

1                                   IN THE UNITED STATES DISTRICT COURT  
 2                                   FOR THE DISTRICT OF COLORADO  
 3 Criminal Action No. 96-CR-68  
 4 UNITED STATES OF AMERICA,  
 5                   Plaintiff,  
 6 vs.  
 7 TERRY LYNN NICHOLS,  
 8                   Defendant.

ff

9  
 10                                   REPORTER'S TRANSCRIPT  
                                   (Trial to Jury: Volume 26)

11  
 ff

12                                   Proceedings before the HONORABLE RICHARD P.  
 MATSCH,  
 13 Judge, United States District Court for the District of  
 14 Colorado, commencing at 1:35 a.m., on the 14th day of  
 October,  
 15 1997, in Courtroom C-204, United States Courthouse,  
 Denver,  
 16 Colorado.

17  
 18  
 19  
 20



13 for Defendant Nichols.

14 \* \* \* \* \*

15 PROCEEDINGS

16 (Reconvened at 1:35 p.m.)

17 THE COURT: Be seated, please.

18 Bring him in.

19 (Juror No. 35 was recalled to the stand.)

20 THE COURT: All right, sir. If you'll again  
take a  
21 seat there. Ms. Wilkinson, you have some questions?

22 MS. WILKINSON: Yes, I do, your Honor. Thank  
you.

23 THE COURT: Please.

24 VOIR DIRE EXAMINATION

25 BY MS. WILKINSON:

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Juror No. 35 - Voir Dire

1 Q. Hello, sir, how are you?

2 A. Fine.

3 Q. My name is Beth Wilkinson, as the Judge told you;  
and I'm  
4 one of the prosecutors who will be responsible for  
presenting  
5 the evidence in this case against Mr. Nichols. And I  
want -- I  
6 know you've answered a lot of questions, 166 on the

you 7 questionnaire and a few more from his Honor; and I hope

8 wouldn't mind answering a few more of my questions.

9 A. No.

10 Q. Thank you.

11 A. Excuse me.

you told 12 Q. I want to start with some of your interests which

had a 13 his Honor about a little bit and you said that you've

14 long-time interest in poetry and lyrics; is that right?

15 A. Yes. That's correct.

said you 16 Q. And did you write lyrics when you were a kid? You

were a 17 wrote poetry, but did you also write lyrics when you

18 child?

guess, 19 A. I guess I didn't think of it in that concept. I

20 yes, I did.

21 Q. Was it more just on the poetry side?

22 A. Mostly on the poetry side.

women, or 23 Q. And back then, were you writing about love and

24 did you have different topics?

love and 25 A. I guess at that point in time, it was -- it was

## Juror No. 35 - Voir Dire

trying 1 nature. I guess it was writing for friends and things,  
2 to date and such.

woman, but 3 Q. Now, of course, I know the answers because I'm a  
4 my teammates want to know whether you have now figured  
out the 5 answers about love and women.

6 A. No.

7 Q. No, you're still working on it?

8 A. Yes.

9 Q. Okay.

10 A. Most definitely.

right? 11 Q. You said that you admire Maya Angelou; is that

12 A. Yes.

work? I 13 Q. And can you tell me what you like best about her

couple 14 know it's probably hard to come up with one thing or a  
15 things that you like best about her work.

16 A. The individuality.

these 17 Q. Have you ever seen her interviewed on TV on one of

18 morning shows or somewhere else?

19 A. Multiple occasions, yes.

20 Q. And have you read a lot of her works that -- from

poetry to

21 some of her prose?

22 A. Not a lot, no. I try to stay away from reading a  
lot of --

23 THE COURT: I'm having a little trouble  
hearing you.

24 Would you speak up a little bit, please.

25 JUROR: I have -- yes, I have read some of her  
works

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Juror No. 35 - Voir Dire

1 but not in total depth of all of her works.

2 BY MS. WILKINSON:

3 Q. And are you more -- are you someone who reads more  
poetry

4 than you do prose since you have an interest in it?

5 A. Yes.

6 Q. In the questionnaire, there's just a few things  
that you

7 wrote that I'd like to follow up, if you wouldn't mind,  
and one

8 is on page 18, Question No. 84. Do you see that one  
gave a

9 whole list of organizations there?

10 A. Yes.

11 Q. And we asked you whether you were familiar with any  
of

12 those, and you checked off a couple. And if you

wouldn't mind,

13 could we go down these and you could just tell me what  
you know

14 about the organizations and whether you've just heard  
of them.

15 The first one you checked there is the NRA. And can  
you tell

16 me what you know about the NRA?

17 A. It's dealing with firearms, my understanding.

18 Q. And you told us you believe that people should be  
able to

19 have some weapons; is that right?

20 A. Yes.

21 Q. And you said, though -- I think your words were  
that you

22 thought that we should keep it reasonable?

23 A. Yes.

24 Q. Can you tell me what you meant by that.

25 A. I guess it would lend to as far as recreational and  
such

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Juror No. 35 - Voir Dire

1 that --

2 Q. Like hunting maybe?

3 A. I'm sorry?

4 Q. Hunting --

5 A. Yes.

6 Q. -- for example?

7 A. Hunting and such, yes.

8 Q. Do you think that there should be stricter rules on  
9 licensing and training before people are allowed to own  
10 firearms?

11 You don't have to answer that. If it's  
something you

12 haven't really thought about, I don't -- I don't mean  
to put

13 you on the spot. That's fine.

14 A. I haven't thought about it. I was around firearms  
at an  
15 early age, so . . . . I guess it would be teaching,  
yes.

16 Q. Okay. The next organization on there that you  
checked you

17 know something about or you've heard is the Anti-  
Defamation

18 League, and what -- what do you know about their work?

19 A. I guess I picked up on defamation. I guess I ran  
with

20 that, and I guess it would be something -- meaning  
derogatory

21 or take away from someone.

22 Q. Okay. That reminds me of the comment you were  
discussing

23 with the Judge about that terrible incident you had  
where there

24 were some police officers in a vehicle who were making

25 derogatory comments; is that right?

Juror No. 35 - Voir Dire

1 A. Yes.

almost  
time?

2 Q. Did you feel in that situation that it would be  
3 impossible for you to confront those officers at that

4 A. Most definitely.

5 Q. You were not in a position where you could --

6 A. No.

that

7 Q. -- make any comments or make -- or make a report of  
8 incident?

report

9 A. I -- after, after the incident, I could have made a  
10 or delved into it further. I simply felt that it was

that

11 person's opinion, after thinking about it and going on

from

12 there. I was -- there was no harm brought to me other  
13 remark.

than the

14 Q. Now, you maybe didn't have respect for that person  
15 those kind of comments?

to make

16 A. Most definitely.

17 Q. The next organization you check is AARP. I take it

you're

18 not quite old enough to be a member of that  
organization;

19 right?

20 A. No, I'm not.

21 Q. And how have you heard of them?

22 A. I guess from parents, a little younger -- younger  
days

23 speaking about it and such.

24 Q. Okay. Are you aware of any lobbying or any  
positions they

25 have taken about political issues?

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Juror No. 35 - Voir Dire

1 A. Not in depth. Just in general things that I've  
heard

2 about.

3 Q. Okay. The next two are Child Welfare -- the Child  
Welfare

4 League and the Americans for Democratic Action. Do you  
-- do

5 you know much about those organizations?

6 A. Again, in general. Yes.

7 Q. And are you a member of either one of those  
organizations?

8 A. No, I'm not.

9 Q. Would it be fair to say that you're not -- someone  
who's

10 not as interested in politics? You're more of an  
artist and  
11 someone who's interested in things other than political  
issues?  
12 A. I guess I'm -- I consider myself down the middle of  
the  
13 line on both issues.  
14 Q. Okay. You told us on page 33 in response to a  
question  
15 that you have filed -- you have followed some criminal  
trials  
16 and in fact, you've watched Court TV at times. Do you  
recall  
17 that?  
18 A. Yes.  
19 Q. Can you tell me what criminal trials that you  
followed?  
20 A. Off the top, I would have to say the -- O. J.  
trial, but  
21 not in depth. Basically, I guess I've just scanned --  
I guess  
22 it's just a general scan of different -- different  
cases.  
23 Q. All right. But the O. J. Simpson case is the one  
you're  
24 most familiar with?  
25 A. Yes. That's the most recent one.

1 Q. It would have been hard to avoid that case; right?

2 A. Most definitely.

3 Q. Do you have an opinion about how the trial was  
conducted --

4 not the verdict, but how the actual trial was  
conducted?

5 A. I do, yes.

6 Q. And would you share that with us? And again, you  
know,

7 there's no right or wrong answers and we're just  
interested in

8 what you think.

9 A. I feel it could have been contained a little  
better.

10 Q. Were you opposed to the idea of cameras in the  
courtroom?

11 Did you think that contributed to the sensationalism?

12 A. I think it was a contribution to it. I think it  
could have

13 been controlled a little better.

14 Q. And who do you think could have maintained that  
control?

15 A. The judge.

16 Q. Do you have an opinion about the jury's verdict in  
that

17 case?

18 A. No, I do not.

19 Q. You understand, I'm sure, what the Judge told you,  
which is

20 in every trial in America, juries decide whether a  
defendant is

21 guilty or not guilty based on what they hear in a  
courtroom.

22 A. Yes.

23 Q. And you have no problem with following his Honor's  
24 instructions to that fact, do you?

25 A. No.

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Juror No. 35 – Voir Dire

1 Q. And you understand that even if you've heard or  
read things

2 about the Oklahoma City bombing case, that you'd have  
to put

3 those things aside and come in here with an open mind?

4 A. Most definitely.

5 Q. Would you have any problem doing that?

6 A. I wouldn't have any problem with that.

7 Q. And you don't have any opinion of Terry Nichols as  
you sit

8 there today, do you?

9 A. No, I do not.

10 Q. Okay. And would you have any problem if you were  
selected

11 for a capital jury, not only doing that as to whether  
someone

12 is guilty or not guilty, but as to what sentence they  
should

13 receive?

14 A. Would you repeat, please.

15 Q. Sure.

16 A. Excuse me.

17 Q. As you know, in a case like this, there can be two  
phases,

18 as his Honor explained to you. The first would be if  
you were

19 selected as a juror, you would determine whether the

20 Government -- that's us -- had proved beyond a  
reasonable doubt

21 that the defendant was guilty. Right? That would be  
your

22 first decision that you have to make. And you have to  
do that

23 with an open mind and listen only to the evidence, and  
you've

24 told us you could do that; is that correct?

25 A. Most definitely, yes.

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Juror No. 35 - Voir Dire

1 Q. Okay. Then the second phase, as his Honor  
explained it,

2 would be if you found that the defendant was proven  
guilty, you

3 have a second trial or hearing about what the penalty  
or the

4 punishment should be.

5 A. I'm aware of that, yes.

6 Q. And that was where the Judge said you'd hear both  
7 aggravating factors that would be in favor of the death  
penalty  
8 and mitigating factors that would be in favor of a life  
9 sentence.

10 A. Yes.

11 Q. In that you have to come in, even if you decided a  
12 defendant were guilty, again with an open mind to  
determine

13 which penalty or which punishment was most appropriate.  
Could  
14 you do that?

15 A. Yes.

16 Q. Would you be able to tell us that you would not  
think that  
17 there should be an automatic death penalty no matter  
what the

18 crime is, no matter how heinous or atrocious --  
"horrific" I  
19 think was the word that you used. No matter what the  
crime

20 was, could you still come in in that second phase and  
have an  
21 open mind and listen to everything about the defendant  
as well

22 as the crime before you decided whether the person  
should live  
23 or die?

24 A. Most definitely, yes.

25 Q. So you wouldn't come in with any preconceived

notions about

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Juror No. 35 - Voir Dire

should 1 what the penalty should be or what punishment he or she

2 receive; is that right?

3 A. That's correct, yes.

to page 4 Q. Okay. I asked you that because if you could turn

asked you 5 28, you may recall, as the Judge told you, there we

or just 6 about your views if you were the one to write the law

basically what 7 what your personal opinions were; and you said

right? 8 the law says; in part, that it depends on the crime;

9 A. Yes.

be 10 Q. And that you thought that the death penalty could

right? 11 appropriate when a death -- or a life is taken; is that

12 A. Yes. That's correct.

believe 13 Q. Would it be fair to say, though, that you don't

impose 14 that if a life is taken, that you would automatically

15 the death penalty on a defendant?

16 A. Would you repeat, please.

properly. 17 Q. Sure. I'm sorry. Maybe I didn't phrase that  
your 18 Would it be fair to say that even though you've said  
if a 19 opinion is that the death penalty could be appropriate,  
just 20 life was taken, that you wouldn't automatically do that  
person's 21 because you heard someone was guilty of taking another  
22 life?  
23 A. It would depend on the laws that prescribed things.  
what you 24 Q. So you would listen to the Judge's instructions on  
25 were to consider?

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Juror No. 35 - Voir Dire

1 A. That's correct, yes.  
about 2 Q. Okay. And you would listen to all the information  
3 the defendant and about the crime?  
4 A. Most definitely, yes.  
that you 5 Q. Is that right? You told us in your questionnaire  
6 had a cousin who was a lawyer.  
7 A. Yes.  
8 Q. Someone you knew well, I guess, in childhood?

9 A. Child, yes.

10 Q. Have you kept in touch with that cousin?

11 A. To a point, yes. It's been approximately a year or  
two.

12 Q. Do you know what type of lawyer your cousin is?

13 A. No, I do not.

14 Q. So you haven't ever discussed with him criminal law  
or

15 these type of issues that we've been discussing today?

16 A. That's correct, yes.

17 Q. Have you ever discussed the death penalty or, you  
know,

18 whether it's appropriate for a government to have a  
court

19 system that allows the taking of another's life with  
family or

20 friends or your children?

21 A. Yes, I have. With friends, I guess it would be.  
Family.

22 Q. And have your views changed in any way from when  
you

23 discussed it with them to what you've told us today?

24 A. No.

25 Q. You've had the same basic views?

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Juror No. 35 - Voir Dire

1 A. Pretty much, yes.

2 Q. And an open mind on the issue?

3 A. Yes.

4 MS. WILKINSON: Okay. Well, I think that's  
all I  
5 have. And I appreciate you answering my questions.  
Thank you  
6 very much.

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. Good afternoon.

13 Q. As the Judge introduced me this morning, my name is  
Ron  
14 Woods; and along with Mike Tigar, we've been appointed  
by the  
15 District Court in Oklahoma City to help out Terry  
Nichols, who  
16 stands on trial today.

17 Does it make any difference to you -- does he  
stand at  
18 a disadvantage with you because he didn't have money to  
hire  
19 his own lawyer?

20 A. No, sir.

21 Q. Okay. And you understand that we've been appointed  
by the  
22 court to help him?

23 A. Yes.

24 Q. And that will not affect your deliberations were  
you to get

25 on the court -- on the jury?

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Juror No. 35 - Voir Dire

1 A. No.

2 Q. Okay. On the questionnaire, there was a question  
asked

3 about your opinion of marriages between people of  
different

4 racial or ethnic -- ethnic backgrounds. And you stated,  
"Each

5 his own." If the evidence were to show that Mr.  
Nichols was

6 involved in a marriage, a race -- a mixed-race  
marriage, would

7 that affect your deliberations in any way?

8 A. No.

9 Q. All right. Now, you grew up in Denison, Texas; is  
that

10 correct? In Fannin County up north of Dallas?

11 A. That is correct.

12 Q. And as soon as you graduated, you go into the Air  
Force at

13 that time?

14 A. This is correct.

15 Q. And part of your service was here in the Denver

area at

16 Lowry?

17 A. This is correct.

18 Q. And also served in Clovis?

19 A. I didn't serve in Clovis. I served here in  
Colorado.

20 Q. Okay. Your whole tour was here?

21 A. Yes.

22 Q. All right. And then you went back home, I take it,  
and

23 went to the junior college in Grayson County?

24 A. This is correct, yes.

25 Q. And what were you majoring in there at Grayson?

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Juror No. 35 - Voir Dire

1 A. Business management and accounting.

2 Q. Okay. And did you get your two-year degree, your  
3 associate's degree there?

4 A. No, I did not. I was incomplete.

5 Q. Okay. Now, when did you move back to Denver, in  
the Denver

6 area?

7 A. Right off, I can't remember the actual dates and  
things. I

8 was -- I guess it would have to be around -- in the  
80's or

9 somewhere in there, early 80's.

10 Q. Okay. Did you stay in Texas and work a little  
while while

11 you were at Grayson and then right after?

12 A. Yes, I did. Yes.

13 Q. And then what led you to Denver?

14 A. I enjoyed the atmosphere while I was here before.

15 Q. Okay. And I noticed by your questionnaire that you  
are

16 interested in hunting and fishing and outdoor  
activities. Is

17 that correct?

18 A. Yes.

19 Q. And do you engage in that while you're here in  
Denver?

20 A. Not as -- like I would like to.

21 Q. Okay. Now, in Denison, you related to the Court  
about how

22 your father had 10 acres that were near to town that  
you could

23 walk to where cattle was raised?

24 A. Yes.

25 Q. Did you raise any crops there at all or a garden?

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Juror No. 35 - Voir Dire

1 A. Yes, we did.

2 Q. Okay. What type of crops did you raise?

3 A. Beans, okra, corn, such.

4 Q. Okay. It was more of a garden --

5 A. Garden.

6 Q. -- than farming operation?

7 A. It was more gardening for personal consumption, I  
guess.

8 Q. Okay. Did you use any commercial fertilizer?

9 A. No.

10 Q. Okay. And you worked on that for about ten years  
while you

11 were age 5 to 15; is that correct?

12 A. Yes.

13 Q. Okay. And have you worked on a farm anytime since  
then,

14 from age 15 on?

15 A. No, I haven't, no.

16 Q. Okay. Now, in your prior jury service, you didn't  
serve on

17 a jury in Texas, I take it, at any time?

18 A. No, I did not.

19 Q. Here in the Denver area, you related to the Court  
how you

20 got picked on a jury, but I was a little unclear. Were  
you in

21 the courtroom when they had the jury selection and you  
were

22 chosen for a jury and then the -- the trial stopped?  
Is that

23 correct?

would 24 A. Basically, we went in an adjoining room, I guess it  
25 be, and --

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Juror No. 35 - Voir Dire

1 Q. So you never heard any testimony?  
2 A. This is correct.  
3 Q. And did the lawyers, both sides, get up and talk to  
you to  
4 select the jury or was the case settled before you even  
entered  
5 into that stage where the lawyers are talking to you  
like this  
6 in selecting the jury?  
7 A. It was decided before that point.  
8 Q. Okay. And that's your only experience then with  
the courts  
9 here in Denver?  
10 A. Yes, it is.  
11 Q. Okay. Now, in the incident you related to the  
Court back  
12 in '79 when you got a little behind in your checking  
account,  
13 the insufficient check, was that taken care of at that  
time or  
14 did it come to your attention once you moved to Denver  
and  
15 somebody brought it to your attention then?

my 16 A. It was after I moved to Denver, it was brought to  
17 attention.

then? 18 Q. Okay. And how did that happen? What happened

19 A. I was extradited back to Texas.

20 Q. All right. You were arrested in Colorado?

21 A. Yes.

and you 22 Q. Okay. And you mentioned that you made restitution  
case? 23 were released. Was there any final disposition of the

the 24 Did they dismiss the case after you made restitution on

25 check?

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Juror No. 35 - Voir Dire

1 A. Yes.

you can 2 Q. Okay. And that's your only court experience that  
3 recall?

4 A. Yes.

way or 5 Q. Okay. Is there anything about that experience one  
case? 6 the other that might affect your deliberations in this

7 A. No.

8 Q. Do you feel that it was handled fairly by the  
authorities

9 in Texas and in Denver?

10 A. Most definitely, yes.

11 Q. Did you have a -- excuse me. Did you have an  
attorney that

12 represented you at that time or that was appointed by  
the court

13 to help you?

