

21
22
23
24
Transcription
Street,
629-9285

Proceeding Recorded by Mechanical Stenography,
Produced via Computer by Paul Zuckerman, 1929 Stout
P.O. Box 3563, Denver, Colorado, 80294, (303)

4730

1 APPEARANCES
2 PATRICK RYAN, United States Attorney for the
Western
3 District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma
4 City, Oklahoma, 73102, appearing for the plaintiff.
5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNES,
and
6 JAMIE ORENSTEIN, Special Attorneys to the U.S. Attorney
7 General, 1961 Stout Street, Suite 1200, Denver,
Colorado,
8 80294, appearing for the plaintiff.
9 MICHAEL TIGAR, RONALD WOODS, and ADAM
THURSCHELL,
10 Attorneys at Law, 1120 Lincoln Street, Suite 1308,
Denver,
11 Colorado, 80203, appearing for Defendant Nichols.
12 * * * * *

13 PROCEEDINGS

14 (Reconvened at 1:48 p.m.)

15 THE COURT: Please be seated.

16 Yes.

17 (Juror No. 647 was recalled to the stand.)

18 THE COURT: All right, sir, if you'll take
your seat

19 again. You have, as I said, the opportunity for
counsel to

20 question you.

21 So, Mr. Ryan.

22 MR. RYAN: Thank you, your Honor.

23 VOIR DIRE EXAMINATION

24 BY MR. RYAN:

25 Q. Good afternoon.

4731

Juror No. 647 - Voir Dire

1 A. Good afternoon, sir.

2 Q. My name is Pat Ryan, and I'm the United States
Attorney in

3 Oklahoma City. I'm here with my fellow prosecutors to
present

4 the Government's case against Terry Nichols. I have a
few

5 questions for you. I noticed on your questionnaire
that you

6 have a bumper sticker on your vehicle.

7 A. Yes, sir.

8 Q. And it says: I would like to --

9 A. -- be fishing. Rather be fishing.

10 Q. Now, you've come to know Mr. Manspeaker here in the
last

11 few days, have you not?

12 A. Yes, I have, sir.

13 Q. Has he shared any fishing tales with you?

14 A. We just talked about it a little bit just a few
minutes

15 ago.

16 Q. I noted that you also had an interest in horseback
riding?

17 A. Yes, sir.

18 Q. Do you own some horses?

19 A. I have two as of this date. I used to raise
Appaloosa

20 horses.

21 Q. Oh, you did. Where did you do that, here in
Colorado?

22 A. Yes, sir; down in Castle Rock.

23 Q. And do you keep the horses on your -- where you
live, at

24 your home?

25 A. Yes, sir.

Juror No. 647 – Voir Dire

1 Q. Does your wife also ride?

2 A. Yes, she does, sir. When we get time. We are not
able to
3 much anymore, you know, because both of us are involved
in our
4 work, and then I fish a lot, too, but

5 Q. Your grandchildren like those horses?

6 A. Yes, they do.

7 Q. I noted in a questionnaire that you have attended
some gun
8 shows.

9 A. Pardon?

10 Q. That you had attended some gun shows in the past?

11 A. Yes, I have.

12 Q. Would you tell us about that?

13 A. Well I used to be -- I used to do a lot of bird
hunting and
14 stuff, you know. And I've just been to a few gun
shows, and I
15 do own a shotgun. But anymore, I don't do much bird
hunting or
16 anything.

17 Q. Did you ever hunt on horseback?

18 A. Pardon?

19 Q. Ever hunt on horseback?

20 A. Years ago, I went elk hunting on horseback. I've
only been
21 elk hunting twice, but that's been quite a few years

ago.

penalty 22 Q. Let me ask you a few questions concerning the death
jury 23 and the McVeigh trial. Do you recall the -- when the
McVeigh? 24 returned a verdict of guilty with respect to Mr.
25 A. Yes, I do, sir.

4733

Juror No. 647 - Voir Dire

did you, 1 Q. Now, you didn't attend any portion of the trial,
2 of Mr. McVeigh?

3 A. No, sir.

that was 4 Q. Did somebody tell you what the evidence had been
5 considered by that jury?

6 A. No, sir.

was 7 Q. Do you have any opinion as to whether the evidence
8 sufficient in that case to prove him guilty?

9 A. What I have heard, sir, I think it was sufficient.

10 Q. But you recognize that you weren't there?

11 A. No. No, I was not.

the jury 12 Q. Do you remember that at some later point in time,
13 returned a verdict on the death penalty?

14 A. Yes, sir.

15 Q. Do you recall that there was a couple of weeks'
difference

16 between those two verdicts?

17 A. I remember there was some time. I don't know how
long it

18 was or anything.

19 Q. Now, that period of time between the verdict of
guilty and

20 the verdict of the death sentence, that period of time
there,

21 that's the period of time that his Honor was talking to
you

22 about this morning where we have this second trial in
which the

23 jurors hear the aggravating circumstances about the
crime.

24 They also hear mitigating circumstances. You recall
that, of

25 course?

4734

Juror No. 647 - Voir Dire

1 A. Yes.

2 Q. And of course you understood that there's no
automatic

3 death penalty?

4 A. Yes, sir.

5 Q. That you have to hear that evidence. Would you
turn to

6 page 28 of your questionnaire for me, please.

7 A. Okay, sir.

8 Q. You see Section C and D there at the bottom of the
page?

9 A. Yes.

10 Q. And you distinguish in your answers there between
different

11 types of murders. Am I reading that correctly?

12 A. Yes, sir.

13 Q. Second-degree murder, you felt like a life
imprisonment is

14 something that should be considered; and if it was
first-degree

15 murder, death penalty should be considered; is that --
am I

16 reading that correctly?

17 A. Yes, sir. Uh-huh.

18 Q. Now, you understand, though, now after hearing his
Honor's

19 instructions to you this morning that even in first-
degree

20 murder, no matter how many people were murdered, no
matter what

21 the circumstances, no matter whether premeditated, that
a

22 juror -- the law demands that a juror be open to both a

23 sentence of life and a sentence of death and you can't
make

24 that decision until you've heard it all. Does that
seem fair

25 to you?

4735

Juror No. 647 - Voir Dire

1 A. Yes, I -- yes, sir, it does.

2 Q. You have a wife who's in the judicial system.

3 A. Yes, sir.

4 Q. Is it fair to say that you have a healthy respect
for the
5 law?

6 A. Yes, I do, sir.

7 Q. And I noted that on the questionnaire, that you
marked the
8 block that you agreed strongly in the notion of
following the
9 court's instructions?

10 A. Yes, sir.

11 Q. And do you think that -- do you see any reason why
you
12 would have difficulty following the instruction to keep
an open
13 mind on both life and death until after you've heard
all about
14 Mr. Nichols and all about the mitigation that may be
presented?

15 A. I would keep an open mind, sir.

16 MR. TIGAR: Excuse me, I object to that
question.

17 THE COURT: The objection is overruled.

18

VOIR DIRE EXAMINATION

19 BY THE COURT:

20 Q. What was your answer, sir?

21 A. I would keep an open mind whether he was guilty --
you

22 know, prove to the point that he was guilty or
whatever.

23 Q. Now, he's not asking you about that now. We're
making the

24 distinction here. Maybe that was confusing to you with
the

25 objection made, too, but what Mr. Ryan is asking you
about is,

4736

Juror No. 647 - Voir Dire

1 you know, you don't get involved in a sentence decision
until

2 there's a decision on the evidence. Do you understand?

3 A. Yes, I do, sir.

4 Q. It has to be a guilty verdict before you even get
to the

5 trial of the question of sentence.

6 A. Yes, sir.

7 Q. And I believe what you were being asked is whether
you

8 would approach the sentencing decision with an open
mind and

9 consider --

10 A. You mean after I heard all the evidence.

11 Q. What I was talking with you about, all of the
information

12 that relates to the circumstances of the crime and also
all of

13 the information that would be given to you about Mr.
Nichols,

14 or any defendant, you see. You can't talk about Mr.
Nichols as

15 such because we don't have any information about him
and just

16 like we don't have any of the evidence that the
Government may

17 offer with respect to him as to the evidence as to
whether he

18 had anything to do with this bombing. So that's why we
can't

19 ask you about, you know, what you think about Mr.
Nichols in

20 these terms; but as I explained to you, the jury
sentencing a

21 person has to consider that person and all of the
information

22 that's provided about him.

23 Now, I think the question that was being asked
of you

24 here is whether you're going to be able to be open-
minded and

25 base your decision on everything that you've heard.

Juror No. 647 – Voir Dire

1 A. I stated before I would keep an open mind, sir, on
2 everything.

3 THE COURT: Okay.

4 MR. RYAN: Thank you, your Honor.

5 VOIR DIRE EXAMINATION

6 BY MR. RYAN:

7 Q. With the Court's indulgence, let me ask a few
follow-up
8 questions. I want to make sure we're together here.

9 A. Okay.

10 Q. You're going to hear a body of evidence with
respect to
11 whether or not Mr. Nichols is guilty of the crimes
charged.
12 Witnesses will be called, exhibits will be introduced,
and then
13 you're going to deliberate with other jurors to decide
whether
14 or not he's guilty beyond a reasonable doubt. That's
what we
15 call the first trial. Are you with me?

16 A. I'm with you, sir.

17 Q. Okay. And then, you know, we don't -- we can't
say, as we
18 stand -- as I stand here, I can't say what the jury is
going to
19 find. He's presumed innocent, but we have to talk
about this

a guilty 20 on the assumption that the jury were to come back with

21 verdict, and now we start a second trial.

22 MR. TIGAR: Objection, your Honor.

23 THE COURT: No, he said with the assumption
that the

24 jury would come back with a guilty verdict. We have to
put it

25 in terms of the possibility.

4738

Juror No. 647 - Voir Dire

1 BY MR. RYAN:

2 Q. Of the possibility that the jury would come back
with a

3 guilty verdict. If that possibility comes to happen,
the

4 jury's found the defendant guilty, then we have a whole
new

5 trial and new information comes forward about Mr.
Nichols,

6 about his role in the crime, about things that I can't
even

7 tell you about because I don't know what will be
introduced.

8 Are you with me on that?

9 A. Yes, sir.

10 Q. And so what we're -- what I'm trying to find out
from you

11 is -- you know, some people would say, you know, if

he's -- if

12 a man is found guilty of premeditated murder, then
that's it, I

13 don't want to hear about the defendant, I don't want to
hear

14 anything else, that's it, by golly, he deserves the
death

15 penalty. And what I'm wanting to find out is: Are you
one of

16 those people, or are you going to wait and hear all the
17 evidence and make up your mind later about the
sentence?

18 A. Well, you'd have to weigh all the circumstances and
stuff,

19 you know, what could have caused him or whatever, like
how he

20 was raised or -- you would have to keep an open mind,
sir.

21 Q. And will you do that?

22 A. Yes, sir; I would, sir.

23 MR. RYAN: Thank you, sir.

24 THE COURT: Mr. Tigar, do you have some
questions?

25 MR. TIGAR: Yes, your Honor, thank you.

4739

Juror No. 647 - Voir Dire

1 VOIR DIRE EXAMINATION

2 BY MR. TIGAR:

3 Q. Good afternoon, sir.

4 A. Good afternoon, sir.

5 Q. My name is Michael Tigar. We were introduced
before. This

6 is Ron Woods; and Terry Nichols, of course. Ron and I
were

7 appointed by the United States district judge down in
Oklahoma

8 in May of 1995 when the government lawyers filed
charges

9 against Terry Nichols. And because we were appointed
by the

10 court -- that is, Mr. Nichols didn't have money to hire
his own

11 lawyer -- did we start out with a disadvantage as far
as you're

12 concerned?

13 A. No. You've got to defend him to your fullest; and
I don't

14 think you start out with a disadvantage, no, sir,
because he's

15 a person that is innocent until proven guilty, and
you've got

16 to help him all the way you can help him.

17 Q. All right, sir. I appreciate that. Now, you said
that --

18 did you grow up on a farm?

19 A. On a small farm, yes, sir.

20 Q. How many acres was that?

21 A. We only had 10 acres, but my father leased some
other land

22 that we run cattle on and stuff, you know. But my
father was
23 also a hod carrier, and he liked, you know, farming
more or
24 less -- he never did make any money off of it actually,
but it
25 was just more or less a hobby. But we did have a few
cows and

4740

Juror No. 647 - Voir Dire

1 getting up a few cows.
2 Q. So you had dairy cattle as well as beef cattle?
3 A. Right.
4 Q. It was like that bumper sticker that says: "Crime
don't
5 pay, neither does farming."
6 A. That's about the extent of it. My father never did
make a
7 living at it, but it was something he enjoyed. And I
8 enjoyed -- I didn't make any money off my horses, but I
enjoyed
9 doing it.
10 Q. I noticed as you came in, you have a belt buckle.
Is that
11 from a rodeo event?
12 A. No, it's not. I have rodeoed. I used to do some
13 team-roping, mainly jackpot.
14 Q. All right. Sure.

15 A. But this buckle was gave to me, sir.

16 Q. Well, I didn't mean to pry into that, I just -- has
it been

17 a while since you've done team-roping?

18 A. It's been about 10 years since I have done team-
roping,

19 yes.

20 Q. Now, who would be your partner, then, other members
of the

21 family, or people that you knew?

22 A. People that I knew. And my son done some with me
until he

23 got in the Marines.

24 Q. And did you have any particular part of the team
that you

25 wanted to be?

4741

Juror No. 647 - Voir Dire

1 A. I was better header than a heeler.

2 Q. Okay. Well, you mentioned that at some point along
the

3 way, you had changed religious affiliations. I'm
jumping

4 around on these subjects a little bit. You said it was
when

5 you got married. I don't want to pry into those
things. Was

6 that at the time of your first marriage or at the time

of your

7 present marriage when you changed?

8 A. My first marriage, sir.

9 Q. I see. Is there anything about the church where
you go now

10 where they've talked about the criminal justice system
or what

11 punishments are appropriate or anything? Do they
preach on

12 that?

13 A. I guess some of them got their own viewpoint, but
that

14 isn't discussed much at all in church. And actually, I
am not

15 able to attend church that much 'cause I've -- the
school I'm

16 working at has a church program there, and I got to be
there to

17 open the church for them and be there while -- you
know.

18 Q. I see. Okay. You mentioned that you had worked as
a hod

19 carrier and then broke with the union; right?

20 A. Yes.

21 Q. And that you felt that there just wasn't as much
22 opportunity in that field?

23 A. Well, yes, I did, sir. It's the wages kind of --
you know,

24 you weren't making the money you were before, and you
lost your

25 benefits; and at that time, you know, the construction

industry

4742

Juror No. 647 - Voir Dire

1 had slowed down a little bit. I worked commercial
mainly, and

2 it had slowed down; and then I got to thinking about my
age, am

3 I going to be able to do this when I get 60-some years
old;

4 it's kind of tough on me now. There's quite a few
things that

5 I weighed to get out of the hod-carrying trade.

6 Q. You -- I'm sorry?

7 A. I had a chance to get on with the school and so I
did, and

8 I've been very glad that I did.

9 Q. You like this work that you're doing?

10 A. Yes, I do.

11 Q. You mentioned also that your wife works as a court
clerk.

12 How long have you all been married?

13 A. 11 years, going on 11 years.

14 Q. And so all that time she's been working at the
court?

15 A. Yes.

16 Q. And you have some friends who are lawyers?

17 A. Yes, I've got a few; but their work has never been

18 discussed and this, that, and the other.

19 Q. I understand.

20 A. And I have went fishing with a few, and, you know,
this

21 judge where my wife used to work, her husband and I are
best

22 friends. We fish quite a bit together and stuff, but
work

23 wasn't discussed, you know.

24 Q. No, I understand. I just wonder: Have you had a
chance to

25 talk to any of the them about the fact that you got the
jury

4743

Juror No. 647 - Voir Dire

1 summons?

2 A. No, I have not.

3 Q. Of course, you did talk it over with your wife
because you

4 talked about what, you know, if she helped with the

5 questionnaire. Did you talk it over with people at
work, to

6 let them know that you might not be there for a while
if you

7 get picked on the jury?

8 A. I had mentioned it to two or three people. I had
to tell

9 my principal, vice principal, and two or three of the
teachers.

10 Q. Sure.

11 A. That's been the extent of it.

12 Q. Well, did they have any reaction to it? I mean it
would be

13 normal that they would; right? I mean that's

14 A. They just told me that they hoped that I didn't get
picked

15 or whatever because they would miss me at school and
this,

16 that, and the other. You know, the principals told me
that,

17 "What are we going to do without you?" and this and
that. "We

18 depend on you so much." But that's all that was
brought up or

19 whatever. She said it in joking way, I'm sure.

20 Q. Sure. Well, I'm sure she's serious; it is a
problem

21 with -- problem finding somebody else to do the job.
Did

22 anybody make any suggestions as to how you might answer
the

23 questions so you wouldn't be on the jury?

24 A. Oh, there's been quite a few of them that have, you
know --

25 that said different things. But I'm speaking from the
heart

1 when I filled this out. I don't let anybody --

with me 2 Q. I understand. I understand. Could you just share

3 what they said?

whatever 4 A. Oh, a few of them said that . . . "Say guilty or

know, 5 so you can get off right away," or whatever. And, you

whatever, 6 some of them said, "I wished I would be picked," or

7 you know, but just

8 Q. Just comments like that --

9 A. Yeah.

guess 10 Q. -- based on -- and you thought -- some of those, I

thought it 11 you thought those were because they didn't -- they

right? 12 would be better for them if you didn't get on the jury;

13 A. Uh-huh. Uh-huh.

that 14 Q. And others of them, they'd read things in the media

15 might have influenced them or so on?

16 A. I guess so, sir. I don't know, sir.

thought of -- 17 Q. I wanted to talk a little bit about what you

in to the 18 you said you had somebody at work that actually tuned

19 O. J. trial; right?

20 A. Yes, sir.

21 Q. Was it on the radio, or did you have it on TV?
22 A. She had it on the radio, sir, and she was working
for me
23 down at the middle school. And it drove me nuts. You
know,
24 I'd tell her to turn it off and this, that, and the
other. It
25 was keeping her from her work, and I was her supervisor
at that

4745

Juror No. 647 - Voir Dire

1 time, sir.
2 Q. Kind of a distraction?
3 A. It was a distraction.
4 Q. Indeed. Well, what -- did you have an opinion
about what
5 that -- how that case came out or how it was run?
6 A. Well, I've got an opinion how it came out, I think,
you
7 know; but I'm sure I've got an opinion how it came out.
Should
8 I tell you how --
9 Q. Sure, please do.
10 A. I think the man was guilty, you know, that's what I
think;
11 but that's my personal opinion.
12 Q. I understand it. There's nothing wrong with that.
You

13 know, that was some other jury, and it wouldn't
surprise you

14 that a lot of folks have come in here and some people
think one

15 thing and some people think another, and they share
that with

16 us.

17 And have you -- when you wrote on your
18 questionnaire -- could you look at page 22, please.
That's

19 the -- everybody asked you about that Question 100. In
some

20 cases it could be improved. And I wanted to talk a
little bit

21 about this question of how the system sometimes -- what
I heard

22 you say is sometimes it just doesn't make the -- you
know, the

23 punishment fit what this person did or what kind of a
danger

24 they might be. Could you tell me about that? Any
particular

25 cases you've thought about where you wished the system
had done

4746

Juror No. 647 - Voir Dire

1 a little bit more to, you know, protect the citizens?

