

15 remember how much time there was between them, but I do

16 remember that they were separate.

17 Q. And that space between them is exactly what Judge

Matsch

18 was talking about. That's that space where a penalty
hearing
19 occurs, if there is a guilty verdict, in which the jury
20 receives additional evidence that has not been received
in the
21 guilt phase. Do you follow that? It's like a trial in
and of
22 itself.

23 A. I remember that there was going to be it, but I
didn't -- I
24 didn't know it was new evidence. I didn't follow it
closely.

25 Q. Well, some of them may be evidence that's similar
to some

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1 of the guilt evidence -- it may be in addition to that;
but
2 other evidence will be brand-new, information about Mr.
Nichols
3 and who he is and things about his life and the like.
And, you
4 know, the United States in this case is asking, if
there is a
5 guilty verdict, for the death penalty. Do you
understand that?

6 A. Yes.

7 Q. But do you also understand that just because we're
asking

jury can 8 for it doesn't mean that we're entitled to it? Only a
9 make that decision.

I 10 A. Well, I think everything is an individual case, and
11 realize you can't say -- you can't really compare one
to 12 another; that everything -- every jury trial is an
individual 13 case.

make any 14 Q. You understand that the law demands that you not
15 decision till you've considered not just the crime but
also all 16 the other facts that I can't tell you about today
because we 17 haven't had a trial yet, we don't know what they are.

18 A. Yes, I understand.

19 Q. Okay. Now, have you ever talked to your husband
about the 20 death penalty?

21 A. Yes, we've discussed it, you know, off and on.

22 Q. How about your son?

23 A. I can't remember specifically discussing it with
him.

24 Q. Have you ever expressed your view on the death
penalty to 25 your husband?

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1 A. I have to my husband, yes.

2 Q. What did you tell him?

3 A. I told him that I believed in certain extreme cases
that it
4 should be -- it was warranted.

5 Q. And what did he say?

6 A. He -- he didn't used to agree with that. He used
to be
7 against the death penalty; and he's kind of thought --
I don't
8 know when he decided, but he said that he agreed that
in

9 certain cases, it should be -- we both agree that it's
not
10 something that should be, you know, used all the time
or none
11 of the time.

12 Q. All right. Let -- if we could, if you'd turn to
page 28.

13 And under -- you see subsection C there?

14 A. Uh-huh.

15 Q. In essence, it's asking you what kind of cases are
16 appropriate for life imprisonment.

17 A. Yes.

18 Q. And would you just read what you have there, make
sure I
19 read it right?

before, 20 A. "Repeat sex offenders, murderers who have killed
21 and are paroled."
22 Q. So under "murderers who have killed before," you're
the past 23 thinking of somebody who has already killed someone in
24 and now have killed someone again?
25 A. I was thinking of someone who may have killed
someone in

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1 the past, had maybe served a short prison term, had
been 2 paroled and went out and did it again.
3 Q. All right. Now, under subsection D you've added
the word 4 "premeditated" to "murder" as at least a type of crime
that one 5 might consider the death penalty. Do you see that?
6 A. Yes.
7 Q. And are you making a distinction between
premeditation when 8 you filled out C and D?
9 A. Distinction.
10 Q. In other words, what I'm asking you is do you think
there 11 are cases, aside from what the law is -- I'm just
asking your

12 view if you were to write the law -- if someone were
convicted
13 of premeditated murder, can that in your judgment be an
14 appropriate case for a life-imprisonment term, as
opposed to a
15 death penalty?

16 A. Oh, I see what you're saying. Yes, I would say so.
I
17 think it would depend on the individual case. There
are
18 different types of premeditated murder in my opinion,
and some
19 of them are more heinous. I think the circumstances
would be
20 different. I think there would be cases for both.

21 Q. I didn't read the Rocky Mountain News this morning,
but I
22 did see the headline about a man to be executed here in
23 Colorado. Are you familiar with that case?

24 A. I've heard about it.

25 Q. Do you have any judgments about that?

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1 A. I feel the same way as the other cases; that if a
jury
2 convicted him, then, you know, I think it's justice --
if a
3 jury has convicted him.

heard his 4 Q. They've considered all the evidence about him,
5 life story?

and went 6 A. I'm assuming they were serious about the evidence
7 into it with an open mind; and if this is what they
8 then I would go along with it.

death 9 Q. Now, you know, it's one thing to think about the
10 penalty in theory and to talk about it like you and I
are

actually be a 11 talking about it now; but it's another thing to
12 juror who would have to make -- come face to face with
that

from 13 life-or-death decision. And what I want to find out

you 14 you -- I know it would be difficult, but do you think
15 could, if you felt it was just, return a verdict of
death in a

16 case if you felt it was warranted?

very, 17 A. I believe I could. Like I've said, I would take it
18 very seriously, and I would try and look at all the
evidence

made 19 unbiased and consider it very, very carefully before I

it was 20 that decision; but I think I could, you know, if I felt

21 warranted.