14 A. Yes.

15 Q. Which one was it? Was it appointed by the court or  
did you

16 have to hire a lawyer?

17 A. First, I believe I finally did speak with a lawyer  
on it.

18 Then I was given a court-appointed attorney, yes.

19 Q. All right. Were you satisfied with his  
performance?

20 A. Yes. Definitely, yes.

21 Q. And did he help you out?

22 A. Yes, he did.

23 Q. At that time, was your cousin practicing in the  
Denison

24 area?

25 A. That, I wouldn't be aware of, no.

Texas? 1 Q. Okay. Do you know where he practices? Is it in

2 A. Excuse me. It's she.

where 3 Q. I'm sorry. We just assume, don't we? Do you know

4 she practices?

Colorado. 5 A. At this point, I believe it's still here in

6 Q. Oh, she's here in Colorado practicing law?

spoken 7 A. If I'm not mistaken. I could be wrong. I haven't

8 with her in a while.

growing up 9 Q. Okay. Now, you mentioned that when you were

10 that your father was working for the father of an

attorney in 11 the Denison area.

12 A. This is correct, yes.

name? Was 13 Q. Okay. Who was the attorney, without giving his

14 he a lawyer there in Denison?

15 A. This is correct, yes.

16 Q. And do you know what type of law he practiced?

17 A. To be honest, I do not.

his law 18 Q. Did you ever have any conversations with him about

19 practice?

20 A. No, I did not.

you are 21 Q. Okay. Now, you mention in your questionnaire that

22 interested in the Constitution and that you have  
studied it to  
23 determine and make an understanding of what your rights  
are; is  
24 that correct?  
25 A. Yes. To a degree, yes.

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Juror No. 35 - Voir Dire

1 Q. All right. Did you start that when you were in  
school?  
2 A. Yes. I guess it would -- it would be somewhat  
involved in  
3 civics and such.  
4 Q. And have you followed it up since civics classes?  
5 A. At one point, I -- I did, to a point. When I was  
in  
6 college, yes.  
7 Q. What type of courses were you taking in college  
where you  
8 were following the Constitution -- or studying the  
9 Constitution?  
10 A. In the business management and accounting.  
11 Q. Okay. Did you study any criminal cases, the  
constitutional  
12 issues in any criminal cases?  
13 A. No, I did not.  
14 Q. Okay. Now, when was it that you were in Clovis?

It

were in 15 appears to be on page -- on page 6, it looks like you  
16 Clovis in '76 and '78. And were you in the Air Force,  
what, 17 '75 to '77?

18 A. Somewhere around there, yes.

Air Force 19 Q. So did you go to Clovis after you got out of the  
20 then in '78, but you spent some time there in '76?

guess it 21 A. I guess I got my dates mixed up a little bit. I  
22 was actually after I got out of the service --

23 Q. Okay.

24 A. -- that I was in Clovis.

went 25 Q. So you lived in Clovis a little while, but then you

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Juror No. 35 - Voir Dire

1 back to college in Grayson County?

2 A. This is correct.

page 33 3 Q. Okay. Now, you indicate in your questionnaire on

case. 4 that you have had some exposure to the publicity in the

about 5 In Question 144, it asks if you heard or read anything

6 the Oklahoma City bombing case and list the sources.

You

7 indicate you've heard and read about it in TV news,  
radio news,

8 newspaper, magazines, conversations, and heard other  
people

9 discussing the case. And you described the amount of  
media

10 coverage as quite a bit. I assume it's been hard to  
miss for

11 you during these last two and a half years; is that  
correct?

12 A. This is correct, yes.

13 Q. Okay. Did you see the TV coverage at the time of  
the

14 bombing back in April of '95?

15 A. Yes, I did. Yes.

16 Q. Do you recall the images that were on the  
television that

17 day and the next several days?

18 A. Yes, I do.

19 Q. If you were on a jury and there may be photographs  
and very

20 emotional, sad, heart-rendering (sic) testimony offered  
into

21 evidence which would be very emotional for everybody  
involved,

22 could you look at that evidence but at the same time  
keep it

23 separate from looking at the Government's case to see  
if they

24 prove beyond a reasonable doubt that Terry Nichols was

25 responsible for that bombing?

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Juror No. 35 - Voir Dire

1 A. Yes, I could do this.

2 Q. Okay. Now, you heard a lot of discussion here  
about the  
3 punishment stage of the crime. Would you agree on  
that?

4 A. Yes, I have, yes.

5 Q. Okay. Do you understand that we, Mr. Tigar and  
myself, are  
6 not conceding that we're going to be in a punishment  
stage of  
7 the crime? The Government has a theory about Mr.  
Nichols'  
8 being responsible for that bombing. We do not agree  
with that  
9 theory. They will be calling witnesses to the witness  
stand  
10 right here, and we will be cross-examining those  
witnesses.  
11 And as the Court told you, we don't have to put on  
witnesses in  
12 our defense, but we will be calling a number of  
witnesses to  
13 show and to prove contradictions in the Government's  
theory of  
14 their case. We, as I say, do not concede that we'll  
get to a  
15 punishment stage. We're going to contest the

Government's

16 theory about Mr. Nichols' being responsible for that  
bombing.

17 So do you understand that when we're talking  
about the

18 punishment stage, we're not just skipping over the  
guilt or

19 innocence stage and presuming that he is already going  
to be

20 found guilty?

21 A. I understand this, yes.

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

23 how many people were killed in the bombing?

24 A. Accurate number, no.

25 Q. Okay. Do you recall if -- whether or not there  
were

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1 children involved?

2 A. Yes, I'm aware of that. Yes.

3 Q. Okay. And from what you've seen, read, or heard,  
do you

4 understand why there were children killed at a federal  
5 building?

6 A. Yes, I do understand.

7 Q. And what's your recollection from what you've seen,  
read,

8 or heard?

9 A. That there was a child-care service there.

10 Q. Okay. Now, you had mentioned in your questionnaire  
that  
11 you have worked with mentally challenged children in  
the past  
12 as sort of a charity work that you do?

13 A. When I was in high school, part of a class that we  
did work  
14 with children.

15 Q. Okay. And that was what you meant when you put  
"high  
16 school" there?

17 A. Yes.

18 Q. Okay. Again, from your work with children in the  
past, do  
19 you think that even though this testimony will be very,  
very  
20 emotional and sad, that you can separate that and look  
at the  
21 facts that the Government proves or offers into  
evidence to  
22 prove Mr. Nichols' guilt? You can look at that coldly  
without  
23 being emotional?

24 A. Most definitely, yes.

25 Q. All right. Thank you. Now, back --

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1 A. I don't know if I would be cold or not.

2 Q. Well, that's a very poor choice of words, and  
you're right.

3 That's -- that's not a good choice of words. Can you  
look at

4 it and analyze it --

5 A. Excuse me.

6 Q. -- without allowing your emotions to enter into  
your

7 decision?

8 A. Yes.

9 Q. Okay. Thank you. Back to the publicity issue. Do  
you

10 recall from what you've seen, read, or heard how the  
bomb was

11 delivered to the federal building?

12 A. Yes.

13 Q. And how was that?

14 A. By vehicle.

15 Q. Okay. And do you recall what -- from what you've  
seen,

16 read, or heard how Mr. McVeigh was arrested?

17 A. Vaguely.

18 Q. What's your recollection?

19 A. From my understanding was he was leaving the area  
or

20 something to this effect and was arrested.

do you 21 Q. All right. From what you've seen, read, or heard,  
day of 22 have any recollection of where Mr. Nichols was on the  
23 the bombing?

24 A. No, I do not.

the 25 Q. Do you have any memory of him being associated with

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1 rental of that truck?

2 A. As of lately, yes.

involvement 3 Q. All right. What is your recollection as to his

4 in the rental of the truck?

5 A. That he could possibly be involved with that.

6 Q. With the rental?

7 A. With the rental, yes.

you've 8 Q. Okay. Do you have a recollection -- or from what

9 seen, read, or heard, do you have a recollection of how

authorities 10 Mr. Nichols initiated contact with the federal

11 after the bombing?

12 A. No, I do not.

13 Q. Any memory of how he came into federal custody?

14 A. No, I do not.

do not 15 Q. Okay. As to the punishment issue, which again we  
stated -- 16 concede that we will get there, on page 28, you have  
impose 17 "In what kind of cases is it appropriate, if ever, to  
18 the punishment of death?"  
that 19 And you stated, "When death is committed"; is  
20 correct?  
21 A. Yes.  
jury is 22 Q. Okay. And did you understand that -- the Court's  
23 instructions that if there is a punishment stage, the  
imprisonment 24 obligated to keep an open mind both as to the life  
25 penalty and the death penalty?

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1 A. Yes.  
2 Q. And could you do that if you were chosen on a jury  
3 regardless of the facts of the crime and can you keep  
an open 4 mind and weigh the evidence that comes in in a  
punishment 5 stage?  
6 A. Yes. Most definitely.

7 Q. All right.

8 A. Excuse me.

9 Q. If you were chosen on this jury, sir, can you look  
Terry

10 Nichols in the eye and tell him that you'll give him a  
fair

11 trial?

12 A. Most definitely, yes.

13 MR. WOODS: All right. Thank you, very much,  
sir.

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. If I may just follow up on something. I'm -- I'm  
17 confused -- and I'm not trying to embarrass you with  
this, but

18 I'm confused about this check matter in Texas. There  
was a

19 problem with your account down there, apparently. And  
then you

20 moved to Colorado?

21 A. Yes, sir.

22 Q. And then that came up here when you were living  
here in --

23 was it Aurora?

24 A. Yes, sir.

25 Q. And did you get arrested for that?

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1 A. Yes, sir, I did.

2 Q. And actually physically taken back to Texas?

3 A. Yes, sir, I was, sir.

4 Q. Okay. And then you took care of the matter down in  
Texas?

5 A. Yes, sir.

6 Q. Made restitution?

7 A. Yes, sir.

8 Q. Then you came back to Colorado after everything was  
taken

9 care of there; is that right?

10 A. Yes, sir.

11 Q. Then did you go back to Aurora?

12 A. Yes, sir, I did.

13 Q. And lived in Aurora?

14 A. Yes, sir.

15 Q. Now, did something else happen in Aurora with the  
Aurora

16 police?

17 A. Yes, sir, it did. I got behind on my restitution  
payments,

18 as such.

19 Q. Okay.

20 A. There was a -- I was at home one night and I heard  
a

21 child -- children in a car outside, and I -- I watched  
them for

okay. 22 approximately an hour or so to make sure that they were  
23 And no one came back out to, you know, take care of the  
24 children and things, and I called the Aurora police to  
come out  
25 and help the children out. And consequently, I was  
arrested

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point 1 for not having taken care of all my restitution at that  
2 in time.

some kind 3 Q. Okay. So you told them who you were and they had  
4 of information about you that caused you -- them to  
arrest you?

5 A. Yes, sir.

6 Q. And then what happened?

7 A. I again was taken back to Texas on extradition.

8 Q. And what happened then in Texas?

9 A. And we redid everything, and I was released back on  
10 personal recognizance back to Colorado and took care of  
11 everything.

12 Q. Did you serve some time in jail there?

13 A. Yes, sir. I was told that if I waited ten days or  
14 something to this effect, that I would be released  
again on my

on  
and I  
could be  
things did

15 own recognizance here in Colorado and that generally,  
16 checking accounts and things, I wouldn't be taken back  
17 would be able to just stay here and take care of the  
18 restitution and that they thought that they -- that I  
19 able to do that; but Texas, I guess, their laws and  
20 come and get me, so --

21 Q. They did what?

22 A. They did come in and extradite me back to Texas.

23 Q. So you were taken back to Texas two times?

24 A. Two times, yes, sir.

25 Q. Okay. And that was what, in 1983 or 1984?

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Juror No. 35 - Voir Dire

1 A. Yes, sir. Approximately, yes.

2 Q. Approximately. Now, did you then move to Arvada?

3 A. No, sir, I didn't.

4 Q. Did you live in Arvada at any time?

5 A. No, sir.

your name  
processing

6 Q. Well, let me just ask you -- we get -- you know,  
7 comes up for jury service as a result of a data-  
8 operation where a lot of things are -- about us are in

a

9 database and information about voting records and --  
and

10 automobile licenses, driver's licenses. That's the  
information

11 that comes up that causes people to be into the jury  
pool. But

12 other information comes up in those data banks and  
including

13 contacts with the police. So there's something that  
came up

14 with respect to a contact with the Arvada police. Do  
you

15 recall any such thing?

16 A. Yes, sir, I do.

17 Q. What -- what was that about?

18 A. I was with a -- a gentleman, a friend at the time,  
and my

19 understanding, we were supposedly going out shopping.  
And my

20 understanding is he went into a store and was -- was  
stealing;

21 and being that I guess I was with him, we were both  
taken to

22 jail.

23 Q. You were. Was there any charge filed on you then?

24 A. No, sir. I was released.

25 Q. But there was on him?

Juror No. 35 - Voir Dire

1 A. Yes, sir. My understanding.

2 Q. Or her. I don't know who the friend was.

3 A. Yes.

4 Q. And I'm not asking you who the friend was. So -- I  
see.

5 And you were just held overnight, were you, or what?

6 A. Yes, sir.

7 Q. Well, that's what I wanted to ask you. We get this  
8 information that comes up; and, you know, I don't trust  
what I  
9 get out of computers, so I wanted to get your statement  
about

10 it. And these are the only times that you've been  
arrested or

11 held by the police? Is that -- is that right?

12 A. Well, there was one other occasion, I guess it  
would, when

13 I was younger. When I was in grade school, myself and  
three or

14 four other young men went into our school and was  
playing

15 basketball and things such as that, and I was arrested  
for

16 that.

17 Q. Because you weren't supposed to be in there --

18 A. No, sir.

19 Q. -- at that time?

20 THE COURT: Okay. Well, we appreciate your

21 cooperation with us in responding to all of these  
questions and  
22 giving us this information about you and also in  
waiting all  
23 this time. We apologize for the lengthy delays, but  
I'm sure  
24 you understand we can't program this in a way so that  
we can  
25 say how many minutes it's going to take each person.  
What you

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1 should do now is to assume that you're going to serve  
on this  
2 jury. I cannot tell you this afternoon whether you  
will, and I  
3 can't tell you when I'll be able to tell you, either.  
So I  
4 regret this time of uncertainty, and I know that that's  
5 inconvenient for you, but if you'll just put this on  
hold for a  
6 while, we'll get back to you.  
7 Now, in the event that your phone number  
changes or  
8 you get called out of town or anything like that  
happens which  
9 would affect our ability to get back in touch with you,  
you let  
10 us know first?

11 JUROR: Yes.

12 THE COURT: And also, I'm going to ask you to  
be  
13 careful now about discussing anything connected with  
this case  
14 with anybody and including this questioning process and  
also,  
15 to be careful about the things that you do see, read,  
and hear  
16 to avoid things that might influence and affect your  
ability to  
17 decide fairly on the issues in this case. Will you do  
that?

18 JUROR: Most definitely, sir. Yes.

19 THE COURT: All right. We appreciate your  
time and  
20 your cooperation, and you're now excused.

21 JUROR: Thank you, sir.

22 THE COURT: We'll be in touch.

23 657, I think. Right?

24 MR. MACKEY: Right.

25 THE COURT: If you'll come in, please, and  
raise your

3135

1 right hand and take the oath from the clerk.

2 (Juror 657 affirmed.)

3 THE COURTROOM DEPUTY: Thank you.

4 THE COURT: Please be seated in that chair by  
the  
5 microphone. And you can move that around a little,  
adjusting  
6 it to whatever suits you. You don't have to speak  
right into  
7 the microphone, either.

8 JUROR: Okay.

9 THE COURT: It'll pick you up even though it's  
sort of  
10 alongside of you.

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. Well, you know that, referring to the language of  
this  
14 oath, the case now on trial, the case for which we are  
15 selecting a jury is the case of the United States  
against Terry  
16 Lynn Nichols.

17 A. Yes.

18 Q. And you also know that you were sent a summons that  
19 indicated that your name had come up in a chance  
selection  
20 process as a person summoned for possible jury service  
in this  
21 case.

22 A. Yes.

23 Q. And then we asked you to fill out a short  
questionnaire

24 about that, and you did and sent it back to us. And in  
that,

25 we asked you about is there any reason that would  
prevent you

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Juror 657 - Voir Dire

1 from serving on this jury, and you gave us one about it  
being a

2 hardship on the children for the -- the children you  
teach, for

3 their teacher to be away for an extended period of  
time?

4 A. Yes.

5 Q. But in spite of that, you got a notice to go out to  
the

6 Jefferson County Fairgrounds on September the 17th.

7 A. Right.

8 Q. All right. Well, it isn't because we ignored what  
you

9 said. We understood that. But of course, there are  
many

10 things that get involved with jury service in all cases  
and

11 particularly cases that may take an extended amount of  
time,

12 several months to try. So it's not that we're ignoring  
what

13 you said, but we want to talk about it along with some  
other

14 things.

15                   And we gave you a long questionnaire then, you  
and  
16                   others at that time, in -- at the auditorium building;  
and you  
17                   responded to all of those questions, as well. And we  
want to  
18                   talk a little about that; but before doing that, I want  
to make  
19                   sure you know who's here with us. And some of these  
people  
20                   were introduced to you. They were with me when I  
appeared  
21                   before you and the other members of the jury panel.

22                   And so you may remember meeting Mr. Lawrence  
Mackey,  
23                   who is here at the first table, Ms. Beth Wilkinson,  
attorneys  
24                   for the Government. Not there but here now joining  
them are  
25                   Mr. Patrick Ryan and Mr. Geoffrey Mearns, additional  
attorneys.

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1                   You did meet Mr. Michael Tigar, Mr. Ronald  
Woods,  
2                   attorneys for Terry Nichols; and Mr. Nichols and his  
lawyers  
3                   were with us, as well, of course.

4                   And then I explained something about the  
background of

5 the case. Most of what I said, I'm sure, was already  
known to  
6 you. And I'm going to repeat it again now, not because  
I think  
7 you've forgotten it in these intervening days, but  
simply so  
8 that we have kind of a foundation of understanding  
before  
9 proceeding with some particular questions. And so you  
10 understand, we're not going to go over the whole  
questionnaire.

11 I'm going to ask you some things, and then there will  
be an  
12 opportunity for a lawyer on each side, the Government  
and  
13 defense, to ask you some questions. So please bear  
with us.

14 A. Okay.

15 Q. But you heard me say that this case arises as a  
result of  
16 an explosion that destroyed a federal office building  
in  
17 Oklahoma City, Oklahoma, on the 19th of April of 1995,  
18 resulting in deaths and injuries to people who were in  
the  
19 building; that after that, charges were filed in the  
District  
20 Court, Federal District Court in Oklahoma City,  
charging in the  
21 form of an indictment, which is simply a statement of  
charges,  
22 that a man named Terry Lynn Nichols and another man

named

23 Timothy James McVeigh and persons not named in the  
indictment

24 conspired together or agreed together to bomb that  
building and

25 to kill and injure people in it.

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Juror 657 – Voir Dire

1 And in the charges in that indictment, the  
defendants

2 are accused of going forward with acts to cause a bomb  
to be

3 exploded in that building on that date and also first-  
degree

4 murder charges for the deaths of eight law enforcement  
agents

5 who were in the building and died in the explosion. Do  
you

6 recall that?

7 A. Yes.

8 Q. And I explained also that the case was then moved  
from

9 Oklahoma City here to Denver to this court because of a  
concern

10 about asking people there in Oklahoma City to sit on a  
jury

11 when these events happened in their community. And  
then after

12 the case got moved here to Denver, I separated the  
defendants

13 for trial and held that it would not be fair -- in  
fact, it  
14 would be fundamentally unfair -- to present the  
evidence as it  
15 relates to each of the named persons, Mr. McVeigh and  
16 Mr. Nichols, at one trial; that it should be done  
separately  
17 with separate juries. And so such an order was entered  
and the  
18 cases were separated, and then the case against Timothy  
McVeigh  
19 was tried here in this court, and a jury heard the  
evidence  
20 offered with respect to him, came in with a verdict of  
guilty.  
21 And then that same jury heard a penalty phase trial, as  
a  
22 result of which the jury recommended that a death  
sentence be  
23 imposed. And I suppose you knew those things before I  
told you  
24 that?  
25 A. Yes.