2 A. Well, you know, just I can't tell you any
particular case;

and then 3 but where a person, you know, does a rape or whatever
they come 4 they get off -- you know, they serve a few years and
just 5 back and they commit that crime again or whatever, it
little 6 seems like, you know, he -- if they were locked up a
somebody 7 longer, whatever, they couldn't be out there injuring
sentenced so 8 or whatever, you know. And then if a person is
9 many years, I think they should fulfill them years or
10 whatever --

11 Q. Uh-huh.

12 A. -- instead of getting off easy or whatever, you
know,
13 like -- well, a lot of crimes, I think they should get
the max
14 instead of the minimum or whatever of the sentence.

15 Q. Okay. Now, you understand that in the -- as the
Judge
16 said, in the federal system, the number is the number;
that is
17 to say, a life sentence without possibility of parole
means
18 that's it, you go in and you die in prison. You're
clear about
19 that?

20 A. Yes, sir; yes, sir; yes, sir.

21 Q. There are no revolving door kind of things. I
guess you've

and out 22 heard that expression. Where you get out and back in
23 and in and so on.
24 Well, moving on, then, to this -- you know,
talking a
me 25 little more about this punishment question. You heard

4747

Juror No. 647 - Voir Dire

If 1 object and then the Judge said some things and so on.
hear a 2 you're picked as a juror on this trial, you're going to
3 lot of that.
4 A. Yes, sir.
it's the 5 Q. That is to say, it's a job of a lawyer to object,
is 6 job of a lawyer to put questions that he or she thinks
can't take 7 right, and the Judge is the one that rules. And you
job. 8 that for or against anybody. Everybody's doing their
and do 9 A. Uh-huh. Uh-huh. Everybody's got a job to fulfill
10 to their best.
we're 11 Q. Right. You know, that's what we're trying -- now,
12 talking about this punishment issue, even though we

have to

13 presume that we'll never get there; that is, Mr.
Nichols is
14 presumed innocent. He starts with a clean slate;
whatever
15 anybody has read or heard, you know, that has been on
this
16 jury, they put that aside. I guess you can imagine a
lot of
17 folks have read a lot about this -- this case.

18 A. Uh-huh.

19 Q. But you've made clear that although you've heard
20 allegations, that you can set that aside; right?

21 A. Yes, sir, I can, sir. I'd be going on my own mind
and my
22 beliefs and whatever. You know, I don't let anybody
influence
23 or pass judgment on a person; and, you know, I would be
the one
24 that would be doing that.

25 Q. Great. Well, in -- first thing that's going to
happen here

4748

Juror No. 647 - Voir Dire

1 is that the Government has a theory about -- they
allege that

2 Terry Nichols was involved in this thing, see? And
they

3 present evidence in support of their theory. Now, we

start, we

4 cross-examine every single witness that they put up,
you know;

5 and then when it comes our turn, we present our
evidence. And

6 we don't get to go first, right, so it's -- you know,
that's

7 going to be after the Government has finished theirs,
and then

8 and only then is the jury asked: Gee, is there a
reasonable

9 doubt? As the Judge said, if there is, the jury's duty
is to

10 say not guilty.

11 A. Uh-huh, uh-huh.

12 Q. So you don't have any problem participating in
that, do

13 you?

14 A. No.

15 Q. Sometimes -- have you ever seen it happen in life
that

16 you've been thinking on a thing and thinking on it and
thinking

17 on it, and the very last thing you hear turns out to be
the

18 thing that really is important? Right? I mean I don't
know if

19 that has ever happened to you --

20 A. Yes, it has.

21 Q. It has happened. Well, can you keep an open mind
through

22 the whole process?

23 A. I know I could, sir.

24 Q. But now is the only time we ever get to talk to
you, so we

25 have to say, gee, well, what if the jury finds Mr.
Nichols

4749

Juror No. 647 - Voir Dire

1 guilty of something, then we go into this second part
here, you

2 know. There would be a hearing on what ought to
happen. And

3 because we're talking about possibilities and
presumptions and

4 so on, we don't talk about a particular case. We just
ask

5 about, you know, folks' feelings about this question of
6 punishment.

7 Now, you've had an opinion about the death
penalty, I

8 guess a long time.

9 And would you say that it's something you've
held

10 pretty strongly?

11 A. I have held strong opinions on it, yes, sir.

12 Q. What lies behind that? Why -- you know, what forms
your

13 opinion?

14 A. Well, I just -- I can't see anybody taking somebody
else's
15 life or whatever, but since Mr. Matsch explained it to
me,
16 there could be something behind his background or
whatever, you
17 know, I've got to kind of weigh that, too, you know.
18 Q. I understand. So when you came in today, when you
came
19 into court today, before Judge Matsch talked --
20 A. Yes.
21 Q. Because that was the questionnaire, what if you
could make
22 the law; right? Did you have the feeling that, well,
if
23 somebody went out and intentionally killed somebody,
well, by
24 golly, they ought to go out and pay for it with their
life?
25 I'm talking about before you came in here.

4750

Juror No. 647 - Voir Dire

1 A. Yes, I'm afraid that I did.
2 Q. Well, nothing to be afraid of. A lot of folks do.
Have
3 you read about this execution happening in Colorado
last week?
4 A. Yes, sir, I did.
5 Q. What did you think about that?

6 A. I think it was just. I think it was very just.

7 Q. And did you talk about it with your family, with
people you

8 work with, with others?

9 A. A long time I talked about, when he was appealing
and this

10 stuff.

11 Q. Way back then.

12 A. Yes.

13 Q. Yeah?

14 A. That I thought it was unjust that somebody appeal
that much

15 and this and that and the other. And I think -- I
think it was

16 just thing, sir.

17 Q. When you say it was unjust somebody to appeal that
much,

18 what did you mean?

19 A. Well, to have -- have it carried on that long, you
know, 11

20 years.

21 Q. Okay.

22 A. That many appeals or whatever.

23 Q. Then today you came in and you heard what Judge
Matsch was

24 talking about --

25 A. Yes.

Juror No. 647 - Voir Dire

1 Q. -- the circumstances. Do you think that if -- as
you now
2 understand the law -- that if a person is convicted of
3 deliberately killing a number of people, that a life
sentence
4 is an option for that situation?
5 A. It depends on the circumstances, sir.
6 Q. And when you say "depends on the circumstances,"
what are
7 you thinking?
8 A. Well, like what might have caused it or this and
that and
9 the other. But I'm still kind of hung up on . . . I
would have
10 to weigh that quite a bit, I'm afraid.
11 Q. Tell me what you're hung up on.
12 A. Well, I think taking that many lives and stuff, you
know,
13 and it would be a tough decision, sir, in my mind.
14 Q. And what do you mean by "a tough decision"?
15 A. Whether it would be life or death. You know, I'd
really
16 have to weigh the circumstances and this and that and
the
17 other.
18 Q. Would you start out the process favoring one result
over

19 another?

20 A. I think I would be just, sir.

21 Q. I understand that. And I'm sure, and I guess --
the reason

22 I asked whether you would start out the process
favoring one

23 result over another, you know, I think that's a natural
24 question, you know, because of all the things we talked
about.

25 Do you think -- is that a question you think you could
focus

4752

Juror No. 647 - Voir Dire

1 on?

2 MR. MACKEY: Judge, objection to the comment.

3 THE COURT: Well, I'm a little confused about
what the

4 question is there, Mr. Tigar.

5 MR. TIGAR: I'm sorry, your Honor. I'll just
put it

6 without embroidery.

7 BY MR. TIGAR:

8 Q. Assume a case where you had found someone guilty of
the

9 intentional murder of many people.

10 A. Uh-huh. Uh-huh.

11 Q. And now you had to consider -- you know, you hear
evidence

12 and so on, you were going to consider the question of
13 punishment. Would you start out favoring one form of
14 punishment over another?

15 MR. MACKEY: Objection to form.

16 THE COURT: Overruled.

17 You can answer that.

18 JUROR: I'm afraid I would, sir.

19 BY MR. TIGAR:

20 Q. And what would you favor?

21 A. The death sentence, I think, sir.

22 Q. Okay.

23 A. If it was -- you know, that many people's lives
were
24 involved and this and that and the other. But I would
listen
25 to what might have caused him to do this and what his
life was

4753

Juror No. 647 - Voir Dire

1 like and different things, you know.

2 Q. Now -- oh, I'm sorry, go ahead. I don't want to
cut you
3 off.

4 A. No, that's --

5 Q. That's it? One of the things that folks talked
about was

6 you work with children.

7 A. Yes.

8 Q. And there are -- there are a number of children
that were
9 killed in that Oklahoma City bombing. Did you know
that?

10 A. Yes, sir, I know that, sir.

11 Q. Okay. Everybody -- I mean everybody knows that.
Nobody
12 questions that.

13 A. No, sir.

14 Q. That that happened. Now, there's going to be
evidence in

15 this case that will be very powerful evidence -- there
may well

16 be -- people that have this grief, that have this
anger. There

17 may be pictures, videos, so on. You may have seen some
of the

18 pictures and videos on the television, I guess.

19 Do you -- how is that -- how do you think
that's going

20 to affect you as you think about serving as a juror?

21 A. I would have to hear all the evidence -- in my
mind, the

22 man would have to be guilty, you know. I would weigh
all the

23 evidence and circumstances and all this, you know, but
I'm not

24 going to pass judgment until I know in my own mind that
I can

25 really pass judgment on the man, sir.

4754

Juror No. 647 – Voir Dire

1 Q. Now, did you read as to whether there had been
members of 2 the Marine Corps that were killed in this bombing?
Have you 3 read anything about that one way or the other?

4 A. I don't remember reading anything about it.

5 Q. By the way, have you talked about the case with
your son?

6 I mean before you got the jury summons, did you talk
about it?

7 A. No. No, sir. He's stationed in California.

8 Q. Right.

9 A. And in fact, he just got back a week ago last
Friday from a

10 six-month cruise. He was -- they went to Kuwait,
Jordan,

11 Singapore, Australia, different places. I just talked
to him

12 on the phone. But he don't even know that I have got a
jury

13 summons.

14 Q. Was he on a carrier? Was he on part of a carrier
15 detachment?

16 A. Yes, uh-huh. He was on helicopter carrier.

17 Q. LPH?

18 A. U.S.S. Boxer.

19 Q. So the helicopters -- and they do, what, vertical-
20 envelopment-type landings and so on?

21 A. Yes, sir.

22 Q. Okay. Now, if there's -- you're selected as a
juror,
23 there's evidence in this case -- you may very well hear
24 testimony from Marine Corps people who lost their
fellow
25 soldiers. Would you be able to hear and evaluate that

4755

Juror No. 647 - Voir Dire

1 testimony just the same as anybody else, any civilian?

2 A. Just because my son's in the military, I wouldn't
favor
3 them or anything else. I would have to go with my own
beliefs
4 and stuff, sir. The evidence I've heard and, you know
-- I'm
5 not going to be influenced by my son being a marine.
There's
6 marines killed or whatever.

7 Q. I understand.

8 A. And the same way with, you know, I am partial to
children
9 and stuff, but -- and I work with children all the
time, but I

it. I 10 wouldn't be swayed because there was children killed in

11 would, you know

12 Q. I understand. So there have been times in your
life where

13 you've had to stand up for your rights; right?

14 A. I stand up for my rights anytime, sir.

15 Q. All right.

16 A. The way I feel. I'm not a follower. I'm, you
know, a

17 leader, whatever, you know, so -- or try to be a
leader. But I

18 never have been a follower.

19 Q. And you think that --

20 A. I believe on standing up on my own two feet and for
my

21 rights and this and that and the other.

22 MR. TIGAR: Thank you very much, sir, for
sharing your

23 ideas and your thoughts with me. I appreciate it.
Thank you.

24 VOIR DIRE EXAMINATION

25 BY THE COURT:

4756

Juror No. 647 - Voir Dire

1 Q. Well, you've had a lot of questions put to you
here, a lot

at you, 2 of different directions that these questions have come
your 3 so -- and as I understand your answers, listening to
the heart, 4 answers, you tried to answer as best you could, from
5 as you said. Right?

6 A. Yes, sir.

7 Q. I just want to come back to this matter of if you
had to

8 decide life or death on a person, and you mentioned
here that

9 depending on the crime, if the crime involved a lot of
death,

10 you might start out thinking death is the sentence.
That's

11 about what you said, isn't it?

12 A. Yes, sir, that's what I said.

13 Q. Yeah. Now, you know, we just have to know from you
-- and

14 answer honestly here -- whether you'd still be open to
and work

15 into your decision whatever you heard about the
defendant even

16 though you found the defendant guilty of a lot of
killing.

17 A. Yes, sir.

18 Q. So it's not just: I'll listen to it; but you have
to also

19 actually work it into your decision. And if the --
after you

20 talk with the other jurors, if the answer is life, then

it's

21 life. If it's death, it's death. But it has to be a
decision

22 based not on just the crime, but the crime and the
person.

23 Now, are you open to doing that?

24 A. Yes, sir.

25 Q. Okay.

4757

Juror No. 647 - Voir Dire

1 A. You --

2 Q. Go ahead. You got a question or additional
statement?

3 A. I had a vacation that I put in for, Judge -- for
about six

4 months ago, and I was going on vacation next month, but
I'll --

5 Q. When does it start?

6 A. It starts the 15th of November. And we have
reservations

7 there --

8 Q. We'll know before then whether you will be on the
jury or

9 not, so don't change any plans now for that. But it
could be

10 that you'll be in here in this trial instead of on
vacation.

11 Understand?

12 A. Yes, sir.

13 Q. And you'd be willing to do that?

14 A. Yes; if I am picked, I would put my heart into it.

15 Q. Yeah. And, you know, you may be greatly
disappointed, and

16 your wife, too, that you couldn't go on the trip; but
can't

17 hold that against the Government or Mr. Nichols. You
can hold

18 it against me, I guess, but you'd still have to --
you'd still

19 have to do the job.

20 A. Yes, sir. Yes, sir.

21 THE COURT: Okay. Well, as I say, I can't
tell you

22 when we're going to tell you whether you're on the
jury, but

23 I'm confident that we'd be able to tell you before
November the

24 15th. So as you go from here today -- and you're
excused

25 now -- you will have to assume that you're going to be
back

4758

1 here on a day that I can't tell you what day to start
this

2 trial and to sit on this jury and have that
responsibility.

3 And so you got to be very careful now about talking
with people
4 or letting people talk to you, you know, just as we've
talked
5 about here, expressing their opinions to you. Stay
away from
6 anything about this case so that you could come in here
and do
7 what I understand you're telling us you could do, and
that's
8 decide on what's presented to you and follow the law.
All
9 right?

10 JUROR: Yes, sir.

11 THE COURT: And now if anything changes,
anything
12 happens that causes you to have to leave town or
something
13 before you hear from us, you let us know right away.

14 JUROR: Okay, sir.

15 THE COURT: You got the number to call, and
you can
16 call.

17 JUROR: Okay, sir.

18 THE COURT: And let us know.

19 Okay. You're excused for now. And thank you.

20 JUROR: Okay. Thank you, sir.

21 THE COURT: 823.

22 Good afternoon. Would you please raise your
right

23 hand and take the oath from our clerk.

24 (Juror No. 823 affirmed.)

25 THE COURTROOM DEPUTY: Thank you.

4759

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

2 microphone. And don't be intimidated by the
microphone. You

3 don't have to talk into it or worry about it. It will
pick you

4 up, and it's only there for purposes of our hearing you
better.

5 VOIR DIRE EXAMINATION

6 BY THE COURT:

7 Q. You understand that the oath referring to the case
now on

8 trial -- we're here selecting a jury for the trial of
the case

9 of the United States against Terry Lynn Nichols. And
you got a

10 summons in the mail last July telling you that you were
among

11 those who have come up through a chance selection
process as a

12 person who may serve in the case.

13 And you got along with that notice a
questionnaire

14 asking you some questions and to fill it out and send

it back

15 to us, and you did that.

16 You have to answer out loud here so we're
making a

17 record, you see.

18 A. Yes.

19 Q. And you expressed some concern. As we asked you in
the --

20 in the questionnaire about whether there's anything
that might

21 prevent you from serving, you expressed some concern
about your

22 religious views and the view of the church to which you
belong;

23 but we asked you to come on out to the Jefferson County

24 Fairgrounds in September, a little over a month ago,
and you

25 did that.

4760

Juror No. 823 - Voir Dire

1 A. Right.

2 Q. Now, it isn't because we didn't read your
questionnaire and

3 just ignored it. But of course there are many people
in

4 response to the questionnaires expressed concerns about
things,

5 and that's what we asked for; and we'll talk with you
about

6 this concern of yours a little this afternoon. So we
don't
7 mean that it's not relevant here and it shouldn't be
discussed.
8 I didn't mean to suggest that. But we needed to hear
more from
9 you, and we heard a lot more from you when you answered
166
10 written questions; and we appreciate your cooperation
in that
11 regard.

12 Now, before you got this written
questionnaire, I was
13 there with you and the other people at the fairgrounds,
and I
14 made some introductions and made some statements about
the
15 case; and I want to again introduce people who were
there with
16 us and who are with us now as a part of this process.

17 So please -- here at this first table are Mr.
Lawrence
18 Mackey and Miss Beth Wilkinson, who are attorneys for
the
19 Government in this case. And with them now are Mr.
Patrick
20 Ryan and Mr. James Orenstein, additional lawyers for
the
21 Government. They weren't there in September.

22 But also with us then were Mr. Michael Tigar
and
23 Mr. Ronald Woods, attorneys for Terry Nichols; and of

course

24 Mr. Nichols was with us.

25 And then after those introductions, I went
over the

4761

Juror No. 823 – Voir Dire

1 background of the case; and I want to do that again
just so

2 that it is clear here even though I'm sure that I'm
going to be

3 mentioning things that you're well aware of. But
sometimes we

4 have to repeat things in court, as we often say, for
the

5 record.

6 And I want to, before doing that, reassure you
also

7 what I say for the record: These answers that you gave
to all

8 of these questions, some of which are quite personal,
have not

9 been given to anybody but the people you see here; and
we're

10 using them only for this purpose of jury selection, so
they

11 haven't gone public. And of course we recognize your
interest

12 in protecting your privacy and your family and so
forth, so

13 we're not using your name here and we won't in the

questioning

14 that will take place here I think do anything that
identifies

15 you individually. And, you know, that's also why we
have this

16 arrangement for you to come into the courthouse and go
out

17 without anybody being able to put your face on
television or

18 identify you. So that's all a matter of simply trying
to

19 protect your privacy. But of course this is a public

20 proceeding, it's a public trial; and therefore the
things that

21 are said here in court are public. You understand
that?

22 A. Yes.

23 Q. Well, you may not -- you may want to have it
otherwise, but

24 that's how it is, and I just want to make sure you
understand.