States 22 Q. Can you assure us that you can give both the United
23 and Terry Nichols a fair trial?
24 A. Yes, sir, I believe I could.
25 MR. RYAN: Thank you very much.

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1 THE COURT: Mr. Woods?

2 MR. WOODS: Thank you, your Honor.

3 VOIR DIRE EXAMINATION

4 BY MR. WOODS:

5 Q. Good afternoon.

6 A. Good afternoon.

Mike 7 Q. As the Judge introduced me, my name is Ron Woods.

Oklahoma 8 Tigar and I were appointed by the Federal Court in

these 9 City to help Terry Lynn Nichols, who stands accused of

10 crimes.

11 You've mentioned in your questionnaire that in

works 12 high-profile cases that the criminal justice system

affects 13 "adequate" but in high-profile cases wealth sometimes

14 justice. Is that correct?

15 A. That's correct.

16 Q. Okay. Do you understand that in this case, Mr.
Nichols did

17 not have money to pay for an attorney and that the
court

18 appointed two attorneys to represent him?

19 A. I didn't know that, but I do now.

20 Q. Will that affect your decision? Will Mr. Nichols
be at a

21 disadvantage because he did not have the money to pay
for an

22 attorney to represent himself in these cases?

23 A. No. I believe everyone is entitled to an attorney
whether

24 they have the money to pay for it or not. This is
guaranteed,

25 and this is --

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1 Q. What cases were you thinking of, high profile,
where wealth

2 affected justice?

3 A. Oh, I guess I was thinking of O. J. Simpson, where
I

4 felt --

5 Q. How did you feel that wealth affected justice?

6 A. Oh, I felt that he was able to hire the very
expensive

7 attorneys, and I felt that affected the outcome of the

trial.

8 Q. Did you agree with the outcome of the trial?

9 A. No.

10 Q. Okay. And again, there are no right or wrong
answers here,

11 as the Court told you initially. We're trying to get
an

12 indication of your feelings on issues, whether or not
the

13 publicity has affected your opinion; and as your son
said, you

14 know, one piece of advice: Tell the truth when you go
down

15 there.

16 A. I probably should amend that that I didn't agree
with the

17 outcome; but on the other hand, I didn't see the
evidence, I

18 didn't get the judge's instructions. So if I had been
on the

19 jury, I might feel differently. Like I say, with the

20 publicity, it might be different than if I had sat on
the jury.

21 Q. Did you follow the case at all?

22 A. I followed that.

23 Q. Did you watch the televised proceedings during the
course

24 of the trial at any time?

25 A. No, I didn't. We don't have cable. I heard it on
the

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1 radio, but I didn't watch it on TV.

2 Q. Okay. Did you watch on the local evening news the
3 highlights of that day's trial, events?

4 A. Yes. Not all the time but sometimes.

5 Q. What did you think of the way that trial was
conducted?

6 A. Well, I guess I thought it was kind of a circus,
like maybe

7 because of what the media was saying. I wasn't real
sure it

8 was conducted correctly; but like I say, I wasn't
there. I

9 can't judge it except for what I saw on the media.

10 Q. Okay. Did you have any discussions with your son
either

11 during that trial or after that trial as to how it was
12 conducted and what his impressions were?

13 A. We -- it seemed like we -- he said something about
he

14 thought he should have been convicted, but we didn't
really

15 discuss the goings on exactly of what -- you know, I
just don't

16 remember. Like I say, we don't see him that often --

17 Q. Okay.

18 A. -- to really go into a lot of detail with him.

19 Q. As I understand, as a city attorney he may be
20 prosecuting -- city attorney is a part-time job --

21 A. Yes.

22 Q. -- in that location. He may be prosecuting, what,
minor
23 offenses, misdemeanor or traffic offenses?

24 A. I guess. I think he does -- some of -- some of the
things
25 that people do that are against the codes of the city,

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1 building-code type, and he gets -- he does some
prosecuting

2 work there. I don't -- like I say, he doesn't really
talk

3 about, you know, a lot what he does.