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Juror 657 - Voir Dire

1 Q. But of course, that's part of the basic background  
here.  
2 Then as I explained to you and the other members of the  
jury

3 panel, nothing in connection with the Timothy McVeigh  
trial can  
4 be considered with respect to this case. Here, we --  
we start  
5 fresh, a new jury. The evidence that may come in in  
this case  
6 may be entirely different from that which was received  
in the  
7 other case. And we have to start over and not consider  
8 anything that happened there and particularly the  
outcome  
9 because that would violate the fairness ruling of  
separate  
10 trials. You understand that?  
11 A. Yes.  
12 Q. Now, I also explained some basic principles of the  
criminal  
13 justice system in the United States as required under  
the  
14 Constitution of the United States. And as I recall it,  
you  
15 have never been on a jury or had any direct involvement  
with  
16 that system before; is that true?  
17 A. True. Well, I -- I had been called to jury duty  
just in my  
18 own smaller community, but the -- the case was  
dismissed. I  
19 did not sit on a jury.  
20 Q. So you got summoned, but never into the courtroom  
and  
21 proceeded to a trial?

22 A. Right.

23 Q. Okay. Well, these, too, are things that you may be  
24 completely aware of; but again, I want to be sure we're  
on --  
25 have a common understanding about these basic  
principles, which

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Juror 657 - Voir Dire

1 are, of course, that under our Constitution, no matter  
where  
2 the court is in the United States, what level it is, or  
who the  
3 defendant is or what the charges are, in any criminal  
4 proceeding, the defendant is presumed to be innocent of  
the  
5 charges made against him or her. And that presumption  
of  
6 innocence carries through the trial and entitles that  
person to  
7 a verdict of not guilty, an acquittal, unless a fair-  
minded  
8 jury, hearing the evidence and considering the evidence  
and the  
9 law, determines that he or she was proved guilty beyond  
a  
10 reasonable doubt. Something you've heard of before.

11 A. Yes.

12 Q. So I also explained in some detail that no person  
who is

13 accused of crime has any burden or duty of proving  
himself not  
14 guilty. In fact, no person who is accused has any  
burden or  
15 duty of proving anything. It is up to the Government  
who has  
16 filed charges to come in with the evidence to support  
those  
17 charges, evidence by way of the witnesses, exhibits,  
whatever  
18 is relied on. And there are rules of evidence that  
limit what  
19 can be heard and considered so that not -- you know,  
there are  
20 things like a hearsay rule and a lot of other rules  
that govern  
21 what can be considered. And then the defendant -- in a  
case in  
22 which the defendant does not testify, that can't be  
held  
23 against him in any way. He doesn't have to take the  
witness  
24 stand and testify, and he doesn't have to offer any  
and  
25 explanations to the jury. He can simply remain silent

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Juror 657 - Voir Dire

1 challenge the Government's evidence with objections to  
the  
2 admissibility of evidence and cross-examining witnesses

and so

3       forth. And in cases where a defendant does not  
testify, the  
4       jury is instructed you may not consider that in any  
way, that  
5       should not be taken as some sort of an inference of  
guilt or  
6       the jury may not think about it in terms of, well, if I  
were  
7       innocent, I would testify. In fact, what I tell juries  
is you  
8       can't even talk about the fact that a defendant doesn't  
testify  
9       if that be the case.

10               Do you understand these points?

11       A. Yes.

12       Q. And then, what the presumption of innocence really  
means  
13       and the burden of proof beyond a reasonable doubt means  
is at  
14       the end of the trial, the court gives the jury  
instructions  
15       about what has to be proved to constitute the elements  
of the  
16       offense and lists them for each offense charged and  
then says  
17       to the jury, Does this evidence prove it beyond a  
reasonable  
18       doubt? The jury, of course, then discusses the case  
among  
19       themselves; and if, at the conclusion of that, the jury  
has a

crime 20 reasonable doubt whether the evidence does prove the

that doubt 21 charged, they must give the defendant the benefit of

22 and find him not guilty.

points? 23 Do you -- you understand, first of all, these

24 A. Yes.

25 Q. Do you have any question about it?

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1 A. No.

2 Q. Do you accept them?

3 A. Yes.

serve on 4 Q. Do you agree to be bound by them if you were to

5 the jury?

6 A. Yes.

with you 7 Q. Now, there are some things that I wanted to review

as a part 8 a bit here -- and we'll get to your role as a teacher

you. I 9 of this -- but to get a bit of a background concerning

10 understand you to have been born in Missouri.

11 A. Yes.

number of 12 Q. And you -- I think you said you moved around to a

of your 13 cities or communities in the midwestern states because  
14 father's work.

15 A. Yes.

these 16 Q. And what work was your father doing that caused  
17 moves?

was a 18 A. He worked for New York Life Insurance Company. He  
through 19 general manager, and they tend to move their managers  
20 promotion or just to keep things new.

in your 21 Q. And just to summarize, what states did you live in  
22 growing-up-in-the-family years?

work, my 23 A. Well, before -- before we moved because of his

started in 24 mother and my older sister moved during the war. We

And 25 Missouri, and we did live in Oklahoma City and Florida.

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Juror 657 - Voir Dire

Illinois, 1 then he returned from the war, and we lived in

Madison, 2 St. Louis; Fargo, North Dakota; Columbus, Ohio;

3 Wisconsin; Kansas City.

high

4 Q. Okay. And I guess it was in Madison, you went to

5 school?

6 A. Yes.

7 Q. And then you have several brothers and sisters.

8 A. Yes.

9 Q. And there was a time, I guess, you lived in Kansas?

10 A. Yes.

11 Q. And you have a brother there now?

lives half

12 A. I have two brothers there and one -- a third one

13 time in Kansas and half time in Denver.

14 Q. Okay.

15 A. And I have some --

there?

16 Q. And does one of the brothers have a farm down

17 A. Yes.

farm? He

18 Q. But that's not his principal work, being on the

19 also is in the insurance business?

20 A. That's right.

custom

21 Q. And somebody else does the farming, like you have a

22 farming arrangement or sharecrop or something?

outside

23 A. He has -- actually, his home is on -- is just

much.

24 Olathe, Kansas, on a lot of acreage. I'm not sure how

25 And they raise horses and hay.

1 Q. Hay for the horses?

2 A. Hay. And he has a helper, but he also, you know,  
does some

3 of the farming. And then he has a farm down by Ottawa  
-- I

4 think Ottawa is in Kansas. It's right by the state  
line, but I

5 think it's Ottawa, Kansas, where he -- he started out  
with it

6 as a hunting property, but they raise some crops there.  
But

7 I'm not -- I've been there -- I've spent -- been there  
8 overnight, but I'm not sure what they raise. But he  
also has a

9 person that lives in Ottawa that does the farming --  
most of

10 the farming for him, but he also -- he kind of likes  
it.

11 Q. And what state line? What is Ottawa near? I don't  
know --

12 A. Kansas, Missouri.

13 Q. Kansas, Missouri line. Okay.

14 A. I'm sure it's Kansas as I think about it. The farm  
is in

15 Kansas.

16 Q. Okay. You've been there what did you say? A  
couple of

17 times?

there 18 A. I -- I think once. It's possible that I've been  
19 twice. But I think once.

whether 20 Q. Well, you -- you know, you lived in the Midwest;

who did 21 you lived on a farm or not, you were around the people

operations? 22 farming. Do you know very much about farming

23 A. I -- I think not.

24 Q. Like what farmers use to fertilize crops?

25 A. Oh, no.

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Juror 657 - Voir Dire

and how 1 Q. Crops and that kind of thing, when they plant crops  
you 2 they do that and so forth? I mean, in any detail where  
3 could describe --

guess about 4 A. Not in any detail. I could make a pretty good  
5 when some crops are planted and harvested.

season and 6 Q. So you know the difference between winter wheat

it? 7 corn season, for example, and basics like that, I take

8 A. Corn is supposed to be knee high on the 4th of

July.

9 Q. Oh. I wanted to just visit with a couple of points  
here.

10 And one of these is -- could be somewhat sensitive. On  
page 3

11 in Question 11 -- excuse me -- referring to the death  
of a

12 young person, infant or toddler. Do you see where I'm

13 directing you there?

14 A. Yes. I see. I'm trying now to think -- my -- you  
want me

15 to explain?

16 Q. Well, yes. I mean, this is asking about a close  
family

17 member or close friend or -- in your immediate family.

18 A. My cousin died when he was six years old, and I  
would have

19 been four. And we lived together in Oklahoma City at  
that

20 time. Both -- well, no. That's not right. We had  
lived with

21 this cousin, and -- his mother and my mother were  
sisters. And

22 we had lived with them when our fathers were in the  
war, but

23 this was after that. We lived in Illinois. And he  
died of

24 leukemia. They lived in Oklahoma City then.

25 Q. All right.

## Juror 657 - Voir Dire

1 A. We had moved on after the war.

2 Q. You had been close to him --

3 A. Yes.

4 Q. -- at one time when you were both there? And what  
years

5 did -- not calendar years, the years of your life --  
your age

6 when you lived in Oklahoma City?

7 A. See, I -- I had to be very young. But we -- my  
grandmother

8 lived in Oklahoma City and so we went back and forth to  
visit.

9 And this aunt -- my mother's one of three girls, and my  
mother

10 and one of the sisters -- I mean, my grandmother and  
the older

11 of the three girls lived in Oklahoma City. So when my  
mother

12 would take us to visit her mother, that's -- I -- when  
we lived

13 in Oklahoma City, I had to be too young to be close to  
--

14 Q. You don't remember back to it?

15 A. I remember a couple of incidents, but it -- I had  
to be so

16 young that I can't really believe that I really  
remember, but

17 it's more stories --

18 Q. Sure.

19 A. -- like --  
20 Q. Things you've been told in family gatherings and so  
forth.  
21 A. Right.  
22 Q. Do you have any family there now?  
23 A. Only distant -- a cousin who was adopted by that  
same --  
24 that aunt passed away a year ago. And her adopted  
daughter  
25 lives there now, but we have never been particularly  
close.

3147

Juror 657 - Voir Dire

1 Q. But the aunt was there in 1995?  
2 A. Yes.  
3 Q. Did you ever visit with her about this explosion?  
Ever  
4 talk with her about it?  
5 A. No.  
6 Q. You -- you're married?  
7 A. Yes.  
8 Q. And have four children?  
9 A. Yes.  
10 Q. And your husband has both -- two types of  
doctorates,  
11 dental and medical?

12 A. That's right.

13 Q. And as I understand it, was an oral surgeon and is  
now a

14 plastic surgeon.

15 A. Yes. He -- he did oral surgery while he was taking  
his

16 medical school. He -- he never did -- he was accepted  
to the

17 oral surgery program, but he never completed that.  
Instead, at

18 that time, he went to medical school and practiced  
dentistry,

19 but exclusively pulling teeth -- oral surgery.

20 Q. Yes. Right.

21 A. Okay.

22 Q. And now, in the work that he does now, does he do  
23 reconstruction surgery for --

24 A. Yes.

25 Q. -- people with massive injuries of various kinds?

3148

Juror 657 - Voir Dire

1 A. Yes.

2 Q. And does he have like the jaw and the face in  
particular?

3 A. Yes.

4 Q. Specializes in that?

5 A. Yes.

6 Q. And has worked, I take it, with people who have  
suffered  
7 from injuries in automobile accidents and various  
things, as  
8 well as disease -- progress of disease?

9 A. That's right.

10 Q. So he rebuilds jaws and so forth?

11 A. Uh-huh.

12 Q. And you have also, in addition to your teaching,  
done some  
13 volunteering at Children's Hospital. Do you do that  
now?

14 A. No.

15 Q. When was the last that you worked over there?

16 A. I don't think I'm going to be able to come up with  
that.

17 Let's see. My --

18 Q. Well, let's don't be too nervous about this. All  
of us  
19 have trouble trying to remember dates, and I in  
particular

20 would plead guilty to that; so the fact that you may be  
21 struggling with these dates and -- and times, don't be  
22 embarrassed about that. We expect it.

23 A. Okay. My -- my children were young, and some of  
them

24 weren't born yet. So I'd say 20 -- 15 to 20 years ago.

25 Q. Okay. Did you work with particular types of  
children there

Juror 657 - Voir Dire

1 or just generally help out where -- where needed?

2 A. I worked in the speech therapy department and in  
3 admissions.

4 Q. Okay.

5 A. It wasn't general. I was assigned to different  
areas.

6 Q. In admissions, you helped do the paperwork to get  
them in

7 there? Is that --

8 A. No. I would take them -- after they were  
registered or

9 whatever, I would take them up to the appropriate  
floor.

10 Q. Oh, I see.

11 A. I didn't --

12 Q. Well, let's talk about your profession now.  
Teaching. And

13 you teach at a religious school?

14 A. It is -- it's -- has religion in its name, but it  
isn't

15 affiliated with the church, actually.

16 Q. Oh.

17 A. They have no support from the church. We do have a  
chapel,

18 and the children -- we have a -- an Episcopal chaplain  
on the

it's not 19 staff, and the children go to chapel once a week, but

20 affiliated with the Episcopal Church.

21 Q. And neither are you, I take it?

22 A. No.

23 Q. You have a different religious orientation?

24 A. Right.

25 Q. Church membership. Now -- and you teach history?

3150

Juror 657 - Voir Dire

1 A. Yes.

2 Q. And that, indeed, was your major in college --

3 A. Yes.

seventh 4 Q. -- as I understand it. And let me see. These are

5 graders?

seventh and 6 A. I teach history to eighth graders and Latin to

7 eighth.

there? 8 Q. And Latin. And do you have substitute teachers

your 9 What's the arrangement for days when you can't be at

10 class?

a 11 A. Yes. We have substitute -- the school arranges for

12 substitute teacher.

13 Q. Now, when you were directed to come out to  
Jefferson County

14 to answer more, you knew that we didn't accept your  
first

15 suggestion that you ought to be excused from this jury  
service

16 because of your school responsibilities. Did you then  
talk --

17 and maybe after you completed the questionnaire talk  
with the

18 people at the school about your situation here and the  
19 possibility that you would be serving?

20 A. Yes.

21 Q. And what was said about that? I mean, by them.

22 A. They would hope that I would not be asked to serve,  
but if

23 I am, they'll take care of it. I mean, they --

24 Q. Okay. And, you know, we are not suggesting that  
the

25 students would not suffer a disadvantage in losing you  
in this

3151

Juror 657 - Voir Dire

1 year as a teacher; right?

2 A. Right.

3 Q. You know, who the teacher is can make a great deal  
of

4 difference. So please understand we're not pushing  
that aside.

5 On the other hand, you also understand the importance  
of jury  
6 service.

7 A. Yes, I do.

8 Q. Okay. And you've discussed this with your husband,  
as  
9 well, I assume?

10 A. Yes.

11 Q. And of course, I asked of you that you not discuss  
the case  
12 as such, but we expected you to talk about those who  
are going  
13 to be affected by your time involvement.

14 A. Right.

15 Q. And, you know, as I told you out there, we cannot  
estimate  
16 the length of trial.

17 A. Right.

18 Q. Just like we cannot estimate the length of jury  
selection.

19 This is all a human process.

20 A. Uh-huh.

21 Q. But the trial could be a matter of several months  
once we  
22 get started, and you understand that?

23 A. Yes.

24 Q. And you can make -- the children are all in school,  
aren't

25 they?

3152

Juror 657 - Voir Dire

1 A. Yes. My children?

2 Q. Yes. Your children.

3 A. Yes. One is in high school. The others are in  
college or

4 beyond.

5 Q. Yeah. So you don't have any problem with taking  
care of

6 children at home?

7 A. No.

8 Q. And you can then make the adjustment, the school

9 adjustment, and serve on the jury as far as the time

10 commitment; is that right?

11 A. Yes.

12 Q. Okay. You mention here at a couple of points in  
the

13 questionnaire that you have close friends who are  
lawyers.

14 A. Yes.

15 Q. Who -- and you mentioned a couple of names over  
here on

16 page 21. I just want to get them -- and I'm not asking  
you to

17 repeat their names. You know, one of the things we do  
here is

18 try to protect your privacy as much as possible, and  
we've been  
19 doing that by not giving out your questionnaire and by  
having  
20 you come and go from the courthouse so people can't  
take your  
21 picture and put them on television or something -- put  
it on  
22 television. But -- and we want to be careful about  
their  
23 privacy, too. But how close are you to -- in  
friendship to  
24 these two lawyers you name on page 21?  
25 A. Well --

3153

Juror 657 - Voir Dire

1 Q. I mean, do you see them on social occasions?  
2 A. Yes.  
3 Q. Do you visit in each other's homes?  
4 A. Yes. We play golf together.  
5 Q. You play golf.  
6 A. One of them's child goes to St. Anne's. We have  
another  
7 attorney friend that is a closer friend even, but I  
knew he  
8 wasn't this type of attorney you're asking here, and I  
don't  
9 know for sure whether these are.

of 10 Q. All right. Have you ever talked about the matter  
11 criminal cases with these two lawyers or your other  
friends?

12 A. No. I don't -- my husband talks with them some,  
and I --  
13 but I -- so I have overheard some discussion but  
nothing  
14 specific. I'm just --

15 Q. Did you ever say anything -- have you said anything  
to any  
16 of them about your being here on -- as a potential  
juror?

17 A. I think that one of them knows that, yes.

18 Q. And has he said anything to you about that --  
excuse me --  
19 about that?

20 A. I don't think so. I -- I got the feeling he hoped  
I didn't  
21 have to serve, but I -- I don't remember him saying  
anything  
22 specific. We didn't really discuss it. I didn't think  
I  
23 could.

24 Q. How did you get that feeling?

25 A. Just like body language. I -- I just felt that's  
--

way. 1 Q. And your daughter works with a law firm in some

2 A. Well --

3 Q. You have here in 97.

4 A. She just has just this weekend moved to San Francisco and

5 is no longer with them.

6 Q. What work was she doing there?

7 A. She was just like a Girl Friday, really, just --

8 Q. Running errands and doing copying and things like that?

9 A. Right.

10 Q. Okay. Now, another area that is somewhat sensitive and on

11 which I want to be careful and ask you to be careful -- and we

12 appreciate the sensitivity of it -- is on page 22. You gave a

13 general impression of your opinion about the criminal justice

14 system at Question 100, and then you have some specifics that I

15 guess have arisen in your life at 101 and 102 and over to the

16 next page.

17 A. Okay.

18 Q. Now, does your opinion expressed at Question 100 reflect

19 the experiences in these other matters that are referred to?

20 A. Yes.

21 Q. Do you understand what I'm trying to ask you?

22 A. Yes. Yes. I think so.

23 Q. All right. I mean, these are the more specific  
things that

24 have happened that would generate some opinion about  
the

25 system.

3155

Juror 657 - Voir Dire

1 A. Right.

2 Q. Okay. And I take it that the -- what is referred  
to at 101

3 is the same thing that is described over on the next  
page --

4 the top of the next page.

5 A. Yes.

6 Q. And how old was she at that time, about?

7 A. 12. About.

8 Q. Was she injured in any way?

9 A. No.

10 Q. I mean physically injured?

11 A. No.

12 Q. Was it necessary for some counseling or some sort  
of mental

13 health support --

14 A. No.

15 Q. -- after this? And this person you talked about on  
the

16 next page found guilty: Was there a trial?

17 A. Yes. Around page 23?

18 Q. Yes.

19 A. Uh-huh.

20 Q. Top of the page. There was a trial on that?

21 A. Yes.

22 Q. Did your daughter testify?

23 A. Yes.

24 Q. And were you there with her?

25 A. I also testified, so I wasn't with her when she  
testified.

3156

Juror 657 - Voir Dire

1 Q. Because you were only -- only one-witness-at-a-  
time-in-the-

2 courtroom type thing.

