





13

PROCEEDINGS

14

(Reconvened at 1:59 p.m.)

15

THE COURT: Be seated, please.

16

Are we ready to resume?

17

MR. WOODS: Yes, your Honor.

18

THE COURT: Okay.

19

(Juror No. 331 was recalled to the stand.)

20

THE COURT: All right. If you'll resume your  
seat

21

there, we have an opportunity for questions from  
counsel.

22

Miss Wilkinson.

23

MS. WILKINSON: Thank you, your Honor.

24

VOIR DIRE EXAMINATION

25

BY MS. WILKINSON:

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Juror No. 331 – Voir Dire

1

Q. Good afternoon, sir.

2

A. Good afternoon.

3

Q. I hope you're willing to keep being candid with us  
and

4

answer a few more questions.

5

A. I'll try.

6

Q. Thanks. I appreciate it. You've been in Denver  
for quite

7

some time, or the Denver area; is that right?

8 A. Yes, ma'am.

9 Q. And you've been very interested in neofascist  
activities  
10 and following these activities in the Denver area;  
right?

11 A. I've been interested.

12 Q. Did you follow the Alan Berg trial or what has been  
13 referred to as the Berg trial?

14 A. No, because I was kind of an early resident to  
Denver. I  
15 didn't feel roots at that time.

16 Q. Have you read anything about that case?

17 A. No, just radio commentary.

18 Q. And do you know who the judge was in that case?

19 A. No, I do not.

20 Q. I was listening to you talk to his Honor about the  
21 responsibilities of a juror, and you said that you  
believed  
22 that in this case there would be a decision that would  
have to  
23 be made on circumstantial evidence; is that your  
understanding?

24 A. Well, that's an opinion, you know, based on what,  
you know,  
25 I've read about, you know, the case.

1 Q. Can you tell me what has led you to that opinion?

2 A. 'Cause there's no hard -- 'cause the lack of hard  
evidence,

3 the lack of -- I can't answer that intelligently.

4 Q. So when you say circumstantial evidence, is that  
how you're

5 distinguishing it between hard evidence and --

6 A. Eyewitnesses.

7 Q. -- indirect --

8 A. Eyewitnesses.

9 Q. And how would you describe evidence like  
fingerprint

10 evidence?

11 A. I view that as hard evidence.

12 Q. Okay. Would it be fair to say, then, you're not  
13 knowledgeable about all the facts --

14 A. Absolutely.

15 Q. -- and circumstances in this case?

16 You also told his Honor that you thought that  
you

17 didn't trust your judgment, you thought there might be  
smarter

18 people, I think you said, who could make this decision;  
is that

19 correct?

20 A. No. I'm more casual in my judgment, just passing  
judgment

21 when it didn't involve -- when there's no chance to  
rectify a

22 mistake. I was reflecting on this at lunchtime, and I  
watched  
23 "60 Minutes" and seen people released after being  
incarcerated  
24 after 12 years. What if I screw up with a person's  
life?  
25 Q. You understand that goes on in criminal courts  
across our

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Juror No. 331 - Voir Dire

1 country --  
2 A. Absolutely.  
3 Q. -- every single day; right?  
4 A. Absolutely.  
5 Q. People like yourself are called in --  
6 A. I'm talking about capital punishment.  
7 Q. -- and you understand that --  
8 A. Absolutely.  
9 Q. And his Honor has made clear to you that it's a  
bifurcated  
10 process. One is as to guilty?  
11 A. Yes.  
12 Q. And only if you and your fellow jurors, the other  
11,  
13 decide that you do believe that the Government has  
proved its  
14 case that you would get to that penalty decision?

15 A. Yes.

16 Q. Are you telling us that it would be very hard for  
you to  
17 separate those two decisions because you would know if  
you  
18 found a defendant guilty that you would be facing a  
penalty  
19 decision?

20 A. Well, I'd be more -- because of capital punishment  
is  
21 involved, I'd be more -- I mean I accept the  
responsibility in  
22 a responsible way, in a grave manner.

23 Q. Do you think there --

24 A. But I could separate the two.

25 Q. Do you think there should be a higher standard of  
proof

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Juror No. 331 - Voir Dire

1 when you know that there's a potential for a capital  
2 punishment?

3 A. Well, no, not -- as I understand it, I can elect to  
agree  
4 with my jurors, my other jurors, that the defendant is  
guilty  
5 of a crime. Okay? What I was saying to the Judge was  
that in  
6 terms of -- making the -- making a judgment as to

penalty,

I don't 7 okay, that's where I hit a wall, you know, and I -- and  
8 think I can cross that line.

9 Q. Okay. So if we separate those two, you have no  
problem

10 determining -- not no problem -- but you could do it?  
We

11 understand it's an important decision as well. But you  
could

12 determine whether the Government had proved its case or  
not as

13 to whether the defendant was guilty; would that be  
fair?

14 A. Yes.

15 Q. It is when you get into the penalty phase --

16 A. Yes.

17 Q. -- that you are expressing doubts about your  
ability to do

18 that; is that right?

19 A. In terms of imposing capital punishment.

20 Q. Okay. Well, let's talk about that for a moment.  
You said

21 a couple things that I want to follow up on. First of  
all, you

22 said in your questionnaire that if you decided that you  
were

23 right, you wouldn't change your opinion and you  
wouldn't listen

24 to others. And then I heard you tell his Honor, you  
know, if

other 25 it's a moral decision, why do I have to listen to the

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Juror No. 331 - Voir Dire

1 people?

2 A. Right.

3 Q. Is that your view as to how you would react --

commentary or 4 A. Yeah, I'm not interested in other person's

5 opinion on my morals.

decision, 6 Q. So would you feel if you were part of a penalty

7 it would really be your decision --

8 A. Absolutely.

9 Q. -- you wouldn't interact with the other jurors?

10 A. No.

11 Q. You wouldn't listen to what they had to say?

12 A. No. I'd listen, out of respect.

with 13 Q. You wouldn't be rude, but you wouldn't deliberate

14 them?

in 15 A. Not when it involves my morals. I have no interest

16 their opinion.

that 17 Q. Now, I think when you were expressing to his Honor

18 your reluctance to consider the penalty, something you

would

19 actually impose instead of some theoretical thing you  
discuss

20 with your wife or your friends, you said there was a  
difference

21 in your mind, is that right, about talking about it vs.

22 actually --

23 A. Yes.

24 Q. -- coming to the decision?

25 A. Absolutely.

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Juror No. 331 - Voir Dire

1 Q. And is that where you're saying you just couldn't  
do it,

2 you just couldn't absolutely make the decision to  
sentence

3 another human being to death?

4 A. Well, where I'm coming from is a gut feeling from  
just the

5 last few days, going through this process and  
realizing, you

6 know, what's involved here. It's not some casual, you  
know,

7 conversation, you know, about stuff out there.

8 Q. I guess what I'm trying to get at is obviously  
there's a

9 difference in whether you're comfortable and whether  
it's

10 difficult, and his Honor has told you everyone  
understands that

11 this is a decision of incredible magnitude.

12 A. Uh-huh.

13 Q. You're deciding whether someone should live or die.

14 A. Right.

15 Q. And you don't know what the evidence is going to  
be.

16 A. Right.

17 Q. You don't know what all the facts and circumstances  
are

18 going to be about the crime or the defendant; correct?

19 A. Correct.

20 Q. But what we need to know is sitting there today --

21 A. Right.

22 Q. -- and you're the only one who can decide this --  
could you

23 do something like that? And before you answer, let me  
add one

24 thing. No one can make you make this decision. You  
understand

25 that; right?

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Juror No. 331 - Voir Dire

1 A. Sure.

2 Q. This is something only you can tell us, but we can  
only ask

3 you once. We can't come back after a guilty verdict  
and say,  
4 you know, you've been thinking about it, you've been  
sitting  
5 here, you've been looking at the defendant, now how do  
you  
6 feel? That's not how the process works. You  
understand that;

7 right?

8 A. Right.

9 Q. So we need you to be honest and tell us -- to  
assess  
10 yourself because you know yourself a lot better than we  
do. We  
11 just know what you've told us in the questionnaire and  
what  
12 you've said today. Can you do that? Can you  
deliberate with  
13 your fellow jurors and come out and announce -- look  
the  
14 defendant in the eye that you've been looking at and  
say you  
15 sentence him to death?

16 A. No.

17 MS. WILKINSON: Thank you very much, sir, for  
being  
18 honest.

19 THE COURT: Mr. Tigar.

20 VOIR DIRE EXAMINATION

21 BY MR. TIGAR:

22 Q. Good afternoon, sir.

23 A. Good afternoon.

judge  
24 Q. Ron Woods and I were appointed by the U.S. district  
only two  
25 in Oklahoma to help out Terry Nichols. And there are

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Juror No. 331 - Voir Dire

do it  
1 areas that I want to talk about, and I hope that I can  
2 briefly. Fair to say you've read a lot about the  
Oklahoma City  
3 case?

4 A. I read a book, and I read the Rocky Mountain News.

questionnaire for  
5 Q. Could you take a look at page 36 of your  
6 a moment, sir.

events,  
7 And there at the bottom, 158, you say TV news,  
8 judicial proceedings, and if you could turn over to 37,  
you  
9 describe a number of things that you'd read or heard  
about  
10 Terry Nichols.

11 A. Uh-huh.

Where did  
12 Q. Marital problems, difficulty finding employment.  
13 you read or hear about amphetamine?

14 A. Well, that doesn't necessarily pertain to Terry

Nichols.

15 That pertains to the other defendant and his  
associates, and

16 that was in that -- the book I read, Apocalypse in  
Oklahoma,

17 that they were making reference to crystal, to  
methadone.

18 Q. When the Judge was talking to you about the  
process, you

19 expressed some hesitation, and I just want to go  
through a

20 couple of things. Is the presumption of innocence  
something

21 that resonates for you?

22 A. It doesn't resonate.

23 Q. Do you think that if you were a juror in a case and  
the

24 judge says you're to presume the defendant innocent,  
that that

25 would be difficult, or would that be something you  
could do?

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Juror No. 331 - Voir Dire

1 A. It would be difficult, but I think intellectually I  
could

2 do it.

3 Q. And how about the case in which the defendant  
doesn't take

4 the stand? Would you be wondering, gee, you know, what  
has he

5 got to hide, why isn't he talking to us?

6 A. Yes.

wouldn't 7 Q. Can you think of a reason why an innocent person

8 take the stand?

9 A. Yes.

I don't 10 Q. Okay. And I'm not going to ask you what that is.

11 want to probe. So do you think that you could abide by

the 12 Court's instruction if the Judge were to say, Look,

don't even 13 talk about that in the jury room, you know, put it

aside? 14 A. Yes. If that was the instruction, sure.

15 Q. Okay. So basically -- and understand, this is a

crime in 16 which apparently you had some view from reading that

there was 17 a militia involvement.

18 A. That's one way of putting it, yes.

19 Q. Tell me what your impression is about this case

based on 20 what you've heard or read in terms of the politics of

the 21 situation.

22 A. Well, that it was within the context of, you know,

militia 23 politics and attitudes towards the federal government.

And

know, 24 I'll take it one step beyond, you know, towards, you  
25 other groups in this society.

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Juror No. 331 - Voir Dire

1 Q. Right. Neo-Nazi, neofascist-type groups?

2 A. Sure.

Nichols 3 Q. Now, if you got to the trial of a case where Terry  
what you'd 4 was a defendant and the evidence was different than  
decide 5 assumed based on what you'd read, would you be able to  
that you 6 just based on what you saw rather than the impression  
7 had coming in?

8 A. If the evidence rang clear.

9 Q. Okay. When you say --

prosecution 10 A. If it wasn't some murky, you know -- if the  
other 11 didn't come up and I wasn't going on one hand vs. the  
12 hand; but if it rang true to me, absolutely.

true, 13 Q. Okay. And in doing that, when you say if it rang  
of 14 would you be able to respect this idea of presumption  
15 innocence, make them prove it?

16 A. I think so.

17 Q. Okay. Well, I mean -- do you agree with me  
sometimes

18 things are different than they appear? Right? I mean  
if

19 you're in Brooklyn --

20 A. Absolutely.

21 Q. If you're in Brooklyn, you see a guy with a big hat  
and --

22 he's got a big black hat and a white shirt, you think

23 Lubavitcher, right, but then you get close to him, he  
might be

24 Amish, so does that sound like that could be?

25 A. Sure.

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Juror No. 331 - Voir Dire

1 Q. Not likely, but it could be; right?

2 A. Yeah, and I give you 50-to-1 odds that it's the  
former.

3 Q. I understand that. And -- that's right, and that's  
why I

4 asked the question in that form, but you're in  
Lancaster

5 County, Pennsylvania, you wouldn't make the bet?

6 A. If the point is it's a circumstantial thing, it's a  
7 judgment call.

8 Q. Exactly. And all I'm asking you is even though as  
humans

we 9 we come into situations with this idea, gee, it's what

10 expect to see, would you as a juror in a trial of  
somebody who

11 the judge says is presumed innocent be able to decide  
it just

12 based on what's on the witness stand, without making  
book, you

13 know, daily on how far we're --

14 A. I would hope that's the case.

15 Q. Okay.

16 A. But in, you know, watching Court TV and that stuff,  
you

17 know, it becomes this -- you know, did the gloves fit  
or didn't

18 they.

19 Q. Right.

20 A. Some say, yeah, the gloves absolutely fit, and  
other -- you

21 know, you're looking at the same thing. I can't  
answer.

22 Q. Tough.

23 A. Yeah.

24 Q. Well, let me then turn to this other question that  
you were

25 talking about; and without being intrusive, do you  
identify

Juror No. 331 – Voir Dire

1 with any particular current of opinion in your faith;  
that is, 2 orthodox, conservative, reform?

3 A. Not in a religion sense, just in a social, cultural  
way.

4 Q. Okay. You understand that we don't think that  
we'll ever 5 get to a punishment phase, right -- that is, there's a  
6 presumption of innocence, we're challenging the  
Government's 7 evidence -- but as somebody else here said, it's the  
only 8 chance we have to ask the question.

9 The process in this second phase, if there is  
one, in 10 a case, any case, involves the Government presenting  
evidence 11 about the seriousness of the offense and about the  
other 12 aggravating factors, and the defense presents evidence  
about 13 mitigating factors. The jurors listen. The  
deliberative 14 process is joint. The decisional process is  
individual, in a 15 sense that no juror is authorized or told, you know,  
you better 16 start instructing the other jurors on their morals;  
right? But 17 they do deliberate in the sense of talking about the  
evidence

18 that they've seen and their impressions: Is this  
person  
19 telling the truth, was it really that bad, was it not  
that bad,  
20 you know, what did the black hat mean, whatever it was.  
So is  
21 that a process in which you could participate?  
22 A. Oh, yeah, with the evidence, I have no problem with  
that,  
23 I'd want to deliberate, and I'd be interested in the  
opinion --  
24 Q. Right.  
25 A. -- of my other jurors. Just when it comes to my  
personal

4480

Juror No. 331 - Voir Dire

1 morals.  
2 Q. It's the decisional process. And do you understand  
that no  
3 jury is ever required to vote the death penalty?  
4 A. Right.  
5 Q. Okay. And so I -- you know, I come to this  
question --  
6 and, oh, and jurors are entitled to look at mitigating  
factors  
7 about the defendant, the defendant's background,  
aggravating  
8 factors, and to see those based -- and to bring their  
own life

9 experiences. And I know that other people have  
approached this

Judge 10 subject in different ways. But in light of what the  
11 described as the process, could you participate in a  
process,  
12 listen, deliberate about the facts, and be open to  
considering  
13 the full range of punishment in a case?

14 A. I don't understand what you mean when you say  
considering  
15 the full range of punishment.

16 Q. Well, in a case of this kind that I'm talking  
about, could  
17 you be open to considering, gee, should this be life  
without  
18 the possibility of parole, should this be a death  
sentence, or  
19 should this be something that's sent back to the judge?  
Could  
20 you be open in that sense to considering the full  
range?  
21 A. I don't know what consider -- I mean I'd listen out  
of due  
22 respect, but I -- if someone else was going to -- you  
know,  
23 pass judgment . . . .

24 Q. Well, would you -- and I don't know how else to --  
I don't  
25 know how else to put it, because I want this to be your  
answer,

## Juror No. 331 - Voir Dire

1 not my trick question.