4 Q. Okay. And then you indicated he also does defense
work

5 because he has his own private practice and handles
minor

6 criminal violations, DUI, etc.

7 A. He does really more domestic than anything else,
but he

8 also does defense. I think he does -- since he's in a
rural

9 place, I think he takes just about anything that
doesn't

10 conflict with the city attorney job.

system 11 Q. Has he relayed his opinion of the criminal justice

12 to you in any way?

13 A. I can't remember him actually saying, you know -- I think

14 he has a lot of respect for it.

15 Q. Have you discussed the death penalty issue with him at all?

16 A. Not really.

17 Q. Okay. Now, concerning the death penalty, there has been a

18 lot of talk here this afternoon for -- while you've been in

19 here about the penalty stage of the trial. I wanted to let you

20 know that Mr. Tigar and I do not ever concede that we're going

21 to get to a penalty stage of this case. The Government has a

22 theory of Mr. Nichols' involvement. We disagree with that

23 theory. We're going to be cross-examining all the witnesses

24 that they call to prove their case. We're also going to be

25 calling witnesses that will contradict their theory. So I

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1 wanted to let you know that even though we're

discussing

2 penalty here, we certainly aren't in agreement that
we're going

3 to get there. Did you understand that procedure that
we're

4 going through now?

5 A. Yes, I do now.

6 Q. And that, you know, in the event we have a trial
and the

7 jury found the person guilty, we couldn't stop at that
time and

8 then bring the jury back in and ask them their theories
about

9 the death penalty at that time. This is our only
chance to

10 talk to you. And the fact that we're talking to you
about a

11 penalty stage doesn't mean that we're getting there;
it's just

12 our only time for everyone to get your views on it. So
you

13 understand that issue?

14 A. Yes.

15 Q. Okay. Thank you.

16 Now, you mentioned on Question 122 -- and
that's on

17 page 27 -- you mentioned -- your answer is, "I uphold
the

18 Constitution regardless of how unpopular the opinion
is." And

19 is that in relation to other people's opinions that
everyone is

20 entitled to their own political and religious opinions?

21 A. Yes.

22 Q. And that you uphold the Constitution regardless of
how
23 unpopular their opinions are. Is that correct?

24 A. Well, I think everyone has a right to their own
opinion,

25 and if you don't agree with it, that's okay; but
they've got a

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1 right to say it.

2 Q. Okay. Now, on page 130 -- excuse me -- page 31 --
well,

3 first, let me talk about publicity in general. On page
33,

4 Question 144, the questionnaire asked, "If you've heard
or read

5 anything about Oklahoma City bombing, please indicate
where

6 you've heard or read about it," and you checked off TV
news,

7 radio news, newspaper, conversations, and heard other
people

8 discussing the case.

9 You take the Sunday Rocky Mountain News. Is
that

10 correct?

11 A. That's correct.

12 Q. And this has been in the news for two-and-a-half
years.

13 Has that been your practice for the last two-and-a-half
years,

14 just taking the Sunday paper?

15 A. We take weekend. It's usually Friday, Saturday and
Sunday.

16 Q. Okay. The three papers that come in. All right.

And

17 radio news: Do you listen to the radio during the day?

You

18 mentioned that you listened to the O. J. case on radio?

19 A. Yes. More radio than TV during the day, because I
watch

20 the news at night and have the radio off and on during
the day.

21 Q. All right. And conversations: Who have you had
22 conversations with concerning the case?

23 A. Oh, I suppose -- I guess my husband and I had
talked about

24 it at the time.

25 Q. Okay. And have you talked about it with your son?

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I

1 A. I don't remember discussing it that much with him.

2 just -- it's been, you know, a while back. I just
can't -- I

having 3 don't remember specifically, you know, sitting down and

4 any discussion with him.

event of 5 Q. Okay. I'm not just talking about the day of the

that's 6 April 19, 1995. I'm talking about all the publicity

just a 7 gone on since including the verdict in the McVeigh case

8 couple months ago.

don't know 9 A. I don't remember specifically discussing it. I

time. 10 if we didn't -- we may not have gotten that particular

11 Like I say, we don't see him real often.

case. 12 Q. Okay. And you've heard other people discussing the

it? 13 What did you mean there? Who have you heard discussing

know, 14 A. I guess I was thinking of my husband mainly, you

15 discussing it with him at the time.

and 16 Q. Okay. Now, if you would look on the -- on page 31,

public 17 that's Question 133, "Have you heard any statements by

yes, who 18 officials concerning this case?" And you said -- "If

such 19 made them, what are they, and what do they think about

20 statements?"