3 A. Right.

4 Q. And when you say "took too long," do you refer to  
the time

5 between the event and the final result?

6 A. Yes.

7 Q. How about the trial itself? Was the trial too  
long?

8 A. No. Once we finally got to trial, it was not.  
9 Q. What was the amount of time in between, if you  
recall?  
10 A. At least a year.  
11 Q. And did you follow along during that year with  
motions and  
12 things like that? Did you go to court to observe those  
things?  
13 A. No. There wasn't -- it -- we were -- the trial  
date was  
14 set at one point, and then it was cancelled. And the  
next time  
15 they could schedule it was like six months later.  
16 Q. All right. Did you have anything to do with it  
between the  
17 time of the initial reporting and some interviewing, I  
suppose,  
18 and then the time of the trial itself?  
19 A. I don't think so. I don't recall anything.  
20 Q. Okay.  
21 A. She was -- you know, called in -- in after -- well,  
the  
22 person -- the person wasn't apprehended right away.  
23 Q. Yes.  
24 A. And so she was called in and questioned, and I was  
not.  
25 It --

Juror 657 - Voir Dire

1 Q. Right.

2 A. I can't recall.

3 Q. And then there was a jury verdict, I take it?

4 A. Yes.

5 Q. This was a jury trial.

6 A. Uh-huh.

7 Q. And did you have -- did you go to the sentencing  
hearing?

8 A. Yes.

9 Q. Do you remember that?

10 A. Yes. It was the same time, I think. I thought it  
was the

11 same day.

12 Q. Are you sure of that?

13 A. No.

14 Q. Okay.

15 A. But that --

16 Q. It's been sometime ago.

17 A. Yeah.

18 Q. I would -- you know, I'm only questioning that  
because I

19 would be surprised that it would be the same day.

20 A. Actually, I think we were called about the  
sentence. I

21 think we got the result --

22 Q. Okay.

23 A. -- that day, and we were called and told what the  
sentence  
24 was.  
25 Q. At a later day?

3158

Juror 657 - Voir Dire

1 A. Yes. I think that's right.  
2 Q. And as you reflect back on it, then, is your answer  
that  
3 you did not actually go to the sentencing hearing; you  
just  
4 heard about the result?  
5 A. Yes.  
6 Q. Okay. We know we're asking you a lot of questions,  
and  
7 they come right one after another, and we're talking  
about  
8 things that you have to think back and remember a lot  
of  
9 things; so I understand how I can mix you up.  
10 A. I think some of those unpleasant things, I  
specifically  
11 don't remember. Try to forget.  
12 Q. Intentionally. Sure.  
13 A. Yes.  
14 Q. And then this other one, going back now to page 22,  
is  
15 what -- what age was your daughter at this time, or is

this a

16 different --

17 A. Which number are you on?

18 Q. I'm on 102 and page 22. Is this a different  
daughter?

19 A. Yes. It's a different daughter.

20 Q. Okay. And how old was she at the time of this  
incident?

21 A. 20 or 21.

22 Q. She was going with this person?

23 A. Yes.

24 Q. And --

25 A. Had been.

3159

Juror 657 - Voir Dire

1 Q. Had been.

2 A. And they had split up recently. Before that.

3 Q. And that probably was the reason for this  
happening, then?

4 A. Yes. So there -- their going together had also had  
some

5 lesser incidences.

6 Q. Yeah. Was she hurt physically?

7 A. Yes.

8 Q. Very badly?

9 A. Well, she couldn't get up at the time.

10 Q. Was there any weapon?

11 A. No.

12 Q. All right. And as I understand it, the matter was  
dropped?

13 A. Yes.

14 Q. At her choice?

15 A. Yes.

16 Q. Did you give any -- did she come to you for advice  
about

17 what to do on this and you help her decide or anything  
like

18 that?

19 A. She came -- she shared it with me. And I think she  
would

20 have liked my advice, but I didn't really know how to  
advise

21 her. And she decided this -- to drop it on her own.

22 Q. Okay.

23 A. I mean, she had counsel, but I didn't advise her.  
I was

24 kind of surprised when she did.

25 Q. That she dropped it?

3160

Juror 657 - Voir Dire

1 A. Yes.

2 Q. Because I suppose you were pretty outraged by it,  
actually?

3 A. Yes.

4 Q. And still are, I suppose, as you are forced to  
think about

5 it again.

6 A. Right.

7 Q. Okay. And this is, what, a matter of a year or so  
ago?

8 A. No. Two -- two or three, I'd say. Two-and-a-half,  
I would

9 say.

10 Q. Was she living here then?

11 A. Boulder.

12 Q. Boulder.

13 A. She's the one that just moved to San Francisco.

14 Q. And had been working at the law firm?

15 A. Yes.

16 Q. Well, you know, we're sorry to cause you to revisit  
some of

17 these things, but I'm sure you understand the  
importance of it

18 to us, because, in part, it formed your view that you  
express

19 here about how well the system is working.

20 A. Uh-huh.

21 Q. And then you also, over here on page 30, at 129,  
referred

22 to your agreement of the importance of following the  
Court's

23 instructions in making the process work.

24 A. Right.

25 Q. And everyone doing his part.

3161

Juror 657 - Voir Dire

1 A. Yes.

2 Q. Now, we've already reviewed the basics of what a  
jury does.

3 And I'm not going to repeat it all, but you understand  
that

4 what jurors must do in this as in any other trial is to  
set

5 aside anything they may think about the case before  
starting in

6 on the trial, including anything that they have read,  
seen, or

7 heard in any way. Start with this clean page, as it  
were, and

8 listen to the evidence and then decide at the end of  
hearing

9 the evidence whether the charges have been proved  
beyond a

10 reasonable doubt as we've discussed. And then, you saw  
that

11 happen in the case that we've already -- I don't mean  
you saw

12 the deliberations, but you saw the process work.

13 A. Uh-huh.

14 Q. And then what happens ordinarily when capital  
punishment is

15 not an issue, when the question of the sentence -- a  
sentence  
16 to life in prison with no release or death is not  
involved,  
17 there is a sentencing hearing before a judge. That's  
what I  
18 was asking you about, whether you attended such a  
hearing in  
19 the case involving your daughter. But, you know, when  
the jury  
20 in these other types of cases returns a verdict, of  
course, if  
21 the verdict's not guilty, it's over. If the verdict is  
guilty,  
22 it's still over as far as the jury is concerned. And  
then the  
23 case turns over -- is turned over to the judge and it's  
the  
24 judge's responsibility to decide the sentence. And a  
judge  
25 doesn't do that under most systems, at any rate, and  
certainly

3162

Juror 657 - Voir Dire

1 not in the federal courts, simply on the basis of what  
was  
2 heard at the trial, because the issue of sentence is  
one that  
3 requires separate consideration of a number of things  
and is

4 individual to the defendant involved.

5           So there isn't a -- sort of a scale that says  
this is  
6 the crime, this is the sentence. More information is  
gathered,  
7 not only about the crime and the circumstances of it  
and the  
8 consequences of it, but also information regarding the  
9 defendant, the things that are individual to that  
person. And  
10 this includes, of course, the personal history, born  
and  
11 raised, family, early family relationships, later  
relation-  
12 ships, marital relationships, job history, military  
history, if  
13 any, injuries, those things that are all involved in  
the lives  
14 of each of us and that make us really separate and  
unique  
15 people.

16           And then there's a hearing; and the court, now  
having  
17 had all of this information, including all of these  
things  
18 about the defendant, then makes a -- an individual --  
and  
19 hearing from the prosecution and defense lawyers, makes  
an  
20 individual determination of what is a just sentence for  
the  
21 crime and the person who committed it. Do you follow  
me on

22 this?

23 A. Yes.

24 Q. And then, that's part of sort of the fundamental  
process.

25 And the sentence is announced and is served.

3163

Juror 657 - Voir Dire

1 Now, in the federal system, it is different if  
the  
2 crimes charged are such that the possibility of  
punishment  
3 includes life in prison or death. And here, the  
systems vary  
4 among the states. But the federal system, where we  
are, under  
5 federal law, it is a matter for the jury to decide. We  
don't  
6 give judges life-or-death decisions over defendants.  
We ask  
7 people in the community to come in and judge that  
person as  
8 well as the crime.

9 And it is because the jury is involved in the  
10 punishment decision in cases like this that we asked  
you some  
11 questions about your opinions and attitudes concerning  
these  
12 possible punishments. And you recall coming to that  
point in

13 the questionnaire, do you?

14 A. Uh-huh.

15 Q. And page 28 is the page and 29, where you  
confronted those

16 questions and gave us your answers. And take a moment  
to

17 review them.

18 A. Okay. Okay.

19 Q. Let me ask you first whether this question of  
capital

20 punishment, the possibility of a sentence to death, is  
one that

21 you've given thought to before in life, in your life  
before you

22 encountered this questionnaire.

23 A. Yes.

24 Q. Has it been a subject that you've read a good deal  
about,

25 as well as thinking about?

3164

Juror 657 - Voir Dire

1 A. Yes. My students debate this issue in the spring.

2 Q. Routinely? I mean, is that something you do in the  
3 curriculum each year?

4 A. Yes.

5 Q. Why is that?

6 A. I teach debate in the spring, and they debate --  
they  
7 divide into teams and debate like four fairly current  
issues.  
8 And this is one of them. And why is that an issue?  
You  
9 mean --  
10 Q. No. No. I mean, why did you -- you selected the  
debate  
11 topic, I assume.  
12 A. Well, it's a team of teachers that selected them  
that we  
13 thought 8th graders would be interested in and --  
14 Q. Be motivated to work on it?  
15 A. Right.  
16 Q. So how is the question formed? "Resolved  
that . . ."  
17 A. The students form that themselves. Each -- you  
know, the  
18 teams.  
19 Q. Is this classic debate which, at least in days long  
past,  
20 used to be the question phrased "Resolved that there  
should be  
21 an 18-year-old draft," or whatever?  
22 A. They state -- they state it that change -- you  
know, what  
23 change needs to be made. And since we have capital  
punishment,  
24 they say it should be changed, there should be no  
capital

25 punishment.

3165

Juror 657 - Voir Dire

1 Q. All right. And then were you one of the debate  
judges?

2 A. Yes.

3 Q. Has this been done more than one year in your  
class?

4 A. Yes.

5 Q. Okay. So how many times?

6 A. I think two. It's a new program. The first year  
-- it's

7 three years old. The first year, we did not do current  
issues.

8 We did should we get into World War I and should we  
have

9 dropped the bomb. And then the second two years, we  
decided to

10 do four current issues.

11 Q. Okay. And your view, as expressed here, is that  
there

12 should not be a death penalty.

13 A. Right.

14 Q. Now, is that based on a policy analysis, a  
religious view,

15 a moral view? What would you say?

16 A. Religious and moral and what would be -- what do  
you mean

17 by "policy"?

18 Q. Well, that it's just bad policy. I mean, one could  
take a  
19 view that this or that type punishment is just not a  
good  
20 policy, regardless of its intrinsic morality or lack  
thereof or  
21 whatever.

22 A. I don't think it does what I think it's set out to  
do. I  
23 don't think it's a deterrent.

24 And morally or religiously, it's hard for me  
to divide  
25 those. I don't think it's -- I don't think it's right.

3166

Juror 657 - Voir Dire

1 Q. No matter what the crime or the circumstances?

2 A. Right.

3 Q. Well, you know, there's debate that goes on, real  
debate,  
4 policy debate, political debate; and there are views  
expressed  
5 like yours and there are other views -- excuse me --  
that say,  
6 well, an eye-for-an-eye-type thing.

7 A. Right.

8 Q. Kill, you get killed.

9 Since you answered the questionnaire, have you

given

10 some additional thought to this point?

11 A. Yes.

12 Q. And has your view changed any?

13 A. No.

jury

14 Q. I want to put this now into the context of actual

15 service and what is involved so that you understand the

16 questions.

17 A. Uh-huh.

about

18 Q. Because we asked you in terms of what you would do

what you

19 the law if you could make the law, and you may declare

20 would do.

21 A. Uh-huh.

22 Q. There wouldn't be any death penalty.

23 A. Right.

Federal Court

24 Q. But of course, the law does provide for it in

you, the

25 for murder and certain crimes. And as I mentioned to

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Juror 657 - Voir Dire

what the

1 decision about life or death is made by a jury. And

2 jury gets to -- the choices that are presented to

jurors are

3 should the defendant be put to death, should the  
defendant be  
4 put in prison for the rest of his or her natural life  
with no  
5 release, or should there be some lesser sentence and go  
back to  
6 the court to decide. Those are the choices to be made.

7 Now, before the jury -- and of course, it is  
the same  
8 jury that decides whether the evidence proves guilt  
beyond a  
9 reasonable doubt. We don't get a separate jury. So --  
and in  
10 reaching that decision, this question of punishment  
doesn't  
11 come up. That's irrelevant to the question of guilt.  
But in  
12 the event of a guilty verdict, then the jury must go on  
and  
13 consider these options. And in doing so, they must  
follow a  
14 process which involves a second trial, a hearing just  
on the  
15 issue of sentencing.

16 And at that hearing, the government brings in  
17 information that supports the notion -- not the notion  
-- but  
18 would support a decision that death is a deserved  
punishment  
19 for the circumstances of the crime and the defendant.

The

20 defense, on the other hand, presents information to the  
21 contrary, to support the view that death is not  
deserved  
22 despite the crime for this individual person, this  
human being.  
23 And that information is like the kinds of things that a  
24 sentencing judge considers, as I've already mentioned,  
things  
25 that are uniquely true of the defendant himself as a  
person,

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1 background and all that. And then at the end of all of  
that,  
2 the court instructs the jury, well, this is what you  
heard and  
3 this is what you may consider as what we call  
"aggravating  
4 factors" to support the extreme sentence, and this is  
what  
5 you've heard to support that as mitigating factors that  
death  
6 is not a deserved punishment for this person,  
regardless of his  
7 crime and then suggests a number of questions for the  
jurors to  
8 ask themselves in analyzing that information.  
9 But it's not formulaic. It doesn't come down  
to some  
10 sort of equation but comes down to a decision to be

made as a

11 moral decision, really: Should this person live or  
die? And

12 that decision has to be made, you know, with those  
13 possibilities, those punishments in mind. Do you  
understand?

14 A. Uh-huh.

15 Q. Now, the question that I must ask of you is  
considering

16 this explanation and also considering your own views  
about the

17 law, whether -- if you served on a jury that had to  
reach a

18 sentencing decision after returning a guilty verdict  
and after

19 hearing the sentencing phase of a trial, would you be  
able to

20 consider the question and decide the question of life  
or death

21 based on all that you've heard, including the  
mitigating and

22 aggravating factors?

23 A. I -- I wouldn't consider the death penalty.

24 Q. So you're simply closed to that as a possible  
punishment

25 for the reasons you've told us?

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Juror 657 - Voir Dire

1 A. Right.

2 Q. Is that right?

3 A. (Juror nods head.)

4 THE COURT: Okay. We appreciate your  
explanation of

5 your views.

6 Do we have any questions?

7 MS. WILKINSON: Just a few, your Honor.

8 THE COURT: All right, Ms. Wilkinson.

9 MS. WILKINSON: Thank you.

10 VOIR DIRE EXAMINATION

11 BY MS. WILKINSON:

12 Q. Good afternoon, ma'am.

13 A. Hi.

14 Q. As the Judge told you, my name is Beth Wilkinson.  
I'm one

15 of the prosecutors who will be presenting the evidence  
for the

16 United States against Mr. Nichols in this case.

17 I don't want to prolong this questioning too  
much, so

18 I'll get right to the main point, and that's the  
questions you

19 were just discussing with the judge, the death penalty.  
As his

20 Honor told you, it's not a formulaic decision  
ultimately; it's

21 a moral judgment that you have to make as well as your  
fellow

22 jurors. If I understood you correctly, would it be

fair to say

23 that you would never think it was a proper moral  
judgment to

24 sentence someone to die?

25 A. Right.

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Juror No. 657 – Voir Dire

1 Q. And no matter how I asked you that or how many  
different

2 scenarios, you would never vote for the death penalty,  
would

3 you?

4 A. No.

5 MS. WILKINSON: Thank you, very much.

6 THE COURT: Mr. Tigar.

7 VOIR DIRE EXAMINATION

8 BY MR. TIGAR:

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. My name is Michael Tigar. We were introduced  
before. Ron

12 Woods here, and I, were appointed by the United States  
District

13 Court in Oklahoma to help out Terry Nichols. Like  
Caesar's

14 Gaul, the questioning is divided into three parts. The  
good

15 news is that this is the third part. I wanted to ask  
you very

16 briefly if you would turn to page 2, Question 100.

17 A. Okay.

18 Q. Now, you described the criminal justice process as  
it's too

20 expensive?

21 A. In what way? What do you mean?

22 Q. Well, I'm a court-appointed lawyer and Mr. Woods is  
a

23 court-appointed lawyer, because Mr. Nichols didn't have  
the

24 money to buy -- or to retain counsel. Would you hold  
it

25 against us if you were selected as a juror in this case  
that

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1 we're essentially being paid by the taxpayers to do our  
job?

2 A. No.

3 Q. Okay. So that's -- and then if you'd look at  
Question 101,

4 the last sentence there, "I have" -- "I also called  
because

5 of," and so on. How long ago was that?

6 A. Six years.

7 Q. Okay. And was that your situation?  
8 A. Yes.  
9 Q. Okay. And then was that the same incident you're  
referring  
10 to on page 23 at Question 104?  
11 A. Yes.  
12 Q. Okay. And was that resolved to your satisfaction?  
Is  
13 there anything about that that would affect your  
service as a  
14 juror?  
15 A. No. That was resolved.  
16 Q. Okay. Well, now, I, too, would like to get to this  
issue,  
17 and I won't take too much time about it; but I want to  
put it  
18 in a little -- in context. We do not concede that  
there will  
19 ever be a penalty phase in this case, because we intend  
to  
20 cross-examine the witnesses the Government puts  
forward, put on  
21 witnesses of our own, and to in the end argue that  
there is a  
22 reasonable doubt. But if we should get to a penalty  
phase,  
23 this is our chance to talk to jurors. If there is a  
penalty  
24 phase or punishment phase in this case, the jurors will  
be  
25 asked to listen to a lot of information about the  
offense and

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would 1 all the circumstances of it. And that, the Government  
2 present, aggravating factors.

that may 3 And then the defense will present evidence  
4 have to do with the different roles of different people  
in the 5 events that led up to Oklahoma City and the individual  
6 circumstances of the defendant on trial.

7 And after that's done, there will be  
arguments; and 8 the Judge will instruct that the law, the statute lays  
out, 9 describes a number of aggravating and mitigating  
factors and 10 that the jurors are to make a reasoned moral response.

Now, 11 you understand that the jury -- there's never a  
circumstance in 12 which a jury is required to come up with the death  
penalty?

13 A. Right.

14 Q. Okay.

15 A. Right.

16 Q. And obviously, these questions are important and  
that's --

17 this is in context. And I -- You know, have you ever  
heard the  
18 expression, *abi societas ibi jus*, Cicero, "Wherever  
there is  
19 society, there is this idea of justice," the social  
structure.  
20 My pronunciation is wrong, please don't grade my paper;  
but  
21 there's this social structure within which we all live  
that  
22 defines what -- what the rules are.

23 A. Uh-huh.

24 Q. And is it your feeling that if you were selected as  
a  
25 juror, could you look at this question and be open to

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1 considering the respective choices there; that is to  
say, the  
2 penalty of death or life in prison without possibility  
of  
3 parole or some lesser sentence that then would be for  
the Court  
4 to decide? Could you consider all of those three?