2 A. I'm not trying to be cute. I really don't  
understand.

3 Q. I'm not trying to be cute, either.

4 A. Okay.

5 Q. I'm just asking you the basic question: Would your  
mind be

6 closed to considering --

7 A. No.

8 Q. -- voting in favor of a sentence of death?

9 A. Would it be closed? It wouldn't be closed, but I'd  
be

10 resistant to it because it's my opinion that it goes  
beyond

11 what the evidence --

12 Q. Yes.

13 A. -- anything that has to do with evidence. It has  
to do

14 with, you know -- like I said, I mean, taking -- you  
know --

15 Q. It's the most serious decision you could make.

16 A. So, that's the best I can answer it.

17 Q. Okay. So it would be -- are you saying --

18 A. I don't want to listen to people lobbying me or  
suggesting

19 why we should be considering, okay, imposing capital

you 20 punishment, you know, on a defendant. I don't want --  
dealing 21 know, I mean I'll listen out of due respect, but it's  
22 with --  
23 Q. Okay.  
the realm 24 A. -- I don't understand -- because it falls within  
25 of moral issues.

4482

Juror No. 331 - Voir Dire

1 Q. Of course it does.  
in 2 A. And as I indicated to this lady, I'm not interested  
tell 3 other people giving an opinion -- in fact, you could  
4 probably from the tone of my voice, I'm starting to get  
the 5 annoyed. I get annoyed by it, because I'm thinking who  
be. 6 heck are they to be suggesting what my morals should  
ultimate 7 Q. And this is -- this reflects for each juror the  
That's 8 decision. I'm talking about the deliberative process.  
juror, this 9 what we started out, that's what happens. For each  
come to 10 is an individual, rational, moral response. And so I

11 this question: Are you saying that although it would  
be  
12 difficult, your mind would be open to the possibility  
that your  
13 rational, moral response would be that a death sentence  
was  
14 appropriate, assuming that the evidence and all the  
things you  
15 heard said that that was the right thing to do?

16 MR. MACKEY: Judge, objection: Form of the  
question.

17 THE COURT: Overruled.

18 You may answer that. Don't pay any attention  
--

19 JUROR: I apologize, I lost the train of  
thought.

20 Could you repeat the question.

21 BY MR. TIGAR:

22 Q. Well, I could try.

23 A. Okay.

24 Q. Do you think that your mind would be closed to the  
25 possibility of voting for a death sentence if after you  
heard

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Juror No. 331 - Voir Dire

1 all of the evidence, all the aggravating, mitigating  
factors,

2 and the Court's instructions, you thought -- you  
concluded in

3 your own mind, your own heart, that that was the right  
thing?

4 A. Rationally I'd still be opposed to it, to imposing  
the

5 death penalty. That's not to say that the evidence,  
you know,

6 if you played a video of what was going on, you know,  
and the

7 defendant was there, you know, quote, unquote, pulling,  
you

8 know, you know -- then I would be, you know, worked up,  
you

9 know, with --

10 Q. I understand.

11 A. -- with a lather coming from my mouth and I'd say,  
yeah,

12 let's impose the death sentence.

13 Q. Now, there's a situation --

14 A. But right now you're asking me the question; and  
when I

15 reflect on it, I don't want to be responsible for that.

16 Q. I understand that. And my question -- and the  
question was

17 whether your mind was absolutely closed, and I think  
you've

18 answered that question as the circumstances.

19 Thank you very much.

20 THE COURT: We do appreciate your  
participation in

21 this and your open expressions of opinions as we've  
asked for

we're 22 it; and as we said, you're not being judged here, and  
while as to 23 going to leave you with a little uncertainty for a  
that we 24 whether you're going to serve on this jury, which means  
now. 25 want you to stay in touch with us. You're free to go

4484

1 You're done with your --  
2 JUROR: I'll wait. I'll hear from you.  
3 THE COURT: Yes, you'll hear from us; and I  
can't tell 4 you when you'll hear, but you will. And, you know, if  
5 something comes up that causes you to have to go out of  
town or 6 something like that, then you get back to us and let us  
know 7 the situation right away.  
8 JUROR: Okay.  
9 THE COURT: Thank you very much. You're  
excused. 10 935.  
11 Would you please raise your right hand and  
take the 12 oath from the clerk.  
13 (Juror No. 935 affirmed.)

14 THE COURTROOM DEPUTY: Thank you.

15 THE COURT: Please be seated there at the  
chair by the

16 microphone, which you don't have to lean over and talk  
into.

17 It will pick you up right where you are now, so.

18 VOIR DIRE EXAMINATION

19 BY THE COURT:

20 Q. And of course you recall receiving a summons here  
and you

21 know that you've been called in for possible service as  
a juror

22 in the case of United States against Terry Lynn  
Nichols.

23 A. Yes, sir.

24 Q. And that you did respond to that summons and answer  
a

25 questionnaire, a brief one, about your qualifications  
and then

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Juror No. 935 - Voir Dire

1 received a notice to go out to the fairgrounds'  
auditorium

2 building at Jefferson County, and there I met with you  
and

3 other members of the jury panel.

4 A. Yes, sir.

5 Q. And we gave you a much longer questionnaire which

you

6 filled out. And before you did that, I introduced some  
people,

7 and I want to do that again because they're here with  
us again

8 and we want you to know who's with us today.

9 A. Okay.

10 Q. So here at this first table, please remember that  
you met

11 Mr. Lawrence Mackey and Miss Beth Wilkinson, attorneys  
for the

12 Government. They're now joined by Mr. Patrick Ryan and  
13 Mr. Geoffrey Mearns, who are also lawyers for the  
Government.

14 You recall also being introduced to Mr.  
Michael Tigar

15 and Mr. Ronald Woods and Mr. Terry Nichols, Mr. Tigar  
and

16 Mr. Woods being Mr. Nichols' attorneys.

17 And then I explained about the background of  
the case,

18 and I want to do that again just so that we have kind  
of a

19 platform to work from here.

20 A. Okay.

21 Q. Even though I'm probably going to say things that  
you are

22 well aware of, but we have something we talk in court  
about

23 making a record so that we understand exactly what the

24 foundation for the questions are.

25 A. Okay.

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Juror No. 935 - Voir Dire

1 Q. Yes. And as I told you, the case we're here in  
court, as a  
2 result of an event that took place in Oklahoma City,  
Oklahoma,  
3 on April the 19th of 1995, when there was an explosion  
that  
4 destroyed a federal office building and killed and  
injured  
5 people who were occupants of the building and that  
after that,  
6 charges were filed in Oklahoma City in the Federal  
Court there  
7 by lawyers for the Government in the form of an  
indictment,  
8 which is just a statement of what they allege, charging  
that a  
9 man named Timothy James McVeigh, together with Terry  
Nichols --  
10 and also the indictment says "and other persons not  
named" --  
11 were in a conspiracy, criminal agreement, to bomb that  
building  
12 and to kill and injure the people in it.  
13 And the indictment which consists of some 11  
charges  
14 or counts includes that conspiracy and then allegations  
that

of 15 they in fact carried out such a bombing for the purpose  
16 destroying the building and killing and injuring the  
people. 17 And it includes eight charges or counts of first-degree  
murder 18 of agents of law enforcement agencies of the federal  
government 19 who were occupants of the building and died in the  
explosion. 20 To these charges both of the named defendants, both Mr.  
Nichols 21 and Mr. McVeigh, entered not guilty pleas thereby  
creating the 22 issues to be tried.

23 The case then was moved from Oklahoma City  
here to 24 Denver because of a concern for asking people in  
Oklahoma City 25 to serve on a jury since this happened there; and then  
after

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Juror No. 935 - Voir Dire

1 the case came here, I entered an order to divide up the  
case 2 into two separate trials, one to consider the evidence  
as it 3 may relate to Mr. Nichols, and another to consider the  
evidence 4 as it may relate to Timothy McVeigh. And for that, you

know,

5 the reason being that because of differences between  
these two  
6 persons and what the evidence may be as to each of  
them, it  
7 would be fundamentally unfair to go before the same  
jury in the  
8 same trial.

9 So separate trials means that there would be  
separate  
10 juries, and indeed we have had a trial here with a jury  
11 selected just like this process to consider the  
evidence as it  
12 relates to and related to Mr. McVeigh; and that jury,  
after  
13 hearing the evidence, returned a verdict of guilty on  
those  
14 charges as to Mr. McVeigh.

15 Then there was an additional trial or hearing  
on the  
16 question of what the sentencing should be, and that  
jury then  
17 returned a recommendation that the penalty be death.

18 Now we're ready and start -- to start the  
trial of  
19 Mr. Nichols. And we're selecting a jury to hear that  
evidence,  
20 which may well be entirely different from that which  
was  
21 involved in the McVeigh trial. And we start in this  
case with  
22 no evidence at all; and nothing that was read, seen, or

heard

23 by anybody in connection with the trial of Mr. McVeigh  
can be

24 considered here. It's completely separate. And  
certainly the

25 outcome of that case, the jury's decision and  
recommendation,

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1 cannot be considered by a jury who is assembled to hear  
this

2 case. You understand these points?

3 A. Yes, I do.

4 Q. And of course if one were to consider that, well,

5 Mr. McVeigh's been found by -- guilty by a jury so, you  
know,

6 why are we doing this all over again, that would  
violate the

7 whole reason for the separate trial orders because the  
evidence

8 has to be considered as it affects each man. You  
understand

9 the reasoning behind that?

10 A. You're innocent until proven guilty.

11 Q. Yeah, well, that's the next thing that I wanted to  
mention

12 to you because I did emphasize that in talking about  
what's

13 involved in jury duty, recognizing that most of the

people

14 there had never served on a jury and didn't really, you  
know --

15 they have a general notion about what's involved, but  
not

16 specific, and of course here we're talking about these

17 fundamental principles of our criminal justice system  
that are

18 really required under our constitution, the  
Constitution of the

19 United States, which says in effect that every person  
charged

20 in a court in this country, no matter who that person  
is or

21 what the charges are, is presumed to be innocent; and  
it's not

22 up to the person charged to prove himself to be not  
guilty. He

23 doesn't have to prove anything at trial. No defendant  
accused

24 of any crime has to bring in any witnesses or offer any

25 exhibits, and no defendant has to take the witness  
stand and

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1 answer questions or explain anything. A defendant can  
simply

2 remain silent and require the Government to prove what  
it has

3 charged. And it is up to these lawyers for the

Government to

4 bring in the witnesses and the exhibits and the things  
they

5 rely on to support these allegations.

6 And you understand those points?

7 A. Yes.

8 Q. And it is not just to prove it, you know, in a  
more-likely-

9 than-not basis, but prove it beyond a reasonable doubt.  
That's

10 the standard by which we judge guilt or non-guilt in  
criminal

11 cases. And therefore what the presumption of innocence  
means

12 is that at the end of the trial, when the court gives

13 instructions to the jury about the specific things that  
have to

14 be proved for the crimes charged, the elements of each  
offense,

15 then the jury is asked: Now, has each of these things  
been

16 proved to your satisfaction beyond a reasonable doubt.  
And all

17 of the jurors must agree on such a verdict.

18 And, you know, looking at it a little bit  
differently:

19 If, after considering all of the evidence, the jurors  
have a

20 reasonable doubt as to whether the evidence proves  
guilt, they

21 must exercise that doubt and give that doubt to the  
benefit of

duty. Do 22 the defendant and find him not guilty. That's the

23 you understand that?

24 A. I understand.

25 Q. And not only understand, do you accept those  
principles as

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1 something that you would be bound by if you sat on this  
jury?

2 A. Yes, sir.

3 Q. And so you recognize that Mr. Nichols sits with us  
this

4 afternoon presumed to be innocent of these charges?

5 A. Yes, sir.

6 Q. And you would have a duty to find him not guilty  
unless you

7 were persuaded along with the other jurors beyond a  
reasonable

8 doubt that the evidence showed him to be guilty?

9 A. Yes, sir.

10 Q. Now, you answered a lot of questions for us, and we  
11 appreciate your cooperation. We're respecting your  
privacy

12 here. We know that some of these questions are  
personal, and

13 we're not going to, you know -- I took the completed

14 questionnaire and made copies for us and gave them just  
to the  
15 people who are here in front of you to be used only for  
that  
16 process and not to be given to anybody else, and we're  
not  
17 using your name; and in the questioning here, we'll try  
to  
18 avoid anything that identifies you. And it's also for  
this  
19 privacy interest that we have arranged for you to come  
and go  
20 to the courthouse without somebody taking your picture  
and  
21 putting it on TV or something like that.

22 But what happens here now in open court is  
public.  
23 We're in a public courtroom, and there are people here  
who may  
24 report what is said and done here. Understand?

25 A. Yes, sir.

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1 Q. And if there should be anything that comes up that  
you  
2 think is particularly sensitive and personal, you can  
tell me  
3 about it.

4 Now, we already have your answers. As I've  
said,

5 we're not going to go over the whole questionnaire, but  
there  
6 are some things that I wanted to ask you about and  
maybe have a  
7 little additional information from you, and then a  
lawyer on  
8 each side can ask you some more questions.

9 A. Okay.

10 Q. One of the uncertainties about all this is how long  
the  
11 trial may take and what's involved in jury service in  
that  
12 regard. And you've expressed concern about your job  
and your  
13 ability -- as I understand it, you are now single and  
have a

14 15-year-old --

15 A. Yes, sir.

16 Q. -- at home who relies on you for his and your --  
and you of  
17 course support yourself?

18 A. Yes, sir.

19 Q. And do you obtain -- please understand the reason  
for these  
20 questions. Do you obtain any support funds from his  
father?

21 A. No, sir.

22 Q. So it is just you and him?

23 A. Yes, sir.

24 Q. And your other children are grown and on their own?

25 A. Yes, sir.

4492

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1 Q. Now, the -- at the time that you filled out the  
2 questionnaire back a month ago, you told us about your  
3 employment.

4 A. Uh-huh.

5 Q. And it's on page 9. Please feel free to refer to  
these  
6 pages. I don't want to take you at a disadvantage  
here. I  
7 don't really want to announce the name of this place  
because of  
8 these privacy concerns. But are you still working  
there?

9 A. Yes, sir.

10 Q. And you've been there some six years or so?

11 A. I'll be starting my seventh year November 11.

12 Q. And have you talked to someone there about this  
jury  
13 summons?

14 A. Yes.

15 Q. And what case it is?

16 A. Yes.

17 Q. And the reason I mention what case it is, you know,  
I told

18 you not to talk about the case; but I did expect you to  
talk to  
19 employers and like your son and any of those whose  
lives would  
20 be altered a bit by your having to be here. And we  
don't know  
21 for how long, but it's a 9-to-5 job, Monday through  
Thursday,  
22 and 9 to 1 on Saturday -- or Friday. There's no  
keeping you  
23 separate and apart overnight or anything. But when you  
24 discussed this with your supervisor or whoever you  
talked with  
25 at the place of employment, what was the reaction?

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1 A. That they paid the first three days, and then they  
put you  
2 on leave of absence.

3 Q. So you don't lose your job, but you don't get your  
income?

4 A. Right. I hope I don't lose my job.

5 Q. No, the law is that they can't. Nobody can  
discharge an

6 employee because the employee serves on jury duty.  
It's no

7 different from nobody can fire somebody 'cause they got  
called

8 up from the reserves into the military.

9 A. Okay.

10 Q. So there is no concern about that, but there -- we  
can't

11 make them pay you, and that's a policy that, you know,  
differs

12 among employers.

13 A. Yes.

14 Q. So, you know, if they only pay three days, what  
happens?

15 A. Then I get what the court pays after that point.

16 Q. And that would be your only income?

17 A. Yes, sir.

18 Q. And do you have anybody to help you at all, any  
parents or

19 others --

20 A. I have a mother in California, and I have two  
daughters

21 here, but they're . . . .

22 Q. They have their own --

23 A. Own lives.

24 Q. Their own lives to consider. So that's a very  
significant

25 problem for you?

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1 A. I understand it's my duty to serve, but, you know,  
it would

2 be tough.

3 Q. Is your son working yet?

4 A. No, he's 15.

5 Q. Yeah. So -- and he's in school?

6 A. Yes.

7 Q. Well, let me review a few other things. I'm not  
setting

8 that aside. That's an important consideration of  
course, and

9 we will consider it.

10 But as I understand it, you're from  
California?

11 A. Yes.

12 Q. And you have family out there now?

13 A. Yes.

14 Q. You came to Colorado when you were a teenager?

15 A. No, I've been here about 12 years. 10 years, 12  
years. I

16 was married at the time, and my husband had a  
promotional

17 transfer.

18 Q. I see. So -- and were you working when you lived  
in

19 California?

20 A. Yes.

21 Q. What kind of work did you do out there?

22 A. Retail.

23 Q. Retail?

24 A. Uh-huh.

25 Q. Okay. Now, looking at page 6, I'm a little  
confused about

4495

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1 the answer to paragraph -- or to Question 31 and  
Question 30

2 and knowing that your son is at home with you.