21 And your answer was, "Federal lawyers were
happy with
22 the outcome of Tim McVeigh trial. If evidence proved
he did
23 this, they have reason to be happy."

24 Did you discuss the case at that -- when the
verdict
25 came in with your husband, or were you at home with
your

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1 husband at that time?
2 A. Yes, we were at home.
3 Q. What was your reaction and your husband's reaction
as to
4 the verdict in the case? I'm speaking both of the
guilt and
5 the punishment phase.
6 A. Well, I think we -- as I said before, we decided if
a jury
7 had heard all the evidence and came up with that
verdict
8 that -- what I was talking about here, heard any
statements by
9 public officials, I just remember they had interviews
with the
10 lawyers afterwards and that they were happy with the
verdict.
11 Q. All right. And your statement is, "They have a
reason to

12 be happy." What do you mean by that?

would be 13 A. Well, I suppose if they had won the case, they

the 14 happy about it. This is what I meant. I suppose if

reason 15 defense had won the case, then I would say they'd have

16 to be happy because they'd won the case.

17 Q. Okay.

18 A. It was in relation to winning the case.

19 Q. When you saw the publicity of the prosecutors being

all the 20 interviewed afterwards, did you see the publicity about

the 21 people from all the downtown buildings that came out of

for the 22 buildings and stood five deep at the sidewalk to clap

23 prosecutors when they exited the courthouse?

I don't 24 A. I never seen the pictures exiting the courthouse.

25 remember the clapping necessarily.

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1 Q. Do you remember anybody who was there on the
sidewalks at

2 the time of the verdict?

3 A. No.

to the 4 Q. What was your reaction and your husband's reaction
5 death penalty verdict?

and they 6 A. There again, we felt that if the jury had decided
-- if 7 had seen the evidence, then that was justice as far as
what their 8 they felt it was justice that we would go along with
9 decision was.

10 Q. You mentioned in the conversations with the
prosecutor 11 that -- and also the Court -- that you've held your
death 12 penalty views for a long time and that you discussed
them with 13 your husband and whereas he initially didn't feel the
death 14 penalty was appropriate that he now feels it's
appropriate in 15 certain cases. Did I understand that --

16 A. Yes.

17 Q. -- to be the way you explained that?
18 Was that one of the occasions where you
discussed the 19 death penalty and whether or not it was appropriate and
not 20 appropriate?

21 A. No. I think it was -- I can't remember -- a murder
several 22 years ago. I don't remember which one now, but I just

23 remember -- I don't really -- didn't really try to
change his
24 opinion, but I think he just said that after that -- I
don't
25 remember which one it was. I just remember him saying,
you

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1 know, maybe in this case the death penalty is
appropriate.

2 Q. Okay.

3 A. It was one of the horrendous murders a while ago.
I can't

4 remember.

5 Q. And I certainly didn't mean to imply that you
changed his

6 opinion. I see you all have --

7 A. I didn't change his opinion, believe me.

8 Q. -- you have open discussions and each makes up your
own

9 mind; is that correct?

10 A. That's correct.

11 Q. Have you been reading the publicity about the Gary
Davis

12 case from the time it happened, whenever that was, and
the

13 upcoming discussion on the actual execution, which I --
as I

14 recall, is scheduled for tonight?

15 A. Oh, I followed it on the TV. I didn't really go
out of my
16 way to follow it. I heard it mentioned on the news.
17 Q. Okay.
18 A. I haven't -- I don't remember exactly when it was.
Like I
19 say, I haven't really gone out of my way to look in the
TV
20 Guide and see whether they're going to talk about it on
"20/20"
21 and turn it on. I haven't done that. I've seen it on
the news
22 along with everything else.
23 Q. Sure. Have you read the commentaries the last
three
24 weekends in the Rocky Mountain News where they have
guest
25 columnists discuss the pro and the con of the death
penalty?

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1 A. No, I haven't.
2 Q. Have you read anything about the death penalty,
either way,
3 in the last month or two?
4 A. Not really. I don't sit down and read the paper.
I mean I
5 like the -- you know, the Spotlight and the other
sections of

6 it. I don't really sit down and go through the whole
thing and
7 read every article.