5 A. No.

6 Q. You could not. And is that view based on your  
sense of  
7 the -- the sanctity of human life? I don't mean to  
probe or to

bit to 8 pry into your views, but if you could help me a little  
9 understand the basis for that.

10 A. Yes. I don't feel that a human being has the right  
to 11 decide that another human being should die.

12 MR. TIGAR: Okay. Thank you, very much for  
your 13 candor. I appreciate your talking to us.

14 THE COURT: We all appreciate your -- excuse  
me -- 15 your time with us and your cooperation in responding to  
these

16 questions. We'll -- we don't make the decisions about  
whether

17 people will serve as we go. We'll be getting back to  
you with

18 respect to that decision; but as you leave now and are  
excused

19 now, please continue to follow the cautions that were  
given to

20 you when you were excused before. And if there's any  
change in

21 your telephone or any of those things, or you get  
called out of 22 town, let us know, please.

23 THE WITNESS: All right.

24 THE COURT: You're excused.

25 And we'll take our 20-minute recess.

1 (Recess at 3:14 p.m.)

2 (Reconvened at 3:32 p.m.)

3 THE COURT: Please be seated.

4 942.

5 If you'll please raise your right hand and  
take the  
6 oath from the clerk.

7 (Juror No. 942 affirmed.)

8 THE COURTROOM DEPUTY: Thank you.

9 THE COURT: Please be seated there in the  
chair near  
10 the microphone.

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. And you know that in the language of the oath, "the  
case  
14 now on trial," refers to United States against Terry  
Lynn  
15 Nichols?

16 A. Yes, I do.

17 Q. And you got a summons a while back, several weeks  
back,  
18 advising that your name had come up through a chance  
selection

19 process as a potential juror for the trial of this  
case?

20 A. Correct.

sent it 21 Q. You responded to a short questionnaire about that,  
22 back to us?  
23 A. Correct.  
that would 24 Q. And you indicated in that questionnaire a reason  
of that 25 prevent from you serving on the jury, but you in spite

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Juror No. 942 - Voir Dire

1 got called to Jefferson County Fairgrounds.  
2 A. Correct.  
3 Q. Now, we saw what you wrote, so it isn't that we  
didn't pay 4 attention or that your name got lost in a computer  
again or 5 something like that. We did. And in addition to what  
you 6 wrote on the questionnaire, we got a letter about jury  
service 7 from the school, and we didn't ignore that, either.  
But we 8 proceeded anyway because of the importance of the case  
and the 9 importance of jury duty and the need to find out more  
in your 10 case -- I don't mean "your case," I mean, about you.  
All 11 right?

12 A. Good.

13 Q. And so you were there among others at the Jefferson  
County  
14 Fairgrounds' auditorium building, and I was there and  
other  
15 people there with us, and they're here with us again.  
So I  
16 want you to know now and be refreshed in your mind as  
to who is  
17 here, because we introduced these people but did it  
quickly.  
18 So let me introduce again to you the lawyers  
for the  
19 Government here, Mr. Lawrence Mackey, Ms. Beth  
Wilkinson.  
20 They're now joined by Mr. Patrick Ryan and Mr. Geoffrey  
Mearns,  
21 who were not there before but are now joined with us as  
22 additional counsel for the Government.  
23 You also recall meeting Mr. Michael Tigar and  
24 Mr. Ronald Woods, attorneys for Terry Nichols; and Mr.  
Nichols,  
25 of course, was there with us as well.

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1 And then after some explanation that I gave  
about the  
2 case, we gave you a questionnaire to fill out and you  
did that;

these  
people  
course,  
public  
recognizing that  
personal  
not using  
the press  
be

3 and we appreciate that you did it. And then we took  
4 answers that you gave us, and I've shared it with these  
5 who are with us this afternoon in front of you with, of  
6 the understanding that these answers would not be made  
7 or used in any way other than in this process,  
8 we invaded your privacy some and asked you some very  
9 questions. And, of course, as a part of that, we are  
10 your name in court; that we sort of shielded you from  
11 on coming and going into the courthouse so you wouldn't  
12 seeing your picture in the paper or something.

open  
public

13 You do recognize, though, that now we are in  
14 court and what is said and done here is a part of a  
15 trial proceeding?

16 A. I do.  
17 Q. Okay. And I just wanted to repeat with you for a  
moment  
18 some of the things that I said there in the  
introduction about  
19 the case. Some of these things, of course, you didn't  
need me  
20 to tell you. You already knew that this case arises

from an

21 event in Oklahoma City, Oklahoma, on April 19 of 1995,  
an  
22 explosion at a federal building, an office building in  
which  
23 people were killed and injured; that thereafter lawyers  
for the  
24 Government filed charges in Oklahoma City in the  
Federal Court  
25 there alleging that Terry Lynn Nichols along with a man  
named

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Juror No. 942 – Voir Dire

1 Timothy James McVeigh and other persons not named in  
the  
2 charges were engaged in a conspiracy to bomb that  
building and  
3 to kill and injure people in it and that they carried  
out a  
4 plan and did it and that the charges included eight  
5 first-degree murder charges for the killings of eight  
law  
6 enforcement agents of the Government who were in the  
building;  
7 that the case was then moved from Oklahoma City here to  
Denver  
8 for trial because of a concern about getting a jury in  
the  
9 community where this happened; and that when the case  
came to

10 Colorado, I entered orders for separate trials  
requiring that  
11 the evidence as it relates to Mr. McVeigh be considered  
by a  
12 jury and that a separate trial then be convened for the  
13 evidence as it relates to Mr. Nichols, finding that it  
would be  
14 fundamentally unfair for both persons to be on trial in  
the  
15 same trial and for the same jury to decide.

16 And there has been a trial with respect to  
Timothy  
17 McVeigh. A jury heard that case, found him guilty, and  
then  
18 after another hearing on penalty, sentencing hearing,  
came in  
19 with a recommendation for a sentence to death. These  
things  
20 you know. Yes?

21 A. Yes, I do.  
22 Q. Okay. And as I explained also, the outcome of that  
case  
23 cannot be considered in this case; and indeed, nothing  
that  
24 anyone may have come across in news reports or the like  
about  
25 what the evidence in that case was can be considered in  
this

1 case because we're starting over, and the evidence may  
be  
2 considerably different. So Mr. Nichols is to be judged  
now by  
3 a jury on the basis of what happens in his case without  
any  
4 relation back to any other trial. You understand that  
point?

5 A. I do.

6 Q. And also, I reviewed the basic points of our  
criminal  
7 justice system that a defendant, no matter who he is or  
what  
8 the charges are, under the United States Constitution  
is  
9 presumed to be innocent of those charges. That carries  
10 throughout the trial and entitles that person to an  
acquittal,  
11 a verdict of not guilty, unless jurors considering only  
the  
12 evidence at trial under the law find that the charges  
are  
13 proved beyond a reasonable doubt. And it is incumbent  
upon the  
14 Government to come in, these lawyers, to prove the  
case.

15 Mr. Nichols, just as any other defendant, has  
no  
16 burden or duty of proving anything, doesn't have to  
call  
17 witnesses to show he's not guilty, doesn't have to take  
the

18 witness stand and respond to questions or offer  
explanations,

19 none of that, because he has no burden and the  
Government has

20 all of the burden.

21 And if at the end of the trial after the court  
22 instructs the jury about what has to be proved for each  
of the

23 crimes charged -- if the jury is not satisfied beyond a  
24 reasonable doubt, they must return a verdict of not  
guilty and

25 give the defendant the benefit of that doubt.

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Juror No. 942 - Voir Dire

1 These things, you heard.

2 A. Yes, I did.

3 Q. And do you agree with these points?

4 A. I understand them, yes, and I agree.

5 Q. And agree to be bound by them if you were to serve  
on the  
6 jury?

7 A. Yes, I would be.

8 Q. Now, you gave us a good bit of information about  
you in  
9 this questionnaire. I want to review some things with  
you; but  
10 we're not going to go over everything here. Don't be  
alarmed

11 that we're going to cause you to answer all these  
questions  
12 over again. But I just wanted to review some of the  
points  
13 with you.

14 As I understand it, you were born in  
California?

15 A. Correct.

16 Q. And your parents came to this country from  
Yugoslavia?

17 A. Correct.

18 Q. And you then lived in California, I guess, high  
school and

19 college --

20 A. Correct.

21 Q. -- there? You obtained a master's degree in  
linguistics?

22 A. Correct.

23 Q. And then you came to Colorado about three years  
ago.

24 A. Correct, via Ohio, Florida.

25 Q. That's right. You were in Florida?

3180

Juror No. 942 - Voir Dire

1 A. Prior to living in Colorado.

2 Q. You were first in Columbus, Ohio?

3 A. Correct.

4 Q. What were you doing in Columbus?

5 A. My husband was transferred.

6 Q. In the work that he does.

7 A. Correct.

8 Q. And then to Florida from there?

9 A. Correct.

10 Q. Where is -- is it Longwood, Florida?

11 A. Right. It's right out side of Orlando.

12 Q. Okay. And you taught school in Florida, I take it.

13 A. Yes, I substitute taught.

14 Q. What age?

15 A. K through 6.

16 Q. And then you came to the position you now have at

the

17 school in which you now teach.

18 A. Correct.

19 Q. Which is a religious school?

20 A. Correct.

21 Q. Catholic school?

22 A. Correct.

23 Q. Was it Catholic school in Florida, too?

24 A. No. Public school.

25 Q. Public school. And you have at your present  
assignment

## Juror No. 942 - Voir Dire

1 a -- work with -- I can't remember the age of the  
students

2 you're teaching.

3 A. Seventh and eighth grade.

4 Q. Yeah, seventh and eighth. And you teach  
mathematics and

5 algebra.

6 A. Correct.

7 Q. And you also -- I guess before, you were teaching  
language

8 arts.

9 A. Language arts and history, social studies.

10 Q. Is language arts like English used to be?

11 A. Grammar.

12 Q. Grammar?

13 A. Still Catholic school.

14 Q. There still is such a thing as grammar in some  
schools?

15 A. Correct.

16 Q. Right. And you first started in Colorado teaching  
as a

17 substitute.

18 A. Correct.

19 Q. And now you're -- they don't have like tenured  
teachers,

20 but you're a full-contract teacher?

21 A. Full-contract, correct.  
22 Q. And you are a practicing Catholic. That's your  
religion?  
23 A. Yes, correct.  
24 Q. And in fact, you say in your original response  
here, the  
25 original questionnaire, that you're against the death  
penalty?

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Juror No. 942 - Voir Dire

1 A. Correct.  
2 Q. And also against abortion, you said.  
3 A. Correct.  
4 Q. With really the same premise in mind?  
5 A. Correct.  
6 Q. Taking life?  
7 A. Yes.  
8 Q. And you -- you have had that view because it's the  
Church's  
9 view, or your own view even if you weren't a practicing  
10 Catholic? What would you say to that?  
11 A. I believe you are a product of your environment; so  
12 therefore if I wasn't part of that environment, I can't  
tell  
13 you. That would be only a supposition.  
14 Q. Well, let me ask it in this way: Have you at times  
in your

about 15 life questioned that view and had any different opinion

16 it?

17 A. No.

"absolute" is 18 Q. And would it be -- I don't know if the word

19 appropriate.

20 A. In math, it is.

it the 21 Q. Well, in terms of your thinking on this subject, is

change 22 same; that there is an absolute view and you wouldn't

23 it?

24 A. Correct. I would not.

25 Q. Regardless of any circumstance, any crime?

3183

Juror No. 942 - Voir Dire

1 A. Correct.

and you 2 Q. And so what you tell us, I understand, is that --

3 understand the law does provide for a death penalty.

4 A. Correct. I understand that.

it is. 5 Q. But in your case, you could not follow the law as

6 Is that what you're saying?

7 A. Correct. I could not.

8 THE COURT: Okay. Do we have any questions  
from the 9 Government?

10 MR. RYAN: No.

11 THE COURT: From the defense? Mr. Woods?

12 MR. WOODS: Just a couple, your Honor. Thank  
you.

13 THE COURT: All right.

14 VOIR DIRE EXAMINATION

15 BY MR. WOODS:

16 Q. Good afternoon.

17 A. Good afternoon.

18 Q. As the Judge introduced me, my name is Ron Woods.  
Along

19 with Mike Tigar, I was appointed by the District Court  
in

20 Oklahoma City to represent Terry Nichols who stands  
accused of

21 these charges here. The fact that we're court-  
appointed

22 lawyers: Would that be a disadvantage to Mr. Nichols  
in your

23 mind in any way?

24 A. I have no idea. I don't know your credentials.

25 Q. Okay. The fact that he could not afford to hire an

attorney: 1 attorney and to -- had to have a court-appointed

2 Would that work against him in any manner?

3 A. I don't believe that has anything to do with your  
4 credibility as an attorney.

5 Q. Okay. Let me get right to the issue so we don't  
spend a

6 whole lot of time with this. Your parents came from  
7 Yugoslavia?

8 A. Correct. Croatia.

9 Q. And on the first page, you list the dates -- those  
were the  
10 dates that they left the country; is that correct? '37  
as the

11 war was beginning to break out?

12 A. Correct.

13 Q. Have you kept up -- I'm sure you have -- have you  
kept up

14 with the Croatian -- the Serbo-Croatian conflict, as we  
know it  
15 recently?

16 A. Yes, because I still have relatives there.

17 Q. You do?

18 A. Uh-huh.

19 Q. Have any -- and I don't like mentioning this, but  
have any

20 of them been injured or killed in any of the conflicts  
within

21 the last three years?

22 A. No. They were quite fortunate.

23 Q. As you're aware, there have been some people that  
have been

24 accused and even a couple of arrests -- I think there  
are some

25 ongoing trials in Serbo-Croatia, in Yugoslavia, at this  
time

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Juror No. 942 - Voir Dire

1 concerning the war crimes that have taken place there.

2 A. I have heard of them, but I'm not keeping up with  
that. I

3 only keep up with my relatives.

4 Q. Okay. Well, let me ask a general term. In a war  
crime

5 where people are accused of killing a number of people,  
would

6 that be a crime where you could possibly consider the  
death

7 penalty, if you were called to serve in a case like  
that?

8 A. No, I could not.

9 MR. WOODS: Okay. I think you've made it as  
clear as

10 it can be made. Thank you very much.

11 THE COURT: All right. We do appreciate your  
candor

12 in telling us your views. Now, we will be getting back  
to you

13 with respect to your status as a potential juror in the  
case.

14 JUROR: Okay. Thank you.

15 THE COURT: Understand as you leave here,  
though, I

16 want you to continue to follow the cautions that I gave  
you

17 when you left before after completing the  
questionnaire.

18 Please don't discuss it with anyone, and be careful  
about your

19 own contact with publicity about the case. Will you?

20 JUROR: Yes, I will.

21 THE COURT: All right. We'll be in touch with  
you.

22 Thank you.

23 JUROR: Thank you.

24 THE COURT: 618.

25 Good afternoon.

3186

1 JUROR: Good afternoon.

2 THE COURT: Will you please raise your right  
hand and

3 take the oath from the clerk.

4 (Juror No. 618 affirmed.)

5 THE COURTROOM DEPUTY: Thank you.

6 THE COURT: Would you please be seated there  
by the  
7 microphone. And you don't have to position yourself  
right  
8 there in front of the microphone.

9 JUROR: Okay.

10 THE COURT: It will pick you up if you're  
anywhere  
11 near it.

12 VOIR DIRE EXAMINATION

13 BY THE COURT:

14 Q. And you understand that the oath refers to the case  
now on  
15 trial; that we're talking about selecting a jury here  
for the  
16 trial of the case of United States against Terry Lynn  
Nichols.

17 A. Yes, sir.

18 Q. And you got a summons for possible jury service in  
19 connection with this case and returned a questionnaire  
response  
20 to us in which you indicated what it would mean to you  
in your  
21 work if you were called for jury service in this case.

22 A. Yes, sir.

23 Q. And suggested that you be excused; but -- and  
thanking us  
24 for our understanding, and then you got noticed to come  
out to  
25 Jefferson County?

## Juror No. 618 - Voir Dire

1 A. Uh-huh.

2 Q. Just as if you never wrote that?

3 A. That's right.

4 Q. That's probably the response -- when you got that  
notice,  
5 you thought, Don't they read and understand? But  
please do  
6 understand that you're not alone in, you know, telling  
us of  
7 hardships about jury service. Obviously, jury service  
affects  
8 the regular life and work routine of everybody called  
in, and  
9 how much of an effect and how people are able to handle  
it  
10 depends on a lot of things. So we didn't ignore that  
and we're  
11 not ignoring it now, and we'll talk about it. I don't  
want you  
12 to, you know, think that we didn't pay attention and  
that we  
13 are totally unsympathetic to it. We just want to talk  
with you  
14 about it some more, as we have done with others who  
have  
15 essentially told us the same problem.

16 Now, then, when you were at Jefferson County  
on

17 September 17, you and others, I came out there and I  
had these  
18 people here with me and introduced them to you. And I  
want to  
19 do that again so you know who is here with us this  
afternoon.

20 Here at this first table in front of you, the  
21 prosecution table, we have attorneys for the  
Government,  
22 Mr. Lawrence Mackey, Ms. Beth Wilkinson. They were  
with me  
23 when we saw you before. They're now joined by Mr.  
Patrick Ryan  
24 and Mr. Geoffrey Mearns, who you meet now for the first  
time.

25 You did also meet Mr. Michael Tigar, Mr.  
Ronald Woods,

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1 attorneys for Terry Lynn Nichols; and of course, Mr.  
Nichols  
2 was with us as well.

3 And before asking you to answer a lot of  
questions on  
4 a long questionnaire, which you did and which we  
appreciate, I  
5 gave you the background of the case. And I want to  
review  
6 again just so that we have a clear understanding of  
some of the

7 things that we'll be talking about, sort of a  
foundation for a

8 few questions that I will have of you. And we're not  
going to

9 go over the whole questionnaire.

10 We did make copies of it and give -- gave the  
copies

11 to these people so they would have it with the  
understanding

12 that we're not giving it out to anybody else. It's not  
public,

13 it's private. A lot of things in here are personal,  
and we try

14 as best we can to protect your privacy throughout here  
so that

15 we don't use your name here in open court and also even  
to the

16 point of making sure that as you go in and out of the  
building,

17 nobody can photograph you and put your picture in the  
paper, on

18 television, or something.

19 But, of course, now we are in open court, and  
20 everything that happens here and is said and done is  
public

21 because this is a public trial. You understand sort of  
the

22 foundation there?

23 A. Yes, sir.

24 Q. Okay. And as I told you and the others and I'm  
sure it

25 didn't come as any really new information that this  
case arises

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1 as a result of an explosion that occurred at a federal  
office

2 building in Oklahoma City, Oklahoma, on April 19 of  
1995. That

3 building was destroyed. People in it were killed and  
injured.

4 Then afterwards, charges were filed in the  
Federal

5 Court in Oklahoma City in the way of an indictment, a  
statement

6 of charges that accused Terry Lynn Nichols here and  
also a man

7 named Timothy James McVeigh -- and then the indictment  
says

8 "and other persons not named" -- with a conspiracy or  
an

9 agreement or plan to bomb that building and to kill and  
injure

10 people in it and that, according to the allegations of  
the

11 indictment, they carried that scheme or plan out and  
did a

12 bombing of the building; and also, they're charged with  
the

13 murders of eight law enforcement agents who were in the

14 building at the time.

15 To those charges, each of the named defendants  
pleaded  
16 not guilty, thereby disputing the allegations and  
causing  
17 trials to be held; that the case was moved from  
Oklahoma City  
18 here to Denver, Colorado, because of a concern of  
trying to ask  
19 the people in Oklahoma City to sit in judgment on the  
case,  
20 since the community was affected by this event. And  
then after  
21 the case was transferred here to Colorado, I ordered  
separate  
22 trials and said it would be fundamentally unfair to  
both  
23 Mr. McVeigh and Mr. Nichols to come to trial at the  
same time  
24 because of differences as the evidence may relate to  
each of  
25 them and that it would be unfair to ask a jury to  
decide as to

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1 both of them.  
2 So we did order separate trials, and indeed  
there has  
3 been a trial of Timothy McVeigh. A jury found him  
guilty and  
4 then at a separate sentencing hearing made a  
recommendation for

5 the death penalty. These things you know?

