

13 PROCEEDINGS

14 (Reconvened at 1:30 p.m.)

15 THE COURT: Be seated, please.

16 862.

17 Good afternoon. Will you please raise your
right hand

18 and take the oath from the clerk.

19 (Juror No. 862 affirmed.)

20 THE COURTROOM DEPUTY: Thank you.

21 THE COURT: Please be seated there in the
chair by the

22 microphone.

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q. And you understand that as you were told in a
summons for

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1 jury service that you got back in July that you've been

2 summoned as a possible juror for the trial of the
United States

3 against Terry Lynn Nichols.

4 A. Yes, sir.

5 Q. And when you got that summons, you responded to it
as we

6 asked you to and with a short-form questionnaire, and
you told

7 us in that questionnaire some problems that you had in
serving;

8 but in spite of that, you got a notice to come out to
the

9 Jefferson County Fairgrounds on September the 17th, and
you did

10 that.

11 A. Yes, sir.

12 Q. And there, you answered a long questionnaire for
us, and we

13 appreciate that.

14 And at that time -- that is, in Jefferson
County -- I

15 also -- I was there and talked to you and the other
members of

16 the jury panel and introduced some people who were
there with

17 me. They are here again this afternoon, so I want to
introduce

18 them again so you know who's here.

19 Here at this first table are lawyers for the

20 Government. You met Mr. Lawrence Mackey and Ms. Beth

21 Wilkinson. And you did not meet, because he wasn't
there,

22 Mr. Patrick Ryan and Mr. James Orenstein. These are
additional

23 lawyers for the Government.

24 You did meet Mr. Michael Tigar and Mr. Ronald
Woods,

25 attorneys for Terry Nichols; and Mr. Nichols was
present.

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1 And then I talked to you about -- and the
others about
2 the background of the case, explaining that this case
arises as
3 a result of an explosion in Oklahoma City, Oklahoma, on
April
4 the 19th of 1995, when a federal office building there
was
5 destroyed by an explosion and people in it were killed
and
6 injured. Thereafter, charges were filed in Oklahoma
City in
7 the Federal Court there by way of an indictment that
accused
8 Terry Lynn Nichols, together with a man named Timothy
James
9 McVeigh -- and the indictment says "and other persons
not
10 named" -- with a conspiracy -- entering into a
conspiracy or a
11 criminal agreement to bomb that building and to kill
and injure
12 the people in it.
13 And then the indictment goes on to allege or
accuse
14 the defendants of going ahead and doing what they
planned to
15 do. And included among the 11 charges of the

indictment are

law 16 eight charges or counts of first-degree murder of eight
17 enforcement agents who were in the building, agents of
these 18 different federal law enforcement agencies; and to
guilty, 19 charges, the defendants entered their pleas of not
20 thereby creating the issues for trial.

where 21 And then the case was moved from Oklahoma City
because of 22 the indictment was filed here to Colorado for trial
23 a concern about asking people in Oklahoma to sit on the
jury.

separated 24 And after the case came here to Colorado for trial, I
separate 25 the defendants for trial, holding that there should be

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give each 1 trials to avoid confusion about the evidence and to
for each. 2 of the defendants a fair trial with a different jury

trial of 3 And after that, we did go forward with the
was 4 the evidence as it related to Mr. McVeigh. The jury
5 selected. The jury heard the evidence at that trial

and

6 returned a guilty verdict. Then that jury had to hear
more.

7 There was a second stage or phase trial on the question
of

8 punishment. And after hearing more information
relating to

9 that question concerning Mr. McVeigh, the jury returned
a

10 verdict of -- recommended death sentence. Understand
these

11 points?

12 A. (Juror nods head.)

13 Q. You have to answer out loud --

14 A. Yes. Yes.

15 Q. -- so your answer can be recorded. I mean, I can
see you

16 nod your head, but the court reporter has to put
something

17 down.

18 Now you're here to answer some questions in
addition

19 to all those that you've already answered and in some
respects

20 to explain or -- or go into some of these points a
little more.

21 But I want to start right off with the thing
that you

22 said in your initial questionnaire. You've got the
long-form

23 questionnaire with you, the one you filled out at the

And in 24 courthouse, but I don't think you got the first one.
problems, 25 the first one, we asked whether you had any special

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back. 1 and you told us that -- two problems. One is your

to get 2 A. Yes. I can't sit for eight hours straight. I have
3 up and walk around.

4 Q. Yeah. Well, you don't have to sit for eight hours
5 straight.

like right 6 A. Well, even at an hour, I'm -- my back is hurting

real bad 7 now. My back is on fire so bad right now, it hurts

8 just from waiting in the room in there.

9 Q. Did you get up and walk around?

walk so 10 A. Yeah. I got up and walked around, but I can only

11 far.

12 Q. How do you do your job?

with 13 A. I stand on my feet all day. See, I have a problem

my 14 sitting down. But if I'm moving and exercising, moving

long 15 back, it's okay. But if I stay in one position for a

like -- 16 period of time, it starts hurting and burning. I get
17 feels like somebody's taking a torch to my back.
18 Q. What's the matter with your back?
19 A. I have two steel rods and four pins in my back from
a
20 forklift accident, when I got hit in the back by a
forklift in
21 '93.
22 Q. '93?
23 A. Yes.
24 Q. You had surgery and they put in the pins?
25 A. Yes. I was two years out of work.

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1 Q. And the rods?
2 A. Now I'm just coming back from it, and the doctor
says it
3 will take up to four years for my back to totally heal
because
4 of all the muscles that they have cut in the back.
5 Q. Yeah. So even when you're just sitting at home in
an easy
6 chair, you have this problem?
7 A. Yeah. I've got a thousand dollar recliner, and I
can't
8 even sit in it for more than 30 minutes at a time.

9 Q. And what -- you're doing brick laying?

10 A. Yes, sir.

11 Q. And there, you stand up all day?

12 A. I stand up all day. Move around, walk all day,
causing the

13 exercise of my back.

14 Q. Sure.

15 A. I had to go out and buy a \$1,500 mattress just so I
could

16 sleep at night.

17 Q. Yeah. Well, there's nothing like, you know, the --
the

18 discomfort of a back to --

19 A. Yeah.

20 Q. -- affect you all over.

21 A. You got that right.

22 Q. Hard to think about anything but how it hurts.
Well, you

23 know, it isn't because we didn't believe you when you
told --

24 when you told us that you had a bad back.

25 A. I understand.

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1 Q. But people don't -- ordinarily don't know just
exactly how

2 it is --

3 A. I brought a doctor's paper if you'd like to see it.

4 Q. No. I -- you know, I'm --

5 A. It explains it.

6 Q. I'm not judging you.

7 THE COURT: I wonder if either counsel have
any
8 questions.

9 MR. MACKEY: We have none, your Honor.

10 MR. TIGAR: No, your Honor.

11 THE COURT: We're going to agree to excuse
this man?

12 MR. TIGAR: Yes, your Honor.

13 JUROR: Thank you very much.

14 THE COURT: So you're going to be excused.
And like I

15 say, don't think that we made you come all the way in
here just

16 because we thought you were kidding us about your back.

17 JUROR: I brought the paper just in case
anybody

18 needed to -- I need a paper to go back to work now.

19 THE COURT: Thanks for coming in.

20 JUROR: Thank you.

21 THE COURT: You're now excused with our
appreciation.

22 And please -- it would be best if you didn't talk about
this

23 case with others until there's a jury selected and

trial is

24 underway.

25 JUROR: Okay.

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1 THE COURT: Okay?

2 JUROR: Thank you, sir.

3 THE COURT: You're excused.

4 We'll go to 531.

5 Would you please raise your right hand and
take the

6 oath from the clerk.

7 (Juror No. 531 affirmed.)

8 THE COURTROOM DEPUTY: Thank you.

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

10 You don't have to worry about leaning into the
microphone or

11 anything. It'll pick you up. And the only reason for
the

12 microphone is to help us hear you better. All right?

13 JUROR: Yes, sir.

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. And you, of course, know that you've been called in
here,

17 summoned for jury service in connection with the trial
of the
18 United States against Terry Lynn Nichols, that case.
You got a
19 summons about that last July. And you answered that
with a
20 short questionnaire and told us some concerns you had
about
21 serving on the jury, but you then got a notice to go
out to the
22 Jefferson County Fairgrounds' auditorium on the 17th of
23 September and you did that. And you answered a much
longer
24 questionnaire, all of which we appreciate. And now
we're
25 asking you to come in to court, if you believe it, to
answer

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1 some more questions. So bear with us yet a while if
you will.

2 And before I proceed any further, I would like
to

3 introduce the people who are here with us this
afternoon. You

4 met most of them before when we were at the
fairgrounds'

5 building because I introduced them then along with
myself.

6 Please see here Mr. Lawrence Mackey and Ms.
Beth

7 Wilkinson, at this first table. They are lawyers for
the
8 Government. They are joined now by Mr. Patrick Ryan
and
9 Mr. James Orenstein, who are additional lawyers for the
10 Government.

11 You were previously introduced to Mr. Michael
Tigar
12 and Mr. Ronald Woods, attorneys for Terry Nichols; and
13 Mr. Nichols, of course, was also with us then.

14 And we -- I gave you some explanation about
the
15 background of the case and what is involved in the
trial, you
16 will recall.

17 A. Yes, sir.

18 Q. And I want to do that again, not because I think
you've
19 forgotten it already, but, you know, we need to sort of
set a
20 background for this process and make sure that you do
21 understand fully the background of this matter and
what's
22 involved in the process in which we're engaged in the
selection
23 of the jury for the trial.

24 And the case arises out of an event in
Oklahoma City,
25 Oklahoma, on April the 19th of 1995. On that day,
there was an

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1 explosion at a federal office building, resulting in
the
2 destruction of that building and in deaths and injuries
of
3 persons who occupied it; that after that, there were
charges
4 filed in an indictment in Oklahoma City in the Federal
Court
5 there in which lawyers for the Government accused Mr.
Nichols,
6 together with a man named Timothy James McVeigh -- and
the
7 indictment also refers to and such -- "and other
persons not
8 named" -- with engaging in a conspiracy or forming a
conspiracy
9 or a plan to bomb that building and to kill and injure
people
10 in it.

11 There are some 11 charges in the indictment.
It
12 includes not only the planning of such a crime, but
also
13 carrying it out and causing the bombing -- excuse me --
to
14 happen. And among the charges in the indictment are
eight
15 counts of first-degree murder, premeditated murder of
eight law

national 16 enforcement agents of different agencies of the
17 government who died in the explosion.
not 18 To these charges, the defendants entered their
19 guilty pleas. That created the issues for trial. Then
the 20 case was moved from Oklahoma City here to Denver for
trial 21 because of a concern of the difficulty in asking people
in 22 Oklahoma City and in Oklahoma, where the explosion was,
to sit 23 on a jury and to hear the evidence in the case. So the
case 24 came to Denver, and then I entered orders that there be
of 25 separate trials for Mr. McVeigh and Mr. Nichols because

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1 possible confusion and unfairness to both of the
defendants if 2 they were to go before the same jury.
3 And so we did -- after this separation order
that said 4 each -- each defendant, there should be a separate
trial of the 5 evidence as it relates to him, there was a trial with
respect

6 to the charges and -- as to Mr. McVeigh and a jury
selected in
7 this same manner that we are proceeding here, heard
that
8 evidence and returned a verdict of guilty on the counts
9 charging Mr. McVeigh. And then the jury was required
to go
10 forward with a sentencing hearing, a second trial. As
a result
11 of that, the jury then came back with a recommendation
of a
12 death sentence for Mr. McVeigh.

13 Now, you remember these points having been
covered,
14 and you probably knew all that without my telling you
about it
15 anyway. Right?

16 A. Yes, sir.

17 Q. And then I did emphasize, though, that as we
proceed with
18 the selection of the jury for the trial of the evidence
19 relating to Mr. Nichols, it must be understood that
whatever
20 those people may have heard, read, or seen concerning
the
21 McVeigh trial cannot be considered now. And certainly,
the
22 outcomes, the jury's decisions with respect to the case
against
23 Mr. McVeigh, can in no way be considered now with
respect to
24 Mr. Nichols. To do otherwise would violate the whole

reason

25 for the separate trial order. Understand?

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1 A. Yes, sir.

2 Q. And then, I went forward with some explanation
about just

3 what is involved with a jury trial, just what is the
function

4 of a jury in the criminal justice system. And I did so
because

5 most of the people have not had any jury service in a
criminal

6 case. And that's true with you; right?

7 A. Yes, it is true.

8 Q. And so I -- I just want to spend a few minutes then
on the

9 basics of criminal trial. And these are basics because
these

10 are the things that are required by the Constitution of
the

11 United States. I mean, it's that fundamental that it's
in our

12 constitution; and of course, included in that is that
any

13 person charged with a crime in the United States in any
court

14 in the United States, no matter what the crime charged
is or

15 who the person is, is presumed to be innocent of the
charge.
16 And that presumption of innocence carries throughout
the trial
17 and entitles that person to a not guilty verdict, an
acquittal
18 unless every person serving on the jury considering now
only
19 the evidence that's submitted at trial in that case and
20 following the instructions about the law given by the
court
21 determines that the evidence shows guilt beyond a
reasonable
22 doubt. So it's all part of the same thing, the
presumption of
23 innocence and the necessity to prove the case beyond a
24 reasonable doubt.
25 No person who is accused has any burden or
duty of

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1 trying to prove himself to be not guilty or innocent.
In fact,
2 persons accused of crime have no burden or duty of
calling any
3 witnesses or introducing any evidence or taking the
witness
4 stand and answering any questions put to them by the
lawyers or
5 offering any explanations. Persons who are accused can

simply

evidence 6 remain silent during their trial, challenge the
there 7 brought in against them by whatever government lawyers
by 8 are, whether it's local, state, or national, and do so
9 objections to the admissibility of evidence and by the
10 cross-examination of the witnesses.

11 And at the end of the trial, the court gives
these 12 instructions about the law and, more particularly, says
for each 13 are the crimes charged, this is what has to be proved
then ask 14 charge, these are the elements of each offense. And
shows 15 the jury to decide whether what they heard as evidence
been 16 that these points have been proved, these facts have
verdict of 17 proved. If not, of course, then the jury returns a
things 18 not guilty. And in those instructions, there are some
in 19 about the evidence. And, you know, we can't give those
in this 20 advance because we don't know what the evidence will be
a 21 case, but always, the jury is instructed in cases when
22 defendant does not testify is you can't hold that
against him.

23 You can't draw any inference or assumption that he's
trying to
24 hide something or is afraid to testify because there
are many
25 reasons why innocent persons may not testify at their
trial.

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1 You understand?
2 A. Yes, sir.
3 Q. And so, at the end of it all if, after talking it
over, the
4 12 people serving on the jury have a reasonable doubt
about
5 whether the evidence does prove the crime charged, then
their
6 plain duty under the law is to give the defendant the
benefit
7 of that doubt and find him not guilty. Understand?
8 A. Yes, sir.
9 Q. Now, not only do you understand, do you also agree
with
10 these principles?
11 A. Yes, sir.
12 Q. And agree to follow them if you served on this
case?
13 A. Yes, sir.
14 Q. Now, you understand that Terry Nichols sits with us
this

15 afternoon presumed to be innocent of these crimes
charged
16 against him?
17 A. Yes, sir.
18 Q. Now, I'm going to ask you some questions about your
answers
19 to all these questions in the questionnaire. Before
doing so,
20 I want to reassure you that we are concerned with your
privacy
21 and that of all of the other people who have been
called in for
22 service because we did ask questions, some of which are
private
23 in nature and may be considered personal by you, and
you may
24 wonder why we asked some of these things. And as I
told you,
25 you shouldn't guess at that or assume any particular

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1 significance to any of the questions. And we try to
balance
2 off your privacy interests and the public interest in
these
3 proceedings by the manner in which we do this.
4 You know, copies have been given of what you
wrote to
5 the people who are here working with you and me on this

6 process, but to no one else. And they are not going to
be made
7 public, and they are just used for this purpose. Also,
we
8 don't identify you by name here. And we won't -- we
will
9 attempt in the questioning to be careful not to
identify you.

10 And as you know, we even go to some considerable
lengths to get
11 you in and out of the courthouse without your being put
on
12 television or newspaper photographers or whatever.

13 Now, you should recognize that we are in open
court
14 and what is said here is public and that there are
media
15 representatives here to report on this.

16 I want to review a few of the things that
you've told
17 us about yourself, and then I'll have some additional
18 questions. And then when I'm done with questions, a
lawyer for
19 each side will have an opportunity to ask you some more
things,
20 so please bear with us a while. You know this is not a
test.

21 There's no right or wrong answer to any of these
questions.

22 They are just your answers. And we, of course, rely on
the
23 factual information that you've given us about

yourself.

beliefs 24 When it comes to areas of attitudes, opinions,
tell us 25 and feelings, these are yours; and we just want you to

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them, 1 about these points. And nobody's going to judge you on
you know, 2 and nobody is going to react to those in a way that,
That's 3 should concern you. You just tell us what you think.
4 what -- that's what we asked you to do.

York? 5 Now, you are originally from Albany area, New

6 A. Yes, sir.

7 Q. And you had a career in the Army?

8 A. That's correct.

9 Q. And retired as a colonel?

10 A. That's correct.

Virginia at a 11 Q. And you -- let's see. You went to school in
12 college?

13 A. That's correct, sir.

then did 14 Q. And you obtained your degree in nursing there, and
15 you go to the Army right after that?

duty. My 16 A. Actually, I was in school while I was on active
on 17 basic education was a diploma in nursing and then went
active 18 active duty. And while on active duty, I acquired a
19 baccalaureate degree and a master's degree while on
20 duty.

the 21 Q. Okay. And as part of that, you devoted yourself to
22 service?

23 A. Yes, sir.

have lived. 24 Q. And you mention here on page 6 places where you

service? 25 I suppose most of these are in the performance of your

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1 A. Yes, sir. That's correct.

2 Q. And that included a time in Germany?

3 A. Yes, sir.

4 Q. When were you stationed there?

5 A. 1985 to 1988.

6 Q. Was that at an Army hospital?

7 A. Yes, sir. Nuremberg.

8 Q. And then did you come to Colorado when you retired?

Center 9 A. Actually, I had a tour at Fitzsimons Army Medical
Colorado, so 10 and went to graduate school at the University of
and 11 we lived there at that time and then kept our home here
12 then upon retirement moved back here in 1994.

13 Q. And your husband was also in the Army?

14 A. That's correct, sir.

15 Q. And retired as a colonel?

16 A. Yes, sir.

17 Q. And he was in armor?

18 A. He was an armor officer, yes, sir.

19 Q. So you and he have lived here since the middle of
1994?

20 A. Yes, sir. July.

21 Q. Now, you have a business of your own, a consulting
22 service --

23 A. Yes, sir.

24 Q. -- as I understand it.

25 A. Uh-huh.

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nursing 1 Q. And this is in nursing? I mean, consulting in
2 care?

umbrella 3 A. Well, a lot of different areas of nursing, but the
4 would be nursing.

5 Q. And does your husband work with you somewhat in
that work?

6 A. He basically handles all of the financial end of
the

7 business and actually helps me sometimes with an
objective

8 opinion on some of the projects that I get involved
with, so he

9 does that, primarily.

10 Q. And how long have you done this nursing consulting?

11 A. Basically, since I retired in 1994.

12 Q. Now, do you have anyone working with you besides
your

13 husband?

14 A. No. Just the two of us.

15 Q. And you, I would assume, consult on particular
projects or

16 contracts?