25 And as I said to you and the others when we were
together last,

4762

Juror No. 823 - Voir Dire

1 that all of this arises as a result of an event in
Oklahoma

2 City, Oklahoma, on April the 19th of 1995, when a
federal

3 office building there was destroyed by an explosion and

people

charges 4 in the building were killed and injured; that later the

Oklahoma City 5 were filed in the United States District Court in

indictment 6 by lawyers for the government in the form of an

accusing 7 which simply is a statement of what the government is

Timothy 8 and alleging. And the indictment named a man named

the 9 James McVeigh along with Terry Lynn Nichols -- and then

together 10 indictment says "and other persons not named" -- were

building and 11 in a conspiracy, formed an agreement to bomb the

indictment goes 12 to kill and injure people in it. And then the

are some 13 on to allege more than just the conspiracy, but there

carried 14 11 counts or charges which include that the defendants

and kill 15 out that bombing and did indeed destroy the building

does, 16 and injure the people. And it includes, the indictment

enforcement 17 eight counts of murder, first-degree murder, of law

who were 18 agents of various agencies of the national government

19 in the building and died in the explosion.

20 Now, to these charges, the named defendants,

guilty, 21 Mr. McVeigh and Mr. Nichols, entered pleas of not
case was 22 thereby creating the issues for trial. And then the
a 23 moved from Oklahoma City over here to Denver because of
in the 24 concern for asking people in Oklahoma to sit as jurors
that 25 case. And then after it came here, I entered an order

4763

Juror No. 823 - Voir Dire

1 there be separate trials and that it would be
fundamentally 2 unfair for both of these named men, Mr. McVeigh and
3 Mr. Nichols, to be together in the courtroom at the
same time 4 because of differences that may exist with respect to
the cases 5 and the evidence against them. So I said there would
be 6 separate trials, first a trial of Timothy McVeigh and a
jury 7 selected in his case and that jury would hear the
evidence as 8 it relates to him. And then there would be a second
trial for 9 a -- with a separate jury to hear the evidence as it
may relate 10 to Mr. Nichols.

11 The trial of Mr. -- the evidence as to Mr.
McVeigh has
12 been heard. A jury heard it, and the jury returned a
verdict
13 of guilty as to him. Then that jury was asked to do
more, to
14 come in with a punishment decision, and the jury came
in with a
15 recommendation for the death sentence.

16 Now, I suspect you already knew those things
before I
17 told you; right?

18 A. Right.

19 Q. But I had to emphasize them again for purposes of
creating
20 sort of the backdrop for this process. And then as I
explained
21 to you and the others, the McVeigh case, the evidence
in there,
22 insofar as you may have seen, read, or heard anything
about it,
23 cannot be considered now; and certainly the outcome,
the jury
24 verdicts, cannot be considered now as anything
suggesting the
25 guilt of Mr. Nichols. To do so, to consider, well,
he's been

1 tried and found guilty -- so, you know, that kind of
thinking
2 would violate the very reason for having separate
trials as
3 I've ordered be done. And therefore the people now
being
4 selected as jurors in this case must have open minds
and
5 recognize the fact that there is no evidence in this
case
6 relating to Mr. Nichols. Nothing has been received
here. And
7 the purpose of this trial, then, is to start with a
clean slate
8 and with the presumptions that the law applies to a
person who
9 is accused and awaiting trial in a case.

10 Follow me?

11 A. Uh-huh.

12 Q. And then I mentioned then sort of the fundamental
13 principles of the criminal justice system in our
country,
14 fundamental because they're required by the United
States
15 Constitution and therefore they apply to all trials in
the
16 United States of any person charged, really in any of
the
17 courts in the United States: local courts, state,
federal, or
18 whatever; and that is, under our constitution, each
person is

19 presumed to be innocent of charges made against that
person, no
20 matter who he or she may be or what those charges are.
And
21 this presumption of innocence carries throughout the
trial,
22 entitles the person to an acquittal, a verdict of not
guilty,
23 unless evidence presented at that trial proves to the
24 satisfaction of 12 jurors beyond a reasonable doubt
that he's
25 guilty. Understand?

4765

Juror No. 823 – Voir Dire

1 A. Yes.
2 Q. And it is not up to a defendant who's accused in a
criminal
3 case to prove himself not guilty. In fact, it's not up
to a
4 defendant to prove anything. No defendant on trial in
the
5 United States has any duty or burden of calling any
witnesses
6 or introducing any evidence. No defendant is required
to take
7 the witness stand and to answer any questions or offer
any
8 explanations. A defendant under our constitution may
simply
9 remain silent and challenge the government's evidence

against

10 him, whatever government that is.

Federal

11 And of course in this case we're talking in

through

12 Court about federal charges and the federal government

them to

13 the lawyers here who brought the case, so it's up to

witnesses and

14 prove it. And it's up to them to bring in the

witnesses or

15 the exhibits to attempt to support these charges. So

16 Mr. Nichols does not have any duty of calling any

You

17 introducing any evidence or testifying in the case.

18 understand these points?

19 A. Yes, I do.

exactly

20 Q. And then at the end of a trial, the court gives

21 instructions to the jury in detail with respect to what

jury can

22 has to be proved beyond a reasonable doubt before the

differs

23 find the defendant guilty of particular crimes, and it

court

24 according to the particular offense charged. So the

find

25 instructs: Well, these are the things that you have to

Juror No. 823 – Voir Dire

1 have been proved by the evidence and considering only
the
2 evidence and following the law.

3 And then the case is given to the jury to
decide about
4 that evidence; and if there's a reasonable doubt as to
whether
5 the evidence proves what has to be proved, then the
defendant
6 must be found not guilty, and that's the jury's duty.

You
7 understand that?

8 A. Yes.

9 Q. And the jury's also instructed in cases when a
defendant
10 does not testify that that fact cannot be considered at
all

11 'cause he doesn't have to. So they can't, you know,
think
12 about it in terms of, well, if he's innocent, why
didn't he

13 tell us so. Nothing like that. In fact, what is
always told

14 to the jury is you can't even talk about the fact that
a
15 defendant doesn't testify in such a case.

16 Now, you've listened carefully to my
explanation of

17 these points, and do you have any question about them?

18 A. No.

19 Q. And you -- in addition to understanding these
principles,
20 do you agree with them?
21 A. Yes, I do.
22 Q. And you're ready to follow them in this case if you
were to
23 serve in this case and therefore recognize that as he
sits here
24 now with us this afternoon, Mr. Nichols is presumed to
be
25 innocent of all of these charges?

4767

Juror No. 823 - Voir Dire

1 A. Right.
2 Q. Okay. Now, I'm going to turn to some things in the
3 questionnaire -- and you have your questionnaire there
with
4 you. Now, we're not going to go through all these
questions
5 and ask everything all over again. Don't worry about
that. I
6 just want to ask you a few things about some of the
things that
7 you've written here, and then I want to ask you about
some of
8 the questions that really ask for your opinion and your
9 attitudes.
10 And, you know, it's not a test. There's no
right or

11 wrong answer to these opinions and attitudes questions.
So
12 you're not going to be challenged on your opinions or
asked to
13 defend what you say here or justify it in any way.
What we
14 simply want to know first are the factual circumstances
that
15 you've, you know, described here, your background and
the like;
16 and then when it comes to the opinions and attitudes,
all we
17 want to hear from you is what you honestly believe and
feel.
18 Okay? So don't feel that you're sitting there in some
way on
19 trial. I can tell you're a bit nervous, and we all
understand
20 that. So I just want to reassure you, though, that
nobody is
21 going to come away from this saying you're a good or
bad person
22 or anything like that. Okay?
23 A. Okay.
24 Q. Now, what you've told us here is that you were born
over in
25 Gunnison.

4768

Juror No. 823 - Voir Dire

1 A. Uh-huh.

2 Q. And in fact, you've lived in many places in
Colorado.

3 A. Yes.

4 Q. And now live here in the Denver area?

5 A. Uh-huh.

6 Q. You have to answer out loud so we can put your
answers in

7 the record.

8 A. Yes.

9 Q. That's one of the things that's hard to get used
to. I can

10 see you're nodding your head, but we have to have you
speak

11 out.

12 And you're married and you have two young
children?

13 A. Right.

14 Q. And you also have two sisters and a brother living
here in

15 the area?

16 A. Right.

17 Q. You, in addition to living -- excuse me -- in these
places

18 in Colorado, you went to college at UNC --

19 A. Right.

20 Q. -- and graduated from there with I guess a
combination of

21 business and education.

22 A. Right.
23 Q. So that you would be qualified to teach.
24 A. Uh-huh.
25 Q. And in fact you have been a teacher?

4769

Juror No. 823 - Voir Dire

1 A. Right.
2 Q. And you're teaching now. In a vocational teaching
for
3 adults?
4 A. Right. Well, it's high school and adults.
5 Q. High school and adults, okay. But you're teaching
for --
6 excuse me -- for vocation?
7 A. Uh-huh.
8 Q. And you're teaching like basic business?
9 A. I teach in the business area. I teach like people
are
10 going to be administrative assistant or accounting --
11 Q. Yeah.
12 A. -- type clerical work, things like that.
13 Q. All right. So, you know, it's rather basic about
the way
14 business is conducted; is that it?
15 A. More of the applications, the software applications
and

16 that type of thing. But, yeah, the basics.

17 Q. Very practical kind of things as opposed to the
18 theoretical?

19 A. Right.

20 Q. And your husband is also a teacher?

21 A. Right.

22 Q. And let's see -- you also used to teach in the
school
23 system?

24 A. I still do. It's part of the school system.

25 Q. I see. And then in addition to the teaching, you
also

4770

Juror No. 823 - Voir Dire

1 volunteer at a school where your son goes?

2 A. Right.

3 Q. Is that a religious school?

4 A. Uh-huh.

5 Q. Catholic?

6 A. Yes. Catholic grade school.

7 Q. Catholic elementary, okay. Now, your husband
teaches at a
8 high school?

9 A. Correct.

10 Q. And you've told us where it is. Excuse me. He
also

11 coaches football.

12 A. Uh-huh. Football and track.

for 12 13 Q. And track. And has he been -- he's been teaching
14 years. Has it all been at that school?

there. We 15 A. No. He's been there -- this is his ninth year

That's 16 both taught at La Junta -- at La Junta High School.

17 where we met. He taught there.

18 Q. I'm having a little bit of trouble hearing you.

19 A. Okay.

with 20 Q. And you may have a little trouble hearing me, too,
21 this coughing, and I apologize for that. But if you'd
speak up 22 just a little.

there? 23 So you lived in La Junta when he was teaching

24 A. Right.

to work 25 Q. Now, you have your grandmother, as I have it, used

4771

Juror No. 823 - Voir Dire

1 in Boulder at the city court, the municipal?

2 A. That was the county court.

3 Q. County court?

4 A. Uh-huh.

5 Q. And is she retired from that now?

6 A. Yes, she is.

7 Q. Still living?

8 A. Right.

9 Q. And did she ever talk with you about cases that
were in
10 court, when she was working there?

11 A. She didn't really deal with the cases. She was an
12 administrative assistant, and so I worked there part of
the
13 time, like in the summer. But she really didn't deal
with the
14 cases; or if so, she didn't talk about them.

15 Q. And when you worked there, you were helping her,
were you
16 not? Were you?

17 A. No, not necessarily. Depending on what they
needed. I
18 just did contract work when I was in college. One
summer I
19 inputted the people that didn't get selected for
juries, so I
20 put in the codes of reasons for not, you know, put it
in the
21 computer. I did things like purge files and kind of
whatever
22 needed to be done.

23 Q. Did you go in and visit courtrooms at times and
watch

24 trials going on?

25 A. Occasionally. We didn't -- I didn't have a lot of
time for

4772

Juror No. 823 - Voir Dire

1 that, so we really didn't do that.

2 Q. But you watched some of that, watched the process a
little

3 bit?

4 A. A little bit.

5 Q. Were there any particularly interesting cases at
the time

6 that caused you to spend a little more time than others
because

7 of the nature of the trial?

8 A. There was a case in Boulder -- one time when I was
there

9 during Christmas break working -- that was a murder
case, and

10 we went to the preliminary hearing one morning for
that. But

11 that was like probably an hour just because, you know,
I wasn't

12 getting paid to be in there, so

13 Q. Okay. But you were interested --

14 A. Yes.

15 Q. -- in seeing what goes on?

16 A. Yes.

17 Q. Okay. Understand.

18 Now, we asked you about, you know, anything
that you

19 may have seen, read, and heard about the McVeigh trial
and

20 about Mr. Nichols, and you gave us some answers there.
And I

21 wanted to turn, if you would, to some of those answers.
You

22 said -- let's see, I'm looking for it. Yeah. You said
on page

23 38 where we sort of wind it all up and ask you if
you've got

24 anything that might prevent you from being fair -- are
you on

25 page 38?

4773

Juror No. 823 - Voir Dire

1 A. Uh-huh. Yes.

2 Q. And you didn't really say yes or no to that
question under

3 164, but you did make an observation. Please read what
you

4 wrote.

5 A. I said, "If Terry Nichols" --

6 Q. No, I mean to yourself.

7 A. I'm sorry.

because 8 Q. Now, I want you to just explain that a little bit
may 9 what you seem to be saying, as I understand it -- and I
participate 10 understand it incorrectly -- that even if he didn't
Nichols 11 in the criminal conduct that he's accused of, if Mr.
that what 12 knew anything about it, he should have stopped it; is
13 you said?

14 A. That's what I said, yes.

issues 15 Q. Yeah. Now, how do you see that as relating to the
16 in this case, if you do?

17 A. I don't really know how it would relate.

just -- and 18 Q. Well, now, he's not charged with any crime that
know 19 in fact, it isn't a crime, generally speaking, if you
understand? 20 about something, that you don't stop it. You

21 A. Yeah.

well, 22 Q. So the charges in this case are not something like,
a 23 Terry Nichols heard that somebody was going to blow up
not a 24 building and he didn't do anything to stop it. That's
that? 25 charge in this case and couldn't be. You understand

Juror No. 823 - Voir Dire

1 A. Yeah.

2 Q. So -- and here again, you're just telling us what
you

3 think, so I'm not -- I'm not challenging what you're
saying.

4 I'm just trying to explain to you that that's not a
part of

5 this case. And you could not find -- a jury could not
find

6 Mr. Nichols guilty of any of these charges just by
finding that

7 he knew something and could have taken action to stop
it.

8 A. Okay.

9 Q. Understand now?

10 A. Yeah.

11 Q. Okay. And of course the court would instruct in
detail, as

12 I've already mentioned, what has to be proved before
there can

13 be a conviction on any of the charges in the case. But
I've

14 tried to make it plain and I think you now understand
that this

15 kind of thing is not a charge and could not support a
guilty

16 verdict.

17 A. Right.

Nichols 18 Q. The role that the jury would have to find that Mr.
any of 19 was guilty of here before it could find him guilty of
conduct 20 these charges is that he actually had to participate in
doing it 21 that resulted in this bombing knowing all about it and
understand 22 as something that he wanted to have happen. You
23 now?
24 A. Yes, I do.
they'd 25 Q. And particularly with respect to the murder counts,

4775

Juror No. 823 - Voir Dire

1 have to prove that he intentionally did something to
cause the 2 death of these law enforcement agents. You understand
that? 3 A. Yeah.
4 Q. Now, we asked you some questions here about this
matter of 5 penalty, and I want to follow up on first in response
to the 6 original questionnaire where you talked about your
concern that 7 as an active member of the Catholic Church, and you
said, "The

capital 8 church and the archbishop and Pope strongly denounce

comfortable 9 punishment. Because of this, I would not feel

10 making the decision" -- or "that decision."

or 11 And you're talking about a decision about life

12 death.

13 A. Right.

And here 14 Q. And I just want to explore this a bit with you.

understand we 15 again, I'm not challenging your views. Please

you use 16 want you to tell us what you sincerely believe. But

17 the word "comfortable," and, you know, there's nobody

comfortable 18 suggesting that a decision about life or death is a

19 decision for anybody to make.

20 A. Right.

anyone. And 21 Q. It's a very serious and difficult decision for

22 we included questions about punishment here in the

guilty 23 questionnaire on the possibility that there would be a

charged 24 verdict in the case because the nature of the crimes

crimes, a 25 here are such that upon a conviction of any of those

Juror No. 823 - Voir Dire

1 defendant found guilty could be sentenced under federal
law
2 that applies to life in prison with no possibility of
ever
3 being released -- that's where the rest of the person's
life
4 would be spent -- or the punishment of death, or
there's the
5 possibility of a lesser punishment which can then be
decided by
6 the court.

7 But under federal law, jurors decide life and
death,
8 and that's why we had to ask you some questions about
this.

9 And I think you already understood that when you wrote
what you
10 wrote on the original questionnaire; that this case
could
11 involve such a decision.

12 A. Right.

13 Q. And of course it's awkward to talk about the
punishment
14 because Mr. Nichols is presumed to be innocent, and
therefore
15 the presumption is that the jury would never get to
that

16 question. But in selecting the jury, we have to
consider all

17 of the possibilities, and that's why the questions are

in here.

18 And you gave us some answers to your attitudes and
views about

19 this type of punishment at pages 28 and 29.

20 And I think you also referred to this at page
13. If

21 you will just -- let's go to page 13 first, Question
56, and

22 what you wrote there. And again, just read it to
yourself.

23 What you wrote on 56 is essentially the same
thing

24 that you wrote on the original questionnaire; right?

25 A. Right.

4777

Juror No. 823 - Voir Dire

1 Q. And then at 28.

2 And then over on 29, there's more.

3 Okay. Now again, don't get defensive. I'm
not

4 challenging you in any way. I just want to explore
this a bit.

5 As I understand it from what you said earlier in the

6 questionnaire, you became a Catholic when you were 20,
21 years

7 old, sometime along there.

8 A. Yes.

9 Q. You weren't born and brought up in that church?

10 A. No. No.

11 Q. Okay. So it's something that you did with your own
12 choice --

13 A. Right.

14 Q. -- when you were old enough to make choices about
things

15 like that.

16 A. Right.

17 Q. And I assume, then, from what you've said that you
have --

18 well, first, you're very active in your faith?

19 A. Right.

20 Q. And you are aware of the teachings of the
leadership of the

21 Church?

22 A. Uh-huh.

23 Q. On a number of subjects, including this one,
whether there

24 should be a death penalty in the law.

25 Yes?

4778

Juror No. 823 - Voir Dire

1 A. Right.

2 Q. And that's pretty much reflected in here. Now, you
know,

3 there are people who can separate their religious views

from

4 their -- from their lives in performing as a citizen.

5 A. Right.

6 Q. And there are those who can't. So we're just
exploring

7 about your ability to make a choice that may be
different from

8 what you're taught in church. And there are some who
believe,

9 of course, that if they go against the teachings of the
Church,

10 that in and of itself is a sin. Now, do you have a
view like

11 that?

12 A. I'm not really sure.

13 Q. Okay. I know that it's difficult to talk about
this. But,

14 you know, what I believe within the Catholic Church,
there are

15 doctrines of different degrees of sin. There can be

16 punishments and excommunication and that kind of thing.

17 A. Right.

18 Q. And please understand the need for me to ask you
these

19 questions.