6 A. Uh-huh.

7 Q. Then as I told you and the others gathered there,  
the fact

8 that there has been such a trial as to Mr. McVeigh and  
with the

9 outcomes, that cannot now be considered as we approach  
the

10 trial of Mr. Nichols, because we start over. And  
whatever

11 happened at the trial of -- and whatever evidence was

12 introduced at the trial of Mr. McVeigh may not be  
considered in

13 this case. We don't know what the evidence is going to  
be in

14 this case, so we have to put aside the first trial --  
that is,

15 the trial of Mr. McVeigh -- and not consider it in any  
way.

16 You understand that?

17 A. Yes.

18 Q. And to do so would, of course, violate the whole  
reason to

19 have separate trials and violate this court's order.

20 And then I explained some things about the

21 fundamentals of due process of law, the fundamentals of  
the

22 criminal justice system, saying that in all criminal  
trials in

23 the United States, the defendant, no matter who he is  
or what

of 24 the charges are, is presumed to be innocent, not guilty  
prove 25 those charges. And it isn't up to the defendant to

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the 1 himself not guilty. It's up to the Government bringing  
calling any 2 charges to prove by evidence that he is guilty. And no  
has any 3 defendant who is accused has any burden or duty of  
response to 4 witnesses or introducing any evidence. No defendant  
accused 5 obligation to take the witness stand and testify in  
the 6 questions or to explain anything to a jury. A person  
of 7 can simply challenge the evidence that is brought in by  
8 prosecution by way of objections to evidence and by way  
understand that 9 cross-examination of the witnesses called. You

10 basically?

11 A. Yes.

the jury 12 Q. And in trials where a defendant does not testify,

as some 13 is routinely instructed that they may not consider that

14 kind of an admission or inference of guilt or anything  
like it.  
15 In fact, what we say to juries when a defendant does  
not  
16 testify, Don't even talk about it because it's not a  
part of  
17 the deliberation.

18 What is for the jury to decide under  
instructions that  
19 the court gives at the end of the trial, listing  
exactly what  
20 has to be proved, the elements of each offense charged  
-- then  
21 the jury must consider: Well, the evidence that we  
heard at  
22 trial; did that prove these elements and therefore the  
crime  
23 beyond a reasonable doubt? Anything short of that, the  
jury  
24 has a plain duty to return a verdict of not guilty.  
25 So another way to say it is that at the end of  
it all,

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1 having heard all of the evidence, if the jury has a  
reasonable  
2 doubt as to whether the evidence proves the crime  
charged, the  
3 jury must give the defendant the benefit of that doubt  
and find

4 him not guilty. Understand all those things?

5 A. Yes, sir.

6 Q. And do you accept them?

7 A. Yes.

8 Q. And agree to be bound by them if you were to serve  
on the  
9 jury in this trial?

10 A. Yes.

11 Q. Now, I wanted to review with you some of the things  
that  
12 you told us about yourself in this questionnaire. And  
as I've  
13 already said, we're not going to go over it all, but I  
just  
14 want to review a few things.

15 You're native to Colorado, born here in  
Denver; right?

16 A. Yes.

17 Q. And have lived in Colorado continuously to now.  
Yes?

18 A. Pretty much. I moved to a couple other spots, but  
yes,  
19 predominantly Colorado.

20 Q. Where was it that you lived? You were --

21 A. A very short time, it was in the Army; and then a  
very  
22 short time was down in Albuquerque, New Mexico, with  
some work.

23 Q. When was it that you were in Albuquerque?

24 A. About three, three-and-a-half years ago.

25 Q. What kind of work did you do there?

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1 A. I was with Barry Manufacturing at that time, sales.

2 Q. I'm sorry?

3 A. I managed a store for them.

4 Q. Okay. You have three grown children?

5 A. Yes.

on page

6 Q. Three grandchildren. And I wanted to ask you about

respect

7 3 at Question 11, you gave us a yes answer there with

8 to an infant or a toddler.

grandchildren

9 A. Yes. My oldest daughter lost a -- one of my

10 in a very --

11 Q. Was the child an infant then?

12 A. Yes.

13 Q. Was it one of these unexplainable --

14 A. Yes.

15 Q. -- things that gets referred to as SIDS, I guess?

16 A. Just before birth, actually.

17 Q. Oh, before birth.

18 A. Yeah.

19 Q. Okay. And does she have other children now?

20 A. Yes.

21 Q. And your work included at one time when you were a  
teenager

22 growing up some summers on a farm that, what, was your  
23 grandparents' and your aunt and uncle?

24 A. Yes. Both.

25 Q. Where was that?

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1 A. Both had farms in Haxtun, Colorado.

2 Q. And so you went out there when you were, what, in  
high

3 school?

4 A. Yeah. Ages 10 through about 16, 17.

5 Q. Every summer?

6 A. No, but most of them. I missed a couple.

7 Q. What kind of work did you do out there when you  
were

8 summering?

9 A. Baled hay and corn and ran a tractor and whatever.

10 Q. Whatever was needed.

11 A. Yeah.

12 Q. Do they still have the farm?

13 A. No.

14 Q. Your aunt and uncle?

15 A. No.  
16 Q. What happened to it?  
17 A. One has since died. She now lives in town. The  
relatives  
18 are dwindling.  
19 Q. Yeah. And the farm had been in the family with a  
20 grandparent?  
21 A. Initially, yes. And it had been my uncle's.  
22 Q. Being the son of the grandparent -- on which side  
of the  
23 family was the uncle?  
24 A. He was the son-in-law.  
25 Q. All right. Now, on page 11 here, if you'll turn to  
that,

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1 please, we asked you about some types of work done by  
people in  
2 the family. And the farming and ranching, I take --  
that's on  
3 page 12, actually -- is that what you've just been  
talking  
4 about?  
5 A. Well, that, and then on page 11, state, county or  
city law  
6 enforcement agency.  
7 Q. Yeah, what's that one?

ago, 8 A. My granddad had been a marshal for Haxtun years  
9 several years ago.  
10 Q. Before you were around?  
11 A. Before I was around.  
I am 12 Q. Okay. You were in the Army. And page 13 is where  
told us 13 now. I apologize for jumping around, but -- and you  
active 14 the years that you were on active duty and then in  
15 reserve, was it?  
reserve. 16 A. Just in active, yes. I guess you'd call it  
17 Q. Okay. And down here, you refer to an  
administrative matter  
message 18 that took place. And that was, what, a -- you got a  
issue? 19 you shouldn't have because of a security clearance  
20 A. Yes. Yes.  
21 Q. And that was it?  
22 A. That was it.  
23 Q. Okay.  
24 A. Received a message that came over a com. center and  
25 received it and didn't have the need to know.

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and 1 Q. So you looked at that as kind of a technical matter

2 that's how it was handled?

3 A. Uh-huh.

military 4 Q. And in fact your overall assessment of your

"Sense 5 service is what you told us on page 14 at Question 63:

6 of pride"?

7 A. Uh-huh. Yes.

explain a 8 Q. There is also something that I wanted to have you

9 little more on page 23. Question 104.

10 A. Yes.

previous 11 Q. Which is also something you told us about on the

12 page at Question 102.

13 A. Uh-huh.

14 Q. And this was -- was this when you were in living in  
15 New Mexico?

16 A. Yes. That was in Albuquerque.

store 17 Q. And as I understand it, you were in some kind of a

18 and there was a robbery.

19 A. Right.

20 Q. With a gun?

21 A. Right.

22 Q. And were you injured in any way?

23 A. No.

24 Q. Scared, I'm sure?

25 A. That barrel looks pretty good.

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1 Q. Big. And did you -- were you involved in any of  
the

2 follow-up to that when police came?

3 A. Very little. I was -- honestly, I was kind of  
disappointed

4 in the sense of how they followed it up. I never  
really was

5 contacted until I made an effort to see if anything was

6 happening farther. Eventually, somebody did call me  
back and

7 pushed about six faces in front of me and said, "Is  
this one of

8 them?" And from that time on, that was all that there  
was.

9 And I had left shortly after that, left  
Albuquerque.

10 And from that time on, there was never anything done or  
said

11 about it.

12 Q. At least as far as you know.

13 A. As far as I know, yeah.

14 Q. Did you make any inquiry or anything to follow up

on it?

15 A. No, I did not.

16 Q. Does that have something to do with your answer up  
above

17 there on page 22 at Question 100? That was -- I'm  
referring to

18 the effectiveness of the criminal justice system and  
your

19 assessments of it.

20 A. Yeah. I was a little disappointed in the way that  
the

21 situation was handled.

22 Q. And in giving us this answer, do you have other  
situations

23 in mind or other cases that you know about or heard  
about?

24 A. No, not really.

25 Q. So this had a strong influence and the rest of it  
is kind

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1 of general impression. Is that what you're saying?

2 A. I think so.

3 Q. I'm not trying to put words in your mouth.

4 A. No, I think so. Yeah, that's really the only time  
that I

5 ever had any real individual situations; and I was just

6 disappointed as far as the way that it was handled.

I'm  
with  
training,  
and  
some French  
explosives,  
that?  
you have  
products?

7 Q. You also indicated over on page 32 -- and again,  
8 jumping around -- bottom of the page about experience  
9 explosives, and you had some when you were in the Army?  
10 A. A little bit, yeah.  
11 Q. What kind, outside of -- were you in the infantry?  
12 A. No, I was actually ---I went through the infantry  
13 but I actually --  
14 Q. You took infantry basic?  
15 A. Yes, yes.  
16 Q. So you had something to do with like hand grenades  
17 small arms?  
18 A. And when I was stationed in France, we got near  
19 Foreign Legion soldiers and we fiddled with some  
20 dynamite mostly.  
21 Q. Anything with plastics or C-4 or anything like  
22 A. No, no.  
23 Q. Okay. Now, let's talk some about your work. And  
24 been in sales in various -- selling various types of  
25 A. Uh-huh.

1 Q. Including cars.

2 A. Yes.

3 Q. Right? Worked at various dealerships here in the  
area?

4 A. Uh-huh.

5 Q. And then you've changed to a different type of  
sales where

6 you've been for six, seven months.

7 A. Right.

8 Q. And you're on straight commission.

9 A. Yes.

10 Q. Do you work out of a store?

11 A. Yes.

12 Q. So that the store has displays and you sell from  
the

13 displays?

14 A. Yes.

15 Q. And you work a certain shift?

16 A. Uh-huh, yeah.

17 Q. When the store is open, obviously?

18 A. Yeah, but we kind of rotate, mornings, nights,  
every other

19 day, whatever.

20 Q. And your initial reaction here was no way you could  
afford

21 to do this.

22 A. Yes.

wife 23 Q. As you would lose your economics and -- now, your

24 works; right?

25 A. Yes.

3200

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1 Q. She's part-time?

2 A. Yes.

3 Q. And has been part-time for some years?

4 A. Several years.

5 Q. Does she work in a shop?

6 A. Yes.

7 Q. Or a salon or whatever it's called?

8 A. Salon, uh-huh.

ability 9 Q. And -- well, what is your assessment today of your

water, so 10 to serve on the jury and still keep your head above

11 to speak?

could 12 A. I think it would put a strain on it. I'm sure I

13 handle it, if I had to; but --

this? 14 Q. Have you talked to anyone there at the store about

duty. 15 A. Just mentioned it to my superior that I was -- jury

16 That's it.

17 Q. Is the store open on weekends?

18 A. Yes.

19 Q. Both days?

20 A. Yes.

the 21 Q. Now, you know, I'm not here to suggest you work all

22 time.

that's 23 A. Well, I think that that -- if that were the case,

24 probably what I would do.

25 Q. Yeah. To make ends meet during the trial?

3201

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1 A. Yeah. Yeah.

itself is 2 Q. And, of course, as I say, you know, jury service

course, 3 work in the sense that here you are 9 to 5. Then, of

except 4 there is some time coming and going and then also --

5 that we're not going to have the jury in here on Friday

at 1:00 6 afternoons, so that would be open time, probably recess

you could 7 on Fridays. But all things considered, do you think

not 8 work it out so that you could handle it, survive and  
9 exhaust yourself?  
10 A. I think so.  
11 Q. Okay.  
it does 12 A. Yeah, I mean financially, it just -- it doesn't --  
13 put a burden on me; but it doesn't, if you know what I  
mean.  
14 Q. I think so.  
15 A. Yeah.  
16 Q. I think so. And, you know, that's why we asked you  
to come  
17 on in and reassess the situation and think very  
seriously about  
18 it, as you obviously have; and also as you obviously  
realize  
19 the importance of jury service in this country, it  
isn't quite  
it. You 20 like military service, but there is some parallel to  
21 know, we don't ask for volunteers.  
22 A. No.  
23 Q. And we need people who can come in here and do the  
job for  
24 us. And of course, the job is, as I described it,  
listen to  
25 the evidence and decide.

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1           Now, let me turn to something else; and that  
is the  
2           possibility that the jury would be addressing the issue  
of  
3           punishment. And the question comes up in a case  
involving  
4           charges like this because of the federal charges that  
are  
5           involved. And of course, I'm talking about punishment  
that  
6           could be life in prison with no release possibility,  
death, and  
7           then there is also the possibility of a lesser  
punishment as  
8           provided by law to be decided by the court. But it is  
because  
9           of the potential of a punishment decision to be made by  
the  
10          jury that we had to ask you some opinions of yours and  
the  
11          impressions and viewpoints about these punishments and  
the  
12          appropriateness of it -- of them, knowing, as I'm sure  
you do,  
13          that this is a matter of controversy -- public  
controversy.  
14          The laws change from time to time. There are states in  
which  
15          there is no death penalty now. There are states that  
have a  
16          different type of sentencing decision to be made in

capital

17 punishment.

18 We're in Federal Court, though; and the issue  
in

19 Federal Court, as I will describe it to you in a few  
minutes,

20 is that the jury makes life-and-death decisions. And  
that's

21 why at page 27 we gave you an explanation of the reason  
to

22 answer some questions about that and then gave you  
questions on

23 28 and your answers.

24 So review those in your own -- read them for  
yourself.

25 A. On page 28?

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1 Q. Yes. That's where your answers are. And you can  
go back

2 and read the introduction, if you want, of course; but  
I think

3 you remember that.

4 A. Uh-huh.

5 Okay.

6 Q. You didn't make any response to the first one there  
with

7 respect to life in prison. Then you wrote what you did  
on B.

8 A. Uh-huh.

9 Q. And then on C, you did talk about life in prison.

10 A. Yes.

11 Q. And then you didn't answer on D. So would we  
gather from

12 that that you considered B and C to be responsive to  
all four

13 questions?

14 A. Pretty much, yes.

15 Q. And is this matter of what you think punishment  
ought to be

16 something that you've thought very much about before  
you came

17 out there and were confronted with these questions at  
-- on

18 this questionnaire?

19 A. Pretty much, yes.

20 Q. And tell us a bit about what occasion -- your  
thinking

21 about the penalty and what your thinking has been over  
time.

22 A. I just -- I think that consequences need to be  
answered;

23 and apparently in many cases, that's the only way that  
it can

24 be done, by the death penalty.

25 Q. All right. Now, I'm not -- you know, it's not a  
test.

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1 A. I understand.

2 Q. And there is nothing right or wrong about the  
answers.

3 It's a question of what you think; and we wanted you to  
tell us

4 what you think coming in before you hear more about  
what the

5 law is in Federal Court.

6 A. Right.

7 Q. That's why we approached it in this fashion. And,  
of

8 course, what you said on B is pretty much that if  
somebody is

9 convicted of murder, then the death penalty ought to be

10 imposed.

11 A. I don't know whether it ought to be imposed, but I  
think

12 that in some cases it should be and it should be done.

13 Q. Okay. So you're open to a distinction among cases?

14 A. Yes.

15 Q. And as opposed to saying automatically --

16 A. Yes.

17 Q. -- you kill somebody, you get killed.

18 A. No.

19 Q. Well, I want to explore that with you just a bit  
and

20 explain what the process is. You recognize that this

question

21 doesn't get involved in what a jury does in the  
beginning, and

22 that's hear and try the evidence.

23 A. Yes, I do.

24 Q. Okay. So to repeat what I've already gone over  
with you,

25 the first task of the jury is listen to the evidence.

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1 A. Right.

2 Q. Follow the law as is given in the instructions as  
to what

3 has to be proved and then decide whether the evidence  
proved

4 the guilt beyond a reasonable doubt or not. And of  
course, in

5 the latter situation, the verdict is not guilty, and  
that's the

6 end of it.

7 If a defendant is found guilty, then in cases  
that do

8 not involve the death punishment possibilities, what  
the law

9 does procedurally is turn the question of sentence to  
the

10 judge. The jury decides whether the evidence proves  
the

11 person guilty of the crime. Then the sentencing is by

the

12 judge.

years in

13 And before judges make sentences, how many

done

14 prison or whatever the sentence is to be, there is more

considers more

15 than just the evidence at the trial. The court

16 than just the evidence at trial.

know,

17 So information is gathered about not only, you

the

18 the circumstances of the crime -- and this goes beyond

on

19 evidence and can include things like the consequences

this

20 people's lives and all that of the particular crime; as

way --

21 robbery, for example, that you were a victim of, in a

22 A. Uh-huh.

-- for

23 Q. If that case had come to trial and there had been

24 some reason it was in Federal Court -- but this is true

found

25 generally in all courts -- and the person had been

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1 guilty, then there would be a sentencing hearing and

2 information about the offense. And you might have been

asked,

3 for example, to explain what your feelings were at the  
time as  
4 a victim of a crime. But the Court gets a lot of  
information  
5 about the defendant, the person found guilty. And this  
is most  
6 everything that can be learned about a person: that  
person's  
7 life history, as it were, his background, his family  
8 relationships, marriage relationships, work history,  
any  
9 illnesses or diseases, things -- you know, each one of  
us has  
10 our own individual life story.

11 A. Right.

12 Q. And we've all had things happen to us, and we've  
done  
13 things that make our life story unique and individual  
to each  
14 one of us. And those things are presented to the court  
because  
15 the issue in a sentence decision is not just what  
should be  
16 done for this crime but what should be done for the --  
and to  
17 the defendant who committed the crime. So it's a  
matter of the  
18 crime and the person being judged.

19 And then a judge makes that sentence and it's  
very  
20 individual to that person. And then cases where more

than one

21 person participated in a crime, still the sentencing  
decision

22 is uniquely individual to each person. And so two or  
more

23 people participating in the same crime may be sentenced

24 differently because the judge considers those  
individual

25 differences.

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1 With me so far on this explanation?

2 A. Yes, uh-huh. Yes, I am.

3 Q. And if you have any question as we go through here,  
feel

4 free to ask it.

5 Now, when it comes to a crime -- and we're  
talking now

6 about the Federal Court system because that's where we  
are; and

7 I've already referred to the -- there are some  
differences

8 among states. There are some states that don't have  
the death

9 penalty.

10 A. Right.

11 Q. But here in the Federal Court, Congress has  
provided for

12 it; so we say -- and it's because again this is the law  
-- that  
13 the question of life or death is not one to be decided  
by a  
14 judge. That should be decided by a jury and really,  
the same  
15 jury that heard the trial so in the event of a  
conviction, a  
16 finding of guilty in a case like that, the jury is then  
asked  
17 to hear more. And it's a second trial that takes  
place, a  
18 punishment phase trial or hearing; and just like  
information is  
19 gathered for a judge to decide an individual sentence,  
so for  
20 the jury information is provided at this second stage  
or phase.

21 And the jury hears more witnesses, exhibits,  
gets some  
22 more information about the circumstances of the offense  
and its  
23 effects and also all of these things about the  
defendant that  
24 I've mentioned.