8 Q. Okay. Concerning the publicity on the case from
all the
9 sources that you've seen, read, or heard, do you recall
how
10 many people were killed in the bombing?

11 A. No, I don't.

12 Q. Can you give me an approximation?

13 A. I think it was 100 or so, but I don't remember.

14 Q. Okay. Do you recall whether or not there were any
children
15 killed?

16 A. Yes, there were some.

17 Q. And do you recall what the reason why there were
children
18 killed at a bombing of a federal building?

19 A. Because there was a day-care center there.

20 Q. And do you recall how many children were killed?

21 A. No.

22 Q. Now, concerning that issue, if you were a juror on
the
23 case, there may well be photos and testimony offered
into

24 evidence concerning the deaths of the children,
injuries of the

25 children, and also the death and injuries of adults.
It will

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1 be very emotional testimony. Can you, if you were on
the jury,
2 look at that testimony which will be emotional but at
the same
3 time look at the Government's theory and their proof
that they
4 offer and analyze the proof to see if they proved Terry
Nichols
5 was guilty of this case beyond a reasonable doubt and
not let
6 that emotion that will naturally come and -- affect you
in your
7 deliberation?
8 A. Yes, I believe I could, because working as a nurse,
I saw
9 things that were emotional. And it is normal to get
emotional;
10 but I had to distance myself in order to be
professional and
11 effective in order to do my job in nursing, especially
as a
12 supervisor, and I believe I would have to do the same
thing
13 here. I'm -- I mean, I think it would be normal to get
14 emotional; but I think I would have to remove myself
and look
15 objectively at the evidence more than the emotion.
16 Q. All right. Well, that's a good analogy. You

understand

17 that your obligation in this case would be to look at
the

18 evidence and make a decision solely on the facts that
the

19 Government offered to prove the guilt beyond a
reasonable

20 doubt?

21 A. That's correct.

22 Q. And you feel that you could do that?

23 A. I feel I could because of my training as a nurse;
that I've

24 had to do that before.

25 Q. Okay. Now, on the question of punishment, on page
28, the

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D, the 1 prosecutor went over this with you distinguishing C and

2 murderers. In C, "What kind of case is it appropriate,
if

3 ever, to impose a punishment of life in prison without
the

4 possibility of ever being released?"

5 And you mentioned, "Murderers who have killed
before

6 and have been paroled."

7 And then in D, "What kind of cases is it
appropriate,

8 if ever, to impose a punishment of death?"

9 And you distinguished here, "Premeditated
murder, if
10 evidence is strong enough to prove case beyond a
reasonable
11 doubt."

12 Can you expand on that a little bit about what
type of
13 murders you were speaking of in these two categories?

14 A. Well, I think I mentioned in C, like I said, the
people
15 that have been (sic) murdered and been on parole and
then gone
16 out and killed someone else. You know, I don't think
they
17 should be given too many chances --

18 Q. Okay.

19 A. -- if they're repeat offenders.

20 In D, I mentioned premeditated murder. I
guess I was

21 thinking of someone who is killing their wife or
something for

22 the insurance or something where they sit down and
planned it

23 out. But I know there is premeditated murder that --
for

24 instance, a wife-battering case where she kills her
husband. I

25 think you'd have to -- it's hard for me to distinguish
because

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1 each case is different.

2 Q. Sure, sure. I understand.

3 A. I would need to take each case and look and decide
on the
4 merits of that particular case, and it's hard for me to
make a
5 blanket statement: This is what I think should be life
6 imprisonment and this is what I think should be death,
because
7 I think each case is so different.

8 Q. I just wanted to get your understanding on that and
then
9 see if I could clarify in some manner. As the Court
explained
10 to you, before a jury gets to a penalty stage in a case
of this
11 type, a capital murder case where the death penalty is
an
12 option -- before a jury gets to that stage, they have
found the
13 defendant guilty of premeditated, deliberate murder of
one or
14 more individuals, so that issue will not come up in the
penalty
15 stage.