20 A. Oh, I know. I understand.

21 Q. And I guess I want you to tell us what you think
about if

22 you sat on the jury in a death penalty case and had to
make a

of the 23 decision about that and if the decision was on the side
a moral 24 death sentence, that you believe that you had committed
your 25 sin or that you had violated an obligation you had to

4779

Juror No. 823 - Voir Dire

1 Church?
2 A. I guess I'm not really sure. I don't know if I can
make 3 the decision or not. I can't say I can or can't.
4 Q. Yeah. Even without considering the religious --
5 A. Right.
6 Q. -- view?
7 A. You know, I guess nobody wants to be in that
position.
8 Q. Of course not.
9 A. I just don't want to have to decide on somebody
else's
10 life.
11 Q. Well, you know, as I think I said before when we
were first
12 gathering: There are no volunteers for the work of a
jury.
13 And the way in which our jury system works is that we
call
14 people in and the people who get called in, you know --
it

15 actually works through a computer system where we take
driver's
16 licenses and we take voter registration and information
like
17 that and then have a computer make a random selection,
and
18 that's why you're here. So certainly -- and that's why
I said
19 the word "comfortable" doesn't have anything to do with
this.
20 It's uncomfortable even going through this process,
isn't it?
21 A. For me, yeah.
22 Q. Sure. And I think that we can understand it when
people
23 tell us: I don't know if I can do that; I've never
done it.
24 We don't have people coming in here who've done it, who
have
25 made a decision about life or death.

4780

Juror No. 823 - Voir Dire

1 Now, let me explain a little about the process
so that
2 you can put this into a little better context. The
first
3 decision in a case, of course, is no different in a
death
4 penalty case from any other case: Does the evidence
show guilt

do with 5 beyond a reasonable doubt. Punishment has nothing to
court 6 that decision, and that's made after the trial when the
the jury 7 explains the charges, what has to be proved, and asks
difficulty in 8 if it's been proved. Now, you don't have any
of the 9 understanding that you could participate in that part
10 case, do you?
11 A. Correct.
this, 12 Q. Okay. Then in cases not involving punishment like
by a 13 the decision about the punishment, the sentence is made
goes to the 14 judge. The jury decides the defendant guilty, case
decide 15 judge to decide what to do about it. And judges don't
and just 16 that just right then when the guilty verdict comes in
has to 17 go according to what was heard at the trial. The judge
sentencing 18 have a sentencing hearing. And by the time of the
about the 19 hearing, the judge has received a lot of information
of it 20 crime, the circumstances of the crime, what the effects
21 may be on others, and the like, and then also a lot of
22 information about the defendant as a human being,

things that

23 are unique and individual to that person. And that's
where,
24 you know -- it's really the whole -- the person's whole
life
25 story: Childhood, family relationships, marriages,
divorces,

4781

Juror No. 823 - Voir Dire

1 job experience, military service, good things that he's
done,
2 bad things that he's done, things that have been done
to him.

3 Every one of us has differences in our lives, and those
things
4 go to form who we are and then identify us in very
individual
5 ways. You agree with that?

6 A. Yes, I do.

7 Q. And so that all has to be taken into consideration,
and

8 then the judge hears from both sides, prosecution,
defense, and

9 then decides what is the punishment that is believed to
be just

10 for this person and individual. And in cases where
more than

11 one person may be involved in exactly the same crime
and the

12 judge has to sentence more than one person, two, three,

however

13 many, the judge has to make that decision with respect
to each
14 one of them and consider all of these things about that
person
15 as a unique human being; and the sentences may be
different,
16 even though the crime is the same. Follow?

17 A. Yes.

18 Q. Now, when the crime involves the possibility of a
death
19 sentence, then we don't use the judge to do that. And
it's
20 different among the several states. There are some
states that
21 don't have the death penalty at all, you know. We're
talking
22 about Federal Court now and federal law. And under
federal
23 law, there is the death sentence available, and there
is the
24 life-without-release sentence available for crimes of
murder,
25 intentional killing of people. You understand that?

4782

Juror No. 823 – Voir Dire

1 A. Uh-huh.

2 Q. So what Congress did, though, when they provided
for such

to have 3 punishment, the Congress said: Well, we're not going
4 judges make that kind of a decision; the life-and-death
5 decision belongs to the people on the jury, the 12
people who 6 sat and heard the case.

7 But at the same time, the law says that the
jury 8 cannot decide the question of punishment just on the
basis of 9 the trial evidence. There has to be another hearing,
another 10 trial; and it is at that trial that the jury hears,
first of 11 all, information more than was presented at the trial
about the 12 crime and its circumstances: What happened, how it
affected 13 people, and those facts. And then the jury has to hear
all of 14 what can be known about the defendant. Now, this is
done just 15 like the trial itself: Witnesses are called in,
exhibits come 16 in, and the jury hears the life's history of the
defendant, and 17 that can include also things like, in cases where more
than one 18 person was involved in a crime, what role did this
person play 19 in that, recognizing that there can be different levels
of 20 involvement. Understand?

21 A. Yes.
22 Q. And then when all of this information has been
presented to
23 the jury, the court instructs the jury about the law
and really
24 summarizes all of the information that has been
provided and
25 says: Now, you can think about this information in two

4783

Juror No. 823 - Voir Dire

1 different ways. Some of it goes to aggravate the crime
and
2 suggest that death is the appropriate punishment for
this
3 person and this crime, and that can be called
aggravating
4 factors or aggravating circumstances. You also heard
these
5 things that you should consider as mitigating
circumstances,
6 mitigating the punishment, lessening it; and these are
the
7 things that should be considered by you in suggesting
that the
8 appropriate sentence -- the just sentence for this
person is
9 not death but life. Or it can be lesser than that.
10 Understand?
11 A. Yes.

and the 12 Q. And then after sort of outlining the aggravators
questions 13 mitigators, the judge says to the jury: Here's some
know, I 14 you can ask yourself in analyzing what you heard. You
don't have 15 can't give you instructions like that now because we
happen. We 16 anything here and so we can't anticipate what might
sentencing 17 can't even anticipate that there would even be a
know the 18 hearing, but we got to talk about it because we got to
jury, the 19 jurors' ability to do the law and follow the law.
12 20 So the case then -- the issue goes to the
people who 21 people who are serving; and these are the same 12
about what 22 found the defendant guilty, consider and deliberate
should 23 they heard. And then in the end they have to decide
but 24 this person live or die, not just because of the crime,
deserve 25 also because of who this person is: Does this person

4784

Juror No. 823 - Voir Dire

1 to be put to death.

2 So before arriving at the decision, all of
these
3 things must be weighed and valued and considered. But
the
4 final choice is not something that lends itself to some
kind of
5 a mathematical equation or formula or something. It's
not add
6 and subtract. It is making a judgment about another
human
7 being.

8 And what you have to tell us is whether you
can make
9 such a decision and consider both types of sentence:
Life and
10 death.

11 A. I really don't know.

12 Q. Well, this gets back to -- and one of the reasons
involved
13 here is, you know, it's an awesome type of decision to
make
14 regardless of what one thinks about in terms of
religion or
15 moral values or whatever. All that I want to have you
answer
16 is: Would the teachings of the Church and the views of
the
17 Pope and the archbishop and so forth so dominate in
your mind
18 that you could not consider the responsibility of the
jury to
19 consider both life and death?

20 A. I would say no.
21 Q. Okay. You know, nobody is asking you to go against
a
22 religious belief. But on the other hand, we're not
talking --
23 we're not in a church. We're in a courtroom. And we
ask
24 citizens to come in and perform the duty of citizens.
And
25 there are times when you separate the two. And, you
know, all

4785

Juror No. 823 - Voir Dire

1 we're asking is can you separate those things, the
views of the
2 Church from what you would be doing in deciding this
sentence
3 decision.
4 A. I think I can.
5 Q. Okay.
6 A. But I'm not sure.
7 Q. How can anybody be sure, you know, of a decision
when
8 you're not there.
9 A. Yeah.
10 Q. So we're not asking you to be sure. We're just
asking you
11 to tell us if you're open and can separate out these

things

12 that you've been -- that you've been given as views of
the

13 leaders of the Church.

14 A. Well, and it's not only the Church. Just as a
person doing

15 that, you know, I don't know if I can or not. I can
try, but I

16 don't know.

17 Q. Yeah, there are other things that affect our
ability to

18 judge. But of course, you know, the reason that the

19 Congress -- I could suggest the reason that the
Congress says

20 that we don't do this with judges; that would be one
person

21 making a decision. And of course here we have 12
coming

22 together and helping each other in arriving at a
decision, but

23 there's no getting away from the fact that each person
has to

24 make that decision individually, too.

25 A. Right.

4786

Juror No. 823 - Voir Dire

1 Q. So you believe that you can do it?

2 A. Yeah.

3 Q. And be open to the possibilities that the law
instructs are

4 to be considered?

5 A. I think I can try to do that, yes.

6 THE COURT: Okay. Well, please bear with us
for some

7 additional questions from the lawyers in the case.
And, you

8 know, we're not trying to torture you. We're just
trying to

9 get your honest opinions and understanding.

10 So, Mr. Orenstein.

11 MR. ORENSTEIN: Thank you, your Honor.

12 VOIR DIRE EXAMINATION

13 BY MR. ORENSTEIN:

14 Q. Good afternoon, ma'am.

15 A. Hi.

16 Q. How are you?

17 A. Been better.

18 Q. I understand. You told his Honor that you used to
help

19 your grandmother put those codes in to say why jurors
were let

20 out of service. Do you wish someone would put one of
those

21 codes in for you?

22 A. I wish they could have.

23 Q. I understand, ma'am, that this is a very difficult
process,

24 even asking about this subject. I do have some more
questions.

25 I'll try and keep it as brief as I can.

4787

Juror No. 823 – Voir Dire

Honor, 1 I did want to ask you about what you told his
2 that you weren't born into the Catholic faith; that you
3 embraced it as an adult; is that right?
4 A. Right.
5 Q. Can you tell me a little bit about what brought you
to that 6 point, where you decided to embrace the Church?
7 A. Well, a part of it, my mom was born in the Catholic
faith 8 and my grandma has always been a practicing Catholic;
and I 9 have a great-aunt that's a nun, so I did go with it
some. It's 10 just when my parents got married, one was Baptist and
one was 11 Catholic, so they chose not to go to church. So
growing up, I 12 just went with friends or with my grandma so that I was
never 13 baptized or anything like that. When I got older, that
was the 14 religion I knew the most, and that's what my husband
is. And

classes 15 he grew up his whole life with it, so we went through

16 together and then joined that way.

through 17 Q. When you say you went through classes, you went

18 religious training classes?

19 A. Right.

faith. 20 Q. At some point you had to make a choice about your

21 A. Right.

because you 22 Q. When you made that choice as an adult, was it

23 agreed with the teachings of the Catholic Church?

24 A. I would say with most of them, yes.

discussing 25 Q. Is this question of punishment that we've been

4788

Juror No. 823 - Voir Dire

is that 1 today and that you've been discussing with his Honor --

agree? 2 one of the teachings of the Church with which you

Church. 3 A. I agree with it, not only because it's part of the

on 4 I just -- as a person making those judgments, you know,

5 other people, whether you're Catholic or not.

wrong to 6 Q. So it's not so much that the Church tells you it's

but 7 take a life or to be involved in that kind of process,

8 that --

me that, 9 A. That's part of it, but I guess my conscience tells

10 also.

You can 11 Q. And again, I apologize for asking these questions.

12 understand why this is something --

13 A. Yeah.

understand -- or 14 Q. -- that we need to discuss. And you also

you 15 do you -- that this is the only chance that we can ask

16 about it.

17 A. Right.

unless and 18 Q. The issue of punishment doesn't come up at all

crime 19 until a jury decides that a defendant has committed a

Do you 20 which carries the possibility of the death sentence.

21 understand that?

22 A. Yes, I do.

explained to 23 Q. And let me stop there for a moment. His Honor

decision about 24 you that at that stage, where you're making that

shouldn't 25 guilt or not guilt, that the question of punishment

4789

Juror No. 823 - Voir Dire

1 enter into the consideration. Do you think that would
be
2 something that you would have any difficulty following:
The
3 instruction that you shouldn't worry about the decision
that's
4 coming next, if you decide guilt?

5 A. I think that I could do that fine.

6 Q. But then if there is a decision of guilt, we come
to this
7 issue of what should happen to the person who's on
trial. And
8 there are several parts of that decision, but we can't
stop the
9 process at that point and say, Well, now that you're
really
10 faced with it, what do you think? So we have to ask
now: Can
11 you do it? And there are several questions that come
up there.

12 The first part is, of course, can you listen,
can you
13 listen to what everyone has to say about the issue?

14 A. I think I can.

15 Q. And after -- part of listening to evidence, of
course, is
16 considering it. Can you consider all of the evidence?

17 A. Yes.

18 Q. When the listening and the considering is done and
you're

19 with your fellow jurors in the jury room and
deliberating, then

20 you get to the point of having to make a moral
decision. And,

21 you know, it falls to each juror to make that moral
decision

22 for himself or herself.

23 You wrote in your questionnaire on page 28 --
it's

24 Part B. Question that I'm looking at -- you wrote
there: "I

25 do not feel I can make a decision about whether another
person

4790

Juror No. 823 - Voir Dire

1 should live or die."

2 What caused you to write that when you did
last month?

3 A. I don't know. I just don't know that I can do it.
I don't

4 know that. I mean I don't know what caused me to say
that

5 other than that's just how I feel. I don't know that I
can

6 when it comes to it.

7 Q. So when it comes right down to it, you're not sure
that you

8 could make that decision?

9 A. Right.

10 Q. Going down to part D of the question, you wrote:
"Again, I

11 would not choose to impose death on anyone." Now,
there are --

12 there's decisions and there's decisions. You know,
it's one

13 thing to say you can make a decision; but one thing
that we

14 need to know is if -- could you actually make the
decision

15 among those options that you have, life or death, could
you

16 actually make the moral choice to decide that another
human

17 being should die?

18 A. I really don't know if I can do that. That's why I
worded

19 it that way. I honestly don't know when it comes to it
if I'm

20 going to go to be able to do it, if I have to. That's

21 something I don't want to have to do.

22 Q. I understand. Forgive me, I have --

23 A. I know.

24 Q. -- another question, and I'll try and wrap this up
very

25 quickly.

Juror No. 823 - Voir Dire

1 Some people -- it's not everyone -- but some
people
2 when confronted with a difficult situation turn to
their faith
3 for guidance and turn to their own, you know, inner,
moral
4 thoughts. Do you think that if you were in this
position --
5 and I know you don't want to be there -- but if you
were in
6 this position of having to make the decision about
whether
7 another human being should live or die, that you would
turn to
8 your faith for guidance on that?
9 A. I do in other cases, yes. Things that -- you know,
when I
10 feel like I need guidance. Actually, I couldn't in
this case,
11 but my husband is who I usually turn to for guidance in
most
12 things and, you know, I won't be able to in this case.
13 Q. Of course. One of the things you wrote in your
14 questionnaire is -- and this is on page 27, if you'd
like to
15 turn to it -- there are a couple of questions on that
page
16 about people's exercise of their own beliefs and
expressing
17 their opinions.

18 And in response to Question 123 you wrote: "I
feel
19 they have the right to believe what they want; but they
have no
20 right to impose those beliefs on other people. I also
feel
21 people need to follow the law, even if they don't agree
with
22 it." So there's a couple of different messages in
there. And
23 that's why I wanted to ask you about it.

24 As part of your upbringing or in becoming a
member of
25 the Church, have you ever come across the idea of: He
said

4792

Juror No. 823 - Voir Dire

1 render unto Caesar that which is Caesar's; render unto
God that
2 which is God's?
3 A. Yes.
4 Q. In thinking about this question of deciding whether
a
5 person should live or die, is that to you a question
that -- in
6 that phrase, is that something that belongs to Caesar
or to
7 God?
8 A. I don't know. I thought about that a lot lately.

I

9 guess -- I don't know. I have real mixed feelings on
it. I
10 can't answer that.

11 Q. All right. You know, the -- one of the important
aims of
12 this process is to make sure that the people who sit in
that
13 jury box when this trial starts are people who can be
fair to
14 both sides and give Mr. Nichols and give the Government
a fair
15 trial, both on the question of guilt or not guilt and,
if it
16 comes to it, on the question of punishment. And so
that's why
17 we ask these questions.

18 Do you feel that you are now in a position to
say that
19 you could give the Government -- which will be asking,
if we
20 get to that point, we'll be asking the jury to return a
21 sentence of death -- do you feel that you could give
the
22 Government a fair trial and if warranted come back and
decide
23 that the defendant should be put to death?

24 A. I'm not trying to avoid the questions. I just
really
25 honestly don't know if I can. I can't say that I can
be fair

Juror No. 823 - Voir Dire

1 to them, no.

my

2 MR. ORENSTEIN: Thank you for putting up with

3 questions.

4 THE COURT: Mr. Woods.

5 MR. WOODS: Thank you, your Honor.

6 VOIR DIRE EXAMINATION

7 BY MR. WOODS:

8 Q. Afternoon.

9 A. Afternoon.

Mike Tigar

10 Q. I'm the last one. We go last. I've only got a few
11 questions. We're not going to keep you long here.

judge over

12 and I were appointed by the United States district

charged

13 in Oklahoma City in May of '95 when the government

back on

14 Mr. Nichols with being responsible for that bombing

15 April 19th, 1995. How do you feel about him having two

16 court-appointed lawyers to represent him?

that it's

17 A. I know it's part of the process, and I don't know

18 right, but that's the way it is. And I don't know.

19 Q. Okay.

20 A. You know, I feel like -- I have mixed feelings on.
21 Q. I'm sorry?
22 A. I said, I guess I have mixed feelings on it. I
know it's
23 his rights, but I work very hard to have him have those
rights,
24 too.
25 Q. Right. Exactly. Will we start off at a
disadvantage to

4794

Juror No. 823 - Voir Dire

1 you because he does have court-appointed lawyers, he
couldn't
2 afford to hire his own lawyers, will we be at a
disadvantage
3 when we get into trial, if you're on the jury?
4 A. No.
5 Q. Now, you stated that you understand he has those
rights and
6 that those are rights. I gather that when you worked
up in
7 Boulder in the court system, you became familiar with
criminal
8 trials and trials in general, especially jury service.
Would
9 that be accurate to say?
10 A. I think I learned more probably through school than
working
11 there.

12 Q. Your civics courses?

13 A. Yeah.

14 Q. Would you agree that jury service is one of the
15 responsibilities that we have as citizens?

16 A. Yes, I understand that.

17 Q. Okay. We're given a lot of rights in this country,
but we
18 also have certain responsibilities. Would you agree on
that?

19 A. Right.

20 Q. And would you agree that jury service is one of
those
21 responsibilities?

22 A. Yeah. You just don't think one like this is going
to be
23 you.

24 Q. Exactly. You know, you kept mentioning -- and
we'll just
25 get to the penalty stage -- although we don't want to
jump over

4795

Juror No. 823 - Voir Dire

1 the innocence stage, because we're not conceding we're
ever
2 going to get to the penalty stage.