25 A. Uh-huh.

3208

Juror No. 618 - Voir Dire

1 Q. And it becomes very individual, all about the  
defendant's

end, 2 life, who he is, what he's done in life, because in the

3 you're judging the life of another human being.

4 And then at the end of it all, the court gives  
5 tailored instructions to the jury. Now, these instructions are

6 pretty much to what was presented at that second  
7 hearing. And

8 it depends on what is presented. I mean, we can't talk  
9 about

10 evidence that now any more than we can talk about what the

11 because might be in the guilt-or-innocence phase of the trial

12 we don't know what it's going to be, but we have to  
13 talk about

14 it in general terms. Okay?

15 A. Uh-huh.

16 Q. But, you know, in those final instructions, the  
17 court

18 reviews for the jury based on what has been presented  
19 what the

20 jury may consider in the way of aggravating factors,  
21 things

22 that suggest that death is the just punishment, and  
23 also

24 mitigating factors, things that suggest that death,  
25 despite the

26 crime, is not the deserved punishment for this person,  
27 this

28 individual.

29 And then after describing these aggravating

and

21 mitigating factors, the instructions will include  
something

22 about questions that the jury may want to ask  
themselves in

23 analyzing what they're heard; but there is no formula  
for it.

24 It isn't a matter of adding and subtracting or anything  
like

25 that. It's considering all that has been presented,  
then each

3209

Juror No. 618 - Voir Dire

1 juror after talking it over must make an individual  
decision

2 about another person's life, which is, you know, best  
described

3 probably as a reasoned moral response or moral  
judgment,

4 considering all of the circumstances.

5           You've followed me very carefully, I know.

6 A. Yes.

7 Q. What I must ask of you now is with this explanation  
in mind

8 and considering your own views and opinions, do you  
think that

9 you will be able to base a decision about whether a  
defendant

10 should be sentenced to life or death on not only the

11 circumstances of the crime but also on his personal  
background

12 and his individual characteristics, the things that  
make him a

13 human being?

14 A. Depending upon the extenuating circumstances,  
evidence

15 given, etc.

16 Q. That's right.

17 A. Could I make a decision as far as whether he  
received one

18 or the other, if found guilty?

19 Q. That's the question. Can you do that?

20 A. Yes.

21 THE COURT: Now, lawyers on each side, one has  
a

22 chance to ask you more questions, so please bear with  
us.

23 Mr. Ryan, you may proceed.

24 MR. RYAN: Thank you, your Honor.

25 VOIR DIRE EXAMINATION

3210

Juror No. 618 – Voir Dire

1 BY MR. RYAN:

2 Q. Good afternoon.

3 A. Good afternoon.

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

to 5 Oklahoma City, and I'm here with my fellow prosecutors  
6 present the Government's case against Terry Nichols.

7 I have looked over your questionnaire, and I  
have just 8 a few additional questions, if you'll bear with me.

9 A. Sure.

10 Q. First let me say that I think on behalf of all of  
us, we 11 thank you for the obvious time and care that you have  
given the

12 thought of whether or not jury service is something you  
might

13 be able to perform. I take it you've talked to your  
wife about

14 that.

15 A. Yes, I did.

16 Q. And the two of you together, I gather, have decided  
it 17 might be tough; you could do it?

18 A. On the financial end of it, yes. Yes, we have  
talked about

19 that.

20 Q. One other matter that you mentioned in your  
questionnaire

21 dealt with your mother.

22 A. Yes.

23 Q. And I don't want to get too personal into this, but  
is

24 that -- do you think that she will be well cared for if

you

25 serve on this jury?

3211

Juror No. 618 - Voir Dire

1 A. My mother right now suffers kind of -- they call  
them mini

2 strokes. She can faint at any time. Mostly it happens  
when

3 she becomes overworked or overtired.

4 It -- it kind of puts her out of commission or  
5 debilitates her for anywhere from two, three, four  
days. And

6 it just takes an awful lot out of her.

7 At this time, she has -- I have some people  
and she

8 also has some people that can be with her; however, if  
it

9 reached something that was pretty major, quite  
honestly, I

10 would want to be there.

11 Q. I understand.

12 A. I am an only son, and I am all that she has.

13 Q. Where does she live?

14 A. She lives in Greeley.

15 Q. And that's just very near to where you live; is  
that

16 correct?

live. 17 A. Well, it's an hour and a half trip from where I  
under 18 Q. But presently, you believe that the situation is  
19 control?  
could 20 A. I think that it is; but quite honestly, something  
still pretty 21 happen at any time. She's 86 years old and she is  
22 active, but I can see her failing, so to speak.  
23 Q. Does she have neighbors that look after her?  
24 A. She does; and then we have agreed on a nurse, have  
a home 25 nurse and home care, etc., for her.

3212

Juror No. 618 - Voir Dire

1 Q. All right.  
2 A. But again, I have to be honest in the sense that if  
3 something happened to her major, I would want to be  
there.  
4 Q. Of course. Now, is the nurse with her most of the  
day?  
and she 5 A. No -- well, about three days a week or maybe four;  
6 comes in in the mornings on one day, the next day she  
might 7 come in the afternoon. We've kind of spread it out in  
the 8 sense that to get some things done through the week for

her.

9 Q. And do the neighbors stay in touch with her when  
the nurse

10 is not around?

11 A. Yes. She has some very close neighbors and some  
very close

12 friends.

13 Q. All right. Thank you.

14 A. Uh-huh.

15 Q. Now, you have some daughters; right?

16 A. Three daughters.

17 Q. And where do they live?

18 A. Pardon?

19 Q. Where do they live? They all live in Colorado?

20 A. Two are here in Denver or very close. One is in  
Cañon

21 City.

22 Q. So it allows you to see your grandchildren with  
some

23 frequency?

24 A. Uh-huh.

25 Q. Do you enjoy spending time with your grandchildren?

3213

Juror No. 618 – Voir Dire

1 A. Very much so.

2 Q. What are the kinds of things you all do together?

like to 3 A. I just enjoy spending time with them, whatever they

4 do. I'm pretty easy.

years. Did 5 Q. All right. Now, you were in the Army for three

6 you serve overseas?

7 A. Yes.

Honor? 8 Q. I think you said something about France to his

9 A. I was in France and Germany both.

10 Q. And how long a tour did you have there?

11 A. I was three years.

12 Q. And you came away from that with a fairly positive  
13 experience?

14 A. Yes.

15 Q. Towards your military service?

me with 16 A. I'm just proud to be a citizen, so -- and it left

17 that.

questionnaire, 18 Q. In one of the answers you gave to -- to the

the term 19 it asked if you were familiar or knowledgeable about

20 Posse Comitatus. Do you recall that?

the 21 A. All I've heard -- no, I'm not familiar. I've heard

22 name. That's all.

robbery 23 Q. All right. I'd like to return to the issue of this

24 that you were involved with in New Mexico. How many  
years ago

25 was that?

3214

Juror No. 618 - Voir Dire

1 A. It's been three, three-and-a-half years.

2 Q. Even though three-and-a-half years -- three, three-  
and-a-

3 half years has gone by, is it still fairly vivid in  
your mind?

4 A. Very much so.

5 Q. Do you recall the person who committed the robbery  
on you?

6 A. Yes.

7 Q. Could you describe him in detail, if asked?

8 A. Pretty much.

9 Q. You were shown, now, a photo spread, as I  
understood it

10 from what you said to his Honor?

11 A. Uh-huh, yes.

12 Q. And what was that, photographs, of what, six or  
eight

13 different people?

14 A. Six, uh-huh.

15 Q. What was the -- excuse me. What was the result of  
that

16 photo spread?

17 A. He was not one of the six that they showed me, and  
they  
18 told me that they would move on; and again, like I  
said, I  
19 never heard anything.  
20 Q. But there was no uncertainty in your mind when you  
looked  
21 at the photo spread?  
22 A. Not at all.  
23 Q. Now, one of the questions asked whether you had  
attended a  
24 gun show, and you indicated you had.  
25 A. Uh-huh.

3215

Juror No. 618 - Voir Dire

1 Q. How many occasions have you done that?  
2 A. I've only gone a couple of times.  
3 Q. What was your interest?  
4 A. Basically, I like knives, and they have gun shows  
with  
5 knives. And I don't collect them or anything else, but  
they're  
6 just kind of something that I guess you could call it a  
hobby  
7 or whatever, but --  
8 Q. Now, you indicated you had also followed the O. J.  
Simpson

9 case to some extent.

10 A. Yes.

11 Q. Did you have an impression about that proceeding,  
that  
12 trial?

13 A. Yes.

14 Q. What was that?

15 A. Personally disappointed in the sense that I thought  
that  
16 the -- the -- what happened should not have happened.

17 Q. Talking about in terms of the atmosphere of the  
trial, or  
18 the verdict, or both?

19 A. That and the verdict, uh-huh, both.

20 Q. Now, let me now turn to the issue of publicity.  
You were

21 asked a number of questions in the questionnaire about  
22 publicity you had seen; but one of the early questions  
asked

23 you how much reliability you personally place in the  
news  
24 media. Do you recall your answer?

25 A. I really don't, but I don't put an awful lot of  
trust into

3216

Juror No. 618 - Voir Dire

1 what they have to say.

2 Q. And that's exactly what you said in the  
questionnaire.

3 A. Yeah.

4 Q. Now, you've heard apparently some things about this  
case

5 and specifically about Mr. Nichols. Is that so?

6 A. Not really. I mean there is only one thing that I  
really

7 remember about Mr. Nichols; and of course, that's the  
TV

8 situation where all you see is him walking out of the  
building,

9 handcuffs and etc. And that's basically the impression  
that I

10 have. As far as evidence or reading anything about it,  
I

11 really don't know an awful lot.

12 Q. On page 37, if you'd turn to that --

13 A. Uh-huh.

14 Q. -- on Question 159 --

15 A. Yes.

16 Q. -- you say intermittent -- use the term  
"intermittent

17 involvement"?

18 A. Just in the sense of glancing at a paper or seeing  
19 something on the newspaper.

20 Q. So it refers to your intermittent involvement?

21 A. Right, right.

22 Q. Not the defendant's?

23 A. Right. Mine. And where I say that capture on TV,  
know he  
24 was implicated, only knew that he was implicated in the  
sense  
25 of being arrested.

3217

Juror No. 618 - Voir Dire

1 Q. All right. Would you have any trouble setting  
aside  
2 anything that you've seen, read, or heard and decide  
this case  
3 solely on the evidence that is heard here in open  
court?

4 A. I think so. Yes.

5 Q. You could do that?

6 A. Yes.

7 Q. I mean, because you understand as you sit here  
today that  
8 there has not been any witnesses that have testified?

9 A. Right.

10 Q. No exhibits have been introduced.

11 A. Right.

12 Q. Okay. Now, if I might address my last couple of  
questions  
13 to the issue of the death penalty. His Honor covered  
this with  
14 you in some detail. Would you agree that the issue of  
taking

15 another person's life is a serious issue?

16 A. Very much so.

17 Q. One that would deserve deliberate thought?

18 A. I'm sorry.

19 Q. One that would deserve your careful and deliberate  
thought?

20 A. Yes, it would.

21 Q. Do you recall where you were when the McVeigh  
verdict was

22 handed down, the guilt verdict?

23 A. Here, walked out to the driveway, picked up the  
newspaper

24 at my home, brought it in and saw the headlines.

25 Q. What did you think, if anything?

3218

Juror No. 618 - Voir Dire

1 A. The evidence was in and apparently they found that  
he was  
2 guilty.

3 Q. That jury heard the evidence and you had confidence  
in

4 their decision? Is that fair?

5 A. I think so, yeah. Uh-huh.

6 Q. You certainly weren't willing to second-guess them  
from

7 what you answered?

8 A. No, I did not. No, I did not.

9 Q. Do you recall at a later point in time the jury  
returned a

10 verdict on the sentence for Mr. McVeigh?

11 A. Uh-huh.

12 Q. Do you recall that there was a couple of weeks' --

13 A. Yes.

14 Q. -- time difference between the guilt decision and  
the

15 sentencing decision?

16 A. Yes, uh-huh.

17 Q. And that two-week period of time is what Judge  
Matsch was

18 talking to you about earlier?

19 A. Discussing --

20 Q. Where we had this whole second trial in which  
additional

21 witnesses will testify, additional exhibits will be  
seen by the

22 jurors before they can make up their mind on an  
appropriate

23 sentence.

24 A. Uh-huh.

25 Q. Did you understand the fact that no matter how  
serious the

3219

Juror No. 618 - Voir Dire

1 crime, no matter how many people were killed, no matter

what

2 the premeditation, the jury still must consider all of  
the

3 evidence at the second stage?

4 A. I understand that, yes.

5 Q. Do you accept that?

6 A. Yes.

7 Q. That there is just -- you know, Judge Matsch can't  
tell you

8 and I can't tell you what that evidence will be at the  
second

9 stage.

10 MR. TIGAR: Excuse me, your Honor. I object  
to the

11 future tense here that's being used to describe this  
process.

12 This is a "what if we."

13 THE COURT: Well, I think it's appropriate  
that we

14 can't anticipate whether there would be such a hearing  
or

15 certainly what would be presented. I believe that to  
be what

16 you were asking.

17 MR. RYAN: I am, your Honor. I'll make it  
clear.

18 THE COURT: All right.

19 BY MR. RYAN:

20 Q. You understand these questions about the death  
penalty --

21 A. Yes, I do.  
22 Q. -- only apply if the jury returned a sentence of  
guilty --  
23 A. Yes.  
24 Q. -- I mean a verdict of guilty.  
25 A. Yes.

3220

Juror No. 618 - Voir Dire

1 Q. Now, do you think it is appropriate and just that a  
jury  
2 additionally consider all of the evidence about a  
defendant and  
3 all of the aggravating circumstances and whatever  
mitigating  
4 circumstances the defense might introduce before making  
a  
5 sentencing decision?

6 A. Yes.

7 Q. And can you agree to take all of that into account  
prior to  
8 making your decision?

9 A. Yes.

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

11 THE COURT: Mr. Tigar, do you have questions?

12 VOIR DIRE EXAMINATION

13 BY MR. TIGAR:

14 Q. Good afternoon again.

15 A. Good afternoon.

16 Q. My name is Michael Tigar, and this is Ron Woods.  
We're

17 lawyers appointed by the United States District Court  
for the

18 Western District of Oklahoma to help out Terry Nichols.

19 A. Uh-huh.

20 Q. Now, I want to ask at the start: Mr. Nichols had  
counsel

21 appointed for him by the court. Would he start out at  
a

22 disadvantage in your eyes because he didn't have the  
money to

23 retain counsel of his own?

24 A. No, no.

25 Q. I'd like to start by asking some questions about  
the things

3221

Juror No. 618 - Voir Dire

1 on your questionnaire.

2 A. Uh-huh.

3 Q. First, I don't want to dwell on this. I understand  
that

4 your mom is 86 years old and you have a nurse caring  
for her.

5 If she did have a health problem, you'd want to be  
there?

6 A. Yes, I would want to be there.

7 Q. All right. Well, I wonder if you could start by  
turning to

8 page 9 of your questionnaire; and look at, if you  
would,

9 please -- at Question 42A. You worked with that  
company for a

10 number of years and then left. Is there anything about  
that

11 situation you think would have any impact on your  
service as a

12 juror?

13 A. No.

14 Q. That disagreement that you recount there?

15 A. No, it would not.

16 Q. Well, could you help me -- could you turn to page  
16. And

17 you're describing the kinds of books that you like to  
read at

18 page 70 and 71.

19 A. Yes, sir.

20 Q. And you list John Grisham's novels and then John  
Grisham

21 again?

22 A. Yes.

23 Q. How many John Grisham books have you --

24 A. I've read them all.

25 Q. Read them all?

## Juror No. 618 - Voir Dire

1 A. I have. All except his new one.

2 Q. Okay. He writes about lawyers.

3 A. Yeah.

4 Q. A lot of times. And so it's a natural question:  
Tell me  
5 what -- what, if any, opinions do you form about  
lawyers from  
6 reading his books.

7 A. I don't think I formed any opinion about lawyers  
from his  
8 books. I mean, it's entertainment as far as what he --  
what he  
9 has to say.

10 Q. Okay. And how about books about the criminal  
justice  
11 system? I know we're going to get a little bit to your  
views  
12 about the criminal justice system, but do you get any  
opinions  
13 from him that seem right to you or wrong or --

14 A. No. I mean, it's not something that I'm around all  
the  
15 time, so again, it's reading.

16 Q. And you also said you like historical and adventure  
books.

17 A. Uh-huh.

18 Q. Did you read Aaron Burr, the Gore Vidal novel about  
Aaron

19 Burr?  
20 A. No, I have not read that. I like Civil War,  
history, that  
21 type of thing.  
22 Q. Okay. Have you read any Civil War novels about the  
trial  
23 of those who were accused of participating in the  
assassination  
24 of President Lincoln?  
25 A. Yes. It's been a long time, but yes.

3223

Juror No. 618 - Voir Dire

1 Q. I understand. And out of that, as you may know,  
there was,  
2 of course, Booth who did it and there was the doctor  
who  
3 treated him and all that.  
4 A. Right.  
5 Q. Do you have any memory of that -- of reading about  
that,  
6 anything that sticks with you?  
7 A. Just basically what you just described. That's it.  
I mean  
8 nothing really stands out, no.  
9 Q. Okay. Is there any opinion that you have about the  
10 criminal justice system influenced by having -- books  
about the

times? 11 trial of those people that were captured at different

12 A. I don't think so, no.

13 Q. Okay. Well, I would -- then if you could turn to  
page 17,

14 you tell us that your most important source of news is  
TV; is

15 that right?

16 A. Yeah.

17 Q. And do you have any particular TV news program or  
programs

18 that you like?

19 A. Sports news.

20 Q. Got that. Okay.

21 A. I see a lot of sports news. Probably Channel 9  
here as far

22 as Denver, news programs, some of them, you know, that  
-- "60

23 Minutes" or something like that.

24 Q. And did you happen to watch Channel 9 last night,  
the

25 program about the execution that took place in  
Colorado?

3224

Juror No. 618 - Voir Dire

1 A. No, I did not.

2 Q. Have you been following that case? I think that  
Gary Davis

3 is the name of that person.

remember 4 A. Not an awful lot, no. I remember the crime, and I

5 reading about it when it happened; and then, of course,  
articles 6 vaguely -- I mean, they've brought up in newspaper

7 that he's going to die and so forth.

there? 8 Q. Did you agree with that verdict, the death verdict

9 A. Yes.

agree 10 Q. And did -- I don't know that you answered: Do you

death 11 from what you had seen, heard, or read with the jury's

12 verdict in the McVeigh case?

13 A. Yes.

And you 14 Q. Could you turn now just one more page to page 18.

the 15 checked among the organizations there at Question 84

heard about 16 Anti-Defamation League, the ADL. And what have you

17 that organization?

a name 18 A. Not an awful lot. I really haven't. I mean, it's

19 that I've heard.

20 Q. Okay.

or 21 A. As far as attorneys working with different people

specifics at 22 defending them, etc., but I couldn't give you any

23 all.

published 24 Q. Have you read anything that organization has  
25 about the Oklahoma City bombing or related things?

3225

Juror No. 618 - Voir Dire

1 A. Not that I know of, no.

Question 2 Q. Okay. Well, if we could turn, then, to page 22,  
3 anything, 100, you say that the criminal justice system, like  
4 mistakes did there are many mistakes in the system. And what  
5 you have in mind?

6 A. Well, again, I think I have to refer to the O. J.  
trial,

7 and I think that there is some things that -- over  
across the

8 United States in different trials that have apparently  
-- and

9 again, I've just heard about them or I've read spots  
about

10 them --

11 Q. Sure.

12 A. -- that crimes against individuals that did not go  
punished

13 that I think probably needed something, either the jury  
went

type of 14 against what all -- what evidence was presented, that  
15 thing.

answering 16 Q. Now, I thought I heard when you were talking --  
17 some questions by the prosecutor that you -- obviously  
didn't 18 hear the evidence in the McVeigh case, you trusted the  
jury to 19 do the right thing there. Right?