16 A. Yeah, I understand now that they're separate. When
I
17 filled this out, didn't understand that.

18 Q. I understand. And as you explained to the Court
after he
19 gave you the procedure, you stated that you then
understood it;
20 and then you went on to say, yes, that you could follow
the
21 Court's instructions "But that right now I don't know
his
22 involvement." And you seem to base your answers to the
Court's
23 question on the facts of the case. What did you
understand the
24 Court to mean when he said that there would be
aggravating
25 circumstances offered into evidence and there would be

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1 mitigating circumstances offered into evidence?
2 A. I'm not really sure I do know the difference
between
3 aggravating and mitigating.
4 Q. Okay. What do you understand would be your job and
your
5 duty as a juror in the penalty stage after you, on the
jury,
6 had found a person guilty of premeditated, deliberate
murder of
7 one or more persons? What would be your job? What did
you

be a 8 understand the Court to mean when he said there would
9 second hearing and that there would be aggravating and
did you 10 mitigating circumstances offered into evidence? What
11 think your job was going to be at that penalty stage?
about the 12 A. Well, he said there would be things brought up
have to 13 person's life, this kind of thing, and that you would
initial 14 look at different types of evidence than you did in the
different 15 trial; that the evidence would be looked at at a
16 focus, I guess.
17 Q. All right.
18 A. That you would have to separate the two.
19 Q. Separate the two? Which two were you speaking of?
he was 20 A. Well, you have to separate the evidence from saying
different 21 guilty and then deciding the punishment would be
would be to 22 types of evidence, different focus on that than it
23 decide the guilt or innocent, the first part.
or 24 Q. And you understand that that first part, the guilt
will have 25 innocence, will have -- if you get to that stage --

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1 already been decided? The jury has already decided
that?

2 A. Yes.

3 Q. Do you feel that if you were on a jury and the jury
had

4 found a person guilty of premeditated, deliberate
murder of one

5 or more individuals -- do you feel that the death
penalty would

6 be the appropriate punishment over a life imprisonment?

7 MR. MACKEY: Objection.

8 THE COURT: Overruled. You may answer that.

9 JUROR: I think I would have to look at the
case, the

10 individual case to give you an answer to that, because
I can't

11 say definitely I would or wouldn't until I saw, you
know, what

12 the evidence was for and against the penalty.

13 BY MR. WOODS:

14 Q. Okay. And that evidence you're speaking of is
evidence

15 other than the guilt or the innocence?

16 A. Yes. After the verdict, the evidence that would be
during

17 the penalty phase of the trial -- I would have to make
that

18 judgment at that time. I couldn't say now which way I
would

penalty 19 decide because I haven't seen the evidence at the
20 trial.
the 21 Q. Did you have any opinion one way or the other about
22 Davis death penalty verdict?
like -- 23 A. Well, I know he had a fair trial, and if this is
guess; 24 like I said before, I have faith in the jury system, I
they know 25 and if the jury decides this is the way it should be,

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1 the evidence, that I would agree with it.
they had 2 Q. Would you have disagreed with the McVeigh jury if
3 come back with a life imprisonment verdict?
4 MR. MACKEY: Objection.
5 THE COURT: Sustained.
6 BY MR. WOODS:
in these 7 Q. And your statement was you agree with the verdicts
8 cases because you have faith in the jury system?
9 A. In most cases.
10 Q. And I take it not in the O. J. case.
11 A. That's what I was thinking, the O. J. case.

12 Q. And if -- okay. If you're chosen as a juror in
this case,
13 can you look Terry Nichols in the eye and say, I will
give you
14 a fair trial?

15 A. Yes, sir, I would.

16 MR. WOODS: Okay. Thank you very much.

17 THE COURT: Well, we do thank you for your day
with us
18 here; and it did take all day, and we appreciate your
time.

19 And I hope you appreciate that we can't schedule these
things
20 with some precision.

21 Now, we cannot answer the question that I'm
sure you
22 have is when will I know and will I be on the jury? We
don't
23 make those decisions as we go; so there will be some
time yet
24 before we select the jurors. Please go forward now,
and you're
25 excused now, with the understanding that you may be
back in

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1 here -- will be back in here to decide this case as you
told us
2 that you could. So be careful. Don't discuss it with

anybody.

3 Also be careful about watching the news and listening
to radio

4 and so forth to be able to do that, if called upon; and
if you

5 have something that takes you out of town or some
change in

6 what we know about you, let us know. You have the
number to

7 call.

8 JUROR: Okay.

9 THE COURT: And we'll be back in touch with
you, but I

10 can't tell you when.

11 JUROR: Okay.

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

13 much.

14 JUROR: Thank you.

15 THE COURT: Yes?

16 You're excused.

17 (Juror out at 4:51 p.m.)

18 THE COURT: I want to start the next one.

19 MR. TIGAR: Yes, your Honor. I wanted to
interpose a

20 very brief objection to the voir dire of the last
juror. I

21 didn't want to do it in the presence of the juror.