17 A. Yes, sir. It can be a variety of things. I -- I
have done

18 some basic writing. I teach a course for the Uniformed
Service

19 Universities in Bethesda six times a year, so I'm part
of the

20 faculty there as well as just then doing basic
consulting where

21 I'll go and give advisement on how to implement
different parts

work 22 of nursing or hospital design and just basically put to
in the 23 all of the skills that I acquired while on active duty
24 Army.
25 Q. And you do the teaching on site back there?

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year and 1 A. We teach -- I teach back in Bethesda four times a
Antonio 2 then twice a year, when I take the course once to San
3 and once to San Diego.
that? 4 Q. And when is the next time you're scheduled to teach
December. 5 A. The next course will occur in San Diego in
6 Q. Of this year?
7 A. Yes, sir.
understand. 8 Q. Which may conflict with this jury service, you
9 A. Yes, sir.
original 10 Q. And of course, you told us in responding to the
your 11 questionnaire that you're concerned with the impact on
12 business activities of extended service here.
13 A. Yes, sir.

14 Q. And I take it that you talked this over with your
husband?

15 A. Yes, sir.

16 Q. And perhaps with some of those clients that you
work with,

17 like some -- you have some ongoing projects right now?

18 A. Actually, I had three different assignments that I
turned

19 down based upon the uncertainty of, you know, what this
20 assignment would bring.

21 Q. You know, I don't want you to think that we didn't
read

22 your answer or that we just said, "Pooh-pooh, we ignore
that.

23 We don't care." Of course we care. But as you
understand, I'm

24 sure, this is not something for volunteers; that we
don't, you

25 know, advertise for volunteers to come in and just get
people

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1 who don't have anything better to do than to serve on a
jury.

2 Obviously, everybody summoned in here, almost everybody
has to

3 make some kind of adjustments in their work and of
course, in

4 their life's routine, also.

5 And let me just review with you -- I think I
mentioned
6 this to you before -- what's involved in jury service.
This is
7 not a matter of what we call a sequestered jury
overnight or
8 anything. We expect the time of trial -- the trial
days to run
9 9 to 5 Monday through Thursday, 9 to 1 on Friday. And
of
10 course, that's a significant amount of time. We also
cannot
11 anticipate how long the trial may go or whether there
will be
12 one or two trials, and the two trials is something we
need to
13 talk about here with respect to, as I mentioned, the
McVeigh
14 case, there were two trials, one dealing with
punishment.

15 So recognizing, of course, some sacrifice
involved,

16 are you prepared to do that?

17 A. Yes, sir.

18 Q. Okay. And -- and if that includes not being able
to do the

19 course in December, that's -- you're prepared to do
that?

20 A. Yes, sir.

21 Q. Well, we appreciate very much your willingness to
serve and

22 your -- you've served before, recognizing in your
military

23 service that there are times when you have to do
something

24 you'd rather not do.

25 A. Yes, sir.

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1 Q. Now, I want to go through a few things that are
here in

2 your questionnaire which you have in front of you. And
I just

3 want to ask -- oh, you also intend to go on with your
academic

4 work and get a Ph.D.

5 A. Yes, sir.

6 Q. And are you doing some work on that now?

7 A. I have started basically doing some basic work on
that.

8 Probably hopefully get more full-time next year.

9 Q. Is that in connection with the education side now?

10 A. It's going to be in education, yes, sir.

11 Q. Okay. You mentioned on page 10 -- would you please
refer

12 to that page -- that you at one time volunteered day
care and

13 that's when your son was in school?

14 A. Yes, sir.

15 Q. And at what level was that? Was that grade school?

16 Elementary school?

17 A. Yes, sir. Yes.

18 Q. Okay. And where were you living then?

19 A. Actually, we were here in Colorado.

20 Q. One -- on active duty?

21 A. Yes, sir.

22 Q. Okay. That's when you were at Fitzsimons?

23 A. Yes, sir.

24 Q. All right. And when you were in the Army, did you
ever
with any

25 serve on a court-martial board or have anything to do

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1 court-martial proceedings?

2 A. I had no service on a court-martial. I had
involvement

3 with a few of -- subordinates that were brought up on
4 court-martial offenses, but never served as part of the
5 court-martial.

6 Q. Were you a witness?

7 A. No, sir.

8 Q. Did you file charges on some?

9 A. Actually, they went to court-martial, but my
initial

10 involvement was just simply as their immediate
supervisor; and

11 in the medical side of the house, usually, once a
subordinate

12 becomes involved with some nonjudicial punishment, it's
then

13 turned over to the company commander. So at that
point, even

14 though I was their supervisor, then it went that chain
of

15 command, so I -- my actual involvement was very
miniscule

16 unless it involved some kind of performance duty under
my

17 supervision.

18 Q. And apparently, that did occur at times because you
talk

19 about, on 10, firing employees now. Are you talking
about

20 military people?

21 A. Those were primarily civilian employees.

22 Q. Working with --

23 A. Yes, sir.

24 Q. Like at Fitzsimons, there are a lot -- there were a
lot of

25 civilians, and I take it that's true of all Army
hospitals?

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1 A. That's correct.

2 Q. Okay. You have, on page 20, told us that you have
a nephew

3 in law school?

4 A. Yes, sir.

5 Q. And where is he going to law school?

6 A. He's going to a law school up in New Hampshire.

7 Q. Do you know the name of it?

8 A. No, sir. I'm not -- I can't really remember the
name of

9 it.

10 Q. Okay.

11 A. It's primarily a school that deals with not actual
criminal

12 law, but more law involving patent law.

13 Q. That's an area of interest for him as far as you
know?

14 A. Yes, sir.

15 Q. Have you talked with him about your status as
potentially

16 being a juror?

17 A. No, sir.

18 Q. You also play golf with one or more lawyers?

19 A. Yes, I do.

20 Q. And do you know what kind of law that person
practices?

21 A. I believe she -- she's no longer actively
practicing law,

22 but she was more involved with, I think, corporate law

and --

23 Q. Was she in a law firm; do you know?

24 A. She worked for a law firm downtown here, but I
really don't

25 know the name of the law firm.

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1 Q. Doing corporate-type work, as far as you know?

2 A. Yes, sir.

3 Q. Have you mentioned to her that you got a jury
summons?

4 A. Yes, sir.

5 Q. Well, we would expect you to. I mean, that's a
natural

6 subject of conversation. When was that that you
mentioned that

7 to her?

8 A. Several weeks ago. When I was unavailable to do
something

9 with the group, I just simply said that I wasn't
available.

10 Q. And that was after you had done the Jefferson
County

11 questionnaire or before?

12 A. I think it was before. It was actually before.

13 Q. Well, did she offer you any advice --

14 A. No.

15 Q. -- free of charge?

16 A. Basically, she didn't really have too many words of
advice

17 for me. Just to basically answer the questions and be
honest.

18 That was about the only thing.

19 Q. Did she -- did she express any reaction to the
possibility

20 that you would serve in this case?

21 A. No.

22 Q. And we asked you about your overall view of the
criminal

23 justice system, what you thought about it. And you
responded

24 at page 22, and I'd like you to turn to that, please.
And you

25 sort of gave it a passing grade; that it's protecting

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1 adequately -- not protecting -- working adequately.
And then

2 in your explanation, you mention some concern about
sentencing

3 and also criminals having more rights than victims.
Tell us,

4 if you would -- expand on that a little. Tell us what
you're

5 basing that on, whether any particular cases that come
to mind,

6 whether this is a general impression or what.

7 A. I think it's more a general impression. I do read
the

8 newspapers and -- and watch TV. And it just seems at
this

9 point of the juncture, so many times cases are extended
out to

10 such a lengthy time. And so many times, it seems as
though,

11 you know, it's -- it is so much more in favor of the
criminal

12 as opposed to the victims. And from -- from my vantage
point,

13 having never been actually involved with a trial
before, it

14 just seems as though it's a very lengthy process where
the

15 criminal is found guilty and then given such a lengthy
process

16 for appeal. And even though that's all very
constitutionally

17 correct, emotionally, it seems as though that -- that
tends to

18 favor and -- and almost underwrite the -- one's ability
to do

19 injustice to another human being.

20 Q. Are you thinking about any cases, again any
particular

21 cases that you read or heard about?

22 A. Well, I -- you know, I think the last case in
Colorado, the

23 death case was definitely one in which it appeared as
though

24 that individual spent a terribly long time on appeal,
just yet,
25 the family of the victim, although they ultimately saw
this

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1 individual put to death, it didn't seem as though it
was in a
2 very short period of time, even after all the appeals
that, you
3 know, they had to go through that time suffering very
unduly.

4 I mean, that's from my vantage point.

5 Q. Do you have some notion that victims of a crime
like that

6 or the family of the victims get some benefit from
watching a

7 person executed for it?

8 A. I think, probably, it depends really on an
individual

9 basis. I would think that there are those who do
really feel

10 some closure, which is perhaps not the same as revenge.
But I

11 think for -- for some victims' families, it is the
closure

12 process for them.

13 Q. So --

14 A. And perhaps brings to -- to an end some of their

suffering,

will 15 certainly, not anything that's permanent. I mean, they

16 never replace the person that was lost through a crime.

where, 17 Q. And you're thinking about this case in Colorado

death in 18 what, two weeks ago a man named Gary Davis was put to

19 execution of a death sentence imposed some years ago?

20 A. Right.

guess 21 Q. Okay. Any other cases come to mind? I mean, I

22 that's the most recent one.

23 A. That's the most recent one.

24 Q. To what extent did you follow that case?

that he 25 A. Actually, up until the time that it became evident

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there 1 was going to be executed. We were not living here, so

2 wasn't really any recall.

3 Q. You don't remember back to the time of the trial or
4 anything?

5 A. No.

the 6 Q. You're just going on what you've read and seen in

7 weeks --

8 A. Exactly.

9 Q. -- before the execution?

10 A. Yes, sir.

11 Q. Now, you also said in here at page 30 that you
agree

12 strongly that you must follow court instructions
because they

13 protect everyone's rights. Do you see page 30? It's
up at

14 129.

15 A. We're talking about 128, sir.

16 Q. 129 on 30. Yes.

17 A. Yes, sir. I agree with that.

18 Q. And of course, we're talking here about
instructions not

19 only about things like don't -- be careful about what
you read,

20 see, and hear and report at a certain time, and we're
talking

21 about these things that I've already mentioned about
the

22 instructions at trial. You know, the Court gives
instructions

23 during the jury selection process, during the -- before
the

24 trial begins, during the trial, and at the end of the
trial.

25 There are a lot of instructions dealing with a lot of
things,

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1 but also, the principles of law that are applicable to
the case
2 and that the jury must follow. And sometimes those can
be
3 considered too technical or too much for the defense or
not. I
4 mean, there are rules of evidence, for example, which a
jury
5 can hear and consider, and those rules must be strictly
6 enforced by the court. And so there are some things
that get
7 ruled out of the trial, evidence is ruled inadmissible.
You
8 understand that process?
9 A. Yes, sir.
10 Q. And of course, when that happens, the jury has to
disregard
11 it. And one of the basic instructions about trials and
12 particularly those where there has been publicity about
the
13 case is that what you've read, seen, and heard about
the
14 defendant and about the evidence that may be introduced
at
15 court at the trial about him has to be left outside the
16 courtroom. You can't bring that in with you, and you
have to
17 not include it in your mind in considering this whole

issue of

18 does the evidence prove the charge. You understand
that?

19 A. Yes, sir.

20 Q. And you have told us here on page 37 that you did
have --

21 you have formed some opinion about Mr. Nichols; that
you think

22 he participated in the development of the explosives,
something

23 like that. Page 37, Question 160. Do you see that?

24 A. Yes, sir.

25 Q. As you wrote that, can you tell us now, thinking
back to

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1 when you wrote that, what you were thinking about that
you had

2 seen, read, or heard?

3 A. Well, basically, it was news accounts and -- and
basing or

4 forming an opinion based upon that -- that was really
the

5 only --

6 Q. All right.

7 A. -- basis that I had to say that. But in answering
the

8 question honestly --

9 Q. Well, sure. That's what we want. We want you to
answer
10 honestly now. I'm not accusing you of prejudging.
What I want
11 to -- what we want to know is, you know, just what
that's based
12 on and whether you're capable of setting it aside.
13 A. Yes, sir.
14 Q. Because of course, as I've mentioned, we go
according to
15 rules of evidence here; and there are no rules, really,
that
16 affect what the people in the news industry say because
they
17 pass on to the public what they get, what they hear.
And, you
18 know, it's basic to our society is that they are free
and open
19 to do that, but there's nobody testing the credibility
or the
20 truth of what they report. So you have to consider
things like
21 that just like you do the accusations in the case,
nothing more
22 than that. And they don't amount to evidence. Do you
23 understand that?
24 A. Yes, sir.
25 Q. Are you prepared to do that?

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1 A. Absolutely.

2 Q. Now, we also asked you some questions about
opinions with

3 respect to punishment. And you know that there's a
section of

4 this questionnaire where we dealt with that. And you
may refer

5 to page -- well, first, 27 is where there's an
introduction to

6 why we asked you these questions; and then the
questions are

7 actually on 28 and 29, so please turn to those pages.

8 27 is just explaining that, you know, we don't
assume

9 that there will be any punishment in this case. We
have to

10 begin this trial, as every other trial, with a
presumption of

11 innocence and assume there will be a not guilty
verdict. But

12 also, in the event of a guilty verdict, there is a
question

13 that the jury gets involved with with respect to
punishment.

14 And for the crimes charged in this case, under statute,
there

15 are possible punishments of life in prison with no
opportunity

16 to get out, the person lives the rest of his natural
life in

17 prison. The second one is the death penalty. And the
third is

18 that it could be something less than those two, and
that can be

19 something decided by a judge.

20 But because the jury plays a role under
federal law in

21 this life-or-death decision, we wanted to know
something about

22 your attitudes, opinions, and beliefs about the use of
the

23 punishment of life in prison with no release and the
use of

24 punishment of death in the criminal justice system.
And -- on

25 the basis of if you could write the law, how would it
be? How

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1 would you write it? And I take it you understood that
was the

2 context in which these questions were put to you?

3 A. Yes, sir.

4 Q. And these are your answers. And I don't know if
this is

5 something about which you've given much thought before
you got

6 this questionnaire.

7 A. Well, certainly, I had some thoughts about it
before I got

8 the questionnaire and have formulated some opinions

based upon

9 my life experiences, yes, sir.

you said 10 Q. And are your thoughts before consistent with what

for 11 here? I mean, are you just giving us what you believed

12 some time here?

13 A. Pretty much so, yes, sir.

this part 14 Q. And, you know, you're free to make any changes in

would 15 if you have any additional thoughts about this. And we

difficult 16 understand that this is a -- you know, this is a very

17 question.

18 A. Yes, it is.

this. And 19 Q. And people may have a lot of uncertainty about

may be 20 recognize when you confront the possibility that you

that 21 deciding whether another human being lives or dies,

any 22 certainly focuses your attention on it. So if you have

back over 23 different views here now, today, from what you wrote

24 a month ago, you're free to, you know, give us those.

25 A. I think it's pretty consistent now --

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1 Q. Okay.

2 A. -- with then.

3 Q. What I would like to do is explain to you exactly
what is

4 involved because we didn't -- we didn't give you any

5 information about the way the law actually is and how
this

6 question gets decided, so I want to do that now if
you'll bear

7 with me for a few minutes of explanation.

8 In cases not involving this kind of penalty,
this kind

9 of punishment, judges make sentencing decisions; so a
jury

10 comes in, hears the evidence, and decides guilty or not
guilty.

11 And whichever way their verdict is, the jury's done its
job and

12 goes home, the end of it for the jury. And then the
judge

13 takes over the responsibility for deciding the sentence
for

14 this person who has been found guilty by a jury. So if
you

15 took a crime like, let's say, bank robbery -- and, you
know, a

16 bank robbery could involve two, three persons,
different roles,

17 coming in somebody with a gun perhaps, somebody grabs
the

18 money, somebody is driving a getaway car. These are
19 possibilities. And take a case like that. Jury
returns a
20 verdict of guilty; and whether it's in one trial or
three
21 trials, but they had, let's say, three people, those --
the
22 persons all having been found guilty, it now goes to
the judge
23 to decide what the sentence should be. And as a part
of that,
24 we don't have automatic sentencing. We don't have a
system
25 that says this is the crime, this is the time. There
is

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1 individual judgment to be considered, both individual
as to the
2 judge making the sentence and also the individual being
3 sentenced. And before that decision can be made,
there's a lot
4 more information collected, first of all with respect
to the
5 crime, exactly what happened and what the consequences
were,
6 whether there were victims who were affected by it, all
of
7 these things. And we refer to those as the additional
8 circumstances about the crime.

the 9 And then there's all that can be learned about
course, 10 defendant, the individual being sentenced. And that of
you 11 is the whole life story of this person. And of course,
who 12 have experience with taking histories of -- of people
care is to 13 present with certain symptoms, and a part of medical
with 14 get down all you can about the person, particularly
that. 15 respect to the medical history. Well, this goes beyond

family in 16 This is all the history. Persons -- you know, the
lived and 17 which this person was born and raised and where they
him (sic). 18 then everything about what has happened to him or to
his 19 Things about his medical history can be relevant, also,
divorces, 20 employment history, military service, marriages,
known about 21 children, work history, just about all that can be
22 a person. And that's important in making a sentencing
23 decision.

judge, and 24 So then there's a hearing in front of this
hears 25 the hearing goes into all of that. And then the judge

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1 from lawyers on both sides and makes a decision that is
2 particular as to the person being sentenced. And it
can be
3 different with respect to, you know, the three people
in our
4 hypothetical. So one might get ten years in prison or
5 whatever, another may get less. One might get
probation. One
6 could get much longer. But again, it's because of all
of these
7 factors being taken into consideration. Understand?
8 A. Yes.
9 Q. Now, for certain kinds of crimes, under the federal
system,
10 there are these punishments that we've been talking
about and
11 that you were asked about. And of course, this matter
of the
12 death sentence and whether there even ought to be a
death
13 sentence available in the law is a -- an issue upon
which
14 people have serious disagreement. I'm sure you're
aware of
15 that.
16 A. Yes.
17 Q. There are people who say there never should be a

death

18 penalty; and in fact, there are states in the United
States
19 where there is no death penalty under the law. And
then of
20 course, there are those who say, well, this is easy.
What are
21 you talking about? If somebody kills somebody, that's
what
22 should happen to them. Life for a life. And there's a
lot in
23 between.
24 And of course, every time something happens,
like the
25 recent matter in Colorado, all these views kind of come
to the

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1 surface and get discussed, as has happened. But what
we're
2 dealing with now is federal law made by the Congress,
these
3 statutes. And federal law says that basically, for
murder, for
4 the intentional killing of other human beings, the
sentences
5 may be life in prison with no release, death, or a
lesser
6 sentence. And the lesser sentence may be done by a
judge, but

7 not until the jury has decided life or death.

8 And what the Congress has said plainly is that
9 life-and-death decisions over individuals convicted of
crime
10 should not be done by judges. For that, we want to
hear from
11 the people, the jurors. And so 12 jurors who tried the
case
12 who, if they find a defendant guilty on such a crime,
have then
13 another job to do, and that's to hear all of the
information
14 concerning the crime, the circumstances of it and the
15 defendant. The same kind of information that I mention
is
16 involved in the individual sentencing done by judges.
But this
17 goes forward just like the trial. The lawyers for the
18 government, the lawyers for the defense participate,
witnesses
19 are called in, give testimony. The matter can last a
20 considerable amount of time because what is being
presented to
21 the jury are these things again about the crime, the
impact on
22 the victims and the like, and then everything that's
known
23 about the defendant. Because before the jury can make
a
24 decision about whether a human life should be ended,
they ought
25 to know whose life it is and what's happened to that

person.