3 The Government's got a theory that Mr. Nichols
was

theory. 4 responsible for the bombing. We don't agree with that

going to 5 We're going to challenge it very strongly, and we're

But let's 6 call our own witnesses that are going to challenge.

all the 7 just talk about the penalty phase, since that's where

8 conversation has been here.

feel if 9 You stated that you're not sure how you would

people are 10 put in that position. Is it fair to say that most

position, 'cause 11 not going to be sure how they would be in that

12 this is just something you don't do every day?

that 13 A. Right. I'm sure most people don't want to make

14 decision.

come in 15 Q. As the Court said, we don't have volunteers that

only way 16 the front door here wanting to do that. And that the

the 17 a fair jury system can work is calling people in from

you've 18 community and asking if they can follow the law. And

-- if 19 stated in your questionnaire twice here -- let me first

20 you would go to page 30, Question 129.

disagree that 21 There was a question: "Do you agree or

And 22 it is important to follow this court's instructions?"
23 there were a number of choices, and you stated, "agree
24 strongly." Why did you pick "strongly"?
-- you 25 A. I guess I was just brought up that way, to follow

4796

Juror No. 823 - Voir Dire

1 know, when you live here and you make those choices,
you know,
2 that's just how I was brought up, to follow what the
court says
3 and do what it says.
4 Q. Is it accurate to say that you believe strongly
that you
5 should follow the court's instructions in a jury system
and in
6 a court?
7 A. Yeah. I mean
8 Q. And then on page 27, Question 123: "The
Constitution says
9 that everyone is entitled to write and speak about
their own
10 political and religious opinions no matter how
unpopular those
11 opinions may be. How do you feel about this?"
12 And you stated: "I feel they have the right
to
13 believe what they want, but they have no right to

impose these

14 beliefs on other people. I also feel that people need
to

15 follow the law, even if they don't agree with it."

16 What prompted you to put that last sentence in
there?

17 A. I guess because it asked about political opinions,

18 religious. I feel like even if they don't agree with
the way

19 the political system is, they still need to abide by
the law.

20 Q. They can have their own political beliefs,
religious

21 beliefs, et cetera, but if the law says something, they
need to

22 follow that; is that correct?

23 A. That's how I feel.

24 Q. Okay. Now, you had stated earlier that because of
your

25 religion is one of the reasons that you're somewhat
hesitant in

4797

Juror No. 823 - Voir Dire

1 whether or not you could follow the Court's
instructions on the

2 penalty stage. Is that accurate?

3 A. Yeah.

4 Q. And that's because of the court's teaching -- the
Church's

5 teachings on the sanctity of life?
6 A. It's not just that. I just -- you know, they
just
7 It's not to judge others and other things like that
also.
8 Q. As to taking life, you're aware that women serve in
the
9 military now?
10 A. Yes.
11 Q. And in the event that there were a draft and we had
enemies
12 invading the country, would you serve in the draft, if
called?
13 A. I don't think I'd be given a choice.
14 Q. Okay. That's something that you, if called, would
serve in
15 the draft and help defend the country?
16 A. If I had to, yes.
17 Q. Okay. And likewise, if at school, if someone came
into the
18 school and was threatening you and the children or even
19 attempting to kill you and the children and you had a
right to
20 defend and an opportunity to defend yourself and the
children,
21 do you feel that you could take someone's life there to
save
22 other lives?

23 MR. MACKEY: Objection, Judge.

24 THE COURT: Overruled.

25 You may answer.

4798

Juror No. 823 – Voir Dire

1 JUROR: I think there's a difference in that
in that
2 whether I was saving the life. I don't feel it's the
same.

3 BY MR. WOODS:

4 Q. Okay.

5 A. My daughter goes to day care there. If I had to do
it for
6 her, yes, I would; but that's not the same.

7 Q. Agreed, it's not the same. And what the Court was
talking
8 about here in the penalty stage, if we get there -- and
you
9 have to understand that you only get to a penalty stage
in the
10 event that the jury finds the defendant guilty beyond a
11 reasonable doubt; that the defendant was guilty of
12 premeditated, deliberate murder of a number of
individuals.

13 You understand we're not going to get to penalty stage
unless a
14 jury does that?

15 A. Right.

16 Q. And did you understand also that there is no
automatic

17 death penalty in this country?

18 A. I understand.

19 Q. That a jury is not obligated to assess
automatically the

20 death penalty?

21 A. Right.

22 Q. Did you understand that? That the only requirement
under

23 the law, as the Court instructed you, is that the jury
is to

24 sit and listen to the evidence. The Government will be
coming

25 in, presenting what the Court called "aggravating

4799

Juror No. 823 - Voir Dire

1 circumstances," and the defense will come to you and
present

2 mitigating circumstances; and the only requirement that
you

3 have to sit on the jury is to listen to and consider
both of

4 those sets of evidence, the aggravating and mitigating,
and

5 then make a decision based on your having listened and
given

6 weight to both sides. And that's the question the
Court was

7 asking: Can you do that? Can you sit as a jury --
juror with

8 an open mind and listen to the Government's evidence
and listen

9 to the defense's evidence, weigh that, and then you
make an

10 individual decision and consult with the other 11
members on

11 the jury, come to a joint decision?

12 A. For guilt or not guilt?

13 Q. No, ma'am, on the punishment stage.

14 A. I again could say I could try.

15 Q. Okay. And none of us know, because none of us have
been

16 there before.

17 A. Right.

18 Q. And the only thing the Court is asking is can you,
in the

19 punishment stage -- we're not talking about guilt --
but in the

20 punishment stage listen to both the mitigation evidence
that

21 would be evidence presented by the defense seeking a
life

22 imprisonment verdict and the aggravating evidence
offered by

23 the Government seeking a death penalty verdict? Could
you

24 listen to it and give weight, weigh it in your mind,
and then

25 deliberate with the other 11 members of the jury and
come up

Juror No. 823 - Voir Dire

1 with your joint decision?

2 A. I think so.

3 Q. Okay. And you understand that all this
conversation about

4 the penalty -- this is in essence theoretical. We do
not

5 concede we're going to get to a penalty stage. Do you
6 understand that?

7 A. Yes.

8 Q. It seems a little odd that we're spending all of
this time

9 talking about penalty before the trial even starts.
Would you

10 agree that that's somewhat odd?

11 A. Oh, no, 'cause it's a very big factor.

12 Q. Pardon?

13 A. I don't feel it's odd, because it's a very big
factor.

14 That's the thing that's caused me to think about it a
lot, too.

15 Q. Okay. And I take it, then, that as to the guilt or
16 innocence, you filled out on your questionnaire some of
the

17 things that you've heard and read about the case. And
if you

18 would, look at page 36, Question No. 158. The question
was:

19 "Please summarize what you've seen, read, or heard
about the

20 Oklahoma City bombing."

21 And you stated that "I know that Timothy
McVeigh was

22 sentenced to death after being found guilty." And you
knew

23 that from reading the press; right?

24 A. Right.

25 Q. Would you agree that it was somewhat big news
around here a

4801

Juror No. 823 - Voir Dire

1 couple months ago?

2 "I know that Terry Nichols is believed to have
helped

3 McVeigh with the bomb and the plans. I've heard the
Fortiers

4 have testified for the prosecution and are not being
charged."

5 What do you recall reading, seeing, or hearing
that

6 led you to believe that Nichols is believed to have
helped

7 McVeigh with the bomb and the plans?

8 A. I would say probably of hearing it off the news,
more than

9 anything.

to make 10 Q. What was it that you heard on the news that led you

11 that statement?

wasn't 12 A. I guess just that. I have heard that they know he

charged with 13 there when the bombing happened but that he'd been

14 it because they suspected him of helping with it.

day of 15 Q. Okay. Do you recall where Mr. Nichols was on the

16 the bombing?

that is. 17 A. I believe at his home, but I can't tell you where

18 Kansas? I'm not sure.

on page 19 Q. Okay. Okay. In the next page, 159, the question

about 20 37: "Please summarize what you've seen, read, or heard

21 Terry Nichols."

McVeigh 22 "I have heard Terry Nichols may have helped

basically the 23 plan the bombing and also make the bomb." That's

24 same statement?

25 A. Right.

4802

Juror No. 823 - Voir Dire

any 1 Q. And then 160, you stated that -- "Have you formed

2 opinion about the defendant Terry Nichols?"

3 prosecution
4 should
5 from

And you stated, "Yes. I feel that if the

6 can prove Terry Nichols even knew of the plan, then he

7 go to prison." And that's the opinion you've formed

8 reading in the media; correct?

9 A. Not really. I feel that anybody involved in it
10 should.

11 Whether -- I haven't heard of other people, but I feel
12 that if

13 they can prove anybody else caused that, they should.

14 Q. Okay. And you're putting the big qualifier on
15 there, "if";

16 right?

17 A. Right.

18 Q. And I assume that if you served on the jury, you
19 could set

20 aside the publicity that you've heard and base your
21 verdict

22 solely on the evidence that will come from this witness
23 stand

24 right here and from documents and photos offered into
25 evidence.

26 Would that be accurate to say?

27 A. I believe that. I know that the media is not
28 always

29 truthful. I mean, I don't know after that.

30 Q. And you mentioned that in the questionnaire; that
sometimes

21 the media is not accurate?

22 A. Right.

23 Q. Is that still your opinion?

24 A. Right. Even when we went to the jury thing, I
heard, you

25 know, different numbers and everything else of how many
people

4803

Juror No. 823 - Voir Dire

1 were there; so I know that they don't know everything.

2 Q. Well, you're right there; they don't know
everything.

3 162: "What have you heard or read about Terry
Nichols

4 as a result of the trial of Timothy McVeigh?"

5 "I have read that Terry Nichols did not
actually do

6 the bombing but that McVeigh did." And that's what you
related

7 earlier, that -- do you recall how Mr. McVeigh was
arrested

8 after the bombing?

9 A. As far as I know, he was pulled over because of
something

10 with his car.

11 Q. Okay. From what you've seen, read, or heard in the
media

12 over the last two-and-a-half years, do you recall how

13 Mr. Nichols initiated contact with the federal
authorities?

14 A. As far as I know, he knew that he was being
suspected, and

15 he went to the government at that point.

16 Q. Okay. Now, there was one other aspect on your
17 questionnaire I wanted to talk about. It's on page 25,
18 Question 113. The question was: "Would you tend to
believe
19 the testimony of a state or federal law enforcement
officer?"

20 And then you have an option to check, and you
checked

21 "more than most witnesses." Can you tell me why you
checked

22 that one, rather than the other one such as "as much as
other
23 witnesses"?

24 A. I guess I feel that people who choose to go into
law

25 enforcement -- they made that choice and they didn't --

4804

Juror No. 823 - Voir Dire

1 wouldn't do it if they didn't believe in the law; and
so

2 they're going to go by the law. And they already have
worked

3 at being objective and trying to just get to the facts,
whereas

4 a normal person like me, maybe, is clouded by other
things more

5 so.

6 Q. Okay. Are you saying, then, based on the training
that

7 they receive that they are more credible witness than
the

8 ordinary citizen?

9 A. Not that they're trained -- I don't know. I don't
really

10 know what I meant there. I don't remember. I guess I
would

11 say by their training and just that they made that
choice. If

12 they didn't believe in the law, they wouldn't have made
the

13 choice to go into that profession.

14 Q. Okay. Well, let me give you an example. Say that
there

15 were two people that testified here in the trial. One
of them

16 says: I saw the truck parked at this stop sign on
Monday, and

17 that's the law enforcement officer says that. Yet
another

18 person such as yourself, or just a person who works, an

19 ordinary, everyday person comes in and says: I saw the
truck

20 parked there on Tuesday. Are you going to believe the
law

21 enforcement officer over the regular, ordinary citizen?

22 A. I would say they're probably more observant,
because that's

23 part of their job; so I would say yeah.

24 Q. Okay. And is that strictly because their training?

25 A. I would say yeah.

4805

Juror No. 823 - Voir Dire

1 THE COURT: Well, let me interject here that
that

2 isn't the law. The law says that everybody on the
witness

3 stand has to be judged in the same way. And what the
law

4 recognizes is that there have been plenty of people who
are

5 police officers who have lied on the witness stand.

6 JUROR: Okay.

7 THE COURT: All right.

8 MR. WOODS: Thank you, your Honor.

9 BY MR. WOODS:

10 Q. One last question: The questionnaire reflects that
you've

11 moved several times. Some of it was due to schooling.
Some of

12 it was for, what, change of jobs?

13 A. Partly.

14 Q. You feel that's an unusual circumstance because
someone

15 moves and has different residences quite frequently?
16 A. No, I think that's more common than not.
17 Q. Okay. And last question: If you're chosen on the
jury,
18 can you look Terry Nichols in the eye and say that you
will
19 give him a fair trial?
20 A. I guess.
21 Q. Is there any hesitation?
22 A. A little bit, yeah.
23 Q. What is the hesitation?
24 A. Just looking him in the eye. I don't know.
25 Q. All right. Why is there hesitation looking him in
the eye?

4806

Juror No. 823 - Voir Dire

1 Have you already formed some opinion in your mind?
2 A. No. Just that I know that I might be judging him,
and that
3 bothers me.
4 Q. Okay. And as the Court said, it's not easy. We
don't get
5 volunteers to do it. But if chosen, do you think you
could do
6 it?
7 A. I would do my best to do it.

8 MR. WOODS: Okay. Thank you so much for
taking the

9 time to answer the questions.

10 THE COURT: You have now answered all the
questions

11 that you're going to have to answer, so this is done
for you.

12 But we can't tell you whether you're going to serve on
this

13 jury. You'll have to go away from here now believing
that you

14 will have the responsibility for serving on the jury.
And I

15 won't be able to tell you when we will let you know,
but we

16 will as soon as we can. But as you well know, there
are other

17 people to be asked questions about -- asked questions
of here.

18 So please bear with us a while and be careful --
continue to be

19 careful about what you read, see, and hear, avoiding
any

20 discussion about the case with others and be able to
come back

21 in here if called upon to serve on this jury.

22 JUROR: Okay.

23 THE COURT: If anything should happen that
changes

24 your situation, you get called out of town or some
family

25 emergency or something, you get on the phone and let us
know

1 about it.

2 JUROR: Okay.

3 THE COURT: You're excused.

4 JUROR: Could I add one thing?

5 THE COURT: Yes.

6 JUROR: I have a problem with day care. Does
that
7 matter, or not?

8 VOIR DIRE EXAMINATION

9 BY THE COURT:

10 Q. Well, tell us about it. Sure.

11 A. Where I teach is where my daughter goes to
preschool.

12 Q. Yes.

13 A. And it closes at four every day. The day care
does. And

14 so that would -- you know, I'm not sure what I would do
with
15 that.

16 Q. Have you talked to your husband about this?

17 A. My husband, yeah. But he has a job, too, he can't
--

18 Q. Well, I know that, and particularly this is a
season when

19 he's coaching --

20 A. Well, it would be over this week.

21 Q. Oh, it will be. Well, do you have parents here?

22 A. I do.

23 Q. Yes?

24 A. Yes, I do.

25 Q. Have you talked with them to see if they can help
you out?

4808

Juror No. 823 - Voir Dire

1 A. I'm sure people can try. It's just everybody --
you know,

2 missing work for everybody is very difficult. It's
going to be

3 hard enough if I have to, but then everybody else, too.

4 Q. Well, I'm just asking if you've talked with them
about it

5 yet.

6 A. Yes, I have.

7 Q. And what response have they given to you?

8 A. I'm sure everybody would take turns and do what
they could.

9 Q. All right.

10 Well, I'm glad that you brought this up,
because we

11 didn't ask you about it; but anything that concerns
you, of

12 course, concerns us, because you would be here, you
know, 9 to
13 5 in the courtroom Mondays through Thursday; and then
on
14 Friday, it's 9 to 1. So it would be those four days a
week.

15 A. Okay.

16 Q. So if you can get help for that -- and as I say, if
these
17 folks -- and do you have some neighbors that you know
well
18 enough that would be able to take care of your
youngster?

19 A. Well, my school and my house -- where she's at is
not in my
20 neighborhood.

21 Q. How far away?

22 A. It's about 20 minutes. I don't know anybody in my
23 neighborhood that well that I may have --

24 Q. Well, that was my question. So it would be family
that
25 you'd have to rely on.

4809

Juror No. 823 - Voir Dire

1 Now, is your -- are your husband's parents
here, too?

2 A. Yeah.

3 Q. So you've got two sets of parents -- grandparents
who can

4 help out --

5 A. Right.

6 Q. -- if need be. Have you talked to both of them,
both sets
7 of --

8 A. Yes. In fact, my mother-in-law did yesterday, part
of the
9 day, and my sister-in-law --

10 Q. Like today?

11 A. Right. You know, my sister-in-law is just on
medical
12 leave. I mean most of the people in our family work
full-time,
13 so that's why it's difficult.

14 Q. All right. Well, you know, we don't take retired
people in
15 here and all that. It's whoever gets called in.

16 A. I know.

17 Q. People do have to make arrangements. So there's
always
18 some disruption of people's lives that's involved in
jury
19 service.

20 So will you contact them further and let us
know what
21 they say? Or do you need to --

22 A. I know everybody in my family will do what they
can.

23 THE COURT: Okay. We appreciate that.

24 We'll get back in touch with you. You're
excused for
25 now.

4810

Juror No. 823 - Voir Dire

1 (Juror out at 3:45 p.m.)

2 THE COURT: We'll take a recess now. 4:05.

3 (Recess at 3:45 p.m.)

4 (Reconvened at 4:04 p.m.)

5 THE COURT: Please be seated.

6 524.

7 Good afternoon. Will you please raise your
hand and

8 take the oath from the clerk.

9 (Juror No. 524 affirmed.)

10 THE COURTROOM DEPUTY: Thank you.

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

12 And you don't have to lean into the microphone or
anything.

13 And that chair swivels around a little, so you can make
14 yourself comfortable.

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q. And you know that "the case now on trial" refers to
the

18 case of United States against Terry Lynn Nichols and
that you
19 received a jury summons notifying you that your name
had come
20 up through a chance selection process as one called in
for
21 possible service on this jury. And you responded to
that with
22 a -- answering a questionnaire that we asked you to
fill out.
23 And there was something that you said in that
questionnaire
24 there that I'm sure you remember, where we asked any
reason
25 that would prevent you from serving on the jury; and
you said

4811

Juror No. 524 - Voir Dire

1 "no, all but a financial disaster." And we didn't
ignore that
2 answer but then did ask you to come to the Jefferson
County
3 Fairgrounds last month with other prospective jurors to
answer
4 a lot of questions on a questionnaire, and you did
that.

5 And now you've been summoned in here to
answer, if you
6 can believe it, still more questions. But most of what
we're
7 going to do here relates back to answers already given,

8 so . . .

I want 9 But before turning to that, I wanted to -- or

with 10 to reintroduce people that I introduced when I appeared

They were 11 you and the other jurors there in Jefferson County.

12 with me then and, of course, they're with us now.

this 13 Attorneys for the Government, first, here at

Wilkinson. And 14 first table, Mr. Lawrence Mackey and Ms. Beth

before, 15 they're now joined by two lawyers who weren't with us

16 Mr. Patrick Ryan and Mr. Geoffrey Mearns.

Michael 17 You did meet when we were together before Mr.

Nichols; and 18 Tigar and Mr. Ronald Woods, attorneys for Terry

well. 19 Mr. Nichols was, of course, with us at that time as

panel 20 And then I reviewed for you and the other jury

telling you 21 members who were there the background of the case,

I'm 22 things that I'm sure you already knew about, but -- and

something of a 23 going to repeat them again, just so that we have

as I 24 foundation for the questions to follow. And of course,

25 explained, this case arises as a result of an event in

Oklahoma

4812

Juror No. 524 - Voir Dire

1 City, Oklahoma, where on April 19 of 1995 there was an
2 explosion that destroyed a federal officing building
and
3 killing and injuring people who were occupants of the
building;
4 that then later, there were charges filed in the form
of an
5 indictment, a statement of charges filed in the U.S.
District
6 Court in Oklahoma City, in which lawyers for the
government
7 accused a man named Timothy James McVeigh along with
Terry Lynn
8 Nichols -- and then the indictment says "and other
persons not
9 named" -- with conspiring, entering into a criminal
agreement
10 to bomb that building and to kill and injure the people
in it.
11 And then the indictment goes on with additional
charges. There
12 are 11 charges in all, which I described in a very
general way
13 as not only alleging the conspiracy to do that, a plan
to do
14 it, but also carrying it out and actually conducting a
bombing

15 of the building, and eight charges of first-degree
murder for
16 the killing of eight law enforcement officers who were
working
17 in the building and died in the explosion.