22 THE COURT: What is the objection?

23 MR. TIGAR: Mr. Ryan said the United States is
asking
24 for the death penalty here. I think that's an
inappropriate
25 remark.

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1 THE COURT: I agree with that. The United
States has
2 to await the results as well, so I don't believe that
it's
3 appropriate for the Government to say that you're
coming in
4 here to ask for the death penalty.

5 MR. TIGAR: Our observation is -- your Honor,
is that
6 the death penalty notice is signed by the unreviewable
decision
7 of a political appointee --

8 THE COURT: Well, I'm not talking about it on
that
9 ground. What I'm talking about is that I don't think
that the
10 Government lawyers should be saying the death penalty
is the
11 appropriate punishment.

12 MR. TIGAR: Thank you, your Honor. I
understand.

13 THE COURT: Wait to see.

14 Bring in 839.

15 Good afternoon. If you'll please raise your
right

16 hand and take the oath from the clerk.

17 (Juror No. 839 affirmed.)

18 THE COURTROOM DEPUTY: Thank you.

19 THE COURT: Please be seated there at the
chair by the

20 microphone if you will. We're not going to get very
far.

21 You've been waiting all day to come in here and now
you're

22 here, but we're going to recess about 5:00, so you'll
be back

23 tomorrow. Can you arrange that?

24 JUROR: Uh-huh.

25 THE COURT: Okay. But we want to make use of
that

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1 time that is available yet this afternoon and get
started.

2 VOIR DIRE EXAMINATION

3 BY THE COURT:

4 Q. So you understand that under the oath that you have
just

5 taken, the questions to be asked of you relate to the
trial of

Nichols. 6 the -- styled as United States against Terry Lynn

7 A. Yes.

8 Q. And that you got a summons some weeks back advising that

9 your name was -- came up in a chance selection process as

10 possibly a juror in the case. We sent you a short-form

11 questionnaire, you responded, and then we sent you a notice to

12 be out at the Jefferson County Fairgrounds' auditorium building

13 on September 17; and you were there --

14 A. Yes.

15 Q. -- and I was, and so were these -- some of these other

16 people who are here now. And I want to reintroduce them so

17 that you know who is with us this afternoon.

18 At this first table we have the lawyers for the

19 Government, the prosecutors in the case. You met Mr. Lawrence

20 Mackey, the first one there; and Ms. Beth Wilkinson. Now they

21 are joined by Mr. Patrick Ryan and Mr. James Orenstein, who

22 were not with us then but have joined now and will be a part of

23 the prosecution of the case.

24 You did meet Mr. Michael Tigar and Mr. Ronald Woods,

of them 25 attorneys for Terry Nichols; and also Mr. Nichols. All

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1 were there at the time.

2 And then just to say for the record, as we must, that

3 at that time I explained to you the background of the case, how

4 it was that the case arose; that there was an event in Oklahoma

5 City, Oklahoma, on April 19 of 1995, the destruction of a

6 federal office building there by an explosion and death and

7 injury to people in the building; that thereafter an indictment

8 was filed in the United States District Court in the Western

9 District of Oklahoma -- that is, in Oklahoma City -- alleging

10 through Government lawyers that a man named Timothy James

11 McVeigh, along with Terry Lynn Nichols and, the indictment

12 says, other persons not named, conspired together to bomb that

13 building and to kill and injure people in it; that the

14 Government alleged that they did things to cause that to happen

nine -- 15 and also that they planned and executed the murder of
were in 16 or eight -- excuse me -- law enforcement officers who
these 17 the building, charges of first-degree murder; that to
guilty, 18 charges both of the defendants named pleaded not
19 thereby creating the issues for trial.

here to 20 The trial was then moved from Oklahoma City
Oklahoma 21 Denver because of a concern about asking people in
and that 22 City to serve on a jury when the event happened there
orders -- 23 with the trial having been moved to Denver, I entered
with 24 an order requiring separate trials so that the evidence
from the 25 respect to Mr. McVeigh would be considered separately

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because 1 evidence concerning Mr. Nichols and on the finding that
-- the 2 of differences it would not be fair to have them both
3 evidence as to both of them decided by the same jury.

the cases 4 And there was therefore the order separating

found him 5 for trial. Mr. McVeigh was tried here, and a jury
6 guilty and then, after a second trial on the punishment
7 question, came back with a recommendation of a death
sentence.