3 A. Oh.

4 Q. Is there another person, too?

5 A. Actually, there was, and he just moved out.

6 Q. All right. And the only reason that I mention that  
is that

7 maybe that's somebody who could help pay the expenses,  
but no

8 more?

9 A. Actually, he just gave me notice seven days ago  
that he was

10 moving.

11 Q. All right. You have, on page 24, identified a  
couple of

12 things that I wanted to ask you about. You have page  
24?

13 A. Yes.

14 Q. At No. 108. And then on the preceding page, 23 at  
103.

15 A. Uh-huh.

16 Q. Now, does that refer to you?

17 A. Yes.  
18 Q. And on 24, there are two entries.  
19 A. Uh-huh.  
20 Q. Is this actually the same incident?  
21 A. No.  
22 Q. Or are these two different ones?  
23 A. Two different ones.  
24 Q. And did you go to court on these?  
25 A. I did.

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1 Q. Were there trials?  
2 A. No.  
3 Q. You entered into some arrangement?  
4 A. Yes.  
5 Q. Admitting what you were accused of and then --  
6 A. Uh-huh.  
7 Q. -- was it the kind of thing that you were required  
to pay a  
8 fine and then do some community service and --  
9 A. On one. And the other one I had to go to school.  
10 Q. Take some classes.  
11 Has this been a problem for you?  
12 A. I was under a lot of stress.

13 Q. All right. And that -- was there a divorce or  
something

14 going on at that time?

15 A. A divorce and a problem with a . . . another  
incident with

16 my other two children.

17 Q. Okay. So it was a particularly stressful time, and  
that's

18 how you got --

19 A. And the death of my father.

20 Q. All at about the same time?

21 A. Yes.

22 Q. Well, with these two events, how far apart were  
they, these

23 two different court appearances?

24 A. Six months, if that. December to February, I  
think.

25 Q. All right. And is there anything at all from that  
that

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1 carries over and affects you now in looking at the  
possibility

2 of serving on a jury?

3 A. No.

4 Q. Excuse me. Now, one of the things that we asked  
you about

5 in this questionnaire is your view of capital  
punishment. And

6 when you came out there to Jefferson County and got  
handed this

7 questionnaire, did you think it might contain in it  
some

8 questions like that?

9 A. I don't know that I thought about it.

10 Q. And have you -- before you answered these questions  
for us,

11 had you given much thought to the question of when the  
death

12 penalty should be involved in the law or if it should  
be

13 involved at all? Is that something you've thought  
about at

14 times in your life?

15 A. I actually hadn't thought of it until . . . .

16 Q. We asked you to?

17 And if you'll turn to page 28 -- is where the  
18 reference is. I know you want to look at what you  
wrote. It's

19 been a while.

20 Okay. Next page, too, you go on on page 29  
and we ask

21 you some more, and you responded more completely.

22 Now, if I -- you may have thought about this a  
bit

23 more since you answered these questions, so I want to  
simply

24 ask you: If I were to ask you these same questions

today,

25 would you give us the same answers?

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1 A. I have mixed feelings on it.

2 Q. Just tell us about that.

3 A. I know if it was one of my family members, it would  
be hard  
4 not to want capital punishment.

5 Q. You mean if one of your family members had been a  
victim?

6 A. Right. But on the other hand, I wouldn't want to  
take  
7 anybody's life.

8 Q. Okay. Well, let's just talk about it a little bit,  
and it  
9 appears to be a difficult subject for you.

10 A. Uh-huh.

11 Q. And let me just ask you this point first: Is there  
12 anything in your thinking about this that involves a  
religious  
13 belief?

14 A. There again, I'm torn between . . . that's what I  
feel in  
15 my heart, that I wouldn't want to kill anybody.

16 Q. All right. Well, first of all, I'm going to ask  
you some

17 questions here, but I'm not asking you to try and  
defend your  
18 views, okay? All right?  
19 A. Okay.  
20 Q. All we want to know is what you sincerely and  
honestly  
21 believe, so don't feel defensive or feel that I'm  
trying to get  
22 you to say anything, because I'm not. All I'm trying  
to do is  
23 to help you express your view. I can see that it's  
hard for  
24 you to talk about this, so I'm just trying to help you  
talk  
25 about it but without trying to influence what you say.  
I hope

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1 you accept that as the approach that we're taking here,  
because  
2 the reason that we asked these questions is that in  
certain  
3 kinds of cases, the jury is required to make a decision  
about  
4 whether a defendant who has been convicted of a crime  
should  
5 live or die. And the question of the death penalty as  
6 punishment for crime is one on which there is a lot of  
7 differing -- there are a lot of different opinions.  
And I'm

8 sure you're aware of that.

9 A. Yes, sir.

10 Q. And indeed here in the state of Colorado, there has  
been a

11 lot of publicity in recent days about the question of  
whether

12 there ought to be a death penalty under Colorado law,  
because

13 last week a man was put to death and such a sentence  
was

14 executed in Colorado out of the state court. You're  
aware of

15 that, I assume?

16 A. I am.

17 Q. And did you read some of those differing views that  
were in

18 newspapers and I suppose expressed, too, on television  
and

19 radio?

20 A. I did not.

21 Q. Okay. And is there -- let me just ask this: Is  
there

22 anything about any particular case or book that you  
read or

23 conversation that you've had or anything at all in your  
past

24 that caused you to focus on this issue and come to  
apparently

25 the opinion you have, that it is wrong to take life  
through a

## Juror No. 935 - Voir Dire

1 death penalty? You understand what I'm asking?

2 A. Yeah, I understand --

listen

3 Q. Some people see a movie or read a book or have a --

influence on

4 to a debate or something, and that has a powerful

5 them.

put a

6 A. Well, I've heard things like it costs more money to

the rest

7 man to death than it does to let him sit in prison for

taxpayers'

8 of their life. And I think we ought to spend the

9 money wisely.

process

10 Q. Okay. And is that because of all of the court

11 that's involved? Is that your understanding?

12 A. That's my understanding.

13 Q. And appeals and all that sort of thing?

14 A. All the appeals.

justice

15 Q. Well, of course we're not here -- the criminal

principle.

16 system doesn't operate on some sort of cost-benefit

fairly and

17 What we're here to do in courts is to apply the law

18 justly. And I take it you understand that that's the

objective

19 and feel that's a worthy objective?

20 A. I understand.

you

21 Q. Do you? But this matter of cost is something that

22 raised when you wrote the answer on page 29. Yes?

23 A. Yes.

morally

24 Q. But you also say here that "I do not think it is

don't

25 right to take anyone's life for any reason," and "You

4501

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statements that 1 fight violence with violence." Those are two

2 you make.

3 A. Yes.

some

4 Q. And I just want to explore that a little with you

just to

5 more, not again to cause you to change your mind, but

your

6 explore this a bit with you and consider exactly what

7 opinion is.

who

8 Does this apply to war? Are you a pacifist

9 opposes the use of force in defense of the country?

10 A. No, we have to do that.

forces 11 Q. Okay. So if you were drafted to serve in the armed  
would do 12 in the event of a war and put in a combat role, you  
13 it?  
our right. 14 A. Yes. Just like I'm here in court. It's part of  
our 15 Q. It's your duty. What?  
16 A. It's part of our right as a U.S. citizen to defend  
17 country, to be in court.  
because 18 Q. So that is a circumstance where you would take life  
19 it was necessary?  
20 A. Yes.  
path, or 21 Q. Now -- and again, I'm not leading you down any  
you make 22 don't worry about this. Where is the distinction that  
killing 23 between serving in the armed forces which may involve  
trial, 24 people and then opposing the idea that as a result of a  
25 the court process, somebody may be put to death?

4502

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1 A. That's a good question.

2 Q. Well, there's no trick to it. I'm just asking.

you 3 A. Uh-huh. Like I said, I've had mixed emotions since  
4 asked the question in the questionnaire.  
and then 5 Q. Okay. Let me review with you what the process is  
6 see if you can answer a few more questions.  
7 A. Okay.  
8 Q. Ordinarily juries don't get involved in punishment  
of 9 decisions. In cases that do not involve this question  
without 10 capital punishment or even imprisonment for life  
in the 11 release, the kinds of punishments we've addressed here  
in 12 questionnaire, the jury is not involved at all because  
then 13 trials of cases that do not involve that type of crime,  
been 14 the jury hears the evidence, makes a decision as we've  
beyond a 15 talking about as to whether the evidence proves guilt  
doesn't, the 16 reasonable doubt; and of course if the evidence  
it. But 17 jury returns a not guilty verdict and it's the end of  
guilt 18 if the jury is convinced beyond a reasonable doubt that  
and it 19 has been shown, then the jury returns a guilty verdict,  
because then 20 is the end of it as far as the jury is concerned

21 the matter of sentencing goes over to a judge.  
22 And before a judge makes a decision like that,  
more  
23 has to be heard. There's a second hearing on the  
question of  
24 sentence. And as a part of the whole process that the  
judge  
25 goes through in making an individual determination  
about a just

4503

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1 sentence for the person who has been found guilty, you  
know,  
2 there is all kinds of information gathered that didn't  
come out  
3 in the trial. This is not limited to the trial  
evidence. It  
4 goes well beyond that and includes the things that may  
relate  
5 to the circumstances of the crime, the effect on  
victims and  
6 victims' families and the community.  
7 And then the judge also gets information about  
the  
8 defendant, all of the things that relate to the  
defendant as an  
9 individual and unique human being: His life story, as  
it were,  
10 all about, you know, born, raised, grew up, where did  
he go to

11 school, his history of marriages and divorces, military  
12 service, employment record, some of his attitudes and  
beliefs,  
13 all of these things that go to make each one of us as  
14 individual as we are, sort of separate us out from  
everybody  
15 else because we're all to some extent a product of  
what's  
16 happened to us and what we've done in our lives.

17 You understand the point?

18 A. Yes.

19 Q. And then the hearing before the judge, after the  
judge

20 listens to the prosecution and defense and considers  
all this

21 evidence, decides, well, this particular sentence is  
22 appropriate, not only for the crime for which the  
defendant was

23 convicted but for the defendant and who he or she is as  
a

24 person. And, you know, that can include things like  
there are

25 crimes that -- in which more than one person has been  
involved.

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1 And in that kind of a situation, the judge considers  
2 individually each person and makes sentences,

considering all

3 of these other circumstances; and the sentences may  
well be

4 different among these people.

5 A. Uh-huh.

6 Q. Because it isn't just the crime that they all were  
involved

7 in, but it's the crime plus the person. You understand  
what

8 I'm trying to explain?

9 A. Yes.

10 Q. And so then the judge says this sentence for this  
person is

11 appropriate and just.

12 Now, there are crimes under the federal system  
for

13 which the penalty can be prison, imprisonment for life,  
which

14 doesn't mean 15 years and you get eligible for parole.  
It

15 means just what it says, the rest of your life in  
prison,

16 that's where you die.

17 A. Yes, sir.

18 Q. And then the capital punishment, death by  
execution, or

19 it's possible that the -- neither one of those would be  
used

20 and a lesser sentence in which case the judge is  
involved

21 again, but the life-or-death decision is made by a jury

because

such 22 the Congress in passing these laws that provide for

jurors. 23 sentences have said this isn't for judges, this is for

must find 24 And so the jury that decides the case first of course

just like 25 whether the evidence supports the charge. And again,

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is -- 1 in any other case, if the charge of murder -- and this

involving the 2 generally speaking, we're talking about crimes

of crime 3 intentional killing of other people. That's the kind

law. 4 for which the death penalty is available in federal

5 Understand?

6 A. Yes, sir.

defendant 7 Q. So when under federal law a jury has found a

persons, 8 guilty of the intentional killing of another or other

And 9 the jury is asked, Well, what should the punishment be?

death, the 10 before the jury can answer that question, life or

11 jury has to do just what I've talked about a judge

doing in

12 other types of sentence decisions, and that means hear  
a lot  
13 more. So there is, really, a second trial, a penalty  
phase  
14 hearing. And it's with the same jury that returned the  
verdict  
15 of guilty. Of course, if there's no guilty verdict,  
we're not  
16 talking about this. It's only where there's a guilty  
verdict.

17 And at that trial, the two sides come in, the  
lawyers  
18 for each side, and present witnesses and exhibits in  
the same  
19 fashion as the trial process itself. But what the jury  
hears  
20 now are additional things about the crime and the  
circumstances  
21 and the effects and then all about the defendant, all  
that is  
22 available about the defendant as an individual human  
being,  
23 because not only the crime is being judged, but so is  
the  
24 person who has been found guilty of committing that  
crime.

25 And at the end of it, the court summarizes all  
that

1 the jury has heard and divides it up into two  
categories and  
2 says: This is what you've heard and can consider as  
3 aggravating factors or circumstances. These are the  
things  
4 that you may consider as supportive of the notion that  
death is  
5 the deserved punishment. On the other hand, these are  
the  
6 things that you've heard that you can consider in  
mitigation,  
7 mitigation of that kind of sentence, and these things  
suggest  
8 that death is not the deserved punishment for this  
person, even  
9 though he committed the crime. You follow me?  
10 A. Yes.  
11 Q. And then the court says, you know, Here are some  
questions  
12 that you might ask yourselves, you the jury, in  
reviewing this  
13 material, the aggravating, the mitigating  
circumstances. But  
14 in the end, when the case is given back to the jury now  
to  
15 decide, there is no way to give the jury some kind of a  
formula  
16 or some kind of an arithmetic equation or something  
where you  
17 can say, Add up these and add up -- subtract these, and  
get the  
18 result; it's not like that. It's a very individual,

hard

19 decision that has to be made, and there's no escape  
from the  
20 reality here that what the decision really is: Should  
a  
21 particular person live or die. That is the question.  
22 And in answering that question, the jurors  
consider  
23 all that they have heard, talk it over; but in the end,  
each  
24 juror has to individually decide that question. And I  
suppose  
25 it comes down to something of an individual, rational,  
moral

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1 decision about this person's life.  
2 A. I would have to be absolutely sure.  
3 Q. Absolutely sure of what?  
4 A. Of their guilt to give that verdict.  
5 Q. Now, let me explain again, we're not talking about  
guilt.  
6 The jury is not involved in this process at all until  
the jury  
7 is sure of the guilt and has returned a verdict of  
guilty. Now  
8 we're talking about something different from did the  
defendant  
9 do it. It's assumed that the defendant did it now

because --

10 at this stage because he's been found guilty by the  
jury,  
11 unanimous verdict, so everybody on that jury has been  
satisfied  
12 that the evidence showed the person on trial was guilty  
of the  
13 crime charged.

14 And we can't talk about this case because we  
don't

15 know what the evidence in this case is going to be.  
It's

16 presumed that Mr. Nichols is innocent, so we can't  
assume that

17 there would ever be a penalty phase. We don't know, if  
there

18 is one, what the evidence there will be or what the  
information

19 will be. So we have to really sort of work in the dark  
here.

20 But the decision that has to be made is one in  
terms

21 of considering all that you've heard in the  
circumstances,

22 including the aggravating, the mitigating, the crime,  
and then

23 everything you've heard about the individual, make a  
decision

24 on the -- on the basis of all of that as to whether  
this person

25 should live or die.

## Juror No. 935 - Voir Dire

1                   You follow now where I'm --

2    A.   I understand.

3    Q.   -- where I've taken us?

4    A.   Yes.

5    Q.   And the question is -- that you have to answer --  
and only

6    you can answer it -- is whether at that moment and  
after

7    talking it over with other jurors you can make a  
decision on

8    that basis and decide life in prison without release,  
death, or

9    a lesser sentence and actually be open to making the  
decision

10   as to life or death.

11   A.   I believe I could.

12   Q.   And you can -- you know, you came in and told us  
here about

13   the concern about deciding somebody should die. But  
now I've

14   told you about this process of a reasoned process to go

15   through; and what I hear you saying now is, yes, you  
can do

16   that.

17   A.   I believe I can.

18   Q.   Okay. Well, that's why I took you through it  
instead of

19 just, you know, your original answers here. And that's  
why we  
20 have this --  
21 A. You never think of these things, you know, until it  
was  
22 brought up on the questionnaire.  
23 Q. I understand.  
24 A. You know.  
25 Q. Well, that's why this process takes place, you  
know. We're

4509

Juror No. 935 - Voir Dire

1 not just having you down here to the courthouse to  
waste your  
2 time; we're having you down here for a purpose, and  
this is our  
3 purpose. And we appreciate your working with us and  
giving us  
4 these answers, not just because of the answers but, you  
know,  
5 they're your answers, and that's what's important to  
us.  
6 THE COURT: Now we have the opportunity for  
the  
7 lawyers to ask you some more. Bear with us, if you  
will, and  
8 answer still some more questions.  
9 All right, Mr. Mearns.  
10 MR. MEARNES: Thank you, your Honor.