18 To these charges, the defendants entered pleas
of not
19 guilty, thereby creating the issues for trial.

20 The case was then moved here to Denver from
Oklahoma

21 City because of a concern about getting jurors in
Oklahoma City

22 where this happened. And then when the case came to
Denver, I

23 entered an order separating the two defendants for
trial so

24 there would be separate trials as to each of them. And
that

25 was on a finding that it would be fundamentally unfair
to both

4813

Juror No. 524 – Voir Dire

1 of them to be on trial at the same time, recognizing
that the

2 evidence as it relates to each of them may be
considerably

3 different. So I ordered that there be a jury selected
and a

4 trial of Mr. McVeigh, and that has happened. And
Timothy James

5 McVeigh was tried here earlier this year, and a jury
selected,
6 just like we're selecting a jury now, heard that
evidence as it
7 related to him and found him guilty. And also, then,
that jury
8 was asked to hear more with respect to the sentence
that should
9 be imposed, and the jury returned a recommendation for
a death
10 sentence in that case.

11 So you already knew those things, I think,
before
12 we -- before I told you about them; and of course, you
know
13 them now. But, you know, we have to do some things for
the
14 record, as we say in court, just establish the
foundation.

15 And then, of course, I explained to you and
the others
16 that nothing that anybody has seen, read, or heard
about the
17 evidence in the Timothy McVeigh trial can be considered
in this
18 case; and certainly the outcome of the jury verdicts in
that
19 case can't be considered here in this case. To do so
would
20 violate the very reasons for the separate trial order.

21 So here we are getting ready to start the
trial of the
22 evidence as it may relate to Mr. Nichols, and we have

to start

You 23 with a clean slate. There is no evidence against him.

24 understand that point?

25 And you have to answer out loud so your
answers can be

4814

Juror No. 524 - Voir Dire

1 recorded.

2 A. Okay.

3 Q. All right. And then I explained some of the
principles

4 about the criminal justice system and what is involved
in jury

5 service so that everyone understood it -- I mean would
6 understand it. And you've never been on a jury
anyplace, have

7 you?

8 A. No.

9 Q. And so, you know, as I explained to you and the
others and

10 repeat again here, under our constitution, the United
States

11 Constitution, it's fundamental law that no matter what
court

12 it's in in the United States or what the charges are,
each

13 person who is accused of a crime is presumed to be
innocent of

14 it, and that presumption carries throughout the trial
and
15 entitles that person to an acquittal, a finding of not
guilty,
16 unless the jury hearing the case and listening to the
evidence
17 is convinced beyond a reasonable doubt that the
evidence proves
18 him to be guilty. That's basic.

19 And no defendant who is charged with any crime
has any
20 burden or duty of calling any witnesses or introducing
any
21 evidence. Those who are accused can simply remain
silent and
22 require the government through its lawyers to prove the
case.

23 So it's up to the government lawyers to bring in the
witnesses
24 and the exhibits upon which they place their reliance
in
25 attempting to prove the charge. And at the end of the
trial,

4815

Juror No. 524 – Voir Dire

1 the court gives instructions to the jury about exactly
what has
2 to be proved for each one of the crimes, the elements
of each
3 offense that's charged in the indictment, and then ask

the

4 jury: Well, has the evidence proved all of these
things that

5 have to be proved? If not, of course, then the verdict
has to

6 be not guilty.

7 And in considering the evidence, the jury may
not

8 consider if it happens at a trial that a defendant
doesn't

9 testify; that he doesn't because no person has any duty
to

10 bring in any witnesses or to testify, to answer any
questions

11 or explain anything. You understand about that?

12 A. Yes.

13 Q. And so what we say to juries under those
circumstances in a

14 trial of that type is you can't even talk about the
fact that

15 you didn't hear from the defendant, because that can't
lead you

16 to any kind of inference or jump to some conclusion
that he

17 should have told you if he's innocent. That can't even
be

18 discussed.

19 And then what a reasonable doubt means is just
that:

20 If at the full consideration at the end of the case of
all that

21 they have seen and heard the jurors have a reasonable

doubt as

22 to whether the defendant has been proved guilty, they
have to

23 give that doubt -- the benefit of that doubt to the
defendant

24 and find him not guilty.

25 Do you understand these principles?

4816

Juror No. 524 - Voir Dire

1 A. Yes.

2 Q. Do you agree with them?

3 A. Yes.

4 Q. And you accept them and would follow them if you
were to

5 serve on this jury?

6 A. Yes.

7 Q. So, you know, it means in plain language that Mr.
Nichols

8 sits here with us this afternoon presumed to be
innocent of

9 these things that he's accused of. Do you agree?

10 A. Yes.

11 Q. Now, after all these explanations, I asked you to
complete

12 the questionnaire; and you did it. And then as I told
you I

13 would, I made copies for the people who are here with
us, and

14 they have them. And we haven't given them to anybody
else and
15 we won't. Your answers are private, and you shared
some things
16 with us that are personal. We asked you to, and you
did. And
17 we appreciate that.

18 And we attempt to do all that we can to
continue to
19 protect your privacy, so your name is not going to be
used
20 here; and in the questioning and in your answers, we'll
try to
21 avoid identifying you. And of course, we even arranged
for you
22 to come in and out of the courthouse in a way that, you
know,
23 the TV people and others can't take your picture.

24 But now we're in open court. This is a public
and
25 proceeding, as I expect you recognize. So what is said

4817

Juror No. 524 - Voir Dire

1 done here is public.
2 Now, with that -- you have your questionnaire
with you
3 there. You should have. Do you?
4 A. Yes, I do.

5 Q. And I understand you were born and raised down in
the
6 southeastern part of the state of Colorado.
7 A. That's correct.
8 Q. And grew up on a ranch --
9 A. Yes.
10 Q. -- there. And was that a cattle ranch, sheep
ranch, or
11 combination?
12 A. It was a cattle ranch and a farm -- my father
farmed, also.
13 Q. And for crops other than those just to support the
cattle?
14 I mean, did he also --
15 A. He was a wheat farmer, also.
16 Q. Pardon me?
17 A. He was a wheat farmer.
18 Q. Wheat.
19 A. Uh-huh.
20 Q. So you worked on the ranch in your early years, I
take it.
21 A. Oh, yes.
22 Q. And did all that was required of you.
23 A. Yes.
24 Q. Then you went to school to -- at Greeley? I mean,
after
25 high school, you went to college at Greeley?

Juror No. 524 - Voir Dire

CU 1 A. I spent one year there, and then I transferred to
2 Denver.

Boulder? 3 Q. Well, did you also have some time at Boulder, CU
4 A. Yes.

interest. 5 Q. And anthropology was an area of your major
6 A. Yes.

that and 7 Q. And as I understand, you're still interested in
8 may pursue a graduate degree in that field at some
later time. 9 A. Right.

10 Q. Now you're living in the mountains.
11 A. Yes.

years -- 12 Q. And I want to -- I guess you've been about five
13 A. Yes.

-- well, 14 Q. -- where you live now. And there was a time that
15 what you're doing up there, as I understand it, is
property 16 management, like condo rentals and things like that.
17 A. Yes.

18 Q. Setting people up in their reservations and --
19 A. Yeah. Pretty much that's what I do. I do more of

the

- 20 traveling part of it.
21 Q. On the what?
22 A. The traveling part.
23 Q. Traveling.
24 A. Yeah. Ski shows.
25 Q. Oh. So you go out and promote --

4819

Juror No. 524 - Voir Dire

- 1 A. Correct.
2 Q. -- the residential properties --
3 A. Yeah.
4 Q. -- for time shares and all those things?
5 A. Time shares, wholly owned, everything.
6 Q. How much traveling do you do?
7 A. Quite a bit. I did a lot this summer, just -- this
is when
8 the ski shows are.
9 Q. Now, when the ski season is on, do you do as much
10 traveling?
11 A. No, I don't.
12 Q. Because you're booked up pretty much for the
season, I
13 presume?
14 A. Yes.

15 Q. And when -- when you got the jury summons and when
you were
16 notified, you know, what this case was about and
perhaps got
17 the notice to come in to participate further at
Jefferson
18 County, did you talk to whoever you report to in your
job about
19 this?
20 A. I spoke to them and told them that I was supposed
to come
21 here to do this. Other than that, nothing specific.
22 Q. Any conversation about that in terms of -- I mean,
did you
23 mention what case it was?
24 A. Yes. Oh, yeah.
25 Q. Sure.

4820

Juror No. 524 - Voir Dire

1 A. Who wouldn't?
2 Q. Well, that's why we told you, too, so that you
could,
3 because you recognize, as I have explained before, that
jury
4 service in this case could take several months.
5 A. Uh-huh.
6 Q. And therefore, you'd be away from your regular job
duties

7 for a while. So -- and I take it you discussed that?
8 A. We did discuss that, and it was something that was
long
9 discussed.
10 Q. And what kinds of things were you told, then, about
-- did
11 somebody suggest to you, for example, well, you know,
you want
12 to get out of that, we don't want you doing that, we
need you
13 up here?
14 A. No. I was just given the opportunity to run the
business.
15 They decided they want to leave Breckenridge, so for me
to do
16 this, I obviously wouldn't be able to run the business.
And
17 I've been there so long that's really what I've been
working
18 for to do; so it was discussed that, you know, that
would be
19 down the tubes.
20 Q. Well, you know, I said we didn't ignore it when you
said a
21 financial disaster. Do you still look at it that way
now?
22 A. Yes, I do.
23 Q. Because you would lose this opportunity to continue
in the
24 management part?
25 A. I wouldn't be -- well, it would be a lost

opportunity,

4821

Juror No. 524 - Voir Dire

1 because I've been working five years to get to this
point where

2 I can run the business, and I'm the only one there to
do it.

3 And they finally handed it over to me, and I wouldn't
be able

4 to do it.

5 Q. Now, they can't fire you, you understand?

6 A. They can't fire me? No, they couldn't, but I would
lose a

7 big opportunity.

8 Q. So you're not thinking of it in terms of losing the
job?

9 A. Not the job, just the opportunity.

10 Q. Okay. So it would be a great sacrifice for you?

11 A. Yes, it would.

12 Q. And you had that in your mind when we directed you
to

13 answer these questions.

14 A. It was in the back of my mind, but I didn't know
that I was

15 going to actually have -- it was a matter of a month
that this

16 has happened; so when I filled this out, I didn't know
it was

part, 17 going to be a definite -- a definite decision on their

18 but --

19 Q. And it has been since?

20 A. It has been since, yes.

happens to 21 Q. Now, is that sort of on hold depending upon what

22 you here on jury service?

they plan 23 A. It's on hold to me and for them as well, because

24 on leaving, so they wouldn't be able to leave; and it's

25 complicated.

4822

Juror No. 524 - Voir Dire

to 1 Q. So quite a few things hang in the balance here, so

2 speak.

3 A. Yes.

something that 4 Q. Okay. Now, you -- I want to turn right to

I ask 5 you wrote on page 38 and on Question 164. Now, before

on 6 you something about this, I want you to know you're not

answers, you 7 trial here and we want you to be honest in your

that it 8 know. And if you say something that -- may concern you

9 may be offensive to me or anybody else in this case,
don't hold

10 back. We want you to know that the only way we can
work here

11 is for you to be honest and open with us.

12 You don't seem to have -- didn't seem to have
any

13 trouble with that when you wrote the questionnaire.

14 A. No.

15 Q. Because you were pretty direct on some of the
things that

16 you said. And you used a pretty strong word here, and
you also

17 emphasized it with an exclamation mark.

18 Now, I guess, you know, the natural question I
have

19 for you is why did you write this and what are you --
what is

20 it that causes this response?

21 A. I just think because I've been working so hard at
where I

22 am right now that -- I understand this would be an
interesting

23 and educational experience, but for me I have to think
of it as

24 long-term and that -- I would be very bitter about it,
being --

25 Q. If you were to serve here, you'd be bitter about
having

Juror No. 524 – Voir Dire

1 been forced into that.

2 A. Yes.

3 Q. And of course, you know, it's true for everybody
who comes

4 in here that they'd rather be somewhere else.

5 A. Oh, yeah. I know that.

6 Q. This is not something where we put out a call for
7 volunteers or just go for people who are retired or on
welfare

8 or something. Most all of the people who come in here
have

9 busy lives and busy jobs.

10 A. I understand that.

11 Q. And that's why we didn't excuse you for what you
said in

12 the beginning.

13 A. I didn't think that was going to happen. I tried.

14 Q. We're also not ignoring what you say. I mean,
we're

15 interested in what you say, but I just want to explore
some

16 other of your answers.

17 A. Okay.

18 Q. And I guess I'll be, you know, as honest with you
as I can,

19 too. When I read some of these answers, I thought to
myself,

20 well, here's somebody who just doesn't want to be on

this jury

21 and she's telling us a lot of things in the hopes that
as a

22 result of our reading this, we'll say no, we don't want
you.

23 A. I tried.

24 Q. Okay. So that's an honest reading of -- how you
wrote

25 these things.

4824

Juror No. 524 - Voir Dire

1 A. Uh-huh.

2 Q. Well, we want you to take that out of it now
because we

3 will assess this matter carefully.

4 A. Okay.

5 Q. But I want you to go back to some of these things
that I

6 think you wrote in that spirit and tell us what you
really

7 think.

8 A. Okay.

9 Q. Okay?

10 A. Okay.

11 Q. Will you do that with us?

12 A. Yes.

13 Q. In -- and I guess one of the things that led me to

that

14 view is on page 37 at Question 163, at the bottom
there, 163.

15 And you say "I'm way over this," and I'm not sure what
you're

16 saying. Do you know what you meant by that?

17 A. No. I was probably referring to how many pages it
was. I

18 don't know. I think I've seen so much on TV and just
the shock

19 of actually being called in to do this -- I'm sure it
was

20 numerous things that I was talking about.

21 Q. Okay. Well, let me ask you about a few other
things here

22 and -- excuse me. Page 15, Question 65, political
beliefs is

23 the question.

24 Now, these may be your beliefs independently
of this

25 bitterness.

4825

Juror No. 524 - Voir Dire

1 A. Yes.

2 Q. I respect that. And is that true? I mean --

3 A. That's completely true.

4 Q. If you hadn't been called for jury duty and
responding to a

5 jury question, you would answer these questions --

6 A. Oh, yes.

7 Q. -- just the same.

8 A. I'm very opinionated. That's exactly what I would
say

9 under any circumstance.

10 Q. All right. And you demonstrated against a
government

11 position here in foreign policy in what you said on
page 66 --

12 excuse me -- Question 66.

13 A. Uh-huh.

14 Q. You also on page 22 at Question 100 -- now, how
much did

15 the resistance to jury service color your view as you
expressed

16 it here?

17 A. I think more it wasn't this trial but past trials
in the

18 last year that's colored -- colored me.

19 Q. What do you have in mind there? Tell us.

20 A. Well, I mean the obvious -- the trial of O. J.
Simpson.

21 You know, that kind of thing, which everyone followed,
so I --

22 I feel that it was a joke.

23 Q. That's what you said?

24 A. Exactly what I said.

25 Q. Are there other trials besides the case against Mr.
Simpson

4826

Juror No. 524 - Voir Dire

1 that you are thinking of here?

but

2 A. If I wasn't so nervous, I probably could tell you;

right now

3 yeah, I feel that we have an adequate system going

4 and that's all --

5 Q. Do you have some thoughts about what is an
alternative, how

6 it could be different?

haven't

7 A. No. I don't want to save the world; so no, I

8 thought of that.

the core

9 Q. And, of course, you know, the key to the system,

jury,

10 of the system as it is in the United States is the

that

11 because that's what we rely on. And in connection with

that case

12 case, the Simpson case, what is it particularly about

was a

13 as you observed it or knew about it that you thought

14 joke? Was it the result that the jury reached?

don't know,

15 A. It was probably more the publicity and how -- I

know.

16 they had a -- how the victims were treated. I don't

the 17 Q. The way the trial was conducted by the lawyers and
18 judge?
19 A. Yeah. I mean, it was just one big show.
20 Q. Okay.
That's -- 21 A. And I thought it was insulting for the victims.
judicial 22 I really -- and it was probably not so much the
23 system, but it was more how it was just so publicized.
24 Q. Uh-huh.
25 A. I thought it was insulting for the victims.

4827

Juror No. 524 - Voir Dire

verdict 1 Q. And did you form your own opinion as to what the
2 ought to have been in your view?
3 A. No, no. I mean, maybe initially; but after a
while, it was 4 so colored with other stuff that no, I didn't. I
didn't have 5 an opinion. I didn't care.
6 Q. Excuse me for talking over you. I didn't mean --
you were 7 still saying something and I started.
8 A. Oh. I lost my train of thought.
9 It was just so colored, I don't think that at

the end

10 I had an opinion, where initially I did have an
opinion.

11 Q. Which was?

12 A. That he was guilty.

13 Q. Okay. Now -- and do you initially now have an
opinion with

14 respect to this case and Mr. Nichols?

15 A. I don't know. That's about as honest as I can be.
I don't

16 know.

17 Q. Well, that's what we asked you to be, honest.

18 How much have you heard, read, and seen about
this?

19 A. A lot.

20 Q. A lot. And how much about the Timothy McVeigh
trial?

21 A. Quite a bit. You know, I remember when I heard
about it,

22 where I was.

23 Q. The bombing?

24 A. Where I was, exactly, you know, I read it in the
newspaper.

25 From there to now, everybody has read what's going on.

4828

Juror No. 524 - Voir Dire

1 Q. And, of course, in any case where there has been a
lot of

that 2 publicity about it, what the jurors have to do is keep

3 outside the courtroom.

4 A. Yeah.

It sort 5 Q. And some people can do that and some people can't.

they are in 6 of depends on how disciplined they are and how used

that 7 their own lives in other situations to block out things

ability to 8 could influence them. What do you think about your

sat where 9 do that? The "that" means that if you came in here,

the case, 10 you're sitting now as a juror hearing the evidence in

and not 11 you have to go just by the evidence and not about --

of the 12 consider anything you have read, seen, or heard outside

13 evidence.

everything that 14 A. I mean for or after or during -- of course,

him and 15 I've read before would -- would color how I think of

during, I 16 what's gone on; but during -- you know, obviously

17 wouldn't be able to read or see TV or anything.

about 18 Q. Well, it isn't just that. I mean, what I'm talking

from 19 is that what you now have in your mind about this case

20 whatever source it came into your mind has to be set
aside,

21 because what a juror has to do is to decide on the
things that

22 are seen and heard in this room as evidence in this
trial. You

23 see what I'm trying to explain?