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1 And so after all of this information is
provided in
2 this second trial, then the judge can sum it up for the
jury
3 and say, you know, let me just go over what you've
heard and
4 let me also divide it into categories. Here are things
that
5 you heard that you may consider to be aggravating
factors or
6 circumstances. These are the things that you may
consider in
7 deciding that death is the deserved punishment.
8 On the other hand, these are the things that
you have
9 heard that you may consider to be mitigating factors.
And that
10 mitigates against a death sentence and should suggest
that
11 while the crime is such that death is an option, this
person,
12 because of who he is and all of the circumstances
you've heard
13 about him, does not deserve to be put to death. Do you
follow
14 this explanation?
15 A. Uh-huh.

16 Q. Do you have any questions about it?

17 A. No, sir.

18 Q. Well, the question you must answer for us is, if
you were

19 to be in that situation -- and we can't discuss it in
terms of

20 this trial because here we are now before the trial
starts, we

21 don't know what the evidence is going to be, we don't
know that

22 there's going to be a guilty verdict. We presume there
will

23 not be. And certainly, if there is a guilty verdict,
we don't

24 know today what all of this information about Mr.
Nichols or

25 about the crime would be. So we can't talk about it as
it may

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1 relate to him. So we have to talk about it in the
abstract,

2 really.

3 And you have to answer the question then if
you had to

4 decide on the punishment for a person you found to be
guilty of

5 planned, premeditated murders, would you be open and
consider

6 in arriving at what really comes down to a moral
judgment about
7 another human being? You know, there's no formula
about this.
8 There's no equation. You have to talk about it with
the other
9 jurors, and then you have to make a rational, reasoned
moral
10 judgment of life or death.

11 Now, do you believe that if you were called
upon to do
12 that, you could do it and make a decision and include
in your
13 decision all of these factors?

14 A. Yes, sir.

15 Q. Okay.

16 A. I do.

17 THE COURT: Well, we have some questions from
a lawyer
18 on each side, so bear with us yet a while longer, if
you will,
19 and respond to their questions.

20 Mr. Orenstein.

21 MR. ORENSTEIN: Thank you, your Honor.

22 VOIR DIRE EXAMINATION

23 BY MR. ORENSTEIN:

24 Q. Good afternoon, ma'am. How are you?

25 A. Fine, thank you.

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1 Q. Did you think you were back in upstate New York
this
2 weekend?

3 As his Honor told you earlier, my name is
Jamie

4 Orenstein. Together with my fellow prosecutors here at
5 Government counsel table, our job will be to present
the

6 evidence in this trial against Mr. Nichols. I do have
a few
7 more questions for you in addition to those his Honor
asked, so

8 I hope you'll bear with me for a few minutes.

9 You mentioned in your questionnaire that
you've been a

10 member of a professional society in your nursing
profession.

11 A. Right.

12 Q. And you were its president at one point?

13 A. Yes.

14 Q. Was that a national organization or a local section
of it?

15 A. It's a -- it was a local chapter of a national
16 organization.

17 Q. Can you tell me what your -- what your
responsibilities

18 were as the president of that organization?

19 A. Primarily, oversee the function of -- of the
chapter and
20 keep in contact with the national office, headquarters,
21 implement programs, oversee the financial goodwill of
the
22 chapter, and basically, just be administratively
responsible
23 for -- for that particular organization.
24 Q. I take it there was no lobbying activity or any
kind of --
25 A. None. Not at the local level.

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1 Q. I'd like you to turn, if you would, to page 25 of
your
2 questionnaire. Do you see Question 113? Oh, I'm
sorry. I
3 thought you were there.
4 A. Yes.
5 Q. You see Question 113 there?
6 A. Uh-huh.
7 Q. You know, you were discussing with his Honor a few
minutes
8 ago the importance of following the Court's
instructions. And
9 of course, one of the purposes of this process is to
make sure
10 that a juror can be fair and open-minded in all
respects. That

11 question that I asked you to look at talks about how
you would
12 view law enforcement witnesses. I take it that's your
own
13 personal view?
14 A. Yes.
15 Q. Is that another one of these things, where you know
it's
16 your view but you'll set it aside if you come to court
and sit
17 here as a juror?
18 A. Correct.
19 Q. Because you understand that, you know, everyone's
an
20 individual and has to be judged individually?
21 A. Right.
22 Q. So you have no problem doing that?
23 A. No problem.
24 Q. Okay. I'd like to ask you a question, also, about
one of
25 yours answers on page 30. There's a question at the
bottom of

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1 the page there, Question 132, about the incident at
Waco a few
2 years ago.

3 A. Correct.

4 Q. You -- you said the -- that you feel I -- "I feel
the
5 Government" and then you put in parentheses, "(Justice
6 Department) could have dealt with it in a better way."

7 First of all, just generally speaking, could
you
8 expand on what you had in mind?

9 A. Well, personally, I think that any time a situation
10 deteriorates to people being killed and -- and losing
life,
11 when perhaps other alternatives could have been used to
deal
12 with a situation like that, that's primarily where my
thinking
13 was going with that answer, that I do really think that
there
14 was other ways, perhaps, they could have dealt with
that
15 situation.

16 Q. Is there some reason that you specified the Justice
17 Department in particular?

18 A. Well, primarily, because I saw them as being the
19 responsible law enforcement body directing and
implementing the
20 course in that particular incident.

21 Q. And I take it once again, this is something that
wouldn't
22 affect your service here if you were to sit as a juror?

23 A. No.

24 Q. I'd like to ask you a few questions, if I may,
about what

25 you've seen and read and heard about this case and if
anything

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1 in particular about Mr. Nichols.

2 First of all, you indicated that you've seen a
fair

3 amount of coverage of this -- of the incident
generally; is

4 that correct?

5 A. That's correct.

6 Q. Has much or most of that focused on Mr. Nichols?

7 A. Actually, very little. I would say probably the
most of

8 the coverage that I saw happened to deal with the
actual

9 incident, itself. I was home at the time so was able
to view

10 the -- the coverage about the incident from an hour
post its

11 occurrence for most of that next week, most of the news
12 coverage. So actually, very little about Mr. Nichols
himself.

13 Q. And based on whatever it is that you've seen and
heard and

14 read about Mr. Nichols himself, is it -- has it reached
a point

and say 15 where you couldn't put anything that you've heard aside
in the 16 no, I'm just going to wait to hear what -- what happens
17 courtroom?
that I 18 A. No. I would have the ability to put aside anything
19 heard about him.
than as 20 Q. So coming into this process, as a juror, rather
-- as a 21 someone just sitting home and perhaps watching the news
outcomes 22 juror, you wouldn't have any opinions about what the
23 of this case should be; is that correct?
24 A. I would have no opinions.
this 25 Q. I'd also like to speak with you for a moment about

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before. 1 issue of punishment that his Honor discussed with you
129 on 2 And again, I guess our starting point is the Question
idea of 3 page 30. You wrote that you agree strongly with this
basis 4 following the court's instructions because they are the
5 of our system. I think what his Honor was -- was

discussing

but the 6 with you is that they may be the basis of the system,

we're 7 jurors are really the heart of the system. And so

and 8 looking for jurors who will follow those instructions

those 9 really be able to do that without -- without any great
10 difficulty. Are you such a juror who could follow

11 instructions?

12 A. Yes.

and you 13 Q. You mentioned that the question of punishment --

to if 14 realize, of course, that's something that we only get

decision by a 15 there -- in any capital case if there's first a

carries the 16 jury that a defendant has committed a crime that

17 possibility of the death sentence. You understood that
18 process; correct?

19 A. Correct.

think it's a 20 Q. You -- you were asked by his Honor whether you

emphatic 21 very difficult question, and you seemed to be pretty

22 in saying yes, it is. Is that right?

23 A. Well, it is very difficult having been in a lot of

a very 24 situations where life or death was evident. It becomes

being 25 difficult situation dealing with people's lives or

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1 instrumental in -- in determining the outcome of
someone's life

2 or death.

3 Q. I take it that in your career as an Army nurse,
there have

4 been occasions when you have been instrumental in --

5 A. Many.

6 Q. Those -- there are some people I imagine who would
have

7 trouble dealing with that because there can be a strong

8 emotional content to that kind of situation. Is it the
case

9 that you've had to sort of put the emotion aside and be
10 objective in dealing with those situations?

11 A. Actually, rely totally on being not emotional and
dealing

12 with someone's life or death, it became evident that
most of

13 the time, you had to put your emotions aside because it
was

14 very difficult to intertwine emotion with your clinical

15 knowledge as to make sure that there was the
appropriate

16 outcome. Especially with people who I dealt with in

Vietnam

17 was a particular essence where that was the case.

18 Q. Do you think you'd be able to bring those talents
that you

19 developed over the years in your nursing career to bear
on your

20 service as a juror and -- because, inevitably, there's
going to

21 be some testimony or some evidence that will have a
strong

22 emotional content. Would you be able to still, even
with such

23 evidence, view the questions before you objectively --

24 A. Yes.

25 Q. -- in making the -- the difficult decision about
whether

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1 someone should live or die? And you understand there's
never

2 an automatic answer?

3 A. Correct.

4 Q. We're looking for jurors, obviously, who can listen
to both

5 sides and be open to both the possibility of a life
sentence or

6 death sentence no matter what the crime is. Whether
it's a

7 single murder, multiple murders, whatever, jurors would

have to

8 be open to giving either one of those. Would you be
able to do

9 that?

10 A. Yes.

11 Q. Part of what makes the issue less difficult for
some

12 people -- and again, I'm asking if you're one of these
13 people -- is that some people in a case of murder
wouldn't want

14 to know anything about the defendant on trial. They
just want

15 to know what the crime was, and that would be enough
for them.

16 Do you think you would be able to make the moral
decision about

17 whether someone should live or die without knowing that
18 person's background, what role he may have played in
the

19 offense?

20 A. No. I -- I basically would want to have all the
pieces of

21 the puzzle and all the information that I could
possibly have

22 to make a very, you know, well-informed, rational
decision.

23 MR. ORENSTEIN: Well, ma'am, I thank you very
much for

24 answering my questions.

25 THE COURT: Mr. Woods.

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1 MR. WOODS: Thank you, your Honor.

2 VOIR DIRE EXAMINATION

3 BY MR. WOODS:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. I'm the last one. They have already covered most
of the
7 questions. I've got a few, and then you'll be out of
here.

8 Mike Tigar and I, Ron Woods, were appointed by
the
9 United States district judge in Oklahoma City shortly
after May
10 the 10th of '95, when these Government lawyers filed
charges
11 against Mr. Nichols for being responsible for the April
19
12 bombing. How do you feel about Mr. Nichols' having
13 court-appointed, which means taxpayer-funded, lawyers
to
14 represent him in this case?

15 A. Well, it -- it keeps -- actually, is in keeping
with my
16 whole philosophy of how I see our system and belief in
that
17 system, and part of that belief is that one should be
given an

18 opportunity for fair representation wherever that may
come
19 from. And these are the liberties and the things that
we enjoy
20 in this country. And without that, we wouldn't have
the system
21 that we do.

22 Q. Okay. Earlier, you had said that parent -- that it
23 appeared to you that the criminals had more rights than
the
24 victims. How does this fit in with your feeling about
25 Mr. Nichols as accused by the Government as being a
criminal --

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1 but how does this fit in with one of his rights that is
being
2 exercised here in front of you?

3 A. Really, there's no relationship between how I
ultimately
4 view a convicted criminal and someone's rights to a
trial by
5 jury and representation and processing by a jury. They
are
6 really two separate issues in my mind and really
unrelated.

7 Q. Okay. Okay. You checked off that you went out of
your way
8 to read about this case, the publicity. You more than
likely

9 have an opinion in your mind about Mr. Nichols, a
picture in
10 your mind. What did you think when you saw Mr. Nichols
for the
11 first time there at Jeffco Fairgrounds, the first time
you saw
12 him in person?

13 A. Well, I was really surprised to see him there since
that

14 wasn't, you know, information that was given to us.
And from

15 that point on, you know, he's an individual. And
basically,

16 other than that, I had no real emotional response to
seeing him

17 there.

18 Q. All right. Did you have a picture in your mind of
what he

19 looked like?

20 A. Well, I knew what he looked like because I have
seen him on

21 T -- on television.

22 Q. What pictures did you see on television of Mr.
Nichols?

23 A. Primarily in relationship to his confinement and I
think

24 prior to his confinement here locally, you know. Prior
to

25 that. But those were the only pictures that I have
really ever

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1 seen of him.

little

2 Q. When you say "confinement," what -- can you be a

on

3 more explicit? What image are you mentioning that was

4 television?

to the

5 A. When he was going to -- he had been taken to the --

That

6 jail and he was -- had a flak jacket on and handcuffed.

can

7 was the only image that -- the most recent image that I

8 recall of seeing him.

9 Q. Have you seen that image more than once?

10 A. Probably more than once.

of guilt,

11 Q. Okay. Did that form any presumption in your mind

way?

12 showing somebody confined and shackled and guarded that

13 A. No.

14 Q. Okay.

15 A. Not really.

served

16 Q. In your profession as a nurse for the 28 years you

the Army

17 in the -- in the Army and -- were you -- did you enter

18 right out of nursing school?

that 19 A. Actually, I -- I was a student nurse and was in at
20 time a student program.
21 Q. Okay.
22 A. And then went from my basic program on active duty.
the 23 Q. Okay. In that profession, when you're questioning
truthful, 24 patient, is it important that that patient give you
rather 25 accurate answers as to the medical -- medical condition

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1 than telling you something you want to hear?
2 A. Absolutely. Truthful information is the best to
have.
3 Q. Right. And you see the parallel here of what all
the
4 personnel, the Judge and the prosecutor, are doing here
in the
5 questioning of you?
6 A. (Juror nods head.)
7 Q. And you related to the Court that the answers you
put on
8 this questionnaire were answers truthfully given.
9 A. That's correct.
10 Q. And in fact, your lawyer friend who you play golf
with

11 advised you to answer the questions truthfully?
12 A. That's correct.
13 Q. And I assume that's -- that's the process you're
going
14 through with us today; is that correct?
15 A. That's correct.
16 Q. Okay. Let's go to page 33 in your questionnaire
and
17 Question 144. "If you've heard or read anything about
the
18 Oklahoma City bombing, please indicate where you heard
or read
19 about it." And you checked off TV news, radio news,
newspaper,
20 magazines, conversations, heard other people discussing
the
21 case.
22 And then the next question was, "How would you
23 describe the amount of media coverage you've seen about
the
24 Oklahoma City bombing?" And you checked very much,
went out of
25 your way to read about it and watch news accounts of
it. Is

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1 that accurate?
2 A. I think the word "went out of your way" is kind of
a -- a

3 phraseology that -- that kind of caught me when I
checked this
4 off because it really didn't accurately describe what I
did. I
5 mean, I -- I read about it. I've discussed it and
those kinds
6 of things. But to say I went out of my way was a
little
7 strong -- strongly worded to fit the "Very much," but
8 unfortunately, that was the only choice that I -- that
really
9 fit what I did.

10 Q. Okay. Rather than "Quite a bit," "Read a few
articles," or
11 "watched a few television specials"? That was the
first one,
12 "Very much" was more accurate?

13 A. It was pretty accurate. As I say, it was the
phraseology
14 behind it that didn't really match my -- my feelings at
the
15 time.

16 Q. Okay.

17 A. No. 1, I was extremely interested in it from the
standpoint
18 of, if nothing else, just the way they handled the
emergency
19 medical --

20 Q. Right.

21 A. -- response and -- and that -- from that
standpoint.

22 Q. Sure.

23 A. Layered on with all the other situations that
developed.

24 But I certainly can't say that I put aside other
activities of

25 my life or other things that I did to, you know, follow
this

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1 particular incident. That wasn't the case.

2 Q. Okay. You stated earlier in your questionnaire
that you

3 watched CNN and you watch the nightly news programs.
Are you

4 referring there to programs like "Dateline", "20/20,"
"48

5 Hours," "60 Minutes," all those -- there seems like
there's one

6 on every night.

7 A. Right.

8 Q. Some news program special.

9 A. Well, primarily, I try to kind of balance my source
of

10 news. I don't particularly follow the magazine-type
programs

11 because over time, I've formed -- formed the opinion
that they

12 are somewhat sensational in their information. So I
try to get

13 a very -- a wide brush of information. So I have the
14 opportunity to watch C-Span and the other networks so
that
15 there is a much more varied view to, you know, the
information
16 that I'm getting.

17 Q. Right. And that's what you checked off, that you
have
18 various sources, from magazines, newspapers, radio, and
19 television. And you stated in your questionnaire you
feel the
20 news is 80 to 85 percent accurate?

21 A. Well, the mainstream media, you know, that tends to
change
22 according to the story. Some things, for example,
especially
23 things that I personally know about military, those
kinds of
24 things, their accuracy goes down. So 80 to 85 percent,
but
25 I --

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1 Q. Okay.
2 A. -- I certainly, in looking at the different sources
of
3 news, know that there's a certain amount of information
that's

So I 4 put in a context that works for them or is sensational.
5 take that with a grain of salt.

who 6 Q. Sure. Sure. When you checked off "conversations,"
7 have you had conversations with? Not names, but can
you give 8 us groups, like your family? Does your son live here
in the 9 area?

10 A. No. He's -- he lives back East.

11 Q. Okay. So it's just you and your husband --

12 A. That's correct.

and are 13 Q. -- at home? And you're a member of a country club
golf 14 quite active playing golf, I take it. You have a set
15 group that you play with pretty regularly?

16 A. Pretty much.

17 Q. Is that a foursome?

18 A. Actually, there's about eight of us, and we trade
off, and 19 I get to play with other people.

20 Q. Okay.

21 A. And we have a -- sometimes the men let me play with
them, 22 so --

23 Q. Okay.

24 A. Different groups.

25 Q. All right. And then I take it there's a
neighborhood since

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1 you're -- you live on the course?

2 A. Yes.

3 Q. Okay.

4 A. Yes.

5 Q. And are you active in the club?

6 A. Pretty active. Right.

7 Q. Okay. Is -- are these the type of people that you
had

8 conversations with, by type? I mean, are these the
groups of

9 people that you had conversations with concerning the
case?

10 A. It would be one group there. There were -- you
know, other

11 groups. My professional organization.

12 Q. I was going to ask. Are you -- you're pretty
active in

13 that?

14 A. Yes.

15 Q. You were elected president?

16 A. Yes.

17 Q. Is that a large group that meets like, what, once a
week or

18 once a month?

19 A. We meet once a month. And we have a large membership, but

20 active members, probably around 80 or 90.

21 Q. Okay. Is that the average turnout per month?

22 A. Probably goes down a little bit less than that.
Probably

23 averages out to around 50 -- between 50 and 60 people.

24 Q. Okay. Have you all had a program since April of '95 or a

25 speech or discussion relating to what happened with the nursing

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1 and the care that got to the scene immediately there in
2 Oklahoma City and the triage that was set up and things
like

3 that? Has that ever been a discussion on your program?

4 A. We have not had a local program of that discussion;
but at

5 our national meeting this past year, they did have
several

6 people that were involved with the triaging.

7 Q. Okay. Some that were there came to speak to your
group?

8 A. That's correct.

9 Q. Okay. And I assume you're aware that there was
even a lady

10 nurse that was killed by -- after the accident?
Something that
11 fell on her head during the rescue efforts?
12 A. Right. I knew that.
13 Q. The people that came and spoke to you, did any of
them
14 relate that they had been witnesses or were going to be
15 witnesses in the McVeigh trial?
16 A. None. In fact, it was -- it was strictly, you
know,
17 talking about the medical triaging and the care, and it
was
18 really no discussion other than that.
19 Q. Okay. From this information that you had from the
date of
20 the bombing, April 19, '95, up until the day at Jeffco
when the
21 Judge said, you know, please don't read any more about
it
22 because in the event you get on a jury, we don't want
you from
23 that point reading about it -- but the two years plus
up until
24 that time, do you recall from what you've seen, read,
or heard
25 how many people were killed in the bombing?