8 You know those things.

9 And then I explained that the outcome of that
case --

10 that is, the McVeigh trials -- could not in any way be
11 considered with respect to Mr. Nichols because we're
here now

12 starting over again, and there is no evidence in this
case now;

13 and Mr. Nichols, like any defendant in any criminal
court in

14 the United States, is presumed to be innocent of the
charges

15 made against him. And you understand that?

16 A. Yes.

17 Q. Do you?

18 A. Yes.

19 Q. You have to answer aloud here so that we can make a
record

20 of your answers. Okay?

21 A. Uh-huh.

22 Q. And I went on to explain as fundamental principles
of the

23 law that every person who is charged with a crime is
presumed

24 innocent; that that carries throughout the trial and

entitles

25 that person to an acquittal, a verdict of not guilty,
unless

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1 the jurors hearing the case decide that the evidence
proves the
2 case beyond a reasonable doubt. Anything short of
that, the
3 duty of the jury is to return a verdict of not guilty
-- and
4 that no defendant has any burden or duty of introducing
any
5 evidence by witnesses or otherwise at his trial. He
doesn't
6 have to prove anything. And, also, no defendant need
take the
7 witness stand and testify in response to questions or
to offer
8 any explanations. A defendant can simply remain
silent,
9 challenge the Government's evidence, and then
ultimately ask
10 the jury to return a verdict of not guilty because the
evidence
11 is not sufficient to prove the case beyond a reasonable
doubt.

12 You understand that --

13 A. Yes.

14 Q. -- these points?

15 And actually, you're in law school now?

16 A. Yes.

17 Q. Have you had a course in criminal law or criminal
18 procedure?

19 A. I've had both.

20 Q. Okay. Well, you know, even though these things may
be very

21 clear to you, we want to make them clear on this
record, which

22 is why we're repeating some things that are probably
well-known

23 to you. Understand why we must do this?

24 A. Yes, I do.

25 Q. Okay. And we then asked you to fill out a very
lengthy

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1 questionnaire answering a lot of questions and some of
which

2 may be -- you may wonder why we asked you. We
appreciate that;

3 but we do know that some of these things are somewhat
invasive

4 of your privacy, and we try to accommodate both your
interest

5 in privacy and the public interest in this proceeding,
and

6 therefore we do arrange to not reveal your name and

these

7 answers that you gave. I made copies for the people
who are

8 here participating in the process with the
understanding they

9 wouldn't be used for any purpose other than that; and
also

10 we've arranged, as you know, the going and coming of
potential

11 jurors to the courthouse in ways so that the media
can't

12 photograph them and publish their photos or something
like

13 that, a matter of again protecting privacy. But here
now we

14 are in open court, so what happens here in open court
is

15 public, you understand.

16 A. Yes.

17 THE COURT: Okay. Well, having reached these
18 understandings, we've also reached 5:00, but let me
assure you

19 that we're not going to go over all these questions
again; that

20 what will happen here is that I will have some
questions to ask

21 of you, asking for some additional information on some
of these

22 points and also some things that are not on here. And
then

23 after I have questioned you, an attorney on each side
of the

24 case will be given the opportunity to ask some
additional
25 questions of you. And of course, this is not a test.
There is

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1 nothing right or wrong about the answers. We just want
to know
2 your answers. And we'll have you back in the morning
at 8:45
3 to continue this.

4 JUROR: Okay.

5 THE COURT: All right? In the meantime,
please put it
6 out of mind and don't talk with anybody, and be careful
-- I
7 mean, about this; and be careful about the things that
you may
8 read, see, or hear in the meantime so that you can come
to us
9 without any outside interferences with what you tell
us.

10 JUROR: Okay.

11 THE COURT: All right? Thank you. You're
excused for
12 now.

13 JUROR: Thank you.

14 (Juror out at 5:02 p.m.)

15 MR. TIGAR: I'm sorry, your Honor. May we

approach

16 briefly?

17 THE COURT: Yes.

18 (At the bench:)

19 (Bench Conference 24B1 is not herein transcribed by
court

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

21

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23

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1 (In open court:)

2 THE COURT: We'll recess till -- recess till
8:45

3 tomorrow morning.

4 (Recess at 5:02 p.m.)

5 * * * * *

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17 * * * * *

18 REPORTERS' CERTIFICATE

19 We certify that the foregoing is a correct
transcript from

Dated 20 the record of proceedings in the above-entitled matter.

21 at Denver, Colorado, this 13th day of October, 1997.

22

23

24

Paul Zuckerman

Carpenter

Bonnie