VOIR DIRE EXAMINATION

11

12 BY MR. MEARNS:

13 Q. Good afternoon, ma'am.

14 A. Good afternoon.

Geoff

15 Q. As the Judge told you a few minutes ago, my name is

who will

16 Mearns, and I'm one of the lawyers for the Government

17 be presenting our evidence in this case.

answers this

18 And I think we all can appreciate in your

difficult

19 afternoon that some of these questions are very

own

20 because they ask you about personal matters and your

bit

21 beliefs. If you would just bear with me just a little

22 longer, I just have a couple questions for you; okay?

23 A. Okay.

your

24 Q. First I'd like to just follow up very briefly about

of your

25 work and not specifically where you work but the status

4510

Juror No. 935 – Voir Dire

your

1 employment there. And I think we all can appreciate in

2 answers to the Court a few minutes ago that you want to

perform

3 your civic duty and your civic obligation as a juror.

4 A. Yes.

5 Q. I think we can all appreciate that.

own a

6 You indicated on the questionnaire that you

7 home?

8 A. Yes.

of us?

9 Q. Do you have monthly mortgage payments like the rest

10 A. No, sir.

11 Q. The house is free and clear of a mortgage?

12 A. Yes, sir.

13 Q. Do you have any car payments?

14 A. Yes, I do.

buying a car?

15 Q. You have a lease, or you're in the process of

16 A. I'm buying a car.

this

17 Q. Okay. You understand that the case could go on --

juror?

18 case could go on for several months if you served as a

19 A. Yes, sir.

on the

20 Q. Would you be able to meet your monthly bills simply

21 pay that you would receive as a juror?

22 A. It will be close.

23 Q. Could you tell us what you mean?

24 A. Like I said, I don't have a house payment, but I  
have a car  
25 payment. So I could make it, but it will be really  
close.

4511

Juror No. 935 - Voir Dire

1 Q. Okay. I'd like to ask you some questions about  
possible

2 punishment. You told us several times in the  
questionnaire and

3 a little bit this afternoon in response to some of the  
Court's

4 questions that you had some moral concerns with the  
death

5 penalty.

6 A. Yes.

7 Q. And I think you told us in a couple of different  
places on

8 the questionnaire that you didn't believe in the death  
penalty

9 and that you didn't believe it was morally right --

10 A. Yes.

11 Q. -- for the state to take life.

12 And I think you said -- and I'd just like you  
to tell

13 us a little bit more. You mentioned to the Court a few  
minutes

14 ago you have some mixed emotions since filling out the

15 questionnaire. Could you just tell us what you mean?

mean, 16 A. I mean just not knowing what you feel about it. I  
thoughts, if 17 after I answered the questionnaire, you have other  
that had 18 it was your loved one, if it was my son or daughter  
19 died, how would you feel?  
sit in a 20 Q. You understand that a juror would never be able to  
them in 21 case in which the victim of the crime was related to  
22 any way, a friend or blood relative?  
23 A. Yes.  
about 24 Q. Did you have any other mixed emotions, as you say,  
that 25 serving in a case which didn't involve a family member;

4512

Juror No. 935 – Voir Dire

1 is, the victim was not a family member?  
know, 2 A. Not to my knowledge. I just thought of it as, you  
question 3 you try to rationalize things in your mind when the  
4 was asked. I had never thought of it before.  
5 Q. Okay.  
if it was 6 A. And I answered the question, and I thought, well,

7 my -- what if it was a loved one of mine, would I feel  
that

8 way.

9 Q. And how did you answer that question?

10 A. I answered it that I probably would want to seek  
the right

11 punishment for the right crime -- for the crime.

12 Q. And by "right punishment," that meant in the  
situation

13 where it was your own relative, you would be open to  
the

14 possibility of capital punishment?

15 A. Yes.

16 Q. You told us also on the questionnaire and briefly  
in

17 response to the Court's questions that you had some  
concerns

18 about whether or not it was cost-effective; that is,  
maybe it

19 cost more to actually execute the sentence, a death  
sentence,

20 than it would be simply to incarcerate somebody, put  
them in

21 prison for the rest of their life.

22 A. Yes.

23 Q. So would it be fair to say, then, that some of your  
24 concerns with the death penalty are both the moral ones  
that

25 you indicated on the questionnaire as well as, you  
know, kind

## Juror No. 935 - Voir Dire

1 of questions about whether that's a good policy for us  
to have

2 as a society?

3 A. I was thinking about spending my tax dollar.

4 Q. Okay. But I take it -- and correct me if I'm wrong  
-- I

5 take it that during the course of thinking about this  
and in

6 the course of responding to some of the Court's  
questions,

7 you've changed your mind a little bit. Is that fair to  
say?

8 Am I right about that?

9 A. You're right.

10 Q. What caused you to change your mind?

11 A. Well, it's like the United States, you know,  
there's no

12 other country like it. If we had to go to war, we  
would have

13 to defend our country. That's what makes it our  
country.

14 Q. And so you equate the kind of civic obligation or  
your

15 obligation as a citizen to help defend the country --

16 A. Yes.

17 Q. -- with your obligation to possibly sit in a  
capital case;

18 that is, a criminal case that has the possibility of  
the death

19 penalty?

20 A. Yes.

21 Q. We learned from your questionnaire that you had  
been

22 exposed to and read some of the publicity about the  
case.

23 A. Yes.

24 Q. And I think you told us on page 36, at Question  
158, that

25 when asked to summarize what you had seen, read, or  
heard about

4514

Juror No. 935 - Voir Dire

1 the case . . . you got it there? It's down there at  
the

2 bottom. You see there?

3 A. Yes.

4 Q. And I think you simply stated that in terms of what  
you've

5 seen, a lot of people died, men, women, and children?

6 A. Yes.

7 Q. Do you have any sense from the publicity -- that  
is, what

8 you've seen, read, or heard -- about the number of  
victims in

9 the Oklahoma City bombing case?

10 A. Repeat the question, please.

11 Q. From what you've been exposed to in terms of the  
publicity,  
12 do you know how many people were killed in the  
explosion in  
13 Oklahoma City?

14 A. I don't. I know I've heard it, but I don't know it  
off my  
15 head.

16 Q. Do you know whether or not any of the victims were  
17 children?

18 A. Yes.

19 Q. Do you know why some of the -- some children were  
victims  
20 in the explosion, were killed in the explosion?

21 A. Yes. They were in the day care.

22 Q. You have several children. They're not young  
children?  
23 A. Yes.

24 Q. Would you have any problem -- I shouldn't say  
"problem."  
25 That's not a good word. You understand that you might  
hear

4515

Juror No. 935 - Voir Dire

1 some testimony and see some graphic evidence about the  
people  
2 who were killed in the explosion. Do you understand

that?

3 A. Yes.

4 Q. Would you be able to put that -- that kind of  
evidence and

5 consider it only for what it's introduced for and not  
consider

6 it on the issue of whether or not Mr. Nichols had any  
7 involvement in the explosion or any involvement in the  
bombing?

8 A. Yes.

9 Q. Now, you told us about what you had seen about the  
10 publicity on the questionnaire. And in that same  
11 questionnaire, that was where you wrote on page -- I  
think it's

12 29 -- this is again on punishment.

13 You said: "I do not think it is morally right  
to take

14 anyone's life for any reason." Were you considering  
the crime,

15 as you understood it, at the same time that you were --  
at the

16 same time as you were writing your responses to the  
death

17 penalty questions?

18 THE COURT: I don't understand that question.

19 MR. MEARNS: I'm sorry.

20 BY MR. MEARNS:

21 Q. When you filled out the questionnaire, you were  
aware of

22 publicity; that's why you put that answer down.

try to 23 I'm sorry. I've lost you, haven't I? Let me

24 back up.

publicity that 25 You've told us a little bit about the

4516

Juror No. 935 - Voir Dire

1 you've seen, in the questionnaire?

2 A. Yes.

capital 3 Q. And you've shared with us some of your views on

4 punishment in the questionnaire.

5 A. Yes.

morally 6 Q. When you wrote that you didn't believe that it was

you 7 right for any reason to impose capital punishment, were

magnitude? 8 thinking about the possibility of a crime of great

juror 9 MR. TIGAR: Your Honor, that was not what the

10 said on the questionnaire, if the Court please.

objection. 11 THE COURT: Yes. I would sustain the

12 BY MR. MEARNS:

you, 13 Q. Could you turn to page 29. I'm sorry if I've lost

14 ma'am. That first sentence that you wrote there:

Could you

15 tell us what you meant by you didn't think it was  
morally right

16 to take one's life for any reason?

17 A. It was my thought at the time that I was asked this

18 question, I had -- hadn't really thought through, I  
guess.

19 Q. You hadn't --

20 A. It's something you don't think about, like I said,  
until it

21 was brought up on here.

22 Q. And now you're open to the possibility, equally  
open to the

23 possibility of -- if we were to get to a penalty phase,  
you're

24 equally open to the possibility of life imprisonment or  
the

25 death penalty?

4517

Juror No. 935 - Voir Dire

1 A. Yes, sir.

2 MR. MEARNS: Thank you, ma'am.

3 THE COURT: Mr. Tigar.

4 MR. TIGAR: Thank you, your Honor.

5 VOIR DIRE EXAMINATION

6 BY MR. TIGAR:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. My name is Michael Tigar, as the Judge said. This  
is Ron  
United  
10 Woods, and we're lawyers that were appointed by the  
11 States District Court in Oklahoma back in May of 1995  
to help  
12 Terry Nichols. That was a month after the April 19  
bombing.

13 And the first question I wanted to put to you  
is:  
14 We're appointed by the Court. Now, would we start out  
with a  
15 disadvantage that Mr. Nichols didn't have the money to  
16 retain -- you know, to pay for a lawyer and that the  
court --  
17 the government, the taxpayers, are providing counsel  
for him?

18 A. That's our right.

19 Q. Okay. You understand why I'd ask the question.

20 A. Yes.

21 Q. You had read, you said in the questionnaire, about  
this  
22 case; and I wanted to ask you to turn to page 37, if  
you would.  
23 And would you look at Question 159. Is that based on  
your --  
24 you remember reading something in the paper about a  
motion that  
25 the defense filed and some argument or other about it?

## Juror No. 935 - Voir Dire

1 A. I believe it was on the news.

2 Q. Okay. And is there anything about that that would  
cause  
3 you to favor one side over the other in deciding the  
case?

4 A. No, sir.

5 Q. Okay. In other words, we, as lawyers -- the  
lawyers for  
6 the Government, they have to do their best for their  
client

7 that they represent.

8 A. Uh-huh.

9 Q. And we do our level best for Mr. Nichols. That  
means we  
10 present our arguments; and at times, we might object to  
one  
11 another's questions and ask the Court to rule on them,  
and so  
12 on. That's the process.

13 A. Yes.

14 Q. And if you were a juror, would the fact that that  
process  
15 is going on distract you from listening to the evidence  
and  
16 deciding the case just on what you heard?

17 A. No, sir.

18 Q. Okay. And then down here at page 162: "Yes, they

tried to

That's 19 try them together." What do you remember about that?

wrong? 20 Question 162 -- excuse me -- page 37. Did I say that

do you 21 You say, "Yes, they tried to try them together." What

22 remember about that?

23 A. All I remember is they asked for separate trials.

here 24 Q. Okay. And you heard Judge Matsch say at Jeffco and

trials. 25 today that he had granted the order for separate

4519

Juror No. 935 - Voir Dire

1 A. Yes.

2 Q. And he explained the reason for it.

3 A. Yes.

4 Q. Okay. And that's all right with you?

5 A. Yes.

on your 6 Q. Let me talk a little bit about some of the things

John 7 questionnaire. You mentioned that you read books by

8 Grisham and Danielle Steel?

9 A. Yes.

10 Q. Now, John Grisham writes about lawyers; right?

11 A. Yes.

12 Q. He does. Now, is there anything in those John  
Grisham  
13 books that makes you have any particular opinion about  
the  
14 legal profession or about lawyers that go to court and  
15 represent folks?

16 A. No. I watch the "People's Court," too.

17 Q. Oh, you do. Well, I will not ask you what that  
might make  
18 you think about judges who preside over cases, but  
you're a  
19 willing participant in this process; right?

20 A. Yes.

21 Q. You also mention -- could you look at page 18,  
please. And  
22 there -- and Question 84 is a long list of  
organizations. And  
23 I gather that you're just not -- you were not familiar  
with any  
24 of them; right?

25 A. No.

4520

Juror No. 935 - Voir Dire

1 Q. And that's why you didn't check them.

2 Now, let me turn, then, briefly to this  
question of  
3 how a jury looks at a case in which there's the

possibility of

4 a death penalty, where that's an issue.

5 First, we do not concede that there will ever  
be that

6 question for the jury, because the very first thing  
that the

7 jurors will do is listen to the evidence that the  
Government

8 will present to support their theory that Terry Nichols  
had

9 something to do with this. And every time the  
Government

10 presents a witness, we get to cross-examine that  
witness; and

11 then when our turn comes -- 'cause they get first ups  
-- our

12 turn comes, we'll present witnesses, and then they

13 cross-examine them. And then the jurors look at this  
and say:

14 Gee, is there a reasonable doubt left? Did they meet  
that very

15 heavy burden of convincing us beyond a reasonable  
doubt? And

16 if they didn't, the jury is duty-bound to say not  
guilty; and

17 that's it, it's over.

18 A. Yes.

19 Q. But in a case in which the jury says guilty of one  
or more

20 of these charges, then the jury considers this question  
of what

21 possible punishment. And I wanted to describe that a

little

22 bit. I know the Court has -- don't need to spend much  
time.

23 What happens is the Government presents  
evidence about

24 aggravating factors, things they say are -- you know,  
would try

25 to make people think there should be a death penalty in  
the

4521

Juror No. 935 - Voir Dire

1 case. The defense then gets the opportunity to present  
all

2 sorts of mitigating factors. If there's two people  
that are

3 involved in the crime, they could present evidence that  
a

4 particular person is less involved than the other.  
They could

5 present evidence about family background, where that  
person

6 grew up, what kind of things they went through in their  
life,

7 all the things about that individual human being.

8 A. Yes.

9 Q. And then it's turned over to the jurors --

10 A. Yes.

11 Q. -- to deliberate and under the instructions as  
given by the

12 Court.

13 So my first question is: Do you agree with --  
can you

14 apply the idea that no matter how bad a crime, no  
matter how

15 serious the crime is you're charged with committing,  
there's no

16 such thing as an automatic death penalty?

17 A. Yes.

18 Q. Okay. And on the other hand, you're willing to  
then listen

19 to the -- all the evidence that's presented and then  
make your

20 decision in accordance with the law that's given by the  
Court,

21 the instructions that are given?

22 A. Yes.

23 Q. And in the process of making that decision, today  
as you

24 sit there, can you look Terry Nichols in the eye and  
say --

25 well, you can give him a fair trial?

4522

Juror No. 935 - Voir Dire

1 A. Yes.

2 MR. TIGAR: Thank you very much.

3 THE COURT: Well, we all appreciate your time  
with us,

4 both time spent waiting and time here, and your  
cooperation in  
5 answering all these questions. But I can't now tell  
you  
6 whether you're going to serve on this jury. And I  
think you  
7 understand that the reason for that is that we are  
talking to  
8 quite a few people --

9 JUROR: Yes.

10 THE COURT: -- and going through this very  
same  
11 process with others, and we don't know just how many  
people  
12 we'll talk with and how long it will take. So it will  
be a  
13 while yet.

14 And we don't like to leave you with this  
uncertainty,  
15 knowing that you've got to make some plans and  
adjustments in  
16 your life if you come in and serve. But please bear  
with us.  
17 We'll get back to you. And if anything happens that  
affects  
18 your availability -- you know, if you get called out of  
town on  
19 some family emergency or something -- you let us know  
right  
20 away. Will you?

21 JUROR: Okay.

22 THE COURT: And in the meantime, too, please

don't

23 talk about it, avoid publicity about it in any form, so  
that if  
24 called upon, you can come back in here and serve as a  
juror and  
25 decide fairly on the law and the evidence. Will you do  
that?