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1 A. Well, the number 163 sits in my mind.

2 Q. Okay.

3 A. That's just recall.

4 Q. Do you recall whether or not there were children
killed?

5 A. Yes.

6 Q. And do you know the reason -- not do you know, but
do you
why
7 recall from the press and the media what the reason was
8 there were children killed in a federal building?

9 A. Yes.

10 Q. And what was that?

11 A. Because there was a day care there.

12 Q. Okay. Do you remember how many children were
killed?

13 A. Not specifically the number. I -- I vaguely
remember 12 to

14 15. But again, that's just --

15 Q. Okay.

16 A. -- a recall.

17 Q. And again, as the Judge said, this isn't a test.

18 A. Right.

19 Q. We're not grading your papers. We're just trying
to get
and
20 your recollections and your memories and your thoughts
21 opinions on this matter.

22 Do you remember how the bomb was delivered to
the

23 building?

24 A. Yes. In a truck. Put in a truck.

25 Q. Okay. Do you remember what the Government claimed
the bomb

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1 was made out of?

2 A. Well, portions of the bomb, you know -- there was
an

3 element of fertilizer; and other than that, the nature
of the

4 explosive, I really don't recall about that.

5 Q. Okay. Okay. Do you recall from what you've seen,
read, or

6 heard how Mr. McVeigh was arrested?

7 A. How he was arrested?

8 Q. Yes, ma'am.

9 A. Yes.

10 Q. And what -- what's your recollection?

11 A. My recollection was that he was stopped in a car
and that

12 they basically questioned the fact that the car wasn't
licensed

13 and that led them to do more personnel (sic) checks and
led

14 them to suspicious encounters about him, and that's
about the

15 extent of what I recall.

16 Q. Okay. And do you recall from what you've seen,
read, or

17 heard how Mr. Nichols came in contact with the law
enforcement

18 authorities?

19 A. What I recall was that he had a -- a plant with a
farm on

20 it and there was an association that there had been
explosives

21 made on -- on his property. That was basically
connected.

22 Q. Do you recall whether or not he was in Oklahoma
City at the

23 time of the bombing from what you read in the media
accounts?

24 A. What I recall that he -- I do not recall reading
anything

25 that he was actually physically in Oklahoma City at the
time.

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1 Q. Okay. Do you recall reading anything about his
connection

2 with the rental of the truck?

3 A. No recollection in connection.

4 Q. Okay. Okay. From what you've seen, read, and
heard over

5 that two years plus, what is your understanding of what
the

with this 6 Government is accusing Mr. Nichols of in connection

7 bombing?

8 A. My understanding is that the connection was made
that there

9 was a -- a conspiracy between Mr. Nichols and Mr.
McVeigh to

10 prepare the material and that his connection was
primarily

11 through conspiracy.

12 Q. Okay. Anything else other than the connection to
the

13 material?

14 A. Not that I'm aware of other than there was a basic
15 friendship between the two of them.

16 Q. Okay.

17 A. That they had association with one another.

18 Q. Okay. Now, as to the -- Mr. Nichols on the farm,
what --

19 what do you recall about that being connected with the
bombing?

20 A. That that was where the materials were -- were made
and put

21 together and that the connection was made that there
was the

22 ability to -- for Mr. Nichols to make the -- the
materials and

23 he knew how to put them together to make a -- a
material for

24 creating an explosive.

getting 25 Q. Okay. Okay. Now, the questionnaire went on after

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1 into the source of the publicity and the information
you had --

2 the questionnaire went on on page 37, if you'd go to
that, on

3 Question 160 and 161. The question on 160 was, "Have
you

4 formed any opinion about the defendant, Terry Nichols?"

5 And you checked, "Yes. I think Terry Nichols
6 participated in the development of the explosive based
upon

7 what I've read and seen about the evidence."

8 And then Question 161 was, "Have you ever had
a

9 different opinion about Mr. Nichols?"

10 And you checked, "No."

11 And as you informed the Court that your friend
had

12 advised you to go in and answer the questions honestly
and as

13 you informed the Court, you were answering the
questions

14 honestly; is that correct?

15 A. That's correct.

16 Q. So would it be true then that you had the opinion
that he

17 was guilty?

18 A. That he participated, yes. That was my opinion.

19 Q. Okay. And has that opinion changed today?

20 A. I would have to say, you know, at this point, you
know, I

21 really haven't changed that opinion. There isn't any

22 information that I've read in the last --

23 Q. Right. We know that you followed the Judge's
instruction.

24 A. Correct.

25 Q. You haven't read anything since that time?

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1 A. Right.

2 Q. But have you changed this opinion that you wrote
down?

3 A. Probably not. I probably hold that same opinion,
because I

4 have no information to influence changing my opinion.

5 Q. Okay. If you had to vote on guilt or innocence of
6 Mr. Nichols right now, how would you vote right now as
to guilt

7 or innocence?

8 A. I would have to vote for guilt.

9 Q. Okay. Now, the prosecutor asked you about Question
113,

you get 10 and that's on page 25. And that was -- I'll wait until
the 11 there. Thanks. That was, "Would you tend to believe
officer?" 12 testimony of a state or federal law enforcement

checked 13 And there are three blanks to check, and you
14 off, "More than most witnesses."

15 Can you tell us why you checked that one?

by my 16 A. Well, I -- I think a lot of my answer is influenced
17 experiences and --

18 Q. Sure.

involved 19 A. -- being in the service of the country and being
guess that's 20 with federal-level personnel on many occasions. I
21 probably most of the influence to that answer.

with 22 Q. Okay. When you -- when you say you were involved
speaking of 23 federal personnel on many instances, are -- are you
24 federal law enforcement personnel?

Service. 25 A. On several occasions, I had dealings with Secret

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1 Q. Okay.

the
dealings

2 A. And I -- they probably would be, I guess, probably
3 biggest group on more than one occasion that I had
4 with.

Secret
medical

5 Q. What was the connection you were dealing with the
6 Service, through the Army and the nursing and the
7 branch?

operative

8 A. In my last assignment, I directed the peri-
9 service at Walter Reed Army Medical Center.

10 Q. Okay.

was

11 A. And we took care of two sitting presidents while I
12 there.

13 Q. Right.

with
presidents and
security.

14 A. So my involvement with Secret Service had to do
15 preparing and directing the care of those two
16 basically had very close connections with providing

FBI

17 Q. Okay. That makes sense. Any connection with the
18 through your profession?

dealings with

19 A. Let me see. I don't think I've ever had any
20 the FBI.

21 Q. Okay. As to the Secret Service -- and back to the
question
22 of, "Would you tend to believe the testimony of a state
or
23 federal law enforcement officer?" -- you've had
friendships and
24 close working relationships with Secret Service
officers. Is
25 there something about their profession or their
training that

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1 you think gives them more credibility than other
witnesses?
2 A. Well, I -- I think there's a level of credibility,
again
3 from my experiences, that I tend to place upon those
4 individuals and, again, placed upon the individuals
that I
5 dealt with and knowing the -- the ethics code that
those people
6 basically operate under that would give me that
tendency. That
7 does not mean to say that I would not, you know, look
at that
8 as an individual thing.
9 Q. Sure.
10 A. That person as an individual and as their -- in a
court of
11 law, their testimony as being perhaps any more credible

than

12 another person. But there is a certain level of ethics
that I

13 would anticipate that they would have --

14 Q. Okay.

15 A. -- just preliminarily.

16 Q. And that's through your own personal observations
and your

17 working relationships?

18 A. Uh-huh.

19 Q. Okay. Now, did you have any dealings with any
federal law

20 enforcement people outside of the Walter Reed
situation? Like

21 you were in Nuremberg for a while.

22 A. Not on a personal contact with any federal agency.
From

23 time to time, I've had to deal with the CIA -- or CID,
rather.

24 But, you know, that was a different association, so it
was

25 really the basic security requirements of being in an
overseas

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1 assignment, those kinds of things.

2 Q. Right. Okay. Were you ever interviewed by CID on
any

3 investigative matter within the Army?

4 A. Yes. Yes.

5 Q. Okay. Now, you had mentioned earlier about
experiences in

6 Vietnam, and I didn't notice that you put down Vietnam
on the

7 place that you had lived. Did you serve in Vietnam?

8 A. Yes, I did.

9 Q. Okay. You just got all the places you served, but
that one

10 was left off?

11 A. I guess probably at the time for some reason I -- I
didn't

12 consider living there that --

13 Q. Okay.

14 A. That was a -- you know, a -- although I spent a
year of my

15 life there, I guess I didn't really consider that as
residence.

16 Q. You never took up residence there; right?

17 A. No, I didn't.

18 Q. You didn't vote there?

19 A. Just by absentee ballot. That was the only way.

20 Q. That was more in jest.

21 You list on your questionnaire that you are
very

22 active as a Roman Catholic?

23 A. Yes.

24 Q. Okay. Are you aware of any views that the Church

has on

25 the death penalty?

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1 A. Yes, I am.

2 Q. Okay. And would it be fair to say that your views
differ?

3 A. Yes, they do.

4 Q. Okay. And can you tell us why?

5 A. Well, I think primarily, first of all,
philosophically,

6 there are many things about the doctrine that, you
know, I had

7 to look at with an analytical mind. I think my life

8 experiences tend to lead me in a direction of being
able to

9 favor capital punishment as opposed to not.

10 Q. You had -- I don't mean to interrupt you, but you
had

11 mentioned that earlier. Can you share with us what
you're

12 talking about in your life's experiences that make you
favor

13 the death penalty?

14 A. Well, I think from several points of view, one,
being in

15 the medical profession, seeing what life and death and
the

16 consequences of, you know, that decision brings. And
probably
17 more importantly, what I experienced in the Army on
active duty
18 and seeing what happens to people as a result of
situations
19 where there are explosives and people maimed and those
kinds of
20 things as a result of war.
21 Q. Okay.
22 A. I think those life experiences probably tend me to
think
23 that there is a need for a system in which people do
have to
24 pay an ultimate price for what they do.
25 Q. Okay. Okay. And I take it this is something you
had

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1 thought about before you filled out the questionnaire?
2 A. Yes.
3 Q. Did you have an idea in mind that those questions
would
4 probably be asked when you got to the fairgrounds?
5 A. I really didn't. I -- you know, the questionnaire
was very
6 extensive. Some of the questions were -- I went along
the
7 guidelines that Judge Matsch had given and that just

answer the

8 questions and don't read into them, and that's what I
tried to

9 do.

10 Q. Right.

11 A. Basically.

12 Q. You were aware that back in June, Mr. McVeigh had
been

13 convicted and had received the death penalty?

14 A. Yes. I'm aware of that.

15 Q. And that the death penalty was certainly an issue
in his

16 trial?

17 A. Correct.

18 Q. And I take it you had discussed that verdict with
either

19 friends, neighbors, golfing partners or somebody?

20 A. Yes.

21 Q. Did you ever hear anybody disagree with that
verdict?

22 A. Not that I recall.

23 Q. Okay. So I take it then it probably didn't
surprise you

24 when you were at Jeffco and there was a question about
your

25 feelings on the death penalty?

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1 A. Right. That --

2 Q. Okay.

3 A. -- didn't come as a surprise.

4 Q. Okay. And these are views that you've held for a
long time
5 that are deeply held, I take it?

6 A. Formulated over the years and -- and really thought
7 through. I mean -- I try in my life to examine
different

8 things as they come about. I mean, not that I change
my

9 opinion on things as the wind blows, but that as I
experience a

10 life experience that that may influence how I see
things

11 differently the next time around in my life, but base
--

12 collectively taking all of the experiences that I have
and then

13 someone asking me a question about how I view something
in the

14 world, I have thought it through and given an opinion.

15 Q. Okay. During the -- the publicity that led up to
the day

16 and maybe the day after of the Gary Davis execution,
did you

17 read the editorials in the newspaper -- both the local

18 newspapers would have guest editorials writing about
pro death

19 penalty and against the death penalty. And there were

a number

20 of articles like that. Did you read those?

21 A. Probably very few of them. Quite frankly, by about
the --

22 you know, three days before, it was total saturation.
I --

23 Q. Right.

24 A. -- mean, I -- to a point of ad nauseam. It was
overdone, I

25 think. But yes, I had read a few just to see where the
opinion

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1 was going.

2 Q. Okay. Anything in there solidifying your view or
change

3 your view of those articles that you read?

4 A. Didn't change my view. Pretty much held the same
view that

5 I had, you know, prior to that incident occurring.

6 Q. Sure. Okay. Now, I want to just briefly go over
on page

7 28. The Judge has covered most of it. Down at the
bottom on C

8 and D, the questions were, you know, if you were
writing the

9 law, what kind of crimes would you make life
imprisonment the

10 appropriate penalty and then what kind of crimes would

you make

11 the death penalty. And you put murder in the death
penalty and

12 not in life imprisonment. Can you tell me why you
didn't put

13 it in death -- excuse me -- why you didn't put it in
life

14 imprisonment without release?

15 A. You mean for murder?

16 Q. Yes.

17 A. Well -- and again, I think probably by the time I
got to

18 page 28, I tried to condense my answers as best I
could.

19 Q. Just one-word answers. Okay.

20 A. But, you know, I -- I think there were mitigating
21 circumstances, you know, within murder as it was
described.

22 But I will say that I think that I think it has to be
strongly

23 considered when murder occurs, so I do see a
delineation

24 between some crimes that warrant, you know, a lesser
penalty.

25 But I think murder is one of those that, you know,
should be

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1 looked at very closely and the death penalty

considered.

2 Q. Okay. Okay. Now, you heard the judge's
explanation about

3 what the jury will do in a punishment hearing. It may
seem

4 strange that we're having all this conversation about
the

5 punishment hearing and sort of skipping over the guilt
or

6 innocence. I want to assure you that Mr. Tigar and Mr.
Nichols

7 and myself are not conceding that we'll ever get to a

8 punishment hearing. The Government's got a theory that

9 Mr. Nichols was responsible for the bombing. We don't
agree

10 with that theory.

11 The government will call a number of witnesses
to

12 testify, and they'll have exhibits. We're going to

13 cross-examine those witnesses very thoroughly. And as
the

14 Judge said, we're under no obligation to present
evidence.

15 It's their burden. We are going to present evidence.
We're

16 going to present a number of witnesses that will
contradict

17 their theory. So it will be up to the jury after
hearing all

18 the evidence from both sides to look at that evidence
and make

19 a determination: Has the government proven Mr. Nichols

guilty

20 beyond a reasonable doubt of deliberate, premeditated
murder of

21 all these individuals they claim? So I want to be
clear that

22 you understand this discussion about penalty as only in
the

23 event that there's a conviction, and we're not
conceding that

24 there is a conviction.

25 A. I understand.

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Judge's 1 Q. Do you follow that? All right. And you heard the

2 explanation about the aggravating and the mitigating

3 circumstances that would be offered into evidence. In
a

4 hypothetical case, because we can't talk about this
case -- but

5 in a hypothetical case such as a bomb placed on an
airplane and

6 a number of people killed, do you feel that in a case
like

7 that, after hearing both the mitigating and aggravating

8 circumstances, that the death penalty would be the
appropriate

9 verdict, rather than life imprisonment simply because
of the

10 number of people killed?
11 A. Well, you know, number of people is -- is part of
the
12 equation.
13 Q. Sure.
14 A. But if one person is killed -- and it's very
difficult for
15 me to sort through that just because more people are
killed
16 should make the penalty more intense. But again, it's
very
17 difficult to say, not knowing all the information, you
know,
18 how that would be seen.
19 But to answer your question directly, I think
that
20 certainly has a very grievous implication that that
would be
21 appropriate.
22 Q. Okay. Now, concerning one of your answers about
the -- the
23 closure for the victims, you recall the images on
television
24 the day of the bombing and a day or two after of these
very sad
25 scenes of the rescue efforts and the dead bodies and
the dead

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going
deaths of
going to
are going
will be

1 children. If you were on the jury, it's likely there's
2 to be a number of witnesses that come in here with very
3 emotional, sad, heart-wrenching testimony about the
4 their loved ones and their co-workers, and there are
5 be videos and there are going to be photographs that
6 to be so powerful and so emotional, and a lot of people
7 crying.

covered
jury back
evidence
disputing
were
aside --
at the
they
this?
to flood
18

8 My question to you is -- and the prosecutor
9 part of it, but my question is: If you were on the
10 at the guilt-or-innocence stage, can you look at that
11 for what it is -- and it's not contested. Nobody is
12 the fact that there was a bomb and a number of people
13 killed and horribly maimed. Can you set that emotion
14 not set it aside, but can you separate it from looking
15 Government's evidence objectively of what -- what have
16 proved that Terry Nichols did that was responsible for
17 You understand my question about how emotion is going
18 over --

19 A. Right.
20 Q. -- from the jury, and it's going to influence their
21 thinking? Can you separate it out and look at their
evidence
22 objectively?
23 A. I have had to not necessarily look at evidence, but
24 separate my emotions, my reactional thinking many, many
times,
25 more times than I really care to remember; but without
-- with

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1 that in my mind, I can do that.
2 Q. Okay. Okay. Now you mentioned about -- you know,
the
3 victims in the Gary Davis case had to suffer for a
number of
4 years before they got to see the execution of Mr. Davis
and
5 that the execution brought closure to them. Has that
been your
6 experience through, well, just your life's experience,
your
7 observation that victims do obtain closure through
executions?
8 A. Well, I -- that -- you know, that's -- in
relationship to
9 executions, I -- I really can't say.

10 Q. You don't have any hands-on experience?
11 A. I don't have any hands-on experience. I can just
tell you
12 many times, I have seen people, family members have
closure
13 with certain experiences that had to do with their
loved one,
14 whether it be, you know, viewing them or going to a
place or
15 whatever. So the phenomenon of closure is something
that's not
16 foreign to me in relationship to an execution.

17 Q. Okay.

18 A. I couldn't even begin to tell you how that must be.

19 Q. Okay. In a hypothetical case and given the Judge's
20 explanation of the aggravating and the mitigating
21 circumstances, you understand that there would be
family
22 members of the deceased coming in and asking for
closure in the
23 case?

24 MR. MACKEY: Objection, judge.

25 THE COURT: Sustained.

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1 BY MR. WOODS:

2 Q. Is -- is your understanding from what the Court has

3 explained to you about the aggravating and mitigating
4 circumstances -- was your feeling about closure
something that
5 you would look at when you're looking at the
aggravating and
6 mitigating circumstances?

7 MR. MACKEY: Objection, Judge.

8 THE COURT: Overruled.

9 JUROR: Well, in order to, you know, give Mr.
Nichols
10 the benefit of -- of my fairness and rational thinking,
it
11 would again be separated from the emotions that those
people
12 were exhibiting and also then not knowing what their
closure
13 process might be. So making that a piece of -- of that
phase
14 of the trial for me would not really be necessarily the
case.

15 MR. WOODS: Okay. Okay.

16 May I have one moment?

17 THE COURT: Yes.

18 BY MR. WOODS:

19 Q. Just one further question: When there were people
that
20 came from Oklahoma City, the people that were involved
in the
21 matter, did Dr. Jordan or Dr. Blakeney -- were they one
of
22 the -- one of the individuals that talked to your group

the 23 nationally about the triage setup and how they handled
24 medical emergencies?
came. 25 A. No. These were primarily nursing personnel that

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1 Q. Okay. Were they employees of the Oklahoma Medical
2 Examiner's office, or were they volunteers, or do you
recall?

3 A. I think one individual was on staff at one of the
4 hospitals, but they -- as I recall, not associated
with, you
5 know, the -- the Oklahoma City government in any way.