24 A. Yes.

25 Q. And as I say, people have different abilities,
different

4829

Juror No. 524 - Voir Dire

1 levels of ability to do this. And, you know, I suppose
the

2 more that a person has seen, read, and heard, the more
3 difficult it is to set it aside and put it out of your
mind.

4 But it has to be done to be fair. And all I'm asking
you to do

5 is to assess your own ability to do that and tell us
about it.

6 A. Then I don't think I could.

7 Q. You don't.

8 A. No.

9 Q. So -- but you don't have a fixed opinion as to
whether he's

10 guilty or not. You just have heard a lot of things
that could

11 enter --

12 A. I don't, and I'm pretty impartial. But I think
that in the

13 back of my mind I would think of everything I've seen,
all the

14 pictures, all the stories, where I was when I found
out.

15 Q. Where were you?

16 A. I was in Utah at a truck stop.

17 Q. And you remember the specific moment --

18 A. Specific moment.

19 Q. How did you learn about it?

20 A. I came in after camping for two weeks, and I didn't
hear

21 anything; and it was about -- it had happened in a week
while I

22 was out camping. And then I came in, you know, after
the week

23 and opened up the paper and saw it and was devastated
because

24 by then, you know, they had all the pictures and it was
fresh.

25 Q. So this happened on April 19, this explosion. And
that's

4830

Juror No. 524 - Voir Dire

1 when you were away from all publicity, news media in
Utah.

2 A. I was out in the middle of nowhere.

you just 3 Q. Yeah. And you first then heard -- or I guess what
4 said is you first knew about it by reading a newspaper.
5 A. Uh-huh. Correct.

that 6 Q. And do you remember just what was in the paper at
7 time? Not word for word.

pictures 8 A. No, obviously -- no. I mean, I just remember the
9 on the front and being stunned and --

10 Q. And what were the pictures?
11 A. Just of children and chaos and --

building? 12 Q. And the building? Was there a picture of the
13 A. No. Uh-huh.

14 Q. What do you remember the pictures to be?
15 A. It was pictures of -- it -- just like people
running
16 around, and someone was holding a child; and that's
what I
17 remember.

18 Q. Okay. And so what was your reaction to that right
at that
19 time?
20 A. Disgust and sad. Saddened. Extremely saddened.

21 Q. Okay. And then this is something that happened
when you
22 were gone; that is, out of the range of news? Did you
then

could 23 sort of want to catch up on that and find out all you
24 about it?
25 A. Yeah. Got a hotel room and watched TV.

4831

Juror No. 524 - Voir Dire

1 Q. And you did that.
2 A. Uh-huh.
3 Q. And then is it something that you've followed
closely since
4 like when there is a story -- and this is -- I'm
talking about
5 before you got a jury summons.
6 A. Yes, I did.
7 Q. In the two years about before you got a jury
summons
8 just -- did you go out of your -- when you read a
newspaper or
9 watched television, were you particularly interested in
10 something relating to the bombing of the building in
Oklahoma
11 City?
12 A. I wouldn't say there was an extreme interest in it.
I was
13 just probably as interested as anybody, you know,
anybody that
14 was sad and affected by it.
15 Q. And talked about it with others?

16 A. Yeah.

17 Q. I want to turn to a different subject here, and
that is

18 your views concerning punishment in criminal cases.
And you've

19 got -- if you want to turn to page 28 -- well, I ask
you to

20 turn to page 28.

21 And here we asked you because of the
possibility that

22 a jury in this case may have to make a punishment
decision,

23 what you thought about the penalties of life in prison
with no

24 possibility of ever being released -- and that's the
kind of

25 life-in-prison punishment we're talking about. You
don't get

4832

Juror No. 524 - Voir Dire

1 out -- and the punishment of death. And we asked you
about

2 that without telling you anything about what the law is
just to

3 see what your views are before you heard instructions
on the

4 law. And I take it you've answered in that spirit.

5 A. Yes.

6 Q. Now -- and you used a pretty direct expression here

on B

7 and in talking about when the penalty of death may be
imposed.

8 But I'm not sure exactly what you're saying here when
you say,

9 "If the crime fits the penalty."

10 A. Well, I think that I guess it would be an opinion
-- I

11 think that there is too many people in prison, and it
-- the

12 death penalty should be used more because it's -- it --
if

13 you're going to take a life, then you should give your
life.

14 Q. And how does that relate to too many people in
prison?

15 We're spending too much money on them in prison, or --

16 A. Too much money on them. Yeah, too much money on
them. You

17 know, half of them have no remorse for what they did;
and if

18 they're so willing to take someone's life, then they
shouldn't

19 be here.

20 Q. And on the next page, we asked you to tell us if
some

21 personal beliefs enter into it. And you say, "I've got
a lot

22 of them, but I can't put them down in this space," I
guess.

23 Maybe a little bit colored by your bitterness at that
time.

24 A. Probably so.

30, 25 Q. And you also said something on the next page, page

4833

Juror No. 524 - Voir Dire

at 129 1 about court instructions. And after saying -- you see

2 there --

3 A. Uh-huh.

victims' 4 Q. -- and your explanation about "The duty to the

of the 5 families is more prevalent than the demands -- demand

6 court."

that you 7 Now, tell us, forgetting about for the moment

being 8 don't want to be on the jury and you're angry about

question the 9 called up, what are -- would you still answer that

10 same if you took that bitterness out?

11 A. Yeah, I think so.

12 Q. And what do you mean by that?

13 A. That I think so?

victims' 14 Q. No, no. What do you mean about the duty to the

15 families?

16 A. There is a lot of empty families right now, and I

think I

17 understand that we have to do this trial; but I think,
you
18 know, we've kind of forgotten the families. I think me
-- I
19 would feel more obligated to put my energy into helping
the
20 families than -- I mean, I guess in a sense this does
help the
21 families and a great deal; but if I could find any
other way to
22 do it, I would rather do that.
23 Q. Well, see, what I was concerned about -- whether
you were
24 saying here that you want to find the defendant guilty
to help
25 the families.

4834

Juror No. 524 - Voir Dire

1 A. Possibly.
2 Q. Is that what you're saying?
3 A. I don't know. I don't know.
4 Q. All right.
5 A. I don't know.
6 Q. Again, I'm not trying to quarrel with you.
7 A. I know.
8 Q. I'm just trying to get out for us what you really
think,

9 because, you know, first I mentioned the duty of the
jury to
10 decide on the evidence; and then it comes down to if
there is a
11 guilty verdict, the jury has to decide about
punishment,
12 because in cases not involving punishments of this
type, judges
13 make sentencing decisions. The jury decides whether
the
14 evidence proves guilt beyond a reasonable doubt, and
then a
15 judge has to decide what to do about the defendant who
has been
16 found guilty of some crime, crimes like burglary or
robbery,
17 bank robbery, things like that, not involving the
killing of
18 anybody.

19 And before a judge makes a sentencing
decision, that
20 judge considers a lot more than just the evidence that
was
21 received at the trial of the case, which includes the
"lot
22 more," all there is to know about the defendant, some
more
23 about the crime, circumstances of the crime and, you
know, its
24 consequences, including things like effect on victims,
but then
25 a lot about the defendant, the whole life story of the

4835

Juror No. 524 - Voir Dire

1 defendant, who he is, how he got to where he is, so all
about
2 upbringing, jobs, military service, education,
employment
3 history, marriage history, whether children, whether
he's done
4 good things or bad in other respects, what's been done
to him.
5 Every one of us has a different history. And the judge
has to
6 take all that into consideration and then hear from
both sides,
7 prosecution and defense lawyers, and then make a
decision about
8 what is a just sentence for that person. Understand?
9 A. Yes.
10 Q. So even in a case where there is more than one
person found
11 guilty of the same crime, the judge has to consider the
12 individuals being sentenced and may well arrive at
different
13 sentences for different people involved in the same
crime. You
14 understand how that is a possibility?
15 A. Yes, I do.
16 Q. But under federal law when the question is whether
there

guilty 17 should be a death penalty or whether the person found
we don't 18 should be put in prison for life, true life sentence,
decide. 19 have judges make that decision. That's for a jury to
to have 20 Congress has said, well, that's a decision that we want
don't decide 21 the 12 people who heard the case decide. But they
They have 22 it just on the basis of the evidence at the trial.
is a 23 to consider more. And that's why in a case where there
more and 24 guilty verdict of a crime like murder, the jury hears
witnesses are 25 there is a second trial, really, at which again

4836

Juror No. 524 - Voir Dire

the 1 called in, exhibits are received and considered, and
goes toward 2 evidence really goes in two directions. Part of it
punishment, 3 supporting the view that death is the deserved
could 4 things about the crime and all of these things that
time 5 affect the victims, and so forth, and then at the same
6 things that support the view that death is not deserved

for

7 that crime for this person, considering him as an
individual

8 and unique human being.

9 And that all, as I say, can come in and take
as much

10 time as the trial itself at times to hear about this
particular

11 person and this particular crime.

12 And then at the end of that hearing or trial,
the

13 court gives instructions to the jury about summarizing
pretty

14 much what has been heard and say, now, look, here's --
these

15 are the things that you may consider with respect to

16 aggravating circumstances suggesting that death is the
deserved

17 punishment; these are the things that you can consider

as

18 mitigating circumstances, mitigating the punishment and

19 suggesting that while the crime supports the death
penalty

20 because of the nature of the crime, this person should
not be

21 put to death, and including in that, you know, these
things

22 about who he is as a human being.

23 You understand what I've been explaining?

24 A. Yes, I do.

25 Q. And the court can give in these instructions some

Juror No. 524 - Voir Dire

1 suggestions about approaching that and questions the
jury might

2 ask, but in the end there is no way to direct a
decision there.

3 I mean, that really depends on the views of the
particular 12

4 people who sit in judgment of that human being. And
what the

5 law says then is that those persons, after hearing it
all,

6 considering it all, discuss and then make a decision
which has

7 to be a decision that each juror makes after talking
over with

8 other jurors; but the decision can best be described
probably

9 as a rational, moral decision based on what you've
heard and

10 decide whether the person should live or die.
Understand?

11 A. I understand.

12 Q. And so the question that I have for you is if you
were in

13 that position and had to make a life-or-death decision
about

14 another human being whom you had found guilty of a
crime, would

15 you do that and consider the options of both life and

death and

16 then make the decision on the basis not just of the
crime but

17 all that you have heard about the defendant as well?

18 A. I think I could, but it would be very difficult.

19 Q. And, of course, it is a difficult decision to
decide the

20 fate of another human being. I mean, that in and of
itself is

21 difficult. And perhaps I don't know when you had your
war

22 protest whether that was included in there, the idea of
23 killing, or just whether you protested that particular
war.

24 A. I think I -- I was going to school in Boulder, I
had

25 dreadlocks and a nose ring, and it was the thing to do.

4838

Juror No. 524 - Voir Dire

1 Q. Sure. Okay. And I understand your answer.

2 But, you know, there are people who believe
that you

3 shouldn't take a human life, period, under any
circumstances.

4 That's why I asked you that question. And that isn't
your

5 view, obviously.

6 A. No.

7 Q. But the question is before -- The taking of a human
life in
8 a deliberate, calculated decision, like has to be made
in
9 court, is one that people have different abilities for,
too. I
10 just have to ask again whether if you had to make a
decision
11 like that, you would make the decision considering
everything
12 that you've heard, or -- you've already told us about
your view
13 of the death sentence isn't used enough, apparently --
whether
14 that's a factor that would cause you to think, look,
you
15 killed, you get killed, and that that would be your
decision.
16 A. That's an opinion that I have, but I can't tell you
that
17 sitting and listening to months of -- sitting in here
in a
18 trial for three months that I would think that way.
19 Q. All right.
20 A. I've never been under that kind of circumstance.
21 Q. Sure.
22 A. My opinion might change instantly. I don't know.
I
23 honestly don't know.
24 Q. No, and we can't help you by saying, well, these
are the
25 things you're going to hear, because we don't know. I

don't

4839

Juror No. 524 - Voir Dire

1 know what the evidence at the trial is going to be. I
don't
2 know what the evidence or information at the penalty
phase, if
3 there were to be one, would be. So we have to talk
about it in
4 these very general terms, which makes it doubly
difficult. But
5 the issue is, I think, whether you under those
circumstances
6 would be able to make an open-minded decision and base
it not
7 on your opinions about the legal system, not on your
opinions
8 about how much it costs to keep somebody in prison for
life,
9 but on what you've heard as the evidence presented to
you.
10 A. I would hope I would be able to be that rational
and mature
11 and sensible, but I can't say that I know.
12 Q. So --
13 A. And I know that's kind of jumping your question.
14 Q. No. Look: We again -- we just want you to tell us
what's
15 in your mind and your heart as you sit there and have
to

16 respond to these very tough questions. And I guess
what I hear
17 from you in all these questions is that you're probably
able to
18 do the job of a juror if it -- but you are still
worried about
19 this opportunity with the company you work with --
20 A. Yes.
21 Q. -- which is what makes you think that "I sure would
be
22 bitter if you made me sit on this jury."
23 A. That's probably a good conclusion about everything
I've
24 said. Yeah.
25 THE COURT: Okay. Well, we have an
opportunity for

4840

Juror No. 524 - Voir Dire

1 lawyers to ask you a few more questions. And I know
you're
2 here from a ways away. And would it be a great
inconvenience
3 for you to return tomorrow?
4 JUROR: Yes, it would.
5 THE COURT: We'll keep going tonight, then,
and finish
6 up.
7 JUROR: I really appreciate that.

you. 8 THE COURT: Well, you've helped us; we'll help

9 Ms. Wilkinson.

10 MS. WILKINSON: Thank you, your Honor.

11 VOIR DIRE EXAMINATION

12 BY MS. WILKINSON:

13 Q. Good afternoon.

14 A. Hello.

I'm one 15 Q. As the Judge told you, my name is Beth Wilkinson.

against 16 of the prosecutors who will be presenting the evidence

so you 17 Mr. Nichols; and I will try and keep my questions short

18 can get home tonight.

19 A. Thank you.

you. (1) 20 Q. I just have a few things I want to follow up with

sounded like 21 I was listening to you talk to his Honor, and it

not just 22 there is really two concerns you have about your job,

sounds 23 one. The second or the one that you just learned about

24 like -- recently is that you might actually get this

25 opportunity to take over the business. Is that right?

Juror No. 524 – Voir Dire

1 A. That's correct.

2 Q. And that's something you found out after you filled
out
3 that first summons?

4 A. Yes. This is all brand-new.

5 Q. Okay. So that's something that's on top of the
first
6 concern that you told us about, the financial disaster?

7 A. Yeah.

8 Q. Can you tell me about that? Do you think that your
company
9 would not pay you if you were to sit for a long period
of time?
10 Is that your concern?

11 A. I haven't asked them. I'm assuming that they
would, but it

12 costs a lot of money to live in Breckenridge, and it
would
13 just -- it would hurt. It really would.

14 Q. So when you put "financial disaster" on the first
summons,
15 that's what you were concerned about, about just
getting the

16 money from jury service and not knowing what your
company would
17 do?

18 A. Yeah.

19 Q. But right now, you don't know what they're going to
do

20 about that.

21 A. I don't know. I know that they wouldn't pay me my
full

22 wage; but, you know, with cost of living, student
loans, car

23 payments, rents, blah, blah, blah, it just -- it
wouldn't work.

24 Q. So you have a lot of fixed costs that you're
concerned

25 about. Is that right?

4842

Juror No. 524 - Voir Dire

1 A. Yeah.

2 Q. And are there many people in your office?

3 A. Five.

4 Q. Pardon?

5 A. Five total.

6 Q. And would your work have to be split among the rest
of

7 them, or could they not even do what you're doing?

8 A. We would have to hire someone to replace -- not
replace me

9 but at least so they can expand the work amongst the
people

10 that are there so -- they would have to just create a
whole new

11 system just for me.

12 Q. And as we're coming into ski season, what are your

general

of 13 duties and responsibilities at work? What are the kind

14 things that you --

15 A. I run -- I run the place, so from hiring to
reservations to

16 advertising to confirmations, everything.

17 Q. So when you tell his Honor that this is a big worry
for

18 you, this is why?

19 A. A big worry for me.

20 Q. Okay. And that, as I understand it, has colored
some of

21 your answers --

22 A. Yes.

23 Q. -- to the questionnaire. Okay.

24 Well, if we could set those feelings aside now
that we

25 understand what they're based on and if I could ask you
some

4843

Juror No. 524 - Voir Dire

1 questions and you just try and think that, you know,
that's not

2 a concern right now and just answer as honestly as you
could, I

3 would appreciate that. Could we do that?

4 A. Yeah.

5 Q. Okay. You told us that you're an opinionated
person.

6 A. Very.

7 Q. And I saw in the questionnaire where you said once
you come

8 to your opinion, you don't like to change your mind.
Is that

9 right?

10 A. Not usually.

11 Q. And you've told us that you have some strong views
about

12 the government.

13 A. Uh-huh.

14 Q. And it sounds to me or it looks to me like from
reading

15 your questionnaire they're based on -- they're on
certain

16 issues, not about the whole government but on certain
issues

17 that you feel strongly about. Is that fair?

18 A. No, I pretty much have an opinion on all of it.

19 Q. So it just depends on what I ask you?

20 A. Right.

21 Q. I don't want to go through a list of your views
about the

22 government. All I really want to know is if you sat
here as a

23 juror and you know the Government is one party and
obviously

24 Mr. Nichols is the other, could you give the Government

a fair

25 trial, and would those views generally about the
government

4844

Juror No. 524 – Voir Dire

1 affect how you judged us and how we presented the
evidence to

2 you?

3 A. Oh, I can give a fair trial.

4 Q. So that wouldn't affect your view of the
prosecution or the

5 witnesses or anything like that.

6 A. No.

7 Q. How about if FBI agents took the stand? Would you
have an

8 opinion about them before they even opened their mouths
and

9 told you what their testimony was?

10 A. No.

11 Q. I'm sorry?

12 A. No.

13 Q. Okay. Thanks.

14 Now, if we could turn to the publicity. You
told his

15 Honor that you have a very specific recollection about
where

16 you were when you learned about the bombing. Is that
right?

17 A. That's correct.

18 Q. And would it be fair to say that you followed the
story
19 more with regard to the victims than you did with
regard to who
20 did it and kind of the investigation?

21 A. No.

22 Q. You followed both sides?

23 A. Yeah.

24 Q. And do you recall the circumstances under which Mr.
McVeigh
25 was arrested?

4845

Juror No. 524 - Voir Dire

1 A. Yeah. I think so.

2 Q. Can you tell --

3 A. I couldn't give you great detail, but --

4 Q. Okay.

5 A. -- but just the matter of -- of the van, chasing
the van --
6 I don't know -- just looking for -- I don't really have
any
7 recollection of what specifically happened, but yeah.

8 Q. Do you remember how Mr. Nichols came into custody
of the
9 police?

10 A. No.

11 Q. Do you remember certain stories -- and I'm not
asking you

12 again to give me the details -- about families that
you've

13 talked about and the losses that they suffered?

14 A. Yes.

15 Q. Okay. Do you have strong opinions about victims'
rights

16 issues?

17 A. Yes, I do.

18 Q. And can you describe those for me just generally?

19 A. In what sense?

20 Q. For example, how victims are treated by the court
system.

21 A. A lot of times they're overlooked completely and
their

22 families and their feelings, and they're more -- which
is

23 understandable, trying to get the person that did the
crime.