4523

1 JUROR: Yes, sir.

2 THE COURT: Then you're excused for now. And  
thank  
3 you again.

4 JUROR: Thank you.

5 THE COURT: I'm going to take 178 next.

6 Good afternoon, sir.

7 JUROR: Good afternoon.

8 THE COURT: Would you please raise your right  
hand and  
9 take the oath from the clerk.

10 (Juror No. 178 affirmed.)

11 THE COURTROOM DEPUTY: Thank you.

12 THE COURT: Please be seated. You can make  
yourself  
13 comfortable in that chair. You don't have to worry  
about the  
14 microphone. It's there to help us hear you, but you  
don't have

15 to talk into it.

16 JUROR: All righty.

17 VOIR DIRE EXAMINATION

18 BY THE COURT:

19 Q. And we -- you've been waiting all day. We  
appreciate your

20 coming in and your patient waiting.

21 You remember, of course, receiving a summons a  
couple

22 of months back --

23 A. I do.

24 Q. -- advising that you are summoned as a possible  
juror in

25 the case of United States against Terry Lynn Nichols.  
And

4524

Juror No. 178 - Voir Dire

1 that's the case we're selecting a jury for now.

2 And then we gave you a short questionnaire,  
you

3 responded to that, sent it back; and we gave you  
another notice

4 to appear at the auditorium building in Jefferson  
County

5 Fairgrounds, where I came out there with other people  
with me

6 and spoke to you and other jurors and then gave you a  
long

7 questionnaire to answer.

8 A. Yes, sir.

9 Q. And I want to reintroduce people who were there  
with me at

10 that time so you know who's here with us now. We're  
joined by

11 some additional people, but you were introduced to Mr.  
Lawrence

12 Mackey here at this first table, Miss Beth Wilkinson,  
attorneys

13 for the Government. They're joined now by Mr. Patrick  
Ryan and

14 Mr. Geoffrey Mearns, additional lawyers for the  
Government.

15 Also, you there met Mr. Michael Tigar, Mr.  
Ronald

16 Woods, attorneys for Mr. Terry Nichols; and of course

17 Mr. Nichols, the defendant in this case, was present as  
well

18 and is present now.

19 There are a few other people here within your  
vision

20 who are assisting in the matter.

21 And when we had you answer this long  
questionnaire,

22 you know that I told you that we would attempt to keep  
your

23 answers private, so I did take, you know, what you've  
written

24 and shared it with these people, but they haven't  
shared it

you are 25 with anybody else, and it hasn't been made public who

4525

Juror No. 178 - Voir Dire

can, to 1 or what you said here. And we attempt, as far as we

we asked 2 respect your privacy, knowing that some of the things

3 you about are quite personal in nature.

open court 4 And recognize now, however, that we are in

5 and the things that are said here are in open court and

You 6 reported. And there are reporters in the room as well.

7 understand these points?

8 A. Yes, sir.

to and 9 Q. And we also have arranged for people to be brought

newspaper 10 from the courthouse without their being seen, so that

coming in. 11 photographers and others can't take their picture,

had some 12 That's the reason for all of that. And I was told you

13 concern about that; you have a --

confined 14 A. I have claustrophobia, and I couldn't stand being

15 in that bus.

16 Q. Yeah. And do you have that problem generally? I

mean is

17 that closed spaces without windows, and so forth?

I don't 18 A. Oh, yes. Happened after I got back from the Navy.

19 know why.

noticed 20 Q. Well, I was going to ask you about that, because I

21 that you served as a naval aviator.

22 A. Oh, yeah.

23 Q. Naval aviator in World War II.

24 A. That's right.

25 Q. So this has been a problem for you ever since?

4526

Juror No. 178 - Voir Dire

1 A. Yes.

today? 2 Q. And how about the jury room where you were in

cards 3 A. It bothered me for some time, and we got to playing

-- 4 and it was all right. But there was some apprehension

5 Q. Yeah.

6 A. -- believe it or not.

believe 7 Q. No, listen, we believe you. What you tell us, we

process -- 8 you, because this is why we're going through this

9 A. Sure.

10 Q. -- to get information from you that relates in any  
way to

11 your service on the jury.

12 A. Right.

13 Q. Nobody's going to pass judgment on you here.  
You're not on

14 trial. We just want information.

15 A. Right.

16 Q. And if you could just expand on that a little. Do  
you have

17 problems? Like being on an elevator: Does that give  
you the

18 same reaction?

19 A. To be on an elevator, I have a little apprehension,  
you

20 know, until I know it's going to stop. It's even  
bothered me

21 in the fact, a little bit, that I said, Well, can I  
stand being

22 in a jury box --

23 Q. Yes.

24 A. -- for all that time, being confined. And I did  
think

25 about that.

4527

Juror No. 178 - Voir Dire

1 Q. And here you are in one now.

little  
way it  
that, you  
and what  
-- it

2 A. Here I am in one now; right. So, yes, it's a  
3 apprehension, believe it or not. Sorry, but that's the  
4 is.

5 Q. Well, do you think that would be such a bother  
6 know, you'd really be unable to focus on the evidence  
7 was happening in the courtroom?

8 A. It came to my mind. I can't answer that question  
9 does concern me, yes.

10 Q. As you sit here now, do you feel that?

11 A. No. Right now, I'm perfectly fine.

12 Q. Okay.

13 A. Perfectly fine.

used to a  
situation,  
windows as  
to it?

14 Q. And do you have this experience that once you get  
15 situation and, you know, it's not a new and novel  
16 like getting into a van that you can't see out the  
17 something you haven't done very often, that you adjust

18 Is that your experience in living with this condition?

comes on  
that's

19 A. Well, yes and no. It just all depends. If it  
20 you, it comes on you. Have you ever met with anybody

21 afflicted with claustrophobia?

22 Q. I have.

23 A. It's just a terrible feeling at times; and  
sometimes I get

24 over it right away, and sometimes it's bothersome.

25 Q. And produces a kind of anxiety. You don't know  
what's

4528

Juror No. 178 - Voir Dire

1 going to happen.

2 A. Very much of an anxiety, yeah, can be.

3 Q. And that anxiety is -- can be such that it  
distracts you

4 from everything else?

5 A. You bet.

6 Q. And that's your main focus?

7 A. That's my main focus at that time.

8 Q. Yeah. So connecting it up with your experience  
today: You

9 had that first with respect to a vehicle?

10 A. Yes.

11 Q. And when you came into the courthouse, you were  
brought in

12 on an elevator?

13 A. Right.

14 Q. Some of it on the elevator?

15 A. Little bit. Not much. No, hardly any.

16 Q. Then you came to the jury room.

17 A. Jury room.

18 Q. And there's no window to see out there.

19 A. Right.

20 Q. Does that help you, to be able to see outside?

21 A. Yes. You bet. And the ability to get up and walk  
around

22 or, you know, whenever I want to.

23 Q. Yeah.

24 A. That's important. And even during the morning,  
there was a

25 little bit of anxiety.

4529

Juror No. 178 - Voir Dire

1 Q. Uh-huh.

2 A. And then we got to playing gin rummy, and so forth,  
and it

3 kind of went away. But I did have a little bit of  
anxiety.

4 I'm being absolutely frank.

5 Q. That's the only way we can work with you.

6 A. It's the only way it can work, you bet.

7 Q. You have to judge if this is going to be such a  
problem

8 that it would affect your ability to serve with us.  
You know,

You'd 9 you'd be -- let's just talk about the way it would be.  
and day 10 be here in these rooms where you've been today, day in  
11 out, for several months maybe.  
12 A. That's right.  
through 13 Q. And our jury time is essentially 9 to 5 Monday  
14 Thursday and 9 to 1 on Friday.  
15 A. I understand, yeah.  
16 Q. So there's a lot of time spent in this room --  
17 A. And in the jury room.  
18 Q. -- and in the adjacent room.  
of a 19 A. This room is no problem. The jury area is somewhat  
20 little problem.  
to it? 21 Q. And it's hard for you to predict if you can adjust  
22 A. Yes.  
23 Q. Okay. No, don't -- we're not --  
24 A. I understand, your Honor.  
talking 25 Q. We're not embarrassing you, I hope; and we're just

4530

Juror No. 178 - Voir Dire

1 about a real situation.

2 A. Sure. I understand.

3 Q. Let me just ask you a few things here. You've been  
on a  
4 jury once before.

5 A. Yes, sir, some 30 years ago.

6 Q. Yeah. And that was out in Jefferson County?

7 A. Yes, sir.

8 Q. And as I understand it, it was a fight in a bar?

9 A. Yes. Coal Creek Tavern.

10 Q. And how many people on trial there?

11 A. Was one person on trial, a man, and it was a three-  
person  
12 jury.

13 Q. Only three-person?

14 A. Three-person, yeah. Two ladies and myself.

15 Q. And, what, he was charged with assault, something  
like  
16 that?

17 A. Yes, uh-huh. Assault and battery.

18 Q. Was it kind of a question of who started the fight?

19 A. You know, I really don't recall now.

20 Q. Well, I wouldn't expect you to recall a lot about a  
30  
21 year -- a trial 30 years ago.

22 A. 33 years ago, something like that.

23 Q. Do you remember the verdict?

24 A. Acquittal.

25 Q. And do you remember much about the trial?

4531

Juror No. 178 - Voir Dire

1 A. Just a little bit.

2 Q. Do you remember whether the defendant testified as  
a

3 witness?

4 A. I really don't.

5 Q. Okay.

6 A. I really don't.

7 Q. Okay. Well, there are some important principles  
about the

8 law; and, of course, I explained the background of this  
case --

9 A. Yes.

10 Q. -- to you and the other jurors saying things that  
you

11 probably already knew like the case arises as a result  
of an

12 explosion in Oklahoma City, Oklahoma, on April the 19th  
of

13 1995; a building was destroyed and people killed and  
injured;

14 charges filed in Oklahoma City by way of an indictment,  
a

15 statement of charges, accusing a man named Timothy  
James

16 McVeigh along with Terry Nichols -- and the indictment  
says

17 "and other persons not named" -- with conspiring to  
commit the  
18 crime of blowing up that building with a bomb, killing  
and  
19 injuring people in it. The indictment includes charges  
that  
20 not only was there such a conspiracy, but they did it  
and  
21 caused the building to be bombed and also charges of  
22 first-degree murder of eight law enforcement agents in  
the  
23 building who died in the explosion; that after these  
charges  
24 were filed, the named defendants pleaded not guilty,  
creating  
25 the issues for trial.

4532

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1 And then the case was moved from Oklahoma City  
to  
2 Denver because of a concern about having people in  
Oklahoma  
3 serve on a jury, since that's where the event happened.  
4 And then I ordered separate trials -- I did --  
in this  
5 case; that the defendants should be tried separately to  
6 separate juries because of differences in -- possible  
7 differences in the evidence relating to them, so that  
it would

8 be fundamentally unfair to have both men appear before  
the same 9 jury and the confusion that might occur with respect to  
10 differences in the evidence. So I did order separate  
trials,  
11 two separate juries.

12 A jury was selected through this very same-  
type  
13 process. The case was tried as to the evidence  
relating to  
14 Mr. McVeigh. Jury found him guilty. There was then a  
second  
15 trial or hearing on the question of punishment, and the  
jury  
16 returned a recommendation for death.

17 As I explained to everybody who gathered out  
there in  
18 the auditorium building, that can't be considered now;  
we're  
19 picking a jury for the trial of Mr. Nichols. And we  
start all  
20 over. And nothing that happened in the McVeigh trial  
can be  
21 considered in this case. To do so would violate the  
Court's  
22 order for separate trial. You remember those points?

23 A. Yes, sir, I do.

24 Q. And, of course, I also reviewed the principal  
points of our  
25 criminal law under the Constitution of the United  
States that

## Juror No. 178 - Voir Dire

1 says that all persons accused of crimes, no matter what  
they  
2 are, that is, what the charges are -- who the people  
are --  
3 they have the same fundamental right to due process  
under the  
4 Constitution, which is the presumption of innocence;  
that no  
5 person accused has the duty or obligation of proving  
himself  
6 not guilty or proving anything at his trial. It is up  
to the  
7 government who brought the charges to try to prove it  
by  
8 bringing in the evidence, the witnesses, the exhibits,  
the  
9 things that are relied on. And at the end -- and no  
defendant  
10 has to take the stand and testify or offer any  
explanation.

11 At the end of the trial, the court reviews  
what the  
12 charges are, what the elements of each charge are as to  
what  
13 has to be proved, and then asks the jury: All right,  
has the  
14 evidence shown guilt beyond a reasonable doubt? Have  
these  
15 things been proven? And if the jury, after considering

it all

16 and talking it over, has a reasonable doubt about  
whether the  
17 evidence has proved these crimes, the jury's plain duty  
is to  
18 give to the defendant the benefit of that doubt and  
return a  
19 verdict of not guilty. These things you understand?

20 A. Yes, sir.

21 Q. And accept?

22 A. Yes, sir.

23 Q. Do you accept?

24 A. Yes, sir.

25 Q. And, of course, you did in that case that you were  
on 30

4534

Juror No. 178 - Voir Dire

1 years ago?

2 A. Correct.

3 Q. Heard some of these same points.

4 And then as I understood you to say, the jury  
decided

5 the evidence was not sufficient in that case and you  
acquitted

6 that person?

7 A. That's right.

8 Q. And, of course, it would be your duty to do so here

if you

9 served on this jury. And what it means in real terms  
is that

10 Mr. Nichols sits here with us this afternoon presumed  
to be

11 innocent of these charges made against him and is  
entitled to

12 the benefit of any reasonable doubt after the trial's

13 completed. You accept that?

14 A. Yes, sir.

15 THE COURT: Okay. Now, what I want to do with  
your

16 indulgence for a little bit here is to take a break at  
this

17 time. And we're going to take a 20-minute recess, and  
then we

18 have some more questions for you, I think.

19 JUROR: Okay.

20 THE COURT: So if you will step out now, we'll  
resume

21 in about 20 minutes.

22 (Juror out at 3:34 p.m.)

23 THE COURT: Counsel approach.

24 (At the bench:)

25 (Bench Conference 39B1 is not herein transcribed by  
court

4535

Juror No. 178 - Voir Dire

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

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Juror No. 178 - Voir Dire

1 (In open court:)

2 THE COURT: All right. We're going to take a  
recess,

3 20 minutes.

4 (Recess at 3:35 p.m.)

5 (Reconvened at 3:53 p.m.)

6 THE COURT: Be seated, please.

7 No. 1.

8 If you'll raise your right hand and take the  
oath from

9 the clerk here.

10 (Juror No. 1 affirmed.)

11 THE COURTROOM DEPUTY: Thank you.

12 THE COURT: Please be seated there by the  
microphone

13 in that chair, which you can swivel around in any way  
that's

14 comfortable. You don't have to talk right into the  
microphone.

15 JUROR: Okay.

16 VOIR DIRE EXAMINATION

17 BY THE COURT:

18 Q. And you know that when that oath refers to "the  
defendant

19 now on trial" that you've been summoned for jury  
service,  
20 possible jury service in the case of United States  
against  
21 Terry Lynn Nichols.  
22 A. Yes, I do.  
23 Q. And you got a summons advising you of that back in  
July,  
24 responded to it, answering a questionnaire. Then you  
received  
25 a notice to come out to the Jefferson County  
Fairgrounds'

4540

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1 auditorium building. You did that, along with others.  
I met  
2 with you there, and with me were some people who are  
with me  
3 again today; and I want to introduce them so you again  
know who  
4 is here with us this afternoon.

5 And I want to again introduce Mr. Lawrence  
Mackey and  
6 Ms. Beth Wilkinson, who are here at the first table,  
who are  
7 lawyers for the Government and who are now joined by  
8 Mr. Patrick Ryan and Mr. James Orenstein, additional  
lawyers  
9 for the Government.

10                   You recall also meeting Mr. Michael Tigar and  
11 Mr. Ronald Woods, attorneys for Terry Nichols, who --  
12 Mr. Nichols being with us now as well.

13                   There are a few other people here within your  
line of  
14 vision. They're assisting in this matter.

15                   And of course there are other people in the  
courtroom  
16 as well, this being now a public proceeding.

17 A. Okay.

18 Q. And after introducing -- making the introductions  
that I've  
19 just made again, I gave some explanations about the  
case and  
20 the background of it; and I'm pretty confident you  
remember  
21 those -- these things, but I want to review them again  
just so  
22 that we're clear as to what the foundation is for the  
23 questioning process that follows.