6 MR. WOODS: Okay. All right. Thank you so
much for
7 taking the time to answer our questions. We appreciate
it.

8 VOIR DIRE EXAMINATION

9 BY THE COURT:

10 Q. If I can just follow up on a couple of things
because, you
11 know, you get asked questions now -- three of us have
asked you
12 questions, and we've sort of come from all angles. And
I hope
13 you don't think that you're being tried here. You're
not on

your 14 trial. But I'm a little confused about your -- some of
15 answers.

16 So one of the things that you said in response
to 17 Mr. Woods was that you've read these things associating
18 Mr. Nichols with this bombing and that you formed this
opinion 19 that he's guilty and that it would be hard for you --
that if 20 you had to vote now, you'd vote him guilty.

21 A. That was the question based upon the information
that up 22 until this point that I have, sir.

23 Q. All right.

24 A. It's not based upon, you know, just -- just an
opinion.

25 Q. Now, when we were talking, I told you you had to
set

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1 opinions like that aside.

2 A. Right.

3 Q. And leave them outside the courtroom and not
consider them

4 here. And so I didn't know when you answered that
question

5 whether you were also considering that instruction.

mean, I 6 A. Well, I -- I probably -- I certainly was not. I
7 was answering his question directly.
8 Q. Okay.
aside 9 A. But no, as far as being able to set that opinion
10 based upon being a juror, that would definitely be the
case.
as I 11 Q. Yeah. And -- and that's what all these questions,
12 say, come at you, and there can be confusion; but I
think we're
13 all asking these questions in terms of your service as
a juror
of
14 and what you believe now you would be able to do. And
of
15 course, we started all of this out with the presumption
innocent,
16 innocence; that Mr. Nichols sits here presumed to be
17 because there is no evidence against him now. Correct?
18 A. That's correct.
heard must
20 be cast aside and ignored. And what you have to tell
me is
21 whether you're able to do that.
asking my
22 A. I'm able to do that, sir, yes. But, you know,
giving
23 opinion as to how I feel about it at this moment, not
24 that charge, or not giving that responsibility, but

given that

25 responsibility, precisely as you have given the
instructions, I

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1 would be able to do.

2 Q. All right. And then, too, when both Mr. Orenstein
and

3 Mr. Woods touched on this matter of the credibility,
judging

4 the credibility of people depending upon who they are
and I

5 didn't give you any instruction about that -- and it
was

6 perfectly appropriate for them to ask these questions
of you.

7 But what the law is is this, and then you tell me your
ability

8 to do it; and that is that all persons who are called
to the

9 witness stand and testify are subject to the same
consideration

10 by the jury with respect to whether what they say is
what

11 happened, whether their perceptions are accurate,
whether they

12 are truthful people. It doesn't make any difference
under the

13 law who they are, what their training is or what their

14 background is. They are human beings. And the law

says:

15 Jurors, judge them all by the same standards: What is
their
16 testimony when you compare it with the testimony of
others? Is
17 the testimony inherently inconsistent? Did the person
have an
18 adequate opportunity to see, hear, or whatever the
person's
19 testifying about as indicated? And look at the
demeanor and
20 manner of the person, the manner in which he or she
answered
21 questions, and so forth. And all persons are judged by
these
22 same criteria. Are you ready to do that, too, without
regard
23 to their being FBI agents or law enforcement people?
24 A. Yes, sir.
25 Q. So your experience with respect to these Secret
Service

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1 agents, of course, relates to the individuals you
worked with.
2 And certainly, after a career of nursing, you know
there are a
3 lot of differences among people.
4 A. Absolutely.

5 THE COURT: Okay. Well, we do appreciate your
time
6 with us. We can't tell you this afternoon whether
you're going
7 to serve on this jury. We hope to be able to tell you
in a few
8 days. We have some more people going through this same
process
9 before we can make a decision. So please bear with us
yet a
10 while longer.

11 If there is anything that changes, you know,
you get
12 called out of town or some emergency arises, please
give us a
13 call immediately. And we'll be getting back to you
shortly.

14 And in the meantime, please be careful about
what you
15 hear, see, and read on television, radio, whatever and
16 discussion with others so that you could come in here
and
17 decide fairly on the evidence and under the law.

18 JUROR: Yes, sir.

19 THE COURT: All right.

20 JUROR: Thank you, sir.

21 THE COURT: You're excused.

22 (Juror out at 3:17 p.m.)

23 THE COURT: Yes.

24 MR. WOODS: Your Honor, may I just point out
-- and

doesn't 25 I'd like to make a slight objection, but -- so it

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with the 1 happen in the future. The Court left the impression
improper 2 juror, in my opinion, that I was somehow asking
3 questions of her.

4 THE COURT: Well, I didn't mean to.

wanted to 5 MR. WOODS: I know you didn't. And I just

again, 6 speak to it for the record that in the event it happens

7 it was not a trick question. It was not --

8 THE COURT: No, I didn't --

9 MR. WOODS: -- an improper question.

and 10 THE COURT: -- mean to suggest that you were
11 misleading her or anything else. All my purpose was --

her 12 because I thought she didn't understand the difference
13 between -- and so she said -- the difference between

juror. 14 opinions as a person and her responsibilities as a

15 MR. WOODS: Yes, your Honor.

one. 16 THE COURT: All right. Let's start the next

17 387.

18 Good afternoon.

19 JUROR: Good afternoon.

20 THE COURT: Please raise your right hand and
take the
21 oath from the clerk.

22 (Juror No. 387 affirmed.)

23 THE COURTROOM DEPUTY: Thank you.

24 THE COURT: Please be seated in that chair by
the
25 microphone. It swivels around so you can adjust it.

And you

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1 don't have to adjust it to the microphone, because the
2 microphone will pick you up. And the only reason for
the
3 microphone is to help us hear you.

4 JUROR: All right. Thank you.

5 THE COURT: You're not being broadcast
somewhere, you
6 understand.

7 JUROR: All right.

8 VOIR DIRE EXAMINATION

9 BY THE COURT:

10 Q. And you know that you're responding to a jury

summons that

11 you received back in July, notifying you of -- through
a chance

12 selection system that you're summoned in for possible
jury

13 service in the trial of the United States against Terry
Lynn

14 Nichols?

15 A. Yes, sir, I do know that.

16 Q. You responded to a short questionnaire that we sent
you

17 with that summons; and then after that, you were
notified to go

18 out to the fairgrounds of Jefferson County on September
the

19 17th, which you did. And I appeared there with you and
other

20 jurors; and also, other people were with us and are
with us

21 again today. And I want to reintroduce them as I did
then so

22 you know who's here with us.

23 Here at this first table are the attorneys for
the

24 Government, beginning with Mr. Lawrence Mackey at this
end of

25 the table and Ms. Beth Wilkinson. You met them before.
They

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before, 1 are now joined by additional lawyers you didn't meet

2 Mr. Patrick Ryan, Mr. James Orenstein.

Woods, 3 You also met Mr. Michael Tigar and Mr. Ronald

4 attorneys for Terry Nichols, who was there.

gave you 5 And then after introducing these people, I

what's 6 some explanation about the background of the case,

complete a very 7 involved in jury service, and then asked you to

166 8 long questionnaire. And that, you did. You answered

9 questions. And you remember doing that?

Yes, I do. 10 A. I remember answering a very long questionnaire.

more 11 Q. Okay. And now you're being called to answer some

12 questions. So please bear with us.

13 A. All right.

written 14 Q. With respect to this written questionnaire, the

people 15 questions and your answers, I have given copies to the

you've 16 you've just met here. But they and I are using what

other 17 told us only for this purpose and won't use it for any

that we 18 purpose or give it to anybody else. And also, we know

19 asked you things that are personal and private in
nature. And
20 we do try to protect your privacy and also balance it
off
21 against the public interest in this proceeding. And I
hope you
22 understand. And as a part of that, we're not using
your name
23 here. And also, we arranged for you to come and go to
the
24 courthouse in ways that they can't take news pictures
of you
25 and all of that. But we are now in open court. This
is a

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You
1 public proceeding, and what is said here is public.
2 understand that?
3 A. I do understand.
4 Q. Okay. Now, I want to, first of all, just review
with you
5 briefly what I told you before. And these are things
that you
6 probably knew before I told you anyway. And that is
that all
7 of this arises out of an explosion that took place in
Oklahoma
8 City, Oklahoma, on April the 19th, 1995. On that day,
a

9 federal office building was destroyed by an explosion.
People
10 in it were killed and injured. Thereafter, charges
were filed
11 in Oklahoma City in the Federal Court there in an
indictment,
12 which is simply a statement of accusations. And the
lawyers
13 for the Government accused a man named Timothy James
McVeigh,
14 along with Terry Nichols -- and then, as the indictment
refers
15 to, "and other persons not named" -- with joining in a
16 conspiracy or a criminal agreement to bomb that
building and to
17 kill and injure the people in it.

18 The charges in that indictment include not
only such a
19 conspiracy or plan to do so, but actually carrying it
out. And
20 there are 11 charges in all, eight of them being first-
degree
21 murder, premeditated murder charges, with respect to
the deaths
22 of eight law enforcement officers who died in the
explosion.

23 You knew those things, I'm sure.
24 A. I did not recall that there were eight; but I knew
it was
25 very, very serious charges that were made.

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1 Q. All right. Okay. And then as I told you, there
were not-

2 guilty pleas entered in Oklahoma City by the
defendants. The

3 case got moved over here to Denver for trial because of
a

4 concern about asking the people in Oklahoma City to sit
on a

5 jury when this event happened in their community.

6 And so when it came over to Denver for trial,
I then

7 ordered separate trials; that it would just be like two

8 separate cases, one dealing with the evidence
concerning

9 Mr. McVeigh, the other whatever evidence there may --
may be

10 with respect to Mr. Nichols. Separate juries.

11 And we already did have a trial with respect
to

12 Timothy McVeigh. A jury was selected through a process
similar

13 to this. Those persons then came in and heard the
evidence at

14 trial concerning Mr. McVeigh, and they returned a
verdict of

15 guilty. Then that jury was asked to do more. They
were asked

16 to hear a second phase or penalty stage and make a

17 recommendation, and the jury recommended a death
sentence.

18 Now, that's that case and it's over.

19 Now we're ready to start Mr. Nichols' case,
and we

20 start all over. Nothing that happened in the McVeigh
case can

21 be considered in connection with this case. Otherwise,
there

22 would have been no purpose for separate trial order.
You

23 understand?

24 A. I do understand that.

25 Q. Okay. And so now, we're selecting people to serve
on the

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1 jury and hear the evidence as it may relate to Mr.
Nichols.

2 And of course, what a jury does, I explained a bit,
too. And

3 you've never been on a jury, have you?

4 A. No, sir, I have not.

5 Q. So I -- and most of the people have not, and that's
why I

6 went through an explanation of what the criminal
justice system

7 is all about in terms of the jury: that under the
Constitution

8 of the United States and therefore applicable
throughout this

9 country in all trials, no matter what the charges are
or who
10 the defendant is or even what the court is or who the
11 prosecutors are, we have the common principle that each
person
12 accused of a crime is presumed to be innocent. That
13 presumption of innocence carries throughout the trial
and
14 entitles that person to an acquittal, a verdict of not
guilty,
15 unless everybody serving on the jury, considering only
the
16 evidence at trial and following the instructions of the
court,
17 determines that the evidence proves the charges beyond
a
18 reasonable doubt.

19 No person who is accused has any burden or
duty of
20 proving himself not guilty or proving anything at
trial.
21 There's no obligation to an accused person to call any
22 witnesses or introduce any evidence or to testify. No
person
23 accused is required to answer questions from the
lawyers or the
24 court or to explain anything in his trial. He can
simply
25 remain silent and challenge the government's evidence,
because

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in with 1 it is the government's duty through its lawyers to come
can simply 2 the exhibits and the witnesses; and the defense then
examine 3 object to the admission of certain evidence, cross-
4 witnesses, and challenge the case all the way.

gives 5 And then at the end of the trial, the court
court 6 instructions in detail with the jury listening, and the
essential 7 explains all that has to be proved, what are the
things 8 elements of each crime that's charged, and says these
doubt. 9 must be proved and must be proved beyond a reasonable

testify, 10 And in a case in which a defendant does not
You can't 11 one of the instructions is you cannot consider that.
many 12 draw any inferences or assumptions from it. There are
does 13 reasons why a person accused who is innocent of a crime
even talk 14 not testify. So what I tell juries then is you can't
15 about that. Not a factor.

evidence 16 And then the jury is asked, "well, does this

And if 17 prove guilt beyond a reasonable doubt, or doesn't it?
the 18 there is a reasonable doubt, then the jury must give
guilty. 19 defendant the benefit of that doubt and find him not

them 20 You've heard of most of these things or all of

21 before, have you?

22 A. I have, sir.

23 Q. And do you agree with these principles?

24 A. Yes, I do.

were to 25 Q. And you agree to follow them in this case if you

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1 serve?

2 A. Yes.

Nichols 3 Q. And so, you know, in plain terms, here sits Terry
innocent of 4 in this courtroom this afternoon presumed to be

5 these charges made against him. You agree with that?

6 A. Yes.

so we 7 Q. All right. Now, you did answer a lot of questions,

through all 8 know some things about you. We're not going to go

review 9 of this again. There are a few things that I want to
information, 10 with you and in a few cases ask you for some more
with 11 then explain a few more things. Then when I'm done
12 questioning you, a lawyer for each side will have an
with us yet 13 opportunity to ask you some things. So please bear
14 a while.

15 A. All right.

16 Q. You told us that you're from St. Paul, Minnesota?

17 A. Born there, yes.

18 Q. Yeah. And then you, with your family, moved over
to 19 Michigan?

20 A. Yes, sir.

21 Q. And you went to high school in Lansing?

22 A. I did.

23 Q. Then you went to college in Ann Arbor at the
University of

24 Michigan?

25 A. I did.

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1 Q. Got a nursing degree there?

2 A. Uh-huh.

3 Q. Came to Colorado?

4 A. I did. Well, I stopped in Missouri with my ex-
husband.

5 Q. Oh, yes. All right. And you're divorced now?

6 A. I am.

7 Q. And what were you doing when you were in Missouri?

8 A. I was a public health nurse in a rural community.

9 Q. And what was he -- what type of work did he do?

10 A. He was in law school at the time.

11 Q. And he then graduated law school and became a civil
lawyer,

12 as you've told us.

13 A. Yes.

14 Q. Civil cases. Were you still married then?

15 A. Yes.

16 Q. And where was he practicing?

17 A. Upon his graduation, we moved to Colorado, and he
practiced

18 here in Denver.

19 Q. Okay. Was he with a firm here, a law firm?

20 A. I don't know exactly what the name of the
arrangement is,

21 but he had office space in a firm and -- but earned his
own --

22 Q. Shared with other lawyers overhead and staff?

23 A. Right. And took the overflow from other lawyers
who were

24 too busy.

25 Q. Is he practicing here now?

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1 A. No. He's in Seattle now.

2 Q. And practicing law there?

3 A. It is my understanding he's a workers' compensation
4 attorney up there.

5 Q. Okay. And you were divorced about when?

6 A. We were divorced in 1975.

7 Q. Okay.

8 A. No. '76. He left in '75.

9 Q. Okay. And we're not going to ask you about the
details

10 there. But my understanding from what you said is that
his

11 work was all in civil trials.

12 A. That's true, yes.

13 Q. And you had -- then went on to get a master's?

14 A. Yes, sir.

15 Q. At University of Colorado at Denver?

16 A. Yes.

17 Q. And you were working at the same time, were you?

18 A. Yes. I was.

19 Q. Okay. And now you're working on a doctorate in

public

20 health? Is that right?

21 A. Yes.

22 Q. And you are working toward that degree also from
the

23 University of Michigan?

24 A. Yes. I'm a commuter student.

25 Q. Okay. Now, have you -- where are you on that?
Have you

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1 completed course work?

2 A. Yes. I have completed course work. I have passed
the

3 comprehensive exams, and I am working on the
dissertation.

4 Q. So have you been back and forth between here and
Ann Arbor

5 to do that?

6 A. Yes, sir. A lot.

7 Q. Okay. And do you know what your dissertation is
going to

8 be? Have you selected a topic and had it approved?

9 A. I -- well, I'm in the approval process of that. My
10 dissertation -- the background is that I'm working with
a

11 health maintenance organization that's based in Grand
Junction.

12 And they are implementing something called a clinical
13 guideline, which is sort of a standard procedure for
certain
14 types of cases. And my dissertation will measure
whether or
15 not that dissertation -- whether or not that clinical
procedure
16 improves patient outcomes.

17 Q. Okay. And this is in the school of public health
there,
18 which is not nursing as such but administration;
correct?

19 A. It's technically a -- a doctorate in health policy
through
20 the school of public health.

21 Q. Okay. But the school of public health deals with
health
22 administration, the social issues as what -- as
compared to
23 technical medicine? Is that right?

24 A. Well, part of the school of public health deals
with a lot
25 of epidemiological issues, which are much more
technical in

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1 nature, environmental kinds of health. And then -- but
the
2 program that I'm in really is more focused on the -- on

the

3 personal health system that we have in the United
States and

4 what's happening to it and whether we can do things to
improve

5 it and make it more cost-effective without reducing the
level

6 of care.

7 Q. Okay. Now, you are working full-time, as I
understand it,

8 in -- as a lobbyist?

9 A. Yes, sir.

10 Q. And you've been doing that for various health
organizations

11 and other organizations for the past some 17 years?

12 A. Yes, sir.

13 Q. Working with the Colorado legislature?

14 A. Yes.

15 Q. And have you also lobbied with the Congress?

16 A. Very, very little.

17 Q. Most of your work is at the state house?

18 A. Yes, sir.

19 Q. State capitol. And you've told us that in that
work, you,

20 of course, know a lot of people who are in the
legislature and

21 lawyers and most everybody who has business there.
Yes?

22 A. Yes, sir.

23 Q. And you also know about apparently a number of
24 organizations. And on page 18, you've told us all of
these
25 organizations that you have some acquaintance with,
most of

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1 whom also have representatives from time to time up at
the
2 General Assembly.

3 A. They do indeed.

4 Q. And is that where you know them from?

5 A. Let me go down the list here and -- yes.

6 Q. You made a note here beside Americans for
Democratic
7 Action, "I'm a child of the 60's"?

8 A. Yes, sir. That's --

9 Q. Actually, you were also a student of the 60's, I
guess.

10 That's when you were on campus?

11 A. Yes. I was at the University of Michigan in the
60's.

12 Q. Does that have significance with respect to your
political
13 views?

14 A. No, sir. It only has respect with how old I am.

15 Q. Oh, okay. Well, why did you write, "I'm a child of
the

16 60's" behind "Americans for Democratic Action"?
17 A. Well, it's really the only place that I know of
them -- I
18 don't know that there is an active group in Colorado.
I've
19 never run into anybody in Colorado.
20 Q. Okay. You're relating back to the time you were on
campus?
21 A. Yes. And they were very visible on campus.
22 Q. How about the American agriculture movement? How
have you
23 encountered that group?
24 A. There was a -- a string of 18-wheel trucks that
ringed the
25 capitol one day. And I don't even recall exactly what
the

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1 issue was, but it was in general that farmers were not
in a
2 good place and wanted to -- the legislature to do
something. I
3 don't work on agricultural issues, and so I -- my main
concern
4 was threading my way through the trucks to get to my
work.
5 Q. And the patriot movement? How did you hear about
them?
6 A. Well, there's -- there are some individuals that

are in the

7 Colorado capitol that are quite visible in the patriot
movement

8 and active in it.

9 Q. And is that one of the people you named here as a
senator?

10 I think you named somebody here. Yeah. On page 30 at
131.

11 A. Page 30.

12 Q. And maybe this -- I don't know.

13 A. Oh, yes. Yes. He's the one.

14 Q. Is that the person you're thinking of?

15 A. Yes, sir.

16 Q. Do you associate him with that?

17 A. I do.

18 Q. Okay. You also have worked with, I take it, and
know some

19 of the people in the Colorado District Attorney's
Council.