20 A. Yes.

made a 21 Q. In the O. J. Simpson case, you thought the jury  
22 mistake?

23 A. I do, yes.

between 24 Q. Can you tell me in your mind what's the difference  
decided 25 those two cases; that is, here you had one jury that

3226

Juror No. 618 - Voir Dire

and in 1 one thing and you wanted to say, okay, they did okay,  
they did 2 the other case, based on what I've seen, I don't think  
to do, 3 a good job. Not trying to argue with you, but it has  
4 you know, with sort of the views about what jurors do.  
5 A. I think -- how should I say this? I think they

gave one

6 up. I think the evidence to me that was presented -- I  
felt  
7 that he was guilty and he should have suffered some  
kind of  
8 consequence. And the jury, I think, had already made  
up their  
9 mind before they ever listened to the case.

10 Q. And on that -- on what basis do you conclude that  
they  
11 might have done that? I understand, we can't obviously  
--

12 A. I think race played a part of it. I really do.

13 Q. So you -- in terms of your view toward jury  
service, you  
14 can understand why we're asking these questions?

15 A. Uh-huh.

16 Q. And asking you to be, you know, just completely  
honest with  
17 us about it.

18 A. Uh-huh.

19 Q. Now, you -- continuing on that same page, you said  
you'd  
20 called the police about harassment to your children?

21 A. Uh-huh.

22 Q. And did the police come?

23 A. Yes, they did.

24 Q. And they handled the situation?

25 A. Kind of.

Juror No. 618 - Voir Dire

1 Q. Okay.

2 A. Kind of. It was -- they went down to the individual that

3 had harassed them. Of course, it was his word against theirs.

4 It was -- etc. It just hadn't -- he just didn't have a lot of

5 responsibility, the young man involved in the situation.

6 Q. Do you think the police should have done more?

7 A. Yeah. I think she should have. But again, presented with

8 what they had as I looked over it, they probably couldn't have

9 done it.

10 Q. I want to ask a little more -- and I know both the Judge

11 and the prosecutor have asked -- about this robbery in New

12 Mexico.

13 A. Uh-huh.

14 Q. The officers presented you with a photo spread?

15 A. Yes.

16 Q. And did they attempt to influence you, hint to you that you

17 ought to pick out one of these people?

18 A. No. No. He really didn't.  
19 Q. Okay. You say he really didn't. Did you have any  
sense at  
20 all that --  
21 A. I did have a sense, yes, but I don't think that he  
really  
22 tried to move me to one or the other. After it was  
done, he  
23 told me that they had one of them in custody, which he  
didn't  
24 tell me which one; and he said that they thought that  
was the  
25 individual that did it.

3228

Juror No. 618 - Voir Dire

1 Q. All right. Now, did you think the officer behaved  
spread?  
2 improperly in the way that he presented the photo  
3 A. No, I think the officer there was fine.  
4 Q. Okay.  
5 A. But -- before that --  
6 Q. Were there other people in the store that were held  
up by  
7 this same gunman?  
8 A. No, I was there alone.  
9 Q. Oh, you were running the store?  
10 A. Yes.

left? 11 Q. And he just came in, "Give me your money," and  
12 A. Yes.  
13 Q. Now, you reported the theft promptly?  
14 A. Immediately.  
15 Q. Gave all the details; right?  
16 A. Uh-huh.  
17 Q. And so you thought you did your part in the system;  
18 correct?  
19 A. Yeah.  
system is 20 Q. I mean the citizen's part of the criminal justice  
21 to give, you know -- give the information; right?  
22 A. Yes.  
responsibly? 23 Q. And then the police part is to act on it  
24 A. Right.  
news 25 Q. Well, let me stop. Do you have from your memory of

3229

Juror No. 618 - Voir Dire

heard about 1 reports any memory from what you've seen, read, or  
2 how Mr. Nichols initiated contact with law enforcement  
3 authorities after the Oklahoma City bombing?  
4 A. No, not really.

say you 5 Q. Okay. And you have no -- do you have any -- you  
wearing in 6 can remember the picture of him in -- what was he  
7 the television picture that you saw?

or a 8 A. I think he was wearing the -- I think it was a gray  
but he 9 blue -- I don't know whether it was a uniform or not,  
beside 10 was manacled in front and several people leading him or  
11 him in, you know, in back of him and so forth.

12 Q. What did that make you think?

arrested 13 A. That somebody had been arrested; that he had been  
14 for the Oklahoma bombing.

page, 15 Q. Okay. Now, if you could turn to page 25, bottom of  
you're 16 116 and then it said -- where it asked "If you feel  
others?" 17 correct, will you still listen to the arguments of

word 18 And then if yes -- I thought you circled the  
19 "sometimes," or did the copy machine do that?

20 A. I did.

sometimes 21 Q. You did. Can you tell me about that? Are you  
22 persuaded to change your opinion?

fairly 23 A. I think sometimes I can jump to a conclusion and be

24 stubborn. And if you can prove to me that I'm wrong,  
then I'll  
25 listen to that and I'll accept that.

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1 Q. Okay.

2 A. Uh-huh.

3 Q. Well, let me work on that a little bit. You come  
here  
4 having read a fair amount about this Oklahoma City  
case;

5 correct?

6 A. Not really, no.

7 Q. Okay. Well, do you remember how many people were  
killed?

8 A. Over 100. And I can't give you the exact -- 162.

9 Q. Well. I'm just asking for your memory. I mean we  
can't --  
10 not here to grade your paper.

11 Do you remember how Mr. McVeigh came in  
contact with  
12 the federal authorities?

13 A. On an automobile that they found on the highway,  
arrested  
14 him there.

15 Q. Okay. And do you remember if there were any  
children  
16 killed?

17 A. Yes.

18 Q. And do you remember why it was that there would be  
19 children, that many children in a federal building?

20 A. Yes.

21 Q. Why was that?

22 A. Day-care center.

23 Q. Day-care center.

24 A. Uh-huh.

25 Q. Do you remember the statements by public officials  
about

3231

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1 the case?

2 A. Not really, no.

3 Q. I wonder, could you turn to page 31 and Question  
133. You  
4 say, "Colorado politicians and others voicing their  
opinions

5 asking for justice if anyone found guilty."

6 A. Uh-huh.

7 Q. And I just -- can you tell me who you remember,  
what public

8 officials you remember that led you to answer that?

9 A. Mayor Webb said something about -- it was quoted in  
the

10 newspaper about McVeigh, Governor Romer had made a

statement.

11 That's pretty much basically all I remember.

12 Q. Did you hear any statements by the Oklahoma public  
13 officials that you can remember?

14 A. No, I do not.

15 Q. Or any by the President or the Attorney General of  
the  
16 United States?

17 A. No.

18 Q. Now, when you said, "Asking for justice if anyone  
was found  
19 guilty," what did you understand them to think that  
justice was  
20 under those circumstances?

21 A. Well, I think what it was was, like I had said, he  
had  
22 already been found guilty and they were -- they were  
23 politicking, I guess, maybe would be the way I would  
describe  
24 it, in the sense of backing up what decision was  
already made.

25 Q. Okay. And but did you think that when they were  
asking for

3232

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1 justice they thought that that meant they favored a  
particular  
2 punishment?

3 A. No. No, I do not.

4 Q. Okay. As you looked at the situation after that  
guilty

5 verdict, did you think that a particular punishment was  
6 appropriate?

7 A. Yes.

8 Q. And what was that?

9 A. After being found guilty, I thought that the death  
penalty

10 should be imposed.

11 Q. Now, you say at page 30, again -- I'm sorry to keep  
12 flipping back and forth here --

13 A. Uh-huh.

14 Q. But you tell us in Question 132 that at Waco, the  
15 government was forced to do something and some mistakes  
were

16 made.

17 A. Uh-huh. I think that they felt that they had to --  
to do

18 something fairly quick, and I think that they made some  
19 decisions that were made very quickly, and I think it  
went out

20 of control to them.

21 Q. To --

22 A. To the government involved.

23 Q. You think that -- some mistakes were made by some  
of the

24 government folks that were on the scene, then. I don't

want to

25 put words in your mouth. I'm just trying to --

3233

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1 A. I think that they were forced to make some  
decisions

2 quicker than they really wanted to do that.

3 Q. Okay. Uh-huh.

4 A. And then I think it escalated for the point where  
it --

5 something happened and they couldn't -- they had to  
continue

6 with what was done.

7 Q. A little out of order. I missed this. Your family  
farm

8 that you had worked on: Do you know what happened to  
it?

9 A. It was sold.

10 Q. Okay.

11 A. They sold it several years ago.

12 Q. Do you know who they sold it to?

13 A. No, I don't.

14 Q. Do you have any views about the -- what some people  
have

15 called the disappearance of the family farm?

16 A. No. No.

17 Q. And I notice that on page 10, Question 44, you said

that

18 you had to fire a couple of employees.

19 A. Yes.

20 Q. And now, are those situations in which you put your  
21 confidence in somebody and it turned out that they  
betrayed

22 your trust or that they didn't measure up to what they  
said

23 they would?

24 A. They didn't do their job. I think that they have a  
25 responsibility to their job and to the people that they  
work

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1 for and to the people that they come in contact with.

2 Q. Are these people that you had hired?

3 A. It's happened before, yes.

4 Q. In your life, you're accustomed to seeing  
situations in

5 which you evaluate somebody and later on based on  
performance,

6 you've got to say, gee, they didn't measure up?

7 A. Right.

8 Q. Well, I'd like to turn now to this question of  
punishment.

9 And if you would turn to page 28.

10 A. Uh-huh.

that you 11 Q. Now, how long would you say you've held the views  
12 express here about the death penalty?

that the 13 A. I can remember my mother saying that she thought  
was to 14 worst thing that could happen was to -- to a criminal  
little 15 put him in prison for life with no movement, very  
16 contact with human beings, that type of thing.

17 Q. Sure.

not 18 A. And I maybe agreed with it to a certain extent but  
19 fully.

20 Q. Okay.

probably 21 A. Even back as a teenager. So I would say for  
little 22 several years, it has changed. As I get older, I get a  
23 more crotchety, I guess, maybe.

which is 24 Q. All right. And if the law were up to you to make,  
25 what this question is, what -- how would you define the

3235

Juror No. 618 - Voir Dire

1 circumstances under which the death penalty would be  
2 appropriate?

do not  
fellow man

3 A. Habitual criminal, an individual or individuals who  
4 take into effect any responsibility towards their  
5 with a crime that they commit.

want

6 Q. Now, if you were writing the law for the Colorado  
7 legislature, let's say, would -- I understand you don't  
8 to.

just

9 A. No, I don't know what I would say other than what I  
10 said.

commits  
penalty,

11 Q. All right. Well, I just want to follow up one more  
12 question about that: Would you think that anybody who  
13 multiple premeditated murders should receive the death  
14 again if you were writing the law?

15 MR. MACKEY: Objection.

16 JUROR: Yes.

17 THE COURT: Overruled. You answered yes.

18 JUROR: I'm sorry.

19 THE COURT: That's all right.

20 BY MR. TIGAR:

case,  
while  
what

21 Q. By the way, if you're selected as a juror in this  
22 this will happen. I think I made an objection a little  
23 ago, then another lawyer makes an objection; and that's

24 lawyers are supposed to, and his Honor rules.

25 So your answer is yes.

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1 Coming into -- having that view -- now, you've  
2 listened to what the Judge has said about the process  
in  
3 Federal Court, and I want to do a wind-up here. We do  
not  
4 concede -- that is, Ron Woods and I and Terry Nichols  
-- we do  
5 not concede that there will ever be a penalty phase in  
this  
6 case.

7 A. Uh-huh.

8 Q. And the reason is that first there is a presumption  
of  
9 innocence.

10 A. Right.

11 Q. And you agree with that?

12 A. Yes, I do.

13 Q. He's presumed innocent as he sits there right now  
today.

14 A. Yes.

15 Q. But in addition to that, there is an actuality;  
that is to

16 say that we're going to cross-examine every witness

they put up

17 and we're going to put on witnesses of our own. There  
is that  
18 process, and then the jury is going to decide. But we  
only get  
19 one chance to talk to you; so if there should be a  
guilty  
20 verdict, we can't call everybody back in there and say,  
well,  
21 what do you think?

22 Judge Matsch talked about what happens if  
there is a  
23 guilty verdict, and that is that a jury comes in and  
they  
24 listen to the Government present evidence of  
aggravating  
25 circumstances and the defense present evidence of  
mitigating

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1 circumstances. I think you used the word  
"extenuating."

2 A. Uh-huh.

3 Q. What do the words -- when you say or when you hear  
the

4 Judge say mitigating or when you say extenuating, what  
kinds of

5 things are you thinking about?

6 A. Facts of what you present and what they might  
present, and

7 then it's up to me to make a decision on it.

8 Q. What kinds of facts were you thinking of when you  
say

9 extenuating?

10 A. That "mitigating" would be -- that would probably  
be --

11 that would be a good word.

12 Q. All right. Now, do you understand the law -- the  
federal  
penalty.

14 A. As a what?

15 Q. As an automatic death penalty.

16 A. Yes.

17 Q. That is to say, under federal law, if you're found  
guilty,

18 if a person is found guilty of killing a thousand  
people,

19 premeditated, that the death penalty is not automatic  
under

20 those circumstances.

21 A. Right.

22 Q. And that under the law, a juror is required to  
consider a

23 number of things, and we can't predict, you know -- we  
can't

24 predict even if there is going to be a case here; but  
there

25 might be evidence in a case about the defendant's  
individual

Juror No. 618 - Voir Dire

1 situation, family background, growing up, any prior  
contact or 2 not with law enforcement and so on.

3 My question to you, bottom-line question:  
Since you

4 believe that if you could make the law you would say,  
you know,  
5 death penalty for multiple premeditated murders, can  
you accept

6 the fact that the law as it is might be different from  
that?

7 A. I can accept that. I can understand it that there  
cannot  
8 be an automatic death penalty.

9 Q. Okay. And can you in good faith and in good  
conscience put

10 aside, you know, whatever you might think and do it  
based on a

11 full consideration of everything about this individual  
as well

12 as about whatever he or she may have been proven to  
have done?

13 A. Before I would make a decision on another human's  
life, I

14 would want to hear all of the facts and evidence or, as  
you

15 said, mitigating or whatever.

16 Q. And in addition to hearing -- all right. And you

17 understand why I'm asking the question, because it  
might be at

18 variance with your own views of what the law ought to  
be.

19 In addition to hearing, could you give  
consideration

20 to it; that is, do you think you'd be really open in a  
case in

21 which somebody was -- killed a lot of people,  
premeditatedly --

22 really open to considering --

23 A. No, if you say it, killed an awful lot of people

24 premeditatedly, no, I would probably not be as open as  
I

25 probably should. If you use those words.

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1 Q. Okay. And the reason -- and what again is the  
basis for

2 that?

3 A. Again, I think you are taking someone else's life  
and you

4 are taking -- to me, there is only one consequence if  
you do

5 that. I think there can only be so many mitigating

6 circumstances. There can only be so many excuses or  
reasons

7 why a person does what they do; and after a while, they  
need to

8 accept the responsibility of doing the wrong that they  
might

9 do.

10 Q. So that's a kind of case in which you would  
definitely lean

11 in one direction?

12 MR. MACKEY: Objection, your Honor, to the  
premise.

13 THE COURT: Overruled. I'm confused, though,  
about

14 what the exchange has been.

15 MR. TIGAR: Okay.

16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q. With respect -- are you talking about more than one  
event?

19 A. No.

20 Q. Like a person commits a serial murder, different  
murders?

21 A. Not necessarily, no. I -- he just said several  
people

22 premeditated -- premeditated. Excuse me. I can't  
really quite

23 say what I want to say, but --

24 Q. Well, we're trying, you know -- as best you can to  
tell us

25 your ability to deal with the issues; and obviously,  
you know

## Juror No. 618 - Voir Dire

1 what happened in the McVeigh case.

2 A. Yes.

3 Q. And the result there.

4 A. Yes.

5 Q. Now, as I've explained, that cannot control in this  
case.

6 A. Right.

7 Q. And so if the defendant were to be found guilty of  
some

8 role in connection with the same crimes, then what is  
your view

9 with respect to punishment?

10 A. For being guilty of the same crime, I could find --

11 Q. Well, not exactly.

12 A. Okay --

13 Q. But participation in it.

14 A. In this particular case, I could find for the death  
15 penalty.

16 Q. Without regard for what you heard in the sentencing  
17 hearing. Is that what you're saying?

18 A. No, no. I would want to hear that, also.

19 Q. Well, see, that's where we're getting a little  
confused.

20 A. I'm sorry. No, I would want to hear everything  
involved in

21 the case.

about? 22 Q. Including the things Mr. Tigar and I have talked

23 A. Yes.

24 Q. That deal with the individual?

25 A. I think so, yes. Yes.

3241

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making a 1 Q. And are you open, then, having heard that, to  
lesser 2 decision that would include life or death or even  
3 punishment?

4 A. Yes.

answer. 5 Q. Okay. We're not trying to force you into any

think 6 A. No. I just want to -- it's serious, and I want to  
7 about it.

you on 8 Q. You bet it's serious, and that's why we're pressing  
thoughts are 9 it a bit, because we want to just know what your  
in making 10 and whether you can perform the duty that is involved  
and 11 a decision like that. That's all. And some people can  
12 some people can't. So what's your -- I think Mr. Tigar  
13 referred to sort of bottom-line answer on it.

14 A. Okay. On the bottom line, are you asking for  
specifically

15 this case if he was found --

16 VOIR DIRE EXAMINATION

17 BY MR. TIGAR:

18 Q. I'm not asking about specifically this case because  
I don't

19 think I'm permitted to ask specifically --

20 THE COURT: Well, because we don't know --

21 JUROR: Right.

22 THE COURT: -- what the evidence may be.

23 JUROR: Right.

24 THE COURT: A person can be found guilty of a  
crime  
but  
25 without -- and another person found guilty of a crime,

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1 there may be significant differences in their guilt.

2 BY MR. TIGAR:

3 Q. So I was making it deliberately hypothetically: If  
a

4 person is found guilty of multiple premeditated  
murders, are

5 you open to considering a life sentence for that  
person?

6 MR. MACKEY: Judge, objection.

7 THE COURT: Objection is overruled.  
8 JUROR: No.  
9 MR. TIGAR: Thank you very much.  
10 THE COURT: Well, we appreciate your answering  
all  
11 these questions for us, and we're not making decisions  
as we  
12 go. It takes time. And so I can't tell you when we'll  
know  
13 whether you're going to serve on this jury.  
14 JUROR: Okay.  
15 THE COURT: So bear with us a bit.  
16 JUROR: All right.  
17 THE COURT: Live with the uncertainty for a  
while, and  
18 we'll get back to you when we can. You're excused for  
now.  
19 JUROR: Thank you.  
20 (Juror out at 5:07 p.m.)  
21 THE COURT: You were asked to consider Jurors  
322 and  
22 32 on the basis of the information provided in the  
23 questionnaires without calling them in. And is there  
agreement  
24 to excuse those two persons? 322 and 32.  
25 MR. MACKEY: Yes, your Honor.

1 MR. TIGAR: 322 and 32.

had

2 Yes, your Honor, there is agreement, and we  
3 informed Mr. Manspeaker of that.

and

4 THE COURT: All right. So we'll excuse them  
5 notify them and not bring them in.

take up

6 All right. I do have a scheduling matter to  
7 with counsel in a few minutes in chambers, so we'll be,  
8 court, in recess till 8:45 tomorrow morning.

in

9 (Recess at 5:07 p.m.)

10 \* \* \* \* \*

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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct  
transcript from

3 the record of proceedings in the above-entitled matter.  
Dated

4 at Denver, Colorado, this 14th day of October, 1997.

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Paul Zuckerman

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Carpenter

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Bonnie