24                   And, of course, as I told you, this case comes  
to  
25 court as a result of an event that occurred in Oklahoma  
City,

4541

Juror No. 1 - Voir Dire

1 Oklahoma, on April 19 of 1995, when a federal office  
building

2 was destroyed by an explosion that killed and injured  
people  
3 who were in the building and that thereafter, charges  
were  
4 filed in the form of an indictment, a statement of  
charges  
5 filed in United States District Court in Oklahoma City,  
in  
6 which the lawyers for the Government charged that a man  
named  
7 Timothy James McVeigh and Terry Nichols -- and as the  
8 indictment says, "other persons not named" -- were in a  
9 conspiracy, a criminal agreement to bomb that building  
and to  
10 kill and injure people in it.

11 The indictment consists of some eleven counts  
or  
12 charges, which include not only the conspiracy but the  
13 allegation that the defendants carried out that plan  
and did,  
14 indeed, bomb the building and kill and injure the  
people. And  
15 the indictment includes eight charges of first-degree  
murder  
16 for the intentional killing of eight agents of law  
enforcement  
17 agencies of the national government, who were occupants  
in the  
18 building and died in the explosion.

19 To these charges, all of them, the defendants  
pleaded

20 not guilty, thereby creating the reason for trial,  
creating the  
21 issues to be tried.

22 The case then got moved here to Colorado for  
trial  
23 because of a -- you know, a concern how difficult it  
would be  
24 for people in Oklahoma City to hear the case. And  
after the  
25 case was moved here, I entered an order for separate  
trials,

4542

Juror No. 1 - Voir Dire

1 ordering that there be separate juries to decide the  
evidence  
2 as it relates to each of the two named defendants.

3 And pursuant to that, we ordered these  
separate  
4 trials. And one has already been held, a trial of  
Timothy  
5 James McVeigh, and the evidence as it relates to him.

6 A jury selected through this very same type of  
process  
7 heard the evidence in that case, found him guilty. And  
then  
8 the jury was required under the law as it is to  
consider the  
9 question of punishment. And after a second trial or  
hearing,  
10 that same jury determined that the sentence should be

death and

11 made that recommendation to the Court. Understand?

12 A. Yes, I do.

13 Q. Now, you knew these things anyway probably --

14 A. Yes.

15 Q. -- before you heard me tell you that, but I just  
want to

16 review the background of the case.

17 And as I explained there when we were together  
last

18 that nobody can draw any inferences or conclusions from  
the

19 results of the trial of Timothy McVeigh and the jury's  
verdicts

20 there or even consider anything that they might have  
seen,

21 read, or heard about what evidence was presented in  
that case

22 and think it has anything to do with this case, because  
to do

23 that would violate the very purpose of the separate  
ordered --

24 separate-trial order. And we have to put that case  
completely

25 aside, not consider it; and just so you understand what  
that

4543

Juror No. 1 - Voir Dire

1 means in a real sense, I was the judge who presided at

that

2 trial. I heard all that happened at that trial.

3 Now, I can't consider any of that in  
addressing this

4 case and in ruling on the evidence and doing the things  
that a

5 judge has to do in this trial. We started over.  
Understand?

6 A. Yes, I do.

7 Q. And, of course, a jury has to do that, too. They  
can't --

8 whatever they may have heard about that case, they  
can't

9 consider it now. You understand the importance of  
that?

10 A. Yes, I do.

11 Q. And then I talked a bit about what is involved in  
jury

12 trials and the principles of law that apply; and I did  
that

13 because most of the people there never served on a jury  
in a

14 criminal case, and that includes you. You have never  
been on a

15 jury.

16 A. Right.

17 Q. Okay. And here again, this is something that you  
probably

18 remember my saying before; but I want to just renew and  
restate

19 it so there can't be any misunderstanding about it. I

20 explained that under the Constitution of the United  
States, all  
21 persons who are accused of crimes in any court in this  
country  
22 are presumed to be innocent of those charges. And the  
reason  
23 that I say "all courts" is because this is something  
under our  
24 constitution that applies throughout our nation: state  
courts,  
25 local courts, federal courts. They're all the same in  
this

4544

Juror No. 1 - Voir Dire

1 respect.  
2 And accordingly, a defendant, being presumed  
to be  
3 innocent, has no burden or duty of calling any  
witnesses or  
4 introducing any evidence or explaining anything or  
responding  
5 to any questions in his case. A defendant can simply  
remain  
6 silent throughout his trial and challenge the evidence  
brought  
7 in and relied on by the prosecution by objecting to its  
8 admissibility and by cross-examining the witnesses.  
9 So it is fundamental that the Government  
bringing the  
10 charges has the burden of trying to prove them, prove

them by

11 witnesses who take the stand and testify and exhibits  
and all  
12 within certain rules that govern what a jury can hear  
and  
13 consider called rules of evidence.

14           You understand these points?

15 A. Yes.

16 Q. And the presumption of innocence also includes what  
we call  
17 the burden of proof; that not only does the prosecution  
have to  
18 come in with the evidence, but it has to be sufficient  
to  
19 satisfy the jury beyond a reasonable doubt that the  
evidence  
20 shows the guilt of the particular crime charged.

21           And at the end of the trial, the court  
instructs the  
22 jury exactly what has to be proved for the particular  
crimes  
23 charged, outlining the elements of proof, the elements  
of the  
24 offense. And included in those instructions in cases  
when a  
25 defendant does not testify is that isn't anything the  
jury can

4545

Juror No. 1 – Voir Dire

doesn't  
he's  
testify.  
only  
decide,  
Has the  
And if  
then says,  
to the  
guilty.  
review of

1 consider. You can't take a case where a defendant  
2 testify and say to yourself or to other jurors, well,  
3 hiding something; if I were on trial and innocent, I'd  
4 Nothing like that. In fact, what we tell jurors is not  
5 can't you consider it, you can't even talk about it.  
6 Understand?  
7 A. Yes.  
8 Q. And so at the end, then, the court asks the jury to  
9 Well, has the evidence convinced you of these things?  
10 prosecution proved the case beyond a reasonable doubt?  
11 after talking it over with the other jurors the jury  
12 Well, we have a reasonable doubt, then they must give  
13 defendant the benefit of that doubt and find him not  
14 You understand that?  
15 A. Yes, I do.  
16 Q. Now, do you have any question about this quick  
17 the criminal justice system?  
18 A. No.  
19 Q. And you accept these principles?  
20 A. Yes, I do.

21 Q. And agree to follow them if you were to serve on  
this jury?

22 A. Yes, I do.

23 Q. So you understand that Mr. Nichols sits here this  
afternoon

24 presumed to be innocent of these charges and carries  
the

25 benefit of this presumption.

4546

Juror No. 1 – Voir Dire

1 A. Yes, I do.

2 Q. Now, we asked you a lot of questions, and you  
filled out

3 this questionnaire for us; and we appreciate your  
cooperation.

4 I told you that we would respect your privacy. Some of  
these

5 questions are quite personal, and we know that. And  
we've

6 shared it with these people, but they haven't shared it  
with

7 anybody else; and we're not going to use the  
information you

8 have given us for any purpose other than what we're  
doing here

9 right now. And because of the privacy interests that  
you and

10 all of the other people summoned in here have, we're  
not using

anything 11 your name. We'll try to avoid in this questioning  
12 that identifies you clearly to the public. You should  
13 recognize that this is a public proceeding now and that  
what 14 happens here in court is open and reported by the  
press. You 15 understand?

16 A. Yes, I do.

17 Q. We also, in terms of this protection of privacy,  
arranged 18 for you to be brought to and taken from the courthouse  
in a way 19 that people can't -- photographers for the press and so  
forth 20 can't take your picture. That's the reason for what  
may at 21 first seem to you kind of a strange arrangement.

22 Now, I want to review just a few of your  
answers and 23 go over also another part of this process with you and  
explain 24 it. And be sure that -- or reassured that we're not  
going to 25 ask you all these questions over again. And when I  
have

4547

Juror No. 1 - Voir Dire

1 completed my questioning of you, then a lawyer for each  
side

things. 2 will have an opportunity to ask you some additional

or wrong 3 You're not on trial here. There is no right

some 4 answer to any of the questions. We simply want to get

and 5 information from you; and when we ask you for opinions

that 6 attitudes, just be frank with us and tell us the things

you a 7 you believe and feel. And, you know, I'm going to ask

to be 8 lot of questions, and I don't want to be thought by you

know? 9 trying to get you to give me a certain answer. You

10 A. Uh-huh.

different 11 Q. We just want your answers. And the answers are

done in 12 with different people, so that's why the process is

13 this way, one person at a time.

in 14 Now, you're native to Colorado. You were born

15 Denver?

16 A. Yes.

17 Q. And live now in a suburb of Denver.

18 A. Yes.

19 Q. And you're now a single parent.

20 A. Yes.

21 Q. Correct? You have two children?

22 A. Yes.

23 Q. And is this right that you and the children now  
live with

24 your parents?

25 A. We did at the time that I got the summons and took  
this. I

4548

Juror No. 1 - Voir Dire

1 have now moved out, so it's my son and I. Our mailing  
address

2 is the one in the suburbs. I actually live in Wheat  
Ridge now.

3 Q. Okay.

4 A. Okay.

5 Q. But the mail address --

6 A. Is still the 93 --

7 Q. Don't mention it.

8 A. Sorry.

9 Q. We have it; right?

10 A. Yes, you have it.

11 Q. It's the one we have.

12 A. Sorry.

13 Q. And you have two sons?

14 A. Yes, sir.

15 Q. One of them has a disadvantage as you have

explained it,

16 the ADHD.

17 A. Yes.

18 Q. Now, is that son living with you?

19 A. Yes, he is. Both of them.

20 Q. Is he the older or the younger of the two?

21 A. He's the older.

22 Q. The older. And does this require some special  
education?

23 A. No.

24 Q. Or counseling or medication or --

25 A. He is on medication. He takes it twice a day.

4549

Juror No. 1 - Voir Dire

1 Q. Yeah?

2 A. But no special schooling or anything like that, no.

3 Q. Okay. And the medication helps to control the  
problems

4 that otherwise might result?

5 A. Right. The attention. It just helps him keep a  
steady

6 attention span.

7 Q. Okay. And he's in school?

8 A. Uh-huh.

9 Q. Doing all right?

10 A. Doing great.

11 Q. Good. Where is the other son living?

12 A. He lives with me as well. I have both of them with  
me.

13 Q. I'm sorry. I understood you to say I and my son.

14 A. Oh, no. Both are with me.

15 Q. Okay.

16 A. Yes.

17 Q. And was the move something you'd planned for a  
while? I

18 mean, is that consistent with your planning, or --

19 A. Yeah. I mean, it's difficult to live with a  
parent, being

20 a parent; and so I, you know -- now that I'm making  
more money,

21 I felt it was time for me to move on.

22 Q. Okay. Yes. Sometimes you get advice --

23 A. Much.

24 Q. -- that's not entirely welcome; right?

25 And you're working now with a county agency.

4550

Juror No. 1 - Voir Dire

1 A. Correct.

2 Q. And you had been, I guess, for -- well, how long?

3 A. It will almost be -- in February, it will be two  
years.

is 4 Q. Two years. And the program that you work with that

5 administered by that agency is a federal program?

6 A. Yeah.

7 Q. And what, you help to determine eligibility of  
people for

8 participation, or what do you do?

9 A. No, actually, I issue -- I issue --

10 Q. The benefits?

11 A. The benefits, yes.

12 Q. Okay. Somebody else decides who gets them and you  
carry it

13 out.

14 A. Yes.

15 Q. Now, when you got the notice advising that you may  
be

16 called in for this particular case, did you talk to  
your

17 supervisor or whoever it is you report to at your job?

18 A. Yes, I did.

19 Q. And tell him or her about this jury summons?

20 A. I told him that I, you know -- that I had gotten a  
summons

21 and that, you know, I may or may not be chosen and that  
they'd

22 need to make some provisions, if possible.

23 Q. And did you talk again after you completed the  
24 questionnaire in Jefferson County and --

25 A. Yes. I just told them that we had finished the

4551

Juror No. 1 - Voir Dire

1 questionnaire and that I would hear sometime.  
Sometime.

2 Q. And what kind of a reaction did you get when you  
disclosed  
3 that you may be a juror in this case and be tied up  
here for a  
4 while, so to speak, as a juror committed to several  
months of  
5 trial?

6 A. Oh, well, because of the welfare reform and the  
changes in  
7 welfare, we've gone through some substantial changes in  
our  
8 office, downsizing as well as new programs; and so it  
was a  
9 little difficult. They were, you know, not 100 percent  
happy  
10 about it. I just told them, "Sorry."

11 Q. What I'm really asking you -- and I might as well  
come  
12 right out with it: Did anybody give you some sort of  
advice  
13 there about, well, you don't have to do that, there is  
a way to  
14 get out of it, you can answer the questions this way or  
that  
15 way and you don't have to do it?

16 A. People tried to. And because after the  
questionnaire you

17 said to not engage in any conversation about the case,  
I would

18 just say, You guys can't talk about it, it's not  
something I

19 can do, so I'm out of here.

20 Q. Okay.

21 A. Basically, I just cut them off, rather than  
listening to

22 them.

23 Q. All right. Well, we appreciate you doing that.  
And you

24 can blame the judge anytime you get into that kind of

25 conversation that I ordered you not to.

4552

Juror No. 1 - Voir Dire

1 Was there anybody who has suggested to you,  
well, if

2 you do get on the jury, this is how you ought to decide  
it?

3 Any conversation like that?

4 A. No.

5 Q. How about with your parents? Do you talk about --

6 A. Actually, I don't talk with my parents about it. I  
mean,

7 they -- other than having to take care of my boys, you  
know, in

8 the interim from day care and stuff, we don't really  
talk about  
9 it. They respect that I need not talk about it, so we  
don't.

10 Q. And what arrangement do you have for the care of  
the  
11 children when they're out of school and you're still  
working?

12 How does that go?

13 A. Well, I'm assuming that this is going to be much  
like a

14 job, so --

15 Q. 9 to 5, yeah.

16 A. I'll be here from 9 to 5. I'm usually at my job  
from 8:30

17 to 4:30. You know, we're going to have a difference of  
a

18 little bit of time, but they do watch them for me after  
they

19 get out of school for a little bit of time. So there  
is no

20 extra provisions that I need to make.

21 Q. So while you still have your own separate  
household, your

22 parents still support you in terms of taking care of  
the kids

23 when you're working and they're out of school.

24 A. Yes, they do.

25 Q. Okay. You also -- I'm on page 9.

## Juror No. 1 - Voir Dire

1 A. Okay.

2 Q. And we're, you know -- you got your questionnaire,  
so look

3 at it. I don't want to just have you rely on your  
memory about

4 what you said. But you also talk about a -- another  
job that

5 you have.

6 A. Yeah. It's -- I work for a pawnshop and a video  
store.

7 Q. As a clerk, retail --

8 A. Retail clerk.

9 Q. And is that like weekends, or --

10 A. Actually, I do it to help out a family friend; and  
so it's

11 not a given -- you know, I have to be three hours  
Monday,

12 Tuesday or Wednesday. It's kind of like when they need  
me,

13 I'll go in; or if he has things to do, he'll call me:  
"Do you

14 think you could come in for a couple of hours?" But  
it's not

15 anything that I have to be there at a certain time or  
anything.

16 Q. So you do it --

17 A. For a little extra money.

18 Q. -- assistance of your friend than for your own  
income?

19 A. Correct.

20 Q. Okay. And did you say that this involves things  
that are

21 there in pawn for loans?

22 A. Uh-huh. Well --

23 Q. Does this person pawn -- give loans on firearms?

24 A. Yes, he does.

25 Q. And have you done that?

4554

Juror No. 1 - Voir Dire

1 A. I don't do any of the pawning. What I basically do  
is I'll

2 take payment on a pawn, or I'll -- that's about it. We  
take

3 payments. I don't do any of the pawning. I don't have  
access

4 to any of the merchandise in the back. I just take the  
5 payments --

6 Q. Okay. And I was going to follow that up as to  
whether you

7 knew anything about firearms as a result of working  
with them

8 in this connection.

9 A. No.

10 Q. Now, as I understand on page -- from what you said  
on page

11 20, you have a friend who is a lawyer. And on the next

page,

12 page 20, No. 91, and the next page, 96, is the same  
person.

13 A. Yes, the same person.

14 Q. And that person was a district attorney or  
assistant

15 district attorney somewhere before --

16 A. Before I knew him.

17 Q. Before you knew him. Have you had occasion to talk  
with

18 that person about your possibly being on this jury?

19 A. No. He's actually a boyfriend of my friend, so I  
don't

20 usually -- so I mean if we all go out, we don't sit  
around

21 talking about -- we're out, having fun. So no, not  
really, not

22 that I can think of.