20 A. Yes, sir.

21 Q. Including the executive director. And you
mentioned at

22 some point something you did with the Department of
Corrections

23 for Colorado. I can't remember where that was, but --

24 A. Several years ago -- well, I actually have two
connections

25 with the Department of Corrections. Several years ago
-- and I

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I was
time, and
happened
ended up in
in the
then
analyzed.

1 don't even recall if I put this in the questionnaire --
2 working for the Department of Social Services at the
3 we were trying to establish a linkage between what had
4 to people in foster care and then how many of them
5 the prison system. And I ended up working with people
6 prison system, gathering information about that that I
7 took back to the Department of Social Services and

Association.
of our
have a
her

8 And I also -- I represent the Colorado Nurses
9 They are one of my lobbying clients. And the chairman
10 legislative committee in that association works for the
11 Department of Corrections in the -- I'm blanking. I
12 brain cramp. In the diagnostic center. And so I hear
13 discuss --

14 Q. Okay.

15 A. -- various issues in the diagnostic center.

16 Q. Have you ever worked with the Department of
Corrections

17 directly?

18 A. No, sir.

19 Q. You mention speaking of friends and acquaintances
that

20 someone who's in graduate school with you lives in
Oklahoma

21 City?

22 A. Yes, sir.

23 Q. And I don't -- is this a man or woman?

24 A. She's female.

25 Q. Okay. And she was in school with you here?

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1 A. We were all in the -- in the program at Michigan in
Ann

2 Arbor.

3 Q. Oh, all right. And you keep in correspondence or
E-mail

4 or --

5 A. We are all connected by E-mail regularly.

6 Q. Now, was she living in Oklahoma City in April of
1995?

7 A. Yes, she was.

8 Q. And you mention that "Not hurt." Has she discussed
this

9 with you by E-mail or directly, any of her experiences
or her

10 perceptions or whatever?

11 A. Well, at the time that it happened, our legislature
was in

12 session, and I heard about it while I was at the
capitol. And

13 by the time I got home that night and onto the E-mail
system,

14 she had already sent a note to all of us saying,
"There's been

15 an explosion. I'm okay. I was not involved with it."
And

16 several of us -- there was a -- a few days of
discussion with

17 many of us in our class saying, "Is there anything we
can do?

18 Do you need anything? You know, are you -- are you
okay

19 emotionally?" and that sort of thing.

20 Q. Sure.

21 A. And she wrote back and said, "Yes" --

22 Q. What -- what was she doing there at that time; do
you know?

23 A. She is employed by the Oklahoma Department of --
the

24 equivalent of Social Services. I don't know what they
call it

25 in Oklahoma. And was working on their welfare reform
efforts

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state
we didn't
through
not --
this
Oklahoma
basically she
--
she share

1 at the time. And we just didn't know how close the
2 office buildings were to that federal building and so
3 know what her situation was.

4 Q. I see. And do you continue to correspond with her
5 E-mail or whatever?

6 A. I continue to correspond with her by E-mail. I do
7 we have -- the only other discussion we have had about
8 issue was when the -- the trials were transferred from
9 City to Denver and she said, you know, what --

10 said, "What do you know about this judge?" And I said
11 Q. I don't know if I want to pursue this. Well, did
12 her opinions about that with you?

13 A. No. No. She just -- she just wanted to sort of
14 acknowledge that we now had this additional link, and
15 it was a very brief conversation.

16 Q. Have you had any communication with her since you
17 jury summons?

18 A. No. And she does not know that I am involved in
19 all.

so we --
got your
this at

20 Q. Now, you know, if you were to serve on this jury
and have
21 to make a decision about this case, do you feel that
this
22 relationship with this friend from graduate school
would affect
23 you?
24 A. Well, I think that having that friendship has
brought home
25 very vividly the -- the seriousness of the event that
happened

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1 there and the way that it -- it shattered many lives.
I -- I
2 have never communicated with her about this particular
3 individual. I -- to be honest with you, we were buried
in
4 biostatistics at the time, and I do not know many of
the
5 details of the case. And so I think that my main
concern would
6 be to do this in a fair way rather than -- I don't feel
that
7 I -- my friendship with her is any obligation.
8 Q. Well, that's what I was about to touch on. Do you
feel
9 some -- that you must answer to her for your verdict
here if

10 you were to serve on the case?

11 A. No.

12 Q. And that if you return a verdict of not guilty,
that would

13 be something that would affect your relationship or
you'd have

14 to explain it to her or something?

15 A. She might ask for the reasoning behind it, but I
don't get

16 the impression from her that she would chastise me for
whatever

17 I did here.

18 Q. Okay. And you said in your responses here to these
many

19 questions on page 30 that you recognize the importance
-- let's

20 turn to page 30 at 129 -- of agreeing to follow the
Court's

21 instructions to protect the rights of the accused and
the

22 process and maintain fairness.

23 A. Yes, sir.

24 Q. And of course, that refers to not only instructions
about

25 avoiding publicity and all that, but everything
connected with

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1 the case because the Court gives instructions during

jury

and at 2 selection, before the trial begins, during the trial,

3 the end of the trial, you understand.

4 A. I do understand.

that we've 5 Q. And these instructions include the basic things

that 6 already reviewed and also can include detailed matters

evidence 7 come up in the course of the trial, whether particular

hear and 8 does or doesn't come in, and what -- how a jury must

question 9 consider some things. You understood that's what this

10 meant.

11 A. I think so, yes.

regarding 12 Q. Okay. And we also asked you some questions here

And your 13 the criminal justice system. I'm looking at page 22.

say 14 opinion overall of the effectiveness of the system, you

understaffed, but 15 "Adequately. Sometimes there are -- they are

16 I think they try their best." Who is the "they"?

involved 17 A. Basically, almost -- virtually everybody that's

18 with the system.

regarding your 19 Q. All right. I need to ask you some questions

20 attitude about and opinions about punishment.

21 A. Okay.

22 Q. And we asked you some of this on the questionnaire,
you may

23 remember. On page 28 are the particular questions, but
27 is

24 the preliminary with respect to it in which you're --
it is

25 explained that even though Mr. Nichols is presumed to
be

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1 innocent, we have to ask you about your ability to
serve in the

2 issue of punishment if that should happen. And we have
to do

3 this because we only, you know, go through jury
selection once.

4 And the same jury that is involved in determining
whether the

5 evidence proves guilt beyond a reasonable doubt is also

6 involved in punishment if that happens, if there's a

7 conviction. So as explained, there was no suggestion
here as

8 to what the outcome of the case might be. And what we
asked of

9 you was if you were in the General Assembly, what would
you do

10 about the death penalty and what would you do about
punishment

11 for life imprisonment as possible punishments for
differing
12 types of crime. And is that the way you understood
these
13 questions?
14 A. I believe so. I --
15 Q. Okay. And you answered. And I must ask of you
whether --
16 if I asked you these same questions today, would you
give us
17 the same answers?
18 A. Gee, I hope so. I don't remember exactly what I
said,
19 but --
20 Q. Well, please look and see. I don't mean to catch
you at a
21 disadvantage.
22 A. Yes.
23 Q. Okay. Is this -- I don't know. Were you ever
lobbying up
24 in the state capitol building when the death penalty
was
25 debated up there? Do you remember?

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1 A. I believe so.
2 Q. Well, you know there's a lot of disagreement about
whether

3 there ought to be a death penalty; and in some states,
there is
4 none. And in any one state, it may have changed from
time to
5 time. And there are people who have very strong
opinions on
6 this subject, some believing there should never be a
death
7 penalty, some believing that there always should be a
death
8 penalty for murder of any kind and then a whole lot in
between.

9 And I think you've told us your view from -- from the
10 standpoint of making the law. And I think you've
expressed it
11 here in a way that I don't need to question further.

12 I must now talk to you for a few minutes about
the way
13 the law actually is and what is involved in the process
in
14 Federal Court. Because despite these variations among
the
15 states, we're in Federal Court, we're operating under
statutes
16 passed by the Congress, and the law here is quite
clear. And
17 the punishment of life in prison and death are
available in
18 cases of murder, you know, premeditated, planned
killing of
19 other people. And the law says that for cases like
that,

20 there's the possible punishment of life in prison
without any
21 chance of ever getting out. The person spends the rest
of his
22 natural life in prison, another is death, and a third
is
23 something less than either of those two and decided by
a judge.

24 Now, in cases that do not involve capital
punishment,
25 sentences are decided by judges, and so in that type of
case, a

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1 jury decides guilty or not guilty based on the
sufficiency of
2 the evidence. Either way, the jury's job is done.
They don't
3 have any role to play in punishment. A judge decides
the
4 sentence. And before making a decision as to the
sentence, the
5 judge hears a lot more than what was presented at the
trial.
6 Indeed, there is another separate hearing on the
question of
7 sentencing. The issue is not decided right on the
basis of the
8 verdict. And before that sentencing decision is made,
there's
9 a lot of information collected both with respect to the

crime,

10 circumstances of the crime, effect on the victims and
the like.

11 And then there's also information gathered about the
defendant

12 himself. All about him, as a matter of fact. The
whole life

13 story, born and raised, education, family structure,
marriages,

14 divorces, employment, children, military service,
something

15 about what good he's done and something about what bad
he's

16 done if there is, any prior record, and also role in
the

17 offense, what -- what participation did this particular
person

18 have. And of course, that recognizes that there may be
crimes

19 involving two or more persons committing the same crime
in the

20 same event, but they may have very different roles that
they

21 played, levels of participation. All of those things
are

22 collected and presented to the judge at a hearing, and
both

23 sides argue, and the judge decides a sentence for each
person

24 individual as to that person. And if there's a crime
with more

25 persons, the sentences may be different among these
people

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1 because they are so dependent upon these individual
2 circumstances and characteristics of this person.
Understand?

3 A. Yes, sir, I do.

4 Q. Now, under federal law, when the issue comes down
to life

5 or death because the crime involves an intentional
killing, the

6 Congress said judges don't make that decision, juries
do. And

7 that should be decided, this life-or-death question by
the 12

8 people who heard the case, the same jury. So in the
event of a

9 verdict of guilty in a case like that, the jury has
much more

10 to do. They must come in and hear all of the same
kinds of

11 information that I've just referred to that judges
consider in

12 making individualized sentencing decisions. And so
there is a

13 second or separate trial at which witnesses are called
in,

14 evidence is taken, follows the same sequence and
process as the

15 court -- as is involved in the court of the trial of
the

16 evidence. So both sides are involved.
17 There's -- witnesses are called, as I say, and
18 exhibits are offered. And the evidence does include
more about
19 the crime than was presented at the trial and more
about the
20 defendant, much more about the defendant, indeed, most
21 everything that can be learned about that person. And
then at
22 the end of it, the court instructs the jury,
summarizing what
23 has been presented and also, dividing it up into two
24 classifications: On the one hand, the things that are
referred
25 to as aggravating circumstances, aggravating factors,
those

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1 things that may suggest to the jury that death is the
deserved
2 punishment for this person and this crime; on the other
hand,
3 mitigating circumstances or mitigating factors, things
that
4 suggest that while death is an available punishment for
the
5 crime, this person does not deserve to be put to death.
And we
6 call those mitigating circumstances, as I say,
mitigating

7 against the death penalty.

8 And then the court may suggest to the jury
some
9 questions that the jurors may use in analyzing this
10 information, sorting it out, discussing it as the
jurors, the
11 12 jurors will discuss it. But then in the end, you
know,
12 there's no formula, no equation. You can't say to the
jury
13 this is exactly how you decide it, add and subtract.
The jury
14 has to make a judgment representing the conscience of
the
15 community, and the judgment is a reasoned moral
decision based
16 on all that has been presented. Each juror must then
decide
17 individually whether this person should live or die.
18 Understand?

19 A. That's a very awesome responsibility. Yes. I
understand.

20 Q. Okay. And what we must ask of you is your ability
to
21 fulfill that responsibility and make a decision based
on all
22 that you have heard, considering not only the
circumstances of
23 the crime and the things you hear about the crime but
also all
24 of the things that are presented about the defendant as
a

25 unique and individual human being. Can you do that?

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1 A. I believe so. I clearly have never been in a
situation
2 where I had to do that. I have no history to speak to,
but --
3 Q. And we can't tell you what those circumstances are
going to
4 be. We can't tell you what the evidence is going to
be. We
5 can't tell you what information would be presented or
even if
6 there would be such a punishment trial because as we
sit here
7 this afternoon, the assumption is there won't be. The
8 assumption is that there won't be enough evidence to
convict
9 the defendant. Understand?
10 A. I do.
11 Q. So obviously, we have to ask a tough question; and
that is,
12 you know, are you one of those who would be open, not
at either
13 of these extremes with respect to views of the death
penalty,
14 but open to considering death, life in prison without
release,
15 or a lesser punishment and not make a decision till

you've

16 heard it all?

17 A. My training as a nurse clearly makes me think that
one

18 favors life when you can. But I also understand that
there are

19 occasions when the seriousness, the gravity of it,
dictates

20 that a punishment that is called for is called for.

21 Q. And are you -- when you say "called for," are you
including

22 in the "called for" all of the information that would
be

23 presented, not just the crime, but the person whose
life is in

24 the hands of the jury?

25 A. Yes. I -- I think that would be important to
consider.

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1 THE COURT: Okay. Well, we have yet some
additional

2 questions with lawyers from each side. I'm going to
take a

3 break before we start.

4 JUROR: All right.

5 THE COURT: All right. So if you'll step out,
we'll

6 have you back in 20 minutes and complete this process.

7 JUROR: All right.

8 THE COURT: Thank you.

9 Okay. 4:15.

10 (Recess at 3:55 p.m.)

11 (Reconvened at 4:14 p.m.)

12 THE COURT: Please be seated.

13 All right. If you'll resume the seat, please,
we'll

14 call for Ms. Wilkinson.

15 MS. WILKINSON: Thank you, your Honor.

16 VOIR DIRE EXAMINATION

17 BY MS. WILKINSON:

18 Q. Good afternoon, ma'am.

19 A. Good afternoon.

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

21 one of the prosecutors who will be presenting the
evidence in

22 this case against Mr. Nichols. I just have a few
questions

23 that I want to ask you. Most of them are following up
on

24 things that you told the Judge; but one thing I'd like
to ask

25 you about is something that you responded to on page
34, if you

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1 could turn to that.

list of

2 I think -- is that where we gave you a long

3 names?

4 A. Yes.

you

5 Q. Without saying out loud the name there that you say

to that

6 recognize, can you tell me the last time that you spoke

7 person?

8 A. It was well before 1988 in my memory.

level, a

9 Q. And did you know this person on a professional

10 personal level, or both?

11 A. Professional primarily.

time that

12 Q. And generally, what was that person doing at the

13 you knew her?

getting

14 A. She was involved with -- as my -- you can tell I'm

15 old -- my memory says that she was involved with city

government, and

16 government and was active in some role in city

17 I do not recall what it was.

18 Q. And how did you come to interact with her?

have

19 A. Well, one of my ex-husbands -- it pains me to say I

20 two -- lobbied for the City and County of Denver in the

early

around 21 80's; and I met several of the individuals who worked

22 the city at that time, and she was one of them.

23 Q. Have you spoken to her since 1988?

24 A. I don't believe so.

25 Q. Have you seen her?

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what she 1 A. Clearly, I don't, because I don't remember exactly
2 looks like.

3 Q. So I take it you don't know where she works now?

4 A. No.

are? 5 Q. You don't know what her duties and responsibilities

6 A. No.

ability to 7 Q. So that knowing her name would not affect your

8 decide this case fairly, I take it.

hugely -- I 9 A. I don't believe so. I don't have a negative or a
10 positive -- I mean I have a positive memory but not

interaction 11 mean, I'm not devoted. It's just -- was a nice

12 when it happened.

13 Q. Do you associate her with one side or the other;

that is,

14 either the prosecution or the defense?

15 A. No.

16 Q. You told us that you are very busy with your full-
time work

17 as well as trying to finish up your Ph.D. Is that
correct?

18 A. Yes.

19 Q. Because of that, you haven't had a lot of time to
see the

20 news and learn about this case. Is that right?

21 A. That's correct.

22 Q. I believe you said in your questionnaire that you
didn't

23 even know that much about the McVeigh case. Is that
true?

24 A. Well, I don't know how -- my impression is that a
lot of

25 other people know a lot more about that case than I do.

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1 Q. Do you know more about what happened, or did you
follow the

2 news coverage more around the time of the bombing than
you have

3 around the time of the McVeigh trial?

4 A. I followed the news coverage at the time of the
bombing

5 somewhat. As I said, we were all buried in
biostatistics at

6 the time, and there was an immediate fear of survival
for us

7 involved with that.

8 Then I really sort of lost track and followed
the

9 McVeigh case only, I would say, superficially.

10 Q. You said you were deep in biostatistics. Is that
what you

11 said?

12 A. Yes.

13 Q. Can you tell me what that is?

14 A. Biostatistics is the branch of statistical analysis
that is

15 used in health care; in other words, how do you
statistically

16 know that something did -- was due to a treatment that
you gave

17 rather than just by random occurrence.

18 Q. Have you read or heard about any public health
studies in

19 connection with the bombing in Oklahoma City?

20 A. No.

21 Q. Let's go back to the publicity for a moment, if we
could.

22 Do you recall where you were or when you heard about
the

23 McVeigh verdict as to guilt?

24 A. I think I was at home. I think I heard it on the
news in

10:00 25 the evening. I mean, I think it was headlined on the

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1 news.

lives at 2 Q. I saw in your questionnaire that your daughter
right? 3 home and she's also a part-time student. Is that

4 A. Yes.

5 Q. Did you discuss the verdict with her at the time?

6 A. No, I don't think so. No.

recommendation of 7 Q. Do you recall hearing about the jury's
8 the sentence in that case?

9 A. Yes.

discuss 10 Q. And did you have any reaction to that? Did you
11 that with anyone?

was I was 12 A. Actually, the only thing I discussed with anyone
process 13 interested in the descriptions that I read about the

decision. I 14 that that jury used in terms of how they reached a

15 didn't know what it was, but it sounded as if it was a

everyone felt 16 relatively positive process that they used where

17 good or felt comfortable with the decision that they
made. And

18 I was curious as to how that -- how they did that.

19 Q. Did you see publicity about the jurors themselves?

20 A. Uh-huh. Some.

21 Q. Can you tell me what you recall seeing?

22 A. I recall that they all held a news conference the
next day,

23 which I thought was -- actually, I thought it was kind
of neat,

24 you know. You've got questions, let's get them out of
here and

25 let us get back to our lives.

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1 I did know -- well, I don't know, but I --
Martha Hite

2 was on that jury, and David Hite is one of the staff
members at

3 the capitol, and I do know David. I've never discussed
this

4 particular trial or issue or anything with him, but I
-- and I

5 don't even know if I've met Martha, to be honest with
you, but

6 there was that connection; and I think that's what made
me

7 interested.

Hite ever 8 Q. So just so I understand, did you ever or did Mr.
-- as a 9 say to you anything about his wife -- during the trial
10 juror in the McVeigh case?

that 11 A. No. I don't think anybody in the capitol was aware
12 David's wife was on that jury.

jurors' names 13 Q. So did you just come to learn that after the
14 became public because they had a press conference?

that 15 A. Yes, and there was a description in there; and with
David's 16 particular name, I read that one and I said, "Oh, it's
17 wife."

his 18 Q. And you've never discussed with him since that time
19 wife's jury service?

20 A. Uh-uh.

serve as a 21 Q. And do you understand that if you were called to
anyone 22 juror, you could not discuss your jury service with
23 else?