24 And they kind of push aside the victims' feelings and
things

25 that they put in the paper and the detail and -- it's
not

4846

Juror No. 524 - Voir Dire

1 considerate to the families.

2 Q. Do you have any opinion about with regard to the
McVeigh
3 case -- did you follow the McVeigh case at all?
4 A. Just, you know, what I read in the paper.
5 Q. Do you remember seeing pictures of any victims
leaving the
6 courthouse after the announcement of the verdict or the
death
7 sentence?
8 A. What I saw on TV.
9 Q. And you did see that?
10 A. Yeah.
11 Q. Did you see the day that the verdict was announced
that
12 Mr. McVeigh was guilty?
13 A. No, I was -- I was out of the country, so no, I
didn't.
14 Q. Did you -- were you here the day that the death
sentence
15 was announced?
16 A. No.
17 Q. Okay. So were you out of the country for both of
those?
18 Those were a couple weeks apart.
19 A. Just -- yeah, it was like two weeks I was in
Europe,
20 so . . .
21 Q. When you came back, did you see?
22 A. I heard just from people from work.

23 Q. I'm sorry?

24 A. People from work told me when I got back.

25 Q. Did you see any television coverage of that or
newspapers?

4847

Juror No. 524 – Voir Dire

1 A. No, because when I got back, it wasn't really
covered.

2 Q. Did you have an opinion as to whether you agreed
with that

3 sentence and the verdict and the sentence as to Mr.
McVeigh?

4 A. I agreed.

5 Q. You told his Honor that you would have those
memories, but

6 I thought I heard you saying you could set those aside
in terms

7 of listening to the evidence here and, as you said,
even with

8 regard to penalty you could keep an open mind as -- and
maybe

9 change --

10 A. I'm saying but that might change. I think I could
do it

11 now, but I honestly couldn't tell you if that would
change.

12 Q. So are you saying just to the best of your
abilities?

13 That's what you're telling us?

14 A. Yes.

15 Q. Let's just go, if we could, to the penalty phase;
and

16 that's really the last thing I want to ask you about.

17 You said you believe that the death penalty
should be

18 used more frequently?

19 A. Yes.

20 Q. Is that right? Is that a general view or a
personal

21 opinion as you've described some of these other things
about if

22 you were to make the law or if you could, you know, be
queen

23 for the day and decide what the rules were?

24 A. Well, if I was queen for the day, yeah. I mean, I
would.

25 It's -- the population in prisons is getting way out of
hand.

4848

Juror No. 524 - Voir Dire

1 And as much money as it costs to keep an individual in
prison

2 and have them on death row for 15 years, just get it
over with.

3 Q. And are there certain types of crimes that you
think are

4 more deserving of the death penalty than others?

5 A. I think murder, yes, is.

6 Q. Knowing that that's your opinion in our
hypothetical of
7 you're in charge for the day, can you set that aside
and if
8 you're asked to be a juror -- and again, we're putting
your
9 feelings about whether you want to be a juror aside for
a
10 minute -- could you sit with 11 other people and listen
to all
11 the evidence about the case, about the defendant, about
his
12 role, the circumstances, and be open-minded as to
whether a
13 life sentence or a death sentence were appropriate,
until the
14 end, until you had to make that decision?

15 A. Until the end, yes. I think I could.

16 MS. WILKINSON: Thank you very much for
answering my
17 questions.

18 THE COURT: Mr. Tigar?

19 MR. TIGAR: Thank you.

20 VOIR DIRE EXAMINATION

21 BY MR. TIGAR:

22 Q. Well, I'm the last one that you have to talk to --

23 A. Thank God.

24 Q. -- with these questions. And I will try to be
mercifully

25 brief, but I do need to ask about some of the same

things,

4849

Juror No. 524 – Voir Dire

1 hopefully different questions.

2 My name is Michael Tigar. And that's Ron
Woods there.

3 And Mr. Woods and I were appointed by the United States
4 District Court in Oklahoma to help out Terry Nichols in
May of
5 1995, shortly after the Government filed charges
against him

6 for that April bombing.

7 With your views about the justice system, do
we start
8 out with a disadvantage because Mr. Nichols couldn't
afford a
9 lawyer and he's got court-appointed counsel, paid for
by the
10 taxpayers ultimately?

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

12 Q. That's okay with you?

13 A. Yes. That's how it happens.

14 Q. Pardon?

15 A. That's how it happens.

16 Q. Right. Well, I want to ask a little bit about this
-- the
17 questions of the business. You understand that the
jury in

1 on 18 this case sits from 9 to 5 four days a week, from 9 to
away to 19 Fridays, and that the Court for those who live too far
during 20 get back home every night does provide accommodations
21 the week. Did you --
22 A. I knew that, but that wouldn't make a difference.
wanted to 23 Q. I understand it didn't make a difference. I just
24 make sure it was understood.
25 A. Yes.

4850

Juror No. 524 - Voir Dire

1 Q. So none of that makes a difference in terms of your
2 planning. You feel this is a great hardship for you.
3 A. Yes.
trying 4 Q. Okay. I'm not trying to argue with you. I'm just
5 to understand all of these facts.
6 And then looking at this -- at your
questionnaire, we
7 all now understand that it must be very frustrating to
try to
8 go through these 166 questions. Right? And in part,
was the
9 frustration that what's involved in this case is it's
just

matter 10 difficult to think about having to sit in judgment on a

this one? 11 that's as complicated or difficult and emotional as

too. 12 A. For me, yeah. I'm sure it was for a lot of people,

for 13 Q. I'm sure it was. I mean, it's not -- I noticed,

college was 14 example, one of the things you must have studied in

15 Spanish. Is that right?

16 A. Correct.

17 Q. And you taught in Spain for three summers?

18 A. Yes.

Lorca? 19 Q. And I just wondered, did you ever -- do you read

20 A. A long, long time ago.

mi balcon 21 Q. Long time ago. Do you know that poem "He cerrado

balcony 22 porque no quiero oir el llanto"? "I want to shut my

to get 23 because I don't wish to hear the weeping; I'd just like

24 away from it"?

25 A. No, I don't.

4851

Juror No. 524 - Voir Dire

1 Q. But did you feel that way a little bit?

2 A. A little bit, yeah.

3 Q. I wondered, then, in -- in your study of
anthropology,

4 archeology and so on, did you study the -- how
societies come

5 to make a system of justice for themselves?

6 A. No, I was more archeology. That's more
anthropology.

7 Q. I understand. But you did write down both. You're
more

8 interested in the -- the excavation part. Right?

9 A. Correct.

10 Q. How to understand it.

11 Well, you did write that you thought that --
if you

12 could turn to page 15 of your questionnaire -- that "I
believe

13 the government needs to listen with open ears as to
what its

14 people are saying. Policies are free to make opinions
on, but

15 nothing is really done to improve matters. We are
becoming

16 oppressed."

17 Could you give me examples of the things that
you see

18 that lead you to think that?

19 A. Some of the very minor things I can list as far as
people's

20 rights and, you know, everyone says, abortion, smoking,

21 drinking will become an issue. There is numerous
things. I
22 feel that we're supposed to be a country of freedom,
and we're
23 far from it.
24 Q. That people's personal choices are being infringed
on?
25 A. Yes.

4852

Juror No. 524 - Voir Dire

1 Q. Now, one of the issues that is currently being
debated --
2 and you did refer to it later in your questionnaire --
is guns.
3 Right? You grew up around guns. Right?
4 A. Yes, I did.
5 Q. And then on the next page over, page 32, you said,
"I hate
6 guns"?
7 A. That's true.
8 Q. And that's true.
9 A. Yeah.
10 Q. Now, in a case -- if you were to hear in this case,
for
11 example, if you were a juror, testimony from people who
make
12 their living going to gun shows, buying and selling
firearms

had 13 and so on, would you hold that against them that they
14 chosen to make their living that way?
you 15 A. No. I grew up on a farm and a ranch. Guns were --
My 16 could walk in the next room and there would be a gun.
don't 17 father hunts. Guns are always there, so I personally
make 18 like guns. I don't have anything against people that
19 their living --
to do 20 Q. So it's one of those things where if somebody wants
government you 21 it, that's their business and that's the kind of
22 think that we ought to have?
23 A. Well, I think that you have to be a responsible gun
24 carrier.
about 25 Q. Sure. Absolutely. Absolutely. Do you -- talking

4853

Juror No. 524 - Voir Dire

about -- 1 the criminal justice system -- and I know you did talk
2 a little bit about the Simpson case. Do you have any
3 impression that the government sometimes charges,
tries, and
4 convicts people that are innocent?

I'm 5 A. I don't know. I'm sure it happens. I don't know.
6 not -- I don't know specifically any cases.

you are 7 Q. I'm not asking you for specific cases. It's just
8 open to the idea that that might happen?
9 A. Yes.

whether 10 Q. And looking at jury service and without regard to
11 you're going to be selected, because everybody takes
seriously 12 what you said, do you think it's important for every
defendant 13 who is charged with a crime where the consequences are
serious 14 to get a fair trial?
15 A. Yes, I do.

about the 16 Q. And you have heard and read a lot in the media
17 Oklahoma City situation. Right?
18 A. Yes.

did you 19 Q. Now, from that, when you first got your summons,
20 talk it over with folks at work?
21 A. Yeah.

well, this 22 Q. I guess you said you did. Did any of them say,
23 is how that ought to come out?
24 A. Of course. Everyone has an opinion. Doesn't mean
I listen

25 to it, but everyone has an opinion.

4854

Juror No. 524 – Voir Dire

the same 1 Q. I understand that. Do they all have pretty much
2 opinion, or do they all have different opinions?

3 A. I would say they have the same opinion.

4 Q. Which was?

5 A. That he's guilty.

6 Q. Did you have that opinion?

before all 7 A. I don't know. I don't know what my opinion was
8 this happened.

9 Q. Do you have an opinion today?

10 A. Yes and no.

no part 11 Q. Okay. Can you give me -- whichever you want, the
12 or the yes part.

not really 13 A. Well, yes, I believe he's guilty. The "no," I'm
14 sure.

guilty 15 Q. Okay. And your belief that you -- you believe he's
and read 16 but are not sure: That's based on what you've heard
17 and so on in the media; right?

18 A. Right.

19 Q. And do you -- do you accept the idea or does it
ever happen

20 that the media gets it wrong sometimes?

21 A. Oh, of course.

22 Q. Okay. And that -- I don't know. Your family was
in the

23 cattle business?

24 A. Yes.

25 Q. Did you ever hear the expression, "Big hat, no
cattle"?

4855

Juror No. 524 - Voir Dire

1 A. Yeah.

2 Q. All right. Well, in life, have you ever seen that;
that

3 somebody talks a good game but they don't deliver on
the proof?

4 A. Oh, yeah.

5 Q. Happens in real estate business sometimes?

6 A. Happens a lot in the real estate business.

7 Q. Okay. So are you open, as you sit there today, to
the idea

8 of presuming somebody innocent if you're a juror and
saying,

9 look, I'll just, you know -- I'll do my level best to
just base

10 my opinion on what I hear from the witness stand, even

if it

11 contradicts what I came in with?

I could 12 A. Well, I answered that and I said yes, I would think

13 do that.

14 Q. Okay.

15 A. But it might change.

16 Q. I'm sorry?

17 A. I said that might change, as I said earlier.

some of 18 Q. I understand. I understand. And I know I'm asking

19 the same things.

20 A. I know.

that we 21 Q. But I come at it a different way; and the reason

22 ask it in different forms is it's pretty important.

23 A. I know.

24 Q. We all have to understand what we're doing and I --

25 A. I understand.

4856

Juror No. 524 - Voir Dire

1 Q. Okay. I noted that you read that book Primal Fear.

2 A. Uh-huh.

the 3 Q. That is the one about where the client flimflammed

4 lawyer?

5 A. The dual --

6 Q. Yeah, the dual-personality thing?

7 A. Yes.

8 Q. And then at the end it turns out --

9 A. He was guilty.

10 Q. Yeah, that he was guilty and all that.

11 A. Yes.

12 Q. Did that cause you to have any views about the
legal

13 profession?

14 A. No.

15 Q. And specifically about court-appointed lawyers like
the

16 hero of that book?

17 A. No.

18 Q. Okay. It's still okay --

19 A. It was a good read, so . . .

20 Q. Just a good read. Okay?

21 A. Yes.

22 Q. And did you see the movie?

23 A. Yes.

24 Q. Was it better than the book?

25 A. No.

Juror No. 524 – Voir Dire

1 Q. Let's turn, if I could, then, to the -- this
question about
2 punishment that everybody else has asked about. You
wrote some
3 answers and they were pretty direct. And then I made
some
4 notes of what you had said that half of them, speaking
of
5 people in prison -- "Half of them have no remorse for
what they
6 did." And you're referring to people on death row?
7 A. Yes.
8 Q. Okay. Now, is it your view that people who, you
know,
9 commit a burglary -- and that is a crime against
property --
10 that that should carry the death penalty?
11 A. If they killed somebody in the meantime.
12 Q. No, no. Just broke into a house and stole a VCR.
13 A. No. Just, you know, murder.
14 Q. Okay. Murder. So we start as a baseline. And
indeed, in
15 the United States of America in those places that have
the
16 death penalty -- not all states do -- the only thing
that can
17 get you eligible to be considered whether you should
get life
18 without parole or a possible death sentence is if you
commit

19 murder. So do you have any disagreement with that
principle?

20 A. I don't know. I've not even thought about that.

21 Q. All right.

22 A. It's a good thing to think about.

23 Q. All right. Well -- but that is the legal system
under

24 which we work. And this remorse idea, "Half of them
have no

25 remorse": Is the concept of remorse -- that is an
important

4858

Juror No. 524 - Voir Dire

1 one to you when thinking about what somebody ought to
receive

2 from the judicial system by way of punishment?

3 A. I would say it's not an important issue for me, but
I think

4 it's something that someone should -- should practice,
if you

5 murder someone.

6 Q. Yeah. Well, if you did anything wrong -- right? I
mean,

7 is it your view if you did anything wrong that, you
know, it's

8 a kind of judge of your character if you say, Gee, you
know, I

9 did that and I'm sorry.

10 A. Yeah.

11 Q. Okay. And that is -- it relates in this way: Mr.
Woods
12 and Mr. Nichols and I do not concede that we will ever
get to
13 this issue of punishment. From the very first witness
the
14 Government calls to support these charges that they
filed, we
15 will cross-examine those witnesses. We're going to
present
16 evidence of our own. When it comes our turn -- because
the
17 Government gets first ups -- we're going to present
witnesses
18 to contradict their theory. But -- we only get this
one chance
19 to talk about it; so if there should be a guilty
verdict on one
20 or more of these charges, then we can't bring everybody
back
21 and say: Well, now, what do you think?
22 The Judge described the process that happens
when a
23 jury, any jury, considers this question of punishment.
And is
24 it your feeling that without regard to what the Judge
said that
25 anybody who commits a murder should be put to death?

1 MR. MACKEY: Objection, Judge.

2 THE COURT: Overruled.

3 You can answer that. That's what that means.

4 MR. TIGAR: You can answer.

5 JUROR: I know. I was waiting for you to be
done.

6 I don't know how practical that would be, but
yeah.

7 BY MR. TIGAR:

8 Q. Okay. And is it -- you understand that that --
that that's

9 different from what -- how the legal system operates
when

10 juries have a role in deciding?

11 A. Yes, I do.

12 Q. Okay.

13 A. That's a personal opinion.

14 Q. I understand. I understand. And so the next
question that

15 we get to is the Judge describes this process, and what
it

16 starts out with is there is no such thing as an
automatic death

17 penalty; that is, you could --

18 A. I know.

19 Q. -- imagine the worst war criminal that there was,
but there

20 is no such thing as the automatic death penalty even
for that

21 person, terrorism, whatever.

22 A. I know.

23 Q. And then in order then to decide is life
imprisonment

24 without any possibility of release enough of a
punishment, then

25 there is a further hearing. And the Judge talked about
that,

4860

Juror No. 524 - Voir Dire

1 and I won't repeat it. And my question to you is if
you were

2 called as a juror -- and let's don't talk about this
case for

3 two reasons. First, we don't know what's going to
happen in

4 this case; and second, you don't want to be a juror on
this

5 case. I mean, I want to separate it from that.

6 In a case in which you had found someone
guilty of a

7 premeditated murder, would you be able to (1) listen to

8 evidence about the background of the defendant, family

9 circumstances, remorse, maybe the fact that that person
had a

10 different role in the death of the victim than somebody
else,

11 as well as the evidence about the aggravating factors,
which

victims? 12 often, by the way, would include testimony from
Would
it, to 13 you be able to listen to it -- to all of that, to hear
14 take it in?
15 A. Well, just like the other question, yes. It might
change.

16 Q. All right. I understand. And then the next
question is
17 would you be able to -- would you be open to the
possibility to
18 a sentence of life imprisonment without possibility of
parole
19 for someone that you had convicted of premeditated
murder?

20 A. I don't think so. I don't think I could. I really
have
21 the eye-for-the-eye opinion.

22 MR. TIGAR: Well, I thank you very much for
sharing
23 your views with us.

24 JUROR: Thank you.
25 THE COURT: We do appreciate your, despite
being

4861

1 bitter, coming in and responding to all these
questions; and
2 again, please understand you weren't on trial here.

3 JUROR: I know.

4 THE COURT: Now, I can't tell you this
afternoon

5 whether you're going to be called back for jury
service, but

6 we'll try to tell you as soon as we can.

7 JUROR: Okay.

8 THE COURT: And be in touch with you. If you
have to

9 leave town or something and be away from the number,
give us a

10 call.

11 JUROR: Okay.

12 THE COURT: We want to be able to contact you
by

13 phone. All right?

14 And then, of course, I have to ask you to stay
away

15 from newspapers, magazines, books, radio, television
about the

16 case and also avoid conversation with others about the
case or

17 your experience here until you hear from us. Okay?

18 JUROR: Okay.

19 THE COURT: Thanks very much. You're excused.

20 JUROR: Thank you.

21 (Juror out at 5:16 p.m.)

22 THE COURT: All right. We'll start the next
one at

23 8:45 tomorrow morning.

24 MR. TIGAR: Thank you, your Honor.
25 (Recess at 5:16 p.m.)

4862

Page	Item
	1 INDEX
	2 Item
	3 Jurors
	4 Juror No. 647
4730	5 Voir Dire Examination by Mr. Ryan
4735	6 Voir Dire Examination by The Court
4737	7 Voir Dire Examination by Mr. Ryan
4739	8 Voir Dire Examination by Mr. Tigar
4755	9 Voir Dire Examination by The Court
	10 Juror No. 823
4759	11 Voir Dire Examination by The Court
4786	12 Voir Dire Examination by Mr. Orenstein
4793	13 Voir Dire Examination by Mr. Woods
4807	14 Voir Dire Examination by The Court

15 Juror No. 524
16 Voir Dire Examination by The Court
4810
17 Voir Dire Examination by Ms. Wilkinson
4840
18 Voir Dire Examination by Mr. Tigar
4848

19 * * * * *
20
21
22
23
24
25

4863

1 REPORTERS' CERTIFICATE
2 We certify that the foregoing is a correct
transcript from
3 the record of proceedings in the above-entitled matter.
Dated 4 at Denver, Colorado, this 22d day of October, 1997.
5
6

7 Paul Zuckerman
8

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25