23 Q. Okay. Well, you understand why I would ask the  
question.

24 A. Yes.

25 Q. Because it could well be that knowing that he's a  
lawyer

4555

Juror No. 1 - Voir Dire

1 and what your situation is and that he's had criminal  
trials,

2 you may have asked him about what's involved in a  
criminal

3 trial.

4 A. No.

5 Q. Have there been times that he's told you about  
particular

6 trials in which he's participated, just in the general  
7 conversation?

8 A. No. Michael is very private about his work. His  
work is

9 his work, and so he doesn't discuss any of the cases  
with me,

10 anyway.

11 Q. All right. You -- page 30 -- would you please turn  
to it.

12 At Question 130, where you've written, "Just  
13 reinstated," was there a suspension or something?

14 A. Yes. Yes, there was.

15 Q. Can you tell us a little about that, why it was  
suspended?

16 A. I was -- I got a DWAI two years ago.

17 Q. Okay.

18 A. So -- and it was -- I didn't -- I didn't know the  
rules, so

19 I didn't really want to take the test, and so  
automatically

20 they take your license for a year.

21 Q. All right.

22 A. And then you have to keep an SR22 for three years;  
and at

23 the point -- at one point, I couldn't afford it, so I

didn't

24 drive. And I didn't have the SR22, so I just got it  
25 reinstated.

4556

Juror No. 1 - Voir Dire

1 Q. Okay. And where was that DWAI?

2 A. In Adams County.

3 Q. Adams County. And did you -- was that contested,  
or not,  
4 by you?

5 A. No. I -- I mean, I just went to court with a  
lawyer. They

6 pleaded it down and my lawyer said, you know, this is  
what's  
7 going to happen and I said okay.

8 Q. And it did.

9 A. Yeah. And that's what happened.

10 Q. And did you have a fine?

11 A. Yes, I paid my fine.

12 Q. Did you have some required education course?

13 A. I paid my fine, did community service, and went to  
some  
14 alcohol classes.

15 Q. And that's all completed now?

16 A. Yes, sir.

17 Q. Now, we asked you questions here about the death

penalty.

18 Do you remember coming to this part of the  
questionnaire?

19 A. Yeah, I remember it; but I don't know exactly  
where.

20 Q. Page 28 is where your answers are, starts at page  
27.

21 A. Okay.

22 Q. And 27 is an explanation really of why we're  
asking.

23 A. Right.

24 Q. And just go ahead and take whatever time you need  
to review

25 that.

4557

Juror No. 1 - Voir Dire

1 A. Okay.

2 Okay.

3 Q. All right. You have in mind what you wrote?

4 A. Yeah.

5 Q. And of course, you also have in mind that we asked  
you sort

6 of what did you think about punishment of life in  
prison with

7 no possibility of release and death as a general policy  
matter

8 without regard for this case or anything about this  
case or any

9 particular case. Is that the way you understood the  
questions?

10 A. Uh-huh.

11 Q. And I got the impression from reading your answers  
that

12 this may be the first time you really focused on those  
13 questions.

14 A. Yes.

15 Q. Would that be true?

16 A. That would be true.

17 Q. And you gave us what you thought on September 17.  
Have you

18 thought about it some more since?

19 A. No. I still pretty much agree with my statements  
that --

20 Q. Okay. So if I asked you the same questions right  
now,

21 you'd give me the same answers basically.

22 A. Basically.

23 Q. And page 29 -- I don't want you to overlook that  
answer.

24 A. Okay.

25 Q. So what you have said here is that you see  
differences in

4558

Juror No. 1 - Voir Dire

1 kinds of crime and circumstances and you don't have any

the death 2 particular bias in either direction towards opposing  
the 3 penalty or opposing life in prison or favoring one or  
4 other.

5 A. That's correct.

6 Q. Is that your frame of mind?

7 A. Uh-huh.

asked you 8 Q. Now, let me explain what the law is, because we  
the law 9 these questions without telling you anything about what  
have 10 is. You may have guessed something about it or you may

course, 11 heard something about it in other situations. And, of  
12 there are big differences in the law in various states  
13 regarding the punishment by the imposition of the death  
14 sentence, capital punishment. It's an issue that gets  
debated

comment in 15 a lot and has been the subject of a lot of public  
man 16 Colorado recently in connection with the execution of a  
least 17 sentenced in a state court here. I take it you had at  
18 some awareness of that dispute and debate.

19 A. Yes.

federal 20 Q. Now, we're in Federal Court and we're following  
21 law, so that's the first point. And the federal law is

clear

22 about this that for certain types of crimes,  
essentially crimes

23 that involve the intentional killing of people -- the  
federal

24 law says that there are really three kinds of sentence  
that can

25 be imposed for a person found guilty of such a killing  
in

4559

Juror No. 1 - Voir Dire

1 Federal Court. One is the sentence to life in prison  
with no

2 possibility of release, and that means no parole. That  
means,

3 to put it in the plainest terms, that the person dies  
whenever

4 his time comes, but he's in prison. The second is to  
put the

5 person to death for the crime. And the third is that  
there can

6 be a sentence lesser than those two possibilities.  
Understand?

7 A. Yes.

8 Q. Now, let me just return again to this question that  
we've

9 gone over of what the basic function of the jury is in  
terms of

10 deciding the evidence in the case. And as we discussed  
a few

11 minutes ago, the jury considers the evidence in the  
case and

12 decides whether there is a reasonable doubt as to  
whether the

13 crime is proved. And as we've already discussed, if  
the answer

14 to that is yes, there is a reasonable doubt, the  
verdict is not

15 guilty, case is over. Right?

16 A. Right.

17 Q. Now, if the jury, on the other hand, finds that the

18 evidence shows guilt beyond a reasonable doubt, the  
verdict is

19 guilty. And in cases that do not involve the  
punishments of

20 this type, it's over as far as the jury is concerned.  
The jury

21 has done its job, goes home. But it's not over for the

22 defendant, because there is yet to be a sentence  
hearing and

23 decision. And that is done in other types of cases by  
a judge.

24 And there is a sentencing hearing later after the  
trial; and

25 the judge is not going to decide a sentence of a person  
simply

4560

Juror No. 1 - Voir Dire

1 on the basis of the evidence that was presented at the  
trial.

2 More is needed; and that "more" is information about  
the crime  
3 itself and the circumstances, things that may, you  
know,  
4 involve the need for punishment because of the impact  
on  
5 victims or the consequences to the community or the  
like.

6 And then the court also wants to know a lot  
more about  
7 the defendant, more than just that he was found guilty  
of some  
8 crime. And that "more" really includes everything that  
can be  
9 gathered and given: information about a person, the  
life story,  
10 the history, where the person was born and raised, what  
were  
11 the circumstances, what are the family circumstances,  
has this  
12 person been married and divorced, are there children,  
what's  
13 the work history, what is this person's basic outlook  
on life,  
14 opinions. Really, you know, each one of us is unique  
and  
15 different from all others. And largely our  
individuality is a  
16 matter of our own life story.

17 A. Right.

18 Q. Agreed?

19 A. I agree.

all 20 Q. And you don't really know about a person unless --  
what 21 about a person unless you know all of these facts as to  
done, good 22 his life has been, what's happened to him, what he's  
cases 23 things that he's done, military service; and also in  
crime, what 24 where more than one person has been involved in a  
25 has been the relative roles, what -- this is a minor

4561

Juror No. 1 - Voir Dire

court, 1 participation, a major participation, or what. And the  
from the 2 having all of that information available, then hears  
particular 3 lawyers on both sides and makes a sentence that is  
that 4 to that person who is being sentenced and a sentence  
it but 5 considers not only the crime and the circumstances of  
6 also the individual being, the human being who is under  
where more 7 consideration. So here, too, in these circumstances  
sentences may 8 than one person is guilty of the same crime, the  
9 well be different because of the differences in these

10 individual characteristics. Follow?

11 A. Uh-huh.

12 Q. Now, what the federal law says is when the case  
involves  
13 the killing of other people and therefore involves the  
14 possibility of capital punishment, we don't have judges  
make  
15 that kind of a decision, a life-or-death decision.  
That's for  
16 the jury. And indeed, it is for the same jury that  
heard the  
17 trial and decided the evidence.

18 And so if a jury returns a guilty verdict in  
such a  
19 case, the jury now has the responsibility to decide the  
20 sentence. But just as in the case with a sentence by a  
judge,  
21 the jury does not make that decision based only on what  
22 happened at the trial. The trial is to decide whether  
the  
23 evidence proves guilt, but it has nothing to do with  
the  
24 punishment. And indeed at that stage of a trial, the  
jury is  
25 instructed: Don't think about punishment; think about  
whether

4562

Juror No. 1 - Voir Dire

1 this evidence proves the crime beyond a reasonable

doubt.

2                   But now if the jury has made that finding and  
returned  
3                   a verdict of guilty, the jury has to hear a lot more  
than what  
4                   they heard at the trial; and that "more" is given to  
the jury  
5                   in a second trial, really, that proceeds in the same  
fashion as  
6                   the trial of the evidence, with lawyers on both sides,  
7                   witnesses called, exhibits offered. And now what's  
being  
8                   considered is, on the one hand, more about the offense  
and the  
9                   circumstances of it and the consequences of it and at  
the same  
10                  time all that is known about the defendant as an  
individual:  
11                  Who is this person?

12                  And then at the end of that kind of trial with  
all of  
13                  that information in mind -- and that can take, you  
know, days  
14                  to have all of this presented to the jury. But then  
the jury  
15                  is given some instructions by the court which sort of  
sum up  
16                  the things that have been heard and will tell the jury:  
Now,  
17                  these are the things that you heard that you can  
consider on  
18                  the side that we would say are aggravating factors or

support 19 circumstances, things that you may wish to consider in  
should be 20 of the idea that the just punishment in this case  
can 21 death; these are the things that you will consider and  
we call 22 consider on the other side, mitigating circumstances,  
the crime 23 it, mitigating the sentence and suggesting that while  
defendant 24 deserves, you know, on paper the death penalty, the  
25 does not deserve to be put to death.

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Juror No. 1 – Voir Dire

mitigating 1 And so it is a question of considering the  
suggest 2 factors and the aggravating factors, those things that  
3 one penalty or the other. Understand?  
4 A. Yes.  
questions to 5 Q. But -- and the judge can give to the jury some  
heard and 6 be asked to kind of aid going through what has been  
given. It's 7 to analyze it; but there is no formula that can be  
anything like 8 not a matter of adding and subtracting factors or  
9 that. It's giving consideration to the whole of the

10 information received, what should the sentence be.

11 And in making a decision like that, the jury  
will, of

12 course, talk it over, the 12 jurors, and exchange their  
views

13 and opinions and discuss it. But in the end, each  
juror has to

14 make an individual decision: Should the defendant live  
or die?

15 And that kind of a decision, I suppose, can best be  
described

16 as sort of basically a moral judgment about another  
human being

17 based on the information provided, both with respect to  
the

18 crime and the person. You understand the point I'm  
making?

19 A. Uh-huh.

20 Q. And what we must ask you to answer as best you can  
is if

21 you were in such a situation and confronted with that  
question,

22 will you be able to make a decision on that question  
and in

23 arriving at the decision give full consideration to the  
24 possible punishment and to all that you have been given  
with

25 respect to the crime and also all that has been  
presented

Juror No. 1 – Voir Dire

1 concerning the circumstances and the individuality of  
the human 2 being that you're judging?

3 A. I think I could.

4 Q. And make a decision?

5 A. I believe that I'm a fair person and that I like to  
listen

6 and weigh. I don't -- you know, I may have my own  
thoughts and

7 beliefs, but I'm willing to listen and take into  
consideration

8 everything that's brought to me and weigh it all and  
look at it

9 all and --

10 Q. And use that?

11 A. And use that.

12 Q. In making your decision?

13 A. In making my decision. Yes, I believe I could do  
that.

14 Q. Okay. Well, that's what's involved in jury  
service.

15 In the event that there is a conviction -- and  
of

16 course, as we sit here now we can't anticipate what  
will

17 happen. And we can't talk about the circumstances or  
the

18 evidence in this case because we don't know what's  
going to be

19 in evidence and we don't know if there is a guilty  
verdict.  
20 And of course, the presumption is the other way that  
there  
21 wouldn't be a guilty verdict. But we don't know what  
would be  
22 offered at the penalty phase, so we have to talk about  
it in  
23 these generalities, you understand.  
24 A. Yes, I do.  
25 THE COURT: Okay. Well, thank you for  
responding to

4565

Juror No. 1 – Voir Dire

1 these questions. Now the lawyers on each side have a  
chance to

2 ask some more.

3 Ms. Wilkinson?

4 MS. WILKINSON: Thank you, your Honor.

5 VOIR DIRE EXAMINATION

6 BY MS. WILKINSON:

7 Q. Good afternoon. How are you doing?

8 A. Okay.

9 Q. Are you feeling less nervous now?

10 A. Yeah.

11 Q. Good. My name is Beth Wilkinson, as his Honor  
introduced

12 me; and I'm one of the prosecutors who will be  
presenting the

13 evidence in this case against Mr. Nichols.

14 A. Okay.

15 Q. And our job obviously is to present that evidence  
to you

16 fairly so you can consider all the facts and  
circumstances and

17 determine whether we proved to you beyond a reasonable  
doubt

18 that the defendant is guilty of the crimes as charged.  
Your

19 job is to sit there and listen with an open mind and  
make that

20 final decision. Do you think you can do that?

21 A. I do.

22 Q. Okay. You told us in your questionnaire that you  
had

23 followed one other criminal case pretty closely.  
You're

24 already laughing. You know what I'm going to ask.

25 A. Yes, I do.

4566

Juror No. 1 - Voir Dire

1 Q. Tell me what you think about the O. J. Simpson  
case.

2 A. According -- you know, from what the information  
was -- I

3 mean, the media as well as -- I mean, it was all

dependent on

4 the way that you looked at it. I don't think any of it  
was

5 presented equally -- equal. You know, you either had  
one

6 person who said, yeah, he's guilty, look at all of  
this, or no,

7 he's not guilty, look at all of this. So I think I  
just kind

8 of listened and said, well, you know, they made their  
decision

9 according to what they had as evidence; and according  
to the

10 evidence he was innocent, so --

11 Q. Okay. Let's talk and forget the jury's verdict.  
You're

12 saying you accept that because they were the ones  
sitting in

13 the courtroom making the decision. Is that right?

14 A. Yeah.

15 Q. What was your opinion as to the proceedings, how  
the judge

16 ran the courtroom and how the attorneys behaved?

17 A. I think there was a lot of hype because he is a  
well-known

18 celebrity. I think there was a lot -- you know, a lot  
of

19 information that was -- that we as the people on the  
outside

20 should probably have never heard and, you know -- and  
it should

21 have been kept in the courtroom; so I think it was --

you know,

involved. 22 it was probably a difficult trial for everyone

that? 23 Q. Do you think cameras in the courtroom affected

24 A. Yeah.

cameras 25 Q. Do you think that was a wrong decision to allow the

4567

Juror No. 1 - Voir Dire

1 in the courtroom?

tighter 2 A. I think there should have been a little more maybe

but . . . 3 reins on how things were run in the courtroom,

the 4 Q. You understand in this case there are no cameras in

5 courtroom to --

6 A. Yeah.

little 7 Q. -- broadcast that information; right? You know a

on "a 8 bit about the McVeigh trial. Is that right -- emphasis

9 little bit"?

10 A. Little bit. A little bit.

guilt? 11 Q. Are you familiar with the jury's verdict as to

12 A. Yes. Yes.

13 Q. Okay. Do you remember where you were when you  
heard about

14 that guilty verdict?

15 A. No.

16 Q. Did you have any reaction to it when you heard  
that?

17 A. Not really. I didn't -- I didn't follow the trial.  
I had

18 heard -- I remember the day I was at work when we heard  
about

19 the bombing; but as following the trial of Timothy  
McVeigh or

20 anything like that, it wasn't important, so I didn't  
really --

21 can't remember.

22 Q. So are the memories in your mind more clear on what  
23 happened in those days around the time of the bombing  
than they

24 are around the time of the McVeigh trial?

25 A. Yeah.

4568

Juror No. 1 - Voir Dire

1 Q. Can you tell me what you -- what you recall from  
those

2 days -- April 19, 1995, when the bombing occurred and  
the days

3 thereafter, what you remember seeing in the media?