I have a 24 A. Well, I actually have a question about that, since
present 25 number of clients who would want to know why I was not

Juror No. 387 – Voir Dire

you tell 1 when they thought it vital that I be present. What do
2 them?

on this 3 THE COURT: Well, you tell them you're serving
4 jury, but you don't discuss the case.

you're a 5 JUROR: I see. All right. The fact that
6 juror is not a secret, it's just that you don't discuss
any 7 details.

8 THE COURT: Yeah.

9 BY MS. WILKINSON:

public for 10 Q. We don't want your name to be disclosed to the
11 all the reasons his Honor has told you that he's trying
to 12 protect your name.

13 A. I understand.

why you 14 Q. But to your clients, if you need to let them know
15 won't be available, I think that's what his Honor is
saying.

and not 16 THE COURT: Yeah, and ask them to be discreet
17 share that with others; that you're sharing that with
them just 18 because of your relationship with them as a client.

19 BY MS. WILKINSON:

20 Q. Would you be able to do that and maintain your
business?

21 A. Last significant concern that I have: I am self-
employed.

22 I am it in terms of -- I mean you are looking at my
staff. And

23 when the legislature starts in January, they don't wait
for

24 anybody. They don't make any allowances for anybody.
If

25 you're there, you can implement -- you can affect the
process;

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Juror No. 387 - Voir Dire

1 and if you're not, they will make decisions without
you.

2 If you all get your act together and get it
all done

3 by December, I'm fine. But if it were to go longer, it
would

4 literally be my livelihood for a year, because that's
when I

5 earn my living, is from January to May.

6 Q. Well, I'm sure you understand that we can't tell
you

7 exactly how long the trial will be. As his Honor
always says,

8 it's a human event, and we don't know how long
witnesses will

9 take, cross-examination. And we need to make sure that
you
10 would give both sides a fair trial. The Government
goes first,
11 of course, to present the evidence, but the defense if
they
12 choose -- and they don't have any obligation to -- can
present
13 evidence.
14 A. Absolutely.
15 Q. And you have to be willing to listen to all of that
16 evidence before you make a decision and not be looking
at your
17 watch: "Now, it's getting to be December 31. What am
I going
18 to do about my business?"
19 A. Yeah. Well, I just want to be up front with you
about sort
20 of where -- what my situation is, which is I'm very
flexible.
21 I can -- I can get the work done that I need to get
done
22 between now and December. But in January, I have no
choice if
23 I'm going to stay in this business but to be in the
Colorado
24 capitol. And they do it between 8 and 5, so that's
just my
25 situation.

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two
take,
could

1 Q. If you were to serve on the jury and it went one or
2 weeks -- and again, I can't tell you how long it would
3 but if it went one or two weeks into that time period,
4 you manage that?

graduate
only one
probably work

5 A. Probably. I would think so. I -- because of the
6 school, my workload has diminished somewhat. I have
7 bill that is mine to pass this year, and I could
8 with people down there to make allowances for that.

in here
longer
make
go

9 Q. I ask you that, of course, because everyone comes
10 with some kind of hardship sitting on any trial that's
11 than a couple of days, and so we ask if each person can
12 some kind of sacrifice. Obviously, no one wants you to
13 bankrupt during your jury service.

14 A. I would appreciate that. Thank you.

make that

15 Q. But we just want to know that you'd be willing to
16 kind of sacrifice, if it were necessary.

certain

17 A. Well, you know, as I said, up until, you know, that
18 period of time when I become ineffective in my job,

yes, I'm

19 willing to do that.

20 Q. If we could, I'd just like to turn to the death
penalty for

21 my final set of questions. You told us in your answers
that it

22 basically depends on the case --

23 A. Yes.

24 Q. -- whether someone is given a life-in-prison
sentence or

25 someone is given the death penalty. So I take it that
you

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Juror No. 387 - Voir Dire

1 would have no problem following his Honor's
instructions, which

2 would be that you would have to come into the penalty
phase of

3 a case, not just a guilt phase but a penalty phase,
with an

4 open mind, and you would have to be willing to consider
-- even

5 though you found someone guilty of a murder, you'd have
to be

6 able to consider should this person get a life
sentence, or

7 should they receive the death penalty.

8 A. Yeah.

9 Q. Would you have any problem doing that?

10 A. Not considering it. I mean it's clearly something
that one
11 does not do lightly, but our system of justice is such
that we
12 have to be willing to do that.

13 Q. You understand that we can't tell you, of course,
what the
14 ultimate outcome will be because we don't know what
evidence is
15 going to be presented (1) in the guilt phase but more
16 importantly in a penalty phase if it were to come to
that. So
17 no one is asking you for your ultimate decision.

18 A. Right.

19 Q. All they're asking is can you tell everyone that
you'll
20 have an open mind as the law requires and consider both
21 penalties before you make a final decision.

22 A. As I was thinking of this to myself, I said, Well,
I
23 couldn't say absolutely I would and I can't say
absolutely I
24 would not. I would simply have to listen and deal with
it as
25 it came up.

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Juror No. 387 - Voir Dire

1 Q. And if you were selected on a juror -- jury with

your -- 11

2 other jurors and you made a decision that a defendant
was

3 guilty beyond a reasonable doubt of an intentional
murder and

4 then you had to listen to the penalty phase evidence
and hear

5 all of it, as his Honor instructed you, as to
mitigation and

6 aggravation and you decided with your fellow jurors
that the

7 death sentence was warranted, could you come out into a

8 courtroom and announce that verdict that you had
sentenced

9 someone to death?

10 A. Well, I think we would have to. I mean, that's why
our

11 system works, is because you're willing to do something
to make

12 that kind of a finding and then to publicly say, "This
is what

13 we have decided."

14 MS. WILKINSON: Thank you very much for
answering my

15 questions.

16 THE COURT: Mr. Tigar?

17 MR. TIGAR: Yes, sir.

18 VOIR DIRE EXAMINATION

19 BY MR. TIGAR:

20 Q. Good afternoon again.

21 A. Good afternoon.

22 Q. My name is Michael Tigar, and Ron Woods and I were
23 appointed by the United States District Court, United
States
24 district judge in Oklahoma City in April -- or no, in
May of
25 1995, after the Government had filed charges against

5687

Juror No. 387 - Voir Dire

1 Mr. Nichols in connection with the April 19, 1995
bombing.

2 Do we start out at a disadvantage in your eyes
because

3 Mr. Nichols didn't have money to buy -- to pay for a
lawyer,

4 rather, and the court had to appointed them at the
taxpayers'

5 expense?

6 A. Well, I could be facetious and say no one can
afford a

7 lawyer these days; but no, I do not think so.

8 Q. Okay. I want to turn to this question that you
were just

9 talking about; that is, this question of punishment.
There is

10 a presumption we'll never get there.

11 A. Uh-huh.

12 Q. That is, the Government has a theory about Mr.
Nichols'

13 involvement, and Mr. Nichols and Mr. Woods and I
disagree with
14 it. And every time that they put up a witness, we will
15 cross-examine that witness. And when our turn comes,
even
16 though we're not required, we will present witnesses
and
17 exhibits and so on. And if at the end of the day the
jurors
18 have a reasonable doubt, then the verdict is not guilty
and
19 we're done. But we only get one chance to talk about
this. If
20 for some reason Mr. Nichols is convicted of something
or one of
21 these charges, then we can't bring everybody back in.
And I
22 wrote down you said that you could not say absolutely
that you
23 would or could not say absolutely that you wouldn't.
What --
24 if you remember saying that, what were you referring
to? What
25 is it that you couldn't say absolutely that you would
or

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Juror No. 387 - Voir Dire

1 wouldn't?
2 A. I was thinking of the death penalty. I was
speaking to

3 myself at the time. I was saying this in the car.

4 Q. I understand. Well, would you share that with me,
that

5 dialogue? I have my best conversations when I'm by
myself,

6 because nobody interrupts.

7 A. Well, I was thinking as I was driving to this
situation,

8 you know, what would I think about in that situation?
And I

9 thought, well, I genuinely don't know because I've
never been

10 in something that's even vaguely similar to this
situation.

11 Q. Right.

12 A. And could I say I absolutely know that I could
sentence

13 somebody to die? I don't know -- I can't say I
absolutely

14 could. And I also can't say, well, there would never
be a time

15 when I couldn't. I mean, I'm in that real vague middle
bunch.

16 Q. Okay. Well, I understand that; and I appreciate
your --

17 your sharing that with me because now I understand
better than

18 I did.

19 The Judge talked about what happens in a
trial. And

20 let's just talk about a trial because (a) we presume
we're not

21 going to get there in this one; and (b) even if we did,
we
22 couldn't tell you what the evidence is going to be. I
don't
23 think either side knows.
24 And even though Judge Matsch heard the other
trial, he
25 doesn't know because this is different. That's why he
ordered

5689

Juror No. 387 - Voir Dire

1 separate trials.
2 In a case, no matter -- you understand there
is no
3 such thing as an automatic death penalty.
4 A. Yes, I do understand.
5 Q. And no matter how heinous, no matter how serious
the crime,
6 the United States Supreme Court has said no such thing
as an
7 automatic death penalty.
8 Now, the second part of this is that in the
federal
9 system, jurors decide.
10 A. Uh-huh.
11 Q. Were you on Capitol Hill when it was being debated
up there
12 in Colorado whether jurors or judges should decide this

13 question of punishment in capital cases?

14 A. Yes, I was there. I was not involved in that
particular

15 debate, but I was in the building at the time.

16 Q. What did you think about those positions that were
being

17 taken? I gather it was pretty hot up there on that.

18 A. Well, there are lots of issues that are spirited --

19 Q. Indeed.

20 A. -- in the Colorado Assembly. I was interested with
the

21 fact that they were trying to find a system that they
felt gave

22 a fair shot to both sides; that they were really trying
to find

23 something that eliminated as much as possible bias in
the

24 process.

25 And that's really my biggest memory of it.
There are

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Juror No. 387 - Voir Dire

1 obviously some people in the Colorado capitol who are

2 extraordinarily in favor of the death penalty, and
there are

3 others who are extraordinarily opposed to the death
penalty.

4 And one always hears those voices on either side of any

issue.

5 But I was really -- my major impression was
that the
6 vast bulk of the General Assembly were looking for a
reasonable
7 way to have that be considered.

8 Q. Did you think that before the law changed that
there was a
9 bias in the death penalty system?

10 A. To be honest with you, I didn't know because I've
never
11 dealt with issues that had to do with the death
penalty.

12 Q. Okay.

13 A. Nor have I ever -- I mean -- you hear all kinds of
issues
14 that you know painfully little about.

15 Q. Here's the basic question: Some folks said letting
juries
16 decide this introduces a pro-defendant bias. Some
people said
17 that. I don't know if you heard that argument or not.

18 A. No. I don't remember that one.

19 Q. Well, you don't have -- so you have no problem with
the
20 idea in this law now that Judge Matsch explained that
under
21 the -- in Federal Court where we are now, this is a
jury
22 matter.

23 A. Oh, no. I don't have a problem with that.

looks at 24 Q. And also, as his Honor said, each individual juror
problem 25 this and makes a reasoned moral response. You have no

5691

Juror No. 387 - Voir Dire

1 with that?
2 A. No, I don't.
if you 3 Q. So as you sit there, we talked about the fact that
returned a 4 were a juror in a capital case where the jury had
about the 5 verdict of guilty, there would be all this evidence
6 crime, about the defendant, about different roles that
7 different defendants would have; and so you can imagine
convicted 8 yourself, if you can, in a case in which you had
coming into 9 somebody of intentionally killing a lot of people
person a 10 court and saying: I find that for that particular
11 life sentence is the proper sentence?
12 A. I could envision myself doing that.
case 13 Q. And you can envision yourself that in some other
14 saying: Well, the death sentence is a proper sentence?
15 A. I can envision myself doing that.

16 Q. So you're open to the full range of punishment?

17 A. I think so, yes.

18 Q. Let me then talk about -- I wanted to get that out
of the
19 way because that was the last thing they said.

20 If I could talk about some of these other
things. You
21 mentioned at page 14 a particular political
affiliation.

22 A. Uh-huh.

23 Q. Is that one you've had for a long time?

24 A. Ever since I've been in Colorado, yes.

25 Q. And you mentioned at page 9, Question 42E, that you
had

5692

Juror No. 387 - Voir Dire

1 worked for a governor.

2 A. 42E. Yes.

3 Q. And that was in the governor's office at that time?

4 A. Yes.

5 Q. And was that --

6 A. I'm sorry. Go ahead.

7 Q. No, go ahead. I interrupted you.

8 A. I think I was anticipating your question, which is
probably

9 unwise.

10 Q. Please do.

11 A. Yes, that governor was not the same political
affiliation

12 as you found on page 14.

13 Q. You did anticipate my question. You're right. You
14 answered it. Thank you.

15 And you mentioned that among your -- that you
had done

16 a little lobbying with the Congress. Is that right?

17 A. Very little.

18 Q. Was that on health care issues?

19 A. Mostly, yes.

20 Q. Did you ever encounter Congressman Stark of
California?

21 A. No.

22 Q. Pete Stark?

23 A. No. I was asked to go and lobby the Colorado
delegation

24 from the home --

25 Q. So you met Congressman Skaggs at that time?

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Juror No. 387 - Voir Dire

1 A. I knew David Skaggs when he was in our legislature.

2 Q. Okay. Do you know his current -- what do I say --
the

3 person that sort of runs his district office?

4 A. No. Well, I may know that person, but I don't know
that --

5 I mean I couldn't tell you who it is. Let's put it
that way.

6 Q. So whoever that person is, that doesn't have any
influence

7 on what you might think about this case.

8 A. No.

9 Q. Okay. You mentioned that you like -- you go
sailing on

10 Lake Dillon?

11 A. Yes, sir.

12 Q. What size boat?

13 A. 21 feet.

14 Q. Do you find that challenging?

15 A. Well, I have a severe case of the fever, sailing
fever; and

16 yes, I -- I enjoy it very much. This particular boat
is --

17 it's a very stable boat. I don't really worry about
tipping

18 over or anything but --

19 Q. When the wind shifts?

20 A. Well, it always shifts.

21 Q. It always does. Right. Okay.

22 You mentioned that a -- among your
recreational

23 reading, Robert Parker, the Brother Cadfael series,
John

shaped 24 Grisham. Anything in there that has affected your --
25 your view about the criminal justice system?

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Juror No. 387 - Voir Dire

The 1 A. No. I've only read one Grisham book, and that was
like 2 Firm. And the main reason I enjoy mystery novels is I
that they 3 to -- I like the intricacy of the plot and the clues
4 drop along the way.

serve as a 5 Q. Okay. Well, in a case where you're selected to
sometimes 6 juror, there will be clues along the way. But as
thing 7 happens in fiction, the last thing you hear may be the
instructs 8 that turns out to be important. And the judge
jurors, 9 basically: Don't deliberate about the case amongst the
including 10 don't think about it, until you've heard everything,
Can you 11 the lawyers' arguments and the court's instructions.
12 do that?

understood 13 A. Well, let me make sure that I didn't -- that I
14 you. I mean, I believe that one has to be thinking

about this

15 as it occurs. I mean -- how can you remember anything
if you

16 aren't paying attention? But not to make a firm
decision nor a

17 conclusion until it's all over.

18 Q. Right, and not to deliberate with your fellow
jurors, the

19 other jurors about it.

20 A. That, I understand.

21 Q. Okay. All right. That's -- the Judge will give
22 instructions. I'm not going to try to predict what
those will

23 be. But along those lines, you wouldn't have any
problem

24 following that.

25 A. No.

5695

Juror No. 387 - Voir Dire

1 Q. Okay. And that's a part of perception; that is,
once you

2 adopt a story or a view of something, then subsequent
evidence

3 that comes in, you know, has trouble more or less
getting into

4 your sensorium or your cognitive process, depending
upon

5 whether it fits or doesn't fit. That's really the
problem.

open 6 And you'd be aware of that problem and try to keep an
7 mind; right?

which is, 8 A. Well, we have a saying in the General Assembly
9 "It ain't over till it's over."

10 Q. Okay.

11 A. That's the way I look at it here.

12 Q. Great.

121. 13 Could you turn, please, to page 27. Question

14 And --

15 A. All right.

16 Q. You said that -- now, if the Judge were to give you
17 instructions about how to consider the testimony of
someone who

those 18 had made such a bargain, would you be able to follow
19 instructions?

20 A. Presuming they were reasonable. I mean if --

21 Q. He wouldn't give any other kind?

22 A. I would absolutely agree.

understand 23 Q. Okay. That is to say that such testimony -- you

24 that such testimony might be influenced by the hope or
25 expectation of reward.

Juror No. 387 - Voir Dire

1 A. Yes. I do understand that.

2 Q. And that would be the subject of the Judge's
instructions

3 if he gave them on that.

4 A. Okay.

5 Q. Okay. You mentioned on page 4 that you have a
high-stress

6 job, so stress is not a problem.

7 A. Words I will eat, I'm sure.

8 Q. No, no, no. Is it the lobbying job you were
referring to

9 as a high-stress one?

10 A. Yes, sir.

11 Q. Not the Ph.D. committee job; that is, the
dissertation?

12 A. No. That's -- classwork was high stress, but not
the

13 dissertation.

14 Q. Do you in your work -- do you consider yourself a
leader?

15 A. Yes.

16 Q. A jury consists of 12 people. Would you be willing
to

17 listen to the views of other jurors and their
recollection of

18 the facts, remembering this case might go a long time
and the

19 different people will remember better different parts

of it?

20 A. Uh-huh. Yes. I think so.

As one

21 Q. I wanted to ask briefly about the hardship concern.

nobody

22 of the prosecutors said, the Government goes first, and

took

23 can predict how long this case would take. If the case

well past

24 you well past -- if the evidence in the case took one

I'm not

25 the first of the year -- and nobody can predict that.

5697

Juror No. 387 - Voir Dire

1 saying that's going to happen -- would that be a
disaster for

2 you?

far past

3 A. Well, everything has degrees, and I would say how

days

4 the 7th of January would have -- Our legislature is 120

120 days.

5 long, and things move at a sprightly pace during that

could

6 If it went, I would say, toward the end of January, it

that has to

7 very well be a disaster, because I will have a bill

gets it

8 be out of committee by that time, and the person who

9 out of committee will be me.

10 Q. Okay. Final subject: You have a friend in
Oklahoma City.

11 A. Yes, sir.

12 Q. And you referred, I think, to the fact that no one
disputes

13 that this event shattered many lives. Do you remember

14 corresponding or talking, E-mailing, your friend about
the

15 change of venue from Oklahoma to Denver?

16 A. No. We did not do that by E-mail. We both were in
Ann

17 Arbor at the -- on the same weekend when -- right
around the

18 time that happened or shortly thereafter.

19 Q. Okay.

20 A. And we were sitting in a bar, and it came up.

21 Q. All right. And what -- do you remember the
discussion?

22 A. Most of it, I think, yes.

23 Q. Okay. Did your friend feel -- have a strong
feeling or a

24 feeling one way or another about whether the case
should have

25 been moved?

5698

Juror No. 387 - Voir Dire

1 A. No. She did not.

2 Q. Okay. So --

3 A. That was not the substance of the conversation. It
was --

4 well, I can almost tell you verbatim. And then she
said, "You

5 know, well, you're going to get our case."

6 And I said, "Yes, it looks as if we are."

7 And she said, "Well, all right. So tell me
about this

8 judge."

9 And I said, "Well, he" --

10 THE COURT: I won't hold it against you.

11 JUROR: This was after a couple of beers. And
I said

12 "Well, he appears to be a no-bullshit judge."