4 A. I think the most that I remember, you know, is the

I 5 devastation to the building, to the families, you know.  
6 think it was more on a personal level feeling for these  
people 7 other than, you know, well, who did it and how did he  
do it and 8 when did it happen. I didn't really --

9 Q. You weren't going to play junior detective.

10 A. No.

11 Q. Do you think because you have two children, two  
boys, that 12 you identified in any way with those families?

13 A. I think any parent would -- would identify in some  
way. I

14 mean, your children are your children and, you know,  
you don't

15 ever want anything to happen to your children. And I  
don't

16 even think it comes down to just children. I just  
think family

17 in general, you know, but -- so yeah, I guess I could.  
You

18 know, I think about things happening to my sons, you  
know, and

19 it would just devastate me. Yeah. I guess it would.

20 Q. Well, along those lines, you understand that in  
this case

21 if you're selected as a juror there could be proof  
about what

22 happened that day and what happened to some of the  
victims?

23 A. Yes.

or 24 Q. And some of it obviously would be graphic testimony  
25 emotional testimony in some ways.

4569

Juror No. 1 - Voir Dire

1 A. Yes.

2 Q. Could you listen to that and still decide  
objectively about

3 whether the Government had proved its case beyond a  
reasonable

4 doubt that Mr. Nichols was -- I think the word you've  
used is

5 "linked," or responsible for the bombing?

6 A. Right. Yeah, I think I could.

7 Q. Do you remember some of the answers that you gave  
us at the

8 end of the questionnaire? I think it's on like page 36  
where

9 you talked about what you knew about the case, the  
publicity

10 that you had read.

11 A. Yeah. Basically, I knew that a bomb was put in a  
car or

12 truck, a vehicle -- put it that way, you know -- left  
in the

13 building, blew up. That's about what I know about it.

14 Q. So you don't -- go ahead. I didn't mean to  
interrupt you.

changing  
wasn't --  
so I  
that's

15 A. I, you know -- I have seen Mr. Nichols on TV in  
16 channels, watching news. But to be honest, I mean it  
17 it didn't affect my life because I wasn't a part of it,  
18 didn't really stop and look and, you know, oh, yeah,  
19 that. Okay. Let's go on.

20 Q. So do you know anything about Mr. Nichols?

21 A. I don't.

alleges he

22 Q. Do you know anything about what the Government  
23 did in the bombing?

believe that

24 A. I would say the most that I know is that they

25 he -- he helped Timothy McVeigh construct the bomb and

4570

Juror No. 1 - Voir Dire

1 somehow -- well, basically, construct it is all I know.

that, do

2 Q. But you don't have any opinion to that -- as to

3 you? That's just what you've --

4 A. That's just what I've heard.

that

5 Q. And I'm sure you understand that you have to leave

make a

6 outside of the jury box if you're going to come in and

7 decision.

8 A. Right.

9 Q. Let's turn, if we could, to the death penalty  
decision.

10 A. Okay.

11 Q. You recognized in your questionnaire that this was  
a very

12 serious decision you'd be asked to make.

13 A. Yes.

14 Q. And I think you said when asked what type of cases  
might be

15 appropriate for the death penalty -- you said,  
"possibly murder

16 trials." Do you remember that?

17 A. Yes, I do.

18 Q. Can you tell me what type of murder trials or  
murder cases

19 would be -- where the death penalty would be  
appropriate?

20 A. Serial killers. I don't know. Something like  
that. You

21 know, I think you would have to look at the  
circumstances

22 behind, you know, somebody might kill somebody and  
that's

23 considered murder, but what were the -- I mean was it  
-- was it

24 self-defense, you know, was it this? I think you would  
have to

25 look at -- at each -- at each case itself and decide  
what

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1 kind -- I mean, you know, do you understand what I  
mean?

2 Q. Yes. You're saying exactly what the Judge told you  
the law  
3 is; right?

4 A. Yes.

5 Q. You cannot say as you sit here today what decision  
you'd  
6 make because you don't know all the facts and  
circumstances.

7 A. Right.

8 Q. So you wouldn't -- you'd be able to easily follow  
the law,

9 I guess, and you'd never have the view that there  
should be an

10 automatic death penalty. You'd want to hear everything  
first?

11 A. I would like to hear everything, yes.

12 Q. And I think you also told us that you don't think  
you have  
13 any personal, moral, or religious beliefs that would  
affect

14 that decision; is that true?

15 A. That's true. I mean, I'm a Catholic; but, hey,  
sorry.

16 Q. Well, do you know what the Catholic Church's  
teachings are

17 as to the death penalties?

18 A. Yes.

19 Q. What's your understanding that --

20 A. Well, that the taking of a life is -- you're not  
supposed

21 to no matter what, but . . .

22 Q. And I take it you diverge from the Church in  
certain --

23 A. In certain things, yes, I do.

24 Q. And would this position that you think the death  
penalty

25 could be appropriate -- would that be consistent with  
your

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1 views on other issues relating to that?

2 A. Yes.

3 MS. WILKINSON: That's all my questions.  
Thank you

4 very much.

5 THE COURT: Mr. Woods.

6 MR. WOODS: Thank you, your Honor.

7 VOIR DIRE EXAMINATION

8 BY MR. WOODS:

9 Q. I'm the last. We've already covered most of  
everything,

10 and I've only got a couple of questions. We'll be out

of here

11 before 5.

12 A. Okay.

Along

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

14 with Mike Tigar, we were appointed by the United States

15 District Court in Oklahoma City in May of '95 when the

for the

16 Government charged Terry Nichols with being responsible

17 bombing. How do you feel about Mr. Nichols' having two

hearing?

18 court-appointed lawyers to represent him in this

that we

19 A. I think everybody is, you know -- that is our law

it

20 are all -- we all get representation, and I don't think

21 should matter if it's Mr. Nichols or any other person.

22 Q. Okay.

States

23 A. We are all -- that is one of our rights as a United

24 person -- citizen. There we go.

25 Q. You don't have any problem with that.

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1 A. No.

Nichols

2 Q. Okay. You have been reading and hearing about Mr.

3 and, of course, Mr. McVeigh. When you went out to  
Jeffco last  
4 month on September 17, what did you think when you saw  
5 Mr. Nichols for the first time in person after reading  
and  
6 hearing about him for two-and-a-half years?

7 A. To be honest, I mean until you said this is Mr.  
Nichols, I  
8 didn't know who he was, so -- he looks like anybody  
else.

9 Q. Did it affect your opinion one way or the other as  
to --  
10 you know, you've been reading a great deal about it.  
Did you

11 have a picture in mind and then all of a sudden that  
wasn't the  
12 picture you had in mind?

13 A. No. I think he looked the same.

14 Q. Okay. The same as on TV?

15 A. Yeah.

16 Q. Okay. Did you recognize him right off when you  
were out  
17 there?

18 A. No. Actually -- and I said that just a few minutes  
ago.

19 Until you said -- they introduced everybody -- I had no  
idea  
20 Mr. Nichols would even be there. I thought it was  
going to be

21 very informal, as a matter of fact.

22 Q. It was pretty informal, wasn't it?

23 A. Kind of.

24 Q. If you would, go to your questionnaire just for one  
25 question, Question No. 108 on page 24. I don't want to  
read it

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1 out loud or anything, but was that perhaps an  
oversight, given

2 the explanation you had given to the Judge about the  
other  
3 incident.

4 A. Well, yeah. I guess I didn't think of it as a  
criminal --

5 Q. No, no, no. Don't say. I just want to know: Was  
it  
6 oversight? You didn't intentionally check --

7 A. No, I didn't intentionally.

8 Q. Was there anything about the experience, you know,  
the  
9 initial stop that would somehow affect you in this case  
in any  
10 way concerning the police or the treatment or going  
through the  
11 process?

12 A. No.

13 Q. Okay.

14 A. No.

read by 15 Q. In fact, it was so insignificant you just sort of

16 it, I take it. Is that correct?

17 A. Well, yeah.

seen, 18 Q. Okay. Do you recall from everything that you've

bombing? 19 read, or heard how many people were killed in the

20 A. No.

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

22 A. Yes, I know there were children.

in the 23 Q. And do you know the reason why there were children

24 bombing of a federal building?

25 A. I believe they had a day care for the employees.

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you recall 1 Q. Okay. And you stated on your questionnaire that

of the 2 how the bomb was delivered in a truck or a van in front

bomb 3 building. Do you recall what the Government claims the

4 was made of, what kind of bomb it was?

5 A. Fertilizer. That's all I know.

arrested? 6 Q. Okay. And do you recall how Mr. McVeigh was

7 A. What do you mean, how he was arrested?

a 8 Q. Yes, just from reading the news. I'm -- this isn't  
asking 9 question about, you know, what are the facts. I'm just  
10 you to recall what you remember from the news, the  
newspaper,  
11 radio, television, after the bombing, how Mr. McVeigh  
was  
12 arrested, if he was.

13 A. All I know -- what I remember the most is that they  
said  
14 that they believed that they had found the men that  
were  
15 involved. As for the name, I don't think I even -- the  
name --  
16 either name, Mr. McVeigh or Mr. Nichols, even were  
anything  
17 that I would remember until now.

18 Q. Okay.

19 A. After --

20 Q. I take it, then, you don't recall anything about  
21 Mr. Nichols' after the bombing initiating contact with  
the  
22 police officers?

23 A. No.

24 Q. Do you have any memory about where Mr. Nichols was  
on the  
25 day of the bombing, April 19 of '95?

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1 A. No.

2 Q. Okay. Do you know whether or not he was in  
Oklahoma, or

3 another state?

4 A. I don't think he was in Oklahoma, but I couldn't be  
sure.

5 Q. Okay. Your recollection is just a little vague  
from the

6 news. Is that correct?

7 A. Yeah. Very vague, actually.

8 Q. Okay. And I take it that you really don't have an  
opinion

9 as to Mr. Nichols' guilt one way or the other as you  
sit there

10 now.

11 A. No, I don't.

12 Q. Okay. And you understood what the Judge was saying  
about

13 the trial process here. Did you find it sort of  
unusual that

14 there is a lot of talk here about the penalty stage  
before

15 we've even started the trial?

16 A. No. I don't think it's -- I think -- because of  
the trial

17 itself and what it entails, I think it -- it's  
important to

18 look at that because you need to get a jury that is  
going to

to know 19 look at everything and be open-minded, and so they have  
ultimate 20 off the bat, you know, what could possibly be the  
their 21 choice or the -- what could be the ultimate result of  
22 decision-making.  
that 23 Q. Well, you're way ahead of me, then. You understand  
stage -- 24 the Government first, before we even get to a penalty  
beyond a 25 the Government has got to prove Mr. Nichols guilty

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1 reasonable doubt.  
2 A. Yes.  
Nichols 3 Q. And we're not conceding that. Mr. Tigar and Mr.  
got a 4 and myself aren't conceding that. The Government has  
bombing. 5 theory about Mr. Nichols' being responsible for that  
putting 6 We disagree with that theory. The Government will be  
that 7 on their witnesses and their evidence to try and prove  
examining 8 Mr. Nichols was responsible for that. We'll be cross-

9 all those witnesses to get the true facts.

10 And then the Court told you we don't have to  
put on  
11 any evidence, but we are. We're going to call a number  
of  
12 witnesses that will also contradict the Government's  
theory  
13 about Mr. Nichols' involvement. And it's then that the  
-- that  
14 the jury goes back and deliberates and makes their  
decision:  
15 Did the Government really prove Mr. Nichols guilty  
beyond a  
16 reasonable doubt? So I take it you understood what the  
Court  
17 was explaining to you about that process.

18 A. Yes, uh-huh.

19 Q. Now, when you go back there and start  
deliberations, as you  
20 probably know, during the course of this trial there is  
going  
21 to be some testimony that's going to be so emotional  
and so sad  
22 and so graphic and heart-wrenching -- you'll see  
photos, you'll  
23 see videos of young children killed. And it's going to  
affect  
24 everybody. There will be crying. Can you look at that  
25 evidence for what it is? It's uncontested. Nobody  
disputes

## Juror No. 1 - Voir Dire

1 the fact there was a bombing. Can you look at that  
evidence,  
2 consider it for what it is, but then at the same time  
look at  
3 the Government's evidence about Mr. Nichols and not use  
that  
4 emotion that will be generated but look at the evidence  
5 objectively and say, Well, what has the Government  
brought  
6 forward to say that Mr. Nichols was responsible for  
that? Can  
7 you separate those two when you go back in the jury  
room?  
8 A. Yes.  
9 Q. Okay. Would you agree that it will be somewhat  
hard  
10 especially for a young mother?  
11 A. I think it is. In the section that I work in -- I  
mean, I  
12 have to put away a lot of my emotions about how I feel  
about  
13 the people that come into the social service area; so,  
you  
14 know, you have your emotions, but you put those aside  
and you  
15 do your job as you are put out to do.  
16 Q. That's an excellent example; and I take it you do  
that on a  
17 daily basis?

18 A. Uh-huh.

19 Q. Okay. And then as to the punishment stage, as I  
20 understand, you are a person who will keep an open mind  
as to  
21 both punishments?

22 A. Yes.

23 Q. The possible sentence of life imprisonment and the  
possible  
24 sentence of the death penalty. Is that correct?

25 A. That's correct.

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1 Q. And on your questionnaire, when they ask you about  
what --  
2 what type of cases are appropriate for death penalty  
and you  
3 put "certain murder cases" and then you advised the  
prosecutor  
4 maybe serial murders or cases -- could you expand on  
that just  
5 a little bit what you think are appropriate murder  
cases in the  
6 death penalty area?

7 A. I -- you know, I really can't.

8 Q. Okay.

9 A. I don't --

10 Q. It's not necessary.

11 A. Let's say somebody was in jail and for -- I don't  
know,  
12 maybe somebody who had already been not -- did not fit  
well in  
13 society and had gone out and, you know, was a criminal,  
14 habitual criminal and had killed and assaulted. I  
don't know.  
15 I don't know.

16 Q. Okay. But as I understand it from your answer that  
you're  
17 not classifying every murder case --

18 A. Oh, no.

19 Q. -- has to be the death penalty. Is that correct?

20 A. Oh, no.

21 Q. Okay. If you're chosen on this jury, can you look  
Terry  
22 Nichols in the eye and say I will give you a fair  
trial?

23 A. Yes, I believe I can.

24 MR. WOODS: Okay. Thank you so much for your  
time.

25 JUROR: Thank you.

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1 MR. WOODS: Appreciate it.

2 THE COURT: Yes, we do appreciate your time  
with us

3 and your responding to all of these questions. We're

done now

4 with the questions.

5 JUROR: Okay. Whew.

6 THE COURT: But you've got some questions,  
too, but we

7 can't answer them. And your question is, I'm sure:  
Well, am I

8 going to be on this jury? Can't tell you. We're not  
making

9 these choices as we go one by one.

10 JUROR: Okay.

11 THE COURT: So a lot of people will be going  
through

12 this very same process that you have, not only the  
written

13 questionnaires but then what has happened here in  
court. And

14 we do this, as you now appreciate, having been here all  
day, in

15 a way that we can't judge how much time it takes.

16 So bear with us and live with the uncertainty  
a while

17 longer, if you will, as to whether you will serve on  
the jury.

18 JUROR: Okay.

19 THE COURT: We will let you know, but I can't  
tell you

20 when.

21 JUROR: Okay.

22 THE COURT: And also, what you have to do now  
is as

23 before, when I excused you out there at the auditorium  
24 building, and that is assume that you'll be on the  
jury; that  
25 you will have the responsibility as a juror to make the

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1 decisions that we've talked about. And therefore,  
continue to  
2 be very careful about all that you read, see, and hear  
to avoid  
3 things that could influence and affect your judgment.  
Be  
4 careful about your discussions with others to avoid  
that. And  
5 what we want you to do is to be able to come back in  
here at  
6 some future day and serve on this jury and decide this  
case  
7 fairly.

8 JUROR: Okay.

9 THE COURT: Will you do that?

10 JUROR: I will.

11 THE COURT: And if something occurs here where  
you  
12 have a change of address again or change of phone  
number or you  
13 get called out of town on some emergency, anything like  
that,

to 14 you let us know immediately because we want to be able

15 contact you as soon as we know.

16 JUROR: Okay.

excused. 17 THE COURT: All right. Thank you. You're

18 JUROR: Thank you.

19 Can I get up?

20 THE COURT: Yes. Sure. Get up and go.

21 (Juror out at 4:53 p.m.)

I don't 22 THE COURT: Well, we have only five minutes.

recess. 23 think we'll start the next one, so I'm giving you a big

24 Recess till 8:45.

25 (Recess at 4:54 p.m.)

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17 \* \* \* \* \*

18 REPORTERS' CERTIFICATE

19 We certify that the foregoing is a correct  
transcript from  
Dated 20 the record of proceedings in the above-entitled matter.  
21 at Denver, Colorado, this 21st day of October, 1997.

22  
23

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24

Paul Zuckerman

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25

Kara Spitler