13 And she said, "Well, good."

14 And that was sort of the end of the
discussion.

15 MR. TIGAR: All right.

16 JUROR: My apologies, sir.

17 BY MR. TIGAR:

18 Q. Well, you understand -- did -- I guess this happens
in

19 legislatures, too, committee hearings: People ask
questions

20 and they get more of an answer than they might have
been

21 looking for; but all right.

22 Would you feel, because your friend is there,
some

of the 23 special responsibility to help put together the shards
24 shattered lives that, you know -- that she saw?
25 A. No, I don't think that that -- I would feel a

5699

Juror No. 387 - Voir Dire

That's 1 responsibility to make a good and reasoned decision.
2 about the extent of it.

3 Q. And I know I said that was the last, but then I
forgot.

4 Could you turn, please, to Question 84 on page 18.

5 A. Uh-huh.

6 Q. Have you read anything that the ADL has put out
about the

7 Oklahoma City case or issues related to it?

8 A. No, sir.

9 Q. Okay. And do you know Sol Rosenthal?

10 A. No.

11 Q. Then you have Americans for Democratic Action.
Were you

12 also familiar with the Students for Democratic Society?

13 A. Vaguely.

14 Q. SDS, those -- but you didn't know any of the folks
that

15 were on the Michigan Daily at that time, Tom Hayden and
all

16 those people?

17 A. No.

18 Q. You were --

19 A. I was a nurse. It was boring.

20 MR. TIGAR: I want to thank you very much for
talking

21 to us. I appreciate it.

22 THE COURT: We're all appreciative of your
cooperation

23 in this. We're not able to tell you now this afternoon
whether

24 you will or won't serve on this jury. We have this
process

25 continuing and some more people coming in here, but
we'll be

5700

1 getting back to you rather soon.

2 And in the meantime, we ask of you to continue
to

3 follow the cautions that I gave you earlier to avoid
discussion

4 of the case, avoiding also any publicity about the
case, being

5 careful about all of the things that you read, see, and
hear,

6 to avoid anything which might influence your fairness
and your

7 ability to decide here according to the law and the
evidence.

8 And if anything does come up in the way of some change,
some

9 emergency or whatever, please call us. You have the
number.

10 Thank you. You're now excused.

11 760.

12 Good afternoon.

13 JUROR: Good afternoon.

14 THE COURT: Would you please raise your right
hand and

15 take the oath from the clerk.

16 (Juror No. 760 affirmed.)

17 THE COURTROOM DEPUTY: Thank you.

18 THE COURT: Please be seated there in that
chair by

19 the microphone. And you understand that you don't have
to lean

20 over and talk into the microphone.

21 JUROR: Okay.

22 THE COURT: The only reason we have the
microphone

23 there is to help us hear you. You're not being
broadcast

24 somewhere.

25 VOIR DIRE EXAMINATION

Juror No. 760 – Voir Dire

1 BY THE COURT:

2 Q. And you understand that the case that you received
a jury
Lynn
3 summons for is the case of United States against Terry
4 Nichols.

5 A. Yes, sir.

6 Q. And you got that summons last July.

7 A. Yes.

8 Q. And we asked you to respond to a few questions in
the --
9 connection with the summons. You did that.

10 A. Yes.

11 Q. Sent in your response, including a concern that you
have
12 about your children and the effect on taking care of
them that
13 jury service would involve, but we did ask you to come
out to
14 the Jefferson County Fairgrounds, then, last month on
the 17th,
15 and you did on September 17 and there with others, and
I did as
16 well and explained about the case, introduced people
who were
17 with me. And they're with me now again, so let me
introduce
18 them again.

19 And here for the Government are Attorneys Mr.

Lawrence

20 Mackey and Ms. Beth Wilkinson. They were there with me
before.

21 Now they're joined by Mr. Patrick Ryan and Mr. Geoffrey
Mearns.

22 Also, you met Mr. Michael Tigar and Mr. Ronald
Woods,

23 attorneys for Terry Nichols. And they were all present
at that

24 time.

25 And then I explained to you about the
background of

5702

Juror No. 760 - Voir Dire

1 the case, about how this case arises as a result of
charges

2 that were filed in Oklahoma City relating to an
explosion that

3 destroyed a federal office building in that city on --
in April

4 of 1995, April 19, and that in these charges, the
Government

5 has accused a man named Timothy James McVeigh, along
with Terry

6 Lynn Nichols, of bombing that building with the intent
to kill

7 and injure people in it. The indictment consists of
several

8 charges. One is a conspiracy with respect to the two
named

9 persons -- and then the indictment says "and other
persons not
10 named" -- and the conspiracy being a plan to bomb the
building.

11 And then also the indictment includes charges
that in
12 addition to planning it, they carried it out and did
indeed
13 bomb the building, resulting in death and injury. And
there
14 are eight charges of first-degree murder, intentional
killing
15 of eight law enforcement agents in the building. You
remember?

16 A. Yes.

17 Q. Excuse me. And you also remember my telling you
and the
18 others that the defendants pleaded not guilty to those
charges.
19 The case then got moved from Oklahoma City over here to
Denver
20 because of a concern about asking people in Oklahoma to
serve
21 on the jury. And then when the case came here, I
ordered
22 separate trials; that there be completely separate
trials just
23 as if there were two independent cases with respect to
24 Mr. McVeigh and Mr. Nichols and because of a concern
about
25 confusion, recognizing that the evidence has to be
considered

Juror No. 760 - Voir Dire

1 very separately as to each of them.

2 And there has been such a trial with respect
to

3 Mr. McVeigh. A jury was selected, came in, heard the
evidence

4 and returned a verdict of guilty. There was then an
additional

5 trial or hearing on the question of punishment, and the
jury

6 recommended a death sentence for Timothy McVeigh. That
was

7 that case.

8 Now we're starting a brand-new case, no
evidence at

9 all, nothing -- no evidence before us now. Nothing
that was

10 heard in that case can be considered in this case, and

11 certainly the outcomes cannot. You understand that?

12 A. Yes.

13 Q. To allow that to happen, the spillover from one
case to

14 another, would violate the whole reason for the
separate trial

15 order, you understand.

16 A. Sure.

17 Q. And now, of course, we're in a case selecting a
jury to

18 decide about the evidence that may come in at this
trial
19 relating to Mr. Nichols. And of course, Mr. Nichols,
like
20 every person in the United States who is accused of any
kind of
21 crime, is presumed to be innocent. And that's under
our
22 constitution. All persons accused are presumed to be
innocent
23 of the charges, and this presumption carries throughout
the
24 trial and entitles them to an acquittal, a verdict of
not
25 guilty, unless 12 fair-minded jurors decide that the
evidence

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1 shows guilt beyond a reasonable doubt.
2 No defendant, including Mr. Nichols, has any
3 obligation to prove anything at trial or disprove
anything.
4 It's not required of a defendant on trial to take the
stand and
5 answer any questions or explain anything. A defendant
may
6 simply remain silent and challenge the evidence brought
in
7 against him by the prosecution. And that means to
object to

8 admissibility, to cross-examine witnesses, and the
like.

9 And then at the end of the trial, the jury is
10 instructed in detail as to what has to be proved:

These are

11 the crimes charged, these are the essential things to
be

12 proved. And then the question is: Has the evidence
shown that

13 beyond a reasonable doubt?

14 And what it comes down to is that if there is
a

15 reasonable doubt after considering all of the evidence,
the

16 jury must give the defendant the benefit of the doubt
and find

17 him not guilty. You understand those points?

18 A. Yes, sir.

19 Q. And in a case when a defendant does not testify but
remains

20 silent, the jury is instructed very clearly that they
may not

21 consider that. They can't draw some inference from
that or say

22 to themselves even, Well, you know, if he's innocent,
why

23 didn't he tell us? Because that's not the law, and
there are

24 many reasons why an innocent person does not testify at
his or

25 her trial. You understand that?

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1 A. Yes.

2 Q. Now, do you agree with those things?

3 A. Yes.

4 Q. Are you ready to follow them in this case if you
served on
5 this jury?

6 A. Yes, your Honor.

7 Q. So you understand that Mr. Terry Nichols is here
presumed
8 to be innocent of these charges?

9 A. Yes.

10 Q. Now, in your original questionnaire -- and you
don't have
11 that in front of you -- you did express a concern about
your
12 children and that you volunteer at the school of one of
them.

13 A. Yes.

14 Q. And you have -- you have your questionnaire, the
big one
15 there, but not the original one.

16 A. Right.

17 Q. And since the time that you sent that back, have
you
18 resolved that as to caring for the children if you were
-- you

Monday 19 know, what jury service involves is being here 9 to 5
20 through Thursday, 9 to 1 on Friday.
21 A. Right.
some time 22 Q. That's regular trial day, and of course there is
23 getting here and getting back.
24 A. Sure.
Are 25 Q. And your children are several different ages here.

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Juror No. 760 - Voir Dire

1 they all in -- no, one of them is out of school now.
2 A. Yes, your Honor. I have two children --
husband? 3 Q. He lives -- yeah, he lives with you and your
4 A. Yes, he does.
5 Q. Well, is that still a concern for you that one of
them is 6 quite young?
7 A. It may be difficult. I don't have any family here
that 8 would be able to -- I do have friends that would help
out, but 9 it would be a consideration.
10 Q. And the son who works: What hours does he work?
11 A. He works from 7 a.m. till approximately 3:30.

12 Q. So does he normally get home then --

13 A. Shortly after that, yes.

14 Q. -- about the time your youngster gets home?

15 A. Usually shortly after.

16 Q. Well, can he help with that?

17 A. He could, but I do have a kindergartner that is
home in the

18 morning.

19 Q. Oh, I see. It's only a half day, isn't it,
kindergarten?

20 A. Right. She goes to school from 12:05 till 2:45.

21 Q. And have you talked this over with your husband?

22 A. Yes.

23 Q. The child care, I mean. I'm not trying to --

24 A. Right.

25 Q. -- force you into something. I just want to know
how big a

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Juror No. 760 - Voir Dire

1 problem it is.

2 A. Well, like I said, I have friends that have helped
me out

3 today and can help out a little bit; but I'm just
concerned if,

4 say, my friend's little one gets sick or my little one
gets

5 sick, it is a concern.

6 Q. Right. And you say you don't have parents here?

7 A. No. No, sir.

8 Q. And how about your husband?

9 A. My husband works full-time.

10 Q. No, I mean does he have parents here?

11 A. No.

12 Q. So you don't have any other family. I guess your
family is

13 all back in Michigan.

14 A. Yes.

15 Q. Well, we're not, you know -- we're not trying to
pass over

16 this and suggest that, well, you work it out. If this
is a

17 serious problem, we would understand it.

18 You also mention that you went down to
Oklahoma City

19 in June of 1995.

20 A. Yes, your Honor.

21 Q. And were you there on a trip through there, or why
were you

22 in Oklahoma City at that time?

23 A. We were there for a wedding in Yukon, Oklahoma, and
the

24 wedding was on the 15th. And we went either Friday or
Saturday

25 to see the site. We had an aunt come in from Chicago
that

Juror No. 760 - Voir Dire

1 wanted to go and see the site, so we did -- and I don't
2 remember. It was either Friday or Saturday that we
went to see
3 the site.

4 Q. Now, did you have family -- the wedding: Was that
a
5 relative?

6 A. Yes.

7 Q. What relation to you --

8 A. It was --

9 Q. -- or your husband?

10 A. It was my husband's cousin that got married.

11 Q. And do those folks live in Oklahoma City?

12 A. They live in Yukon, which is outside of Oklahoma
City on
13 the west side.

14 Q. Yes. Okay. Did you discuss this explosion with
them?

15 A. You know, off and on we did.

16 Q. Did they go to the site with you and show you
around?

17 A. No. My husband went and my aunt from Chicago.

18 Q. What was your reaction to seeing what you saw in
June of
19 1995?

20 A. It was pretty amazing.

21 Q. Well, you can tell us -- and we can't guess at it;
you can

22 tell us -- how that, if it does, affects you in
considering

23 whether you can be a juror and be fair in this case.

24 A. I think it was pretty phenomenal to see the damage
that was

25 done, to see the fence there with the teddy bears in it
and the

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Juror No. 760 - Voir Dire

1 pictures of the children. It had quite an impact.

2 Q. Still does?

3 A. Well, I wouldn't say that. I -- I mean it's
something to

4 stop and think about, the devastation of something that
severe.

5 Q. Sure. And, of course, there would be evidence in
this

6 case, if you served on this jury, as to all of those
things,

7 showing what happened and including testimony from
people who

8 were there and saw it.

9 A. Sure.

10 Q. Pictures. And, you know, again -- you know, there
is no

11 test here. This is just to ask you to tell us frankly

and

12 candidly some things about whether you can serve in
this case.

13 And of course, you know, both sides are entitled to a
fair jury

14 and to people who can put out of their mind some parts
of this

15 that they've seen, read, or heard and decide, even
though they

16 have the same view that you do that this is a pretty
terrible

17 thing. The question in this case is going to be does
the

18 evidence show that Terry Nichols had anything to do
with that

19 event. You understand that's what the trial is going
to be

20 about?

21 A. Right, right.

22 Q. Not the fact that there was an explosion and all of
that.

23 That will, of course, be part of the evidence; but the
real

24 question in the case is does the evidence show that
Terry

25 Nichols was involved --

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Juror No. 760 - Voir Dire

1 A. Right.

your 2 Q. -- in some way in causing this event. Now, what is

3 sort of assessment of your ability to do that?

think 4 A. Well, I think I would have to hear the evidence. I

the 5 after seeing what I saw, it was pretty traumatic to see

falling 6 buildings around there that were, you know -- windows

quite an 7 out and staircases falling out. I mean, it does have

pictures on 8 impact as far as what I saw, to see the children's

don't 9 the fence. Like I said, that was something that you

children 10 forget, especially, I think, when you do have small

11 yourself.

summons? 12 Q. And did you think of that when you got this jury

13 A. Yes.

14 Q. And think about whether that is something that may
15 influence you?

it. 16 A. I don't know about that so much. I did think about

17 Q. Did you talk to your husband about it?

18 A. Um --

about -- 19 Q. Nothing wrong with your talking to your husband

-- 20 A. I just mentioned that I had gotten the summons and

21 Q. What response did he have to that?

22 A. He didn't really say anything.

23 Q. Okay. And have you talked to any of the people,
the

24 relatives over in Oklahoma, about the fact that you've
been

25 summoned as a juror here?

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Juror No. 760 - Voir Dire

1 A. No.

2 Q. Are they still living there?

3 A. Yes.

4 Q. These same people?

5 A. Yes.

6 Q. And do you -- do you correspond with them or talk
to them

7 on the phone or anything on a regular basis?

8 A. That is my mother-in-law's brother that lives
there, and so

9 I'm sure she has probably told them.

10 Q. And, you know, you said -- I mean, I'm going into
this

11 because on page 38 of your questionnaire, if you want
to turn

12 to that -- you've got that here -- you said this very
thing

13 that you're saying now: After seeing this site, it's
pretty

14 hard to be open-minded.

15 A. And I believe what I say in there is that it was a
16 traumatic experience to see that and with the pictures,
the
17 teddy bears and all the devastation, the children that
were
18 killed and the lives that were lost.

19 Q. Yeah. Okay. And you also have followed some of
the
20 publicity about the case since then up -- I mean up
until the
21 time that I told you not to.

22 A. Yes. Yes, I had.

23 Q. And quite a bit?

24 A. Probably quite a bit. I was at home at the time of
the
25 bombing, and the flash came on TV; and I did watch
quite a bit

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Juror No. 760 - Voir Dire

1 of it at the time.

2 Q. And since, have you followed newspaper accounts or
3 television, radio about the McVeigh trial?

4 A. Not since we went and filled out the questionnaire.

5 Q. No, no. I'm talking about --

6 A. McVeigh, yeah.

on. 7 Q. -- when the trial of Timothy McVeigh case was going

8 A. Yes, I did.

9 Q. There was a lot of publicity.

10 A. Yes.

11 Q. And you followed that pretty well?

12 A. Well, quite a bit of it, yes.

13 Q. Did you come to some opinions about -- from what
you heard,

14 read, and saw there about Terry Nichols?

15 A. I don't think they really included him in it a
whole lot.

16 I think it was mainly on McVeigh. I think there was
some

17 discussion about Terry Nichols.

18 Q. Well, anything that causes you now as you sit here
to have

19 some opinion about whether Terry Nichols has any
responsibility

20 or is guilty in any way of any of the things --

21 A. I think there were probably a few things that I had
22 heard --

23 Q. And --

24 A. -- on the newscasts.

25 Q. Do any of those things affect your ability to give
him a

Juror No. 760 – Voir Dire

1 fair trial?

I would 2 A. I believe some of the things that I heard would --
3 question -- certainly question his innocence.

with a 4 Q. And, you know, here again, people have come in here
own 5 lot of different things in their minds because of their
heard; and 6 experiences, because of what they've seen, read, and
to how 7 there are differences between people or among people as

they've 8 many things they've read, seen, and heard and what

whether they 9 thought about it, whether they can set it aside or

any person 10 can't set it aside. And there is nothing wrong with

can't set 11 who says, look, I've seen so much, heard so much, I

asking 12 it aside, I can't really do this. And that's all we're

done here 13 you. We're not suggesting that anything that you've

14 is wrong --

know -- 15 A. Sure. I would probably retain quite a bit of, you

16 of what I have heard.

evidence? 17 Q. And have it in mind when you were hearing the

18 A. Probably.

19 Q. And let it become a factor in deciding the case
ultimately?

20 A. It would probably -- it would be something I would
think
21 about, probably, yes, along with hearing the evidence.

22 THE COURT: Okay. Well, we're at the time
that we
23 normally recess here, so you're going to be excused for
the
24 day; and we'll get back to you whether we need you back
25 tomorrow.

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1 JUROR: Okay.

2 THE COURT: All right? So you're going to be
excused
3 for now, and we appreciate very much your time.

4 JUROR: You're welcome.

5 THE COURT: And we'll let you know whether you
need to
6 be back tomorrow.

7 JUROR: Thank you.

8 (Juror out at 5:04 p.m.)

9 THE COURT: All right. Well, we want to go
back to
10 Friday and consider motions with respect to Friday.

11 MR. MACKEY: Your Honor, I wonder if we could

take

like a

have

-- I

JURORS

or

as to

oppose

5715

12 five minutes. I think there is simply one motion I'd

13 moment to talk about, and we may well agree if we could

14 five minutes.

15 THE COURT: And also let's talk about this one

16 mean, discuss this one, if you will.

17 All right. Recess, five minutes.

18 (Recess at 5:05 p.m.)

19 (Reconvened at 5:10 p.m.)

20 THE COURT: Be seated, please.

21 All right. What have you got to tell me?

22 ARGUMENTS AND RULINGS ON MOTIONS TO EXCLUDE

23 MR. MACKEY: Your Honor, we have been informed

24 anticipated motions to excuse on behalf of the defense

25 Jurors 811 and 168. Our position is that we do not

1 those motions.

2 THE COURT: All right. So we'll grant them.

3 MR. TIGAR: Yes, your Honor.

4
person with

THE COURT: And then with respect to this

5
child-care

the child care, sounds like she does have serious

6

problems.

7
oppose

MR. MACKEY: We recognize that, would not

8

excusing her.

9

MR. TIGAR: We agree also, your Honor.

10

THE COURT: We'll excuse her and notify her

11

accordingly.

12

MR. MANSPEAKER: I will do so.

13
address

THE COURT: All right. I have some matters to

14
as soon

with counsel in chambers on scheduling, so I'll see you

15

as you can get there and I can.

16

We'll be in recess in court till 8:30 tomorrow

17

morning.

18

(Recess at 5:11 p.m.)

19

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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct
transcript from

3 the record of proceedings in the above-entitled matter.
Dated

4 at Denver, Colorado, this 27th day of October, 1997.

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Paul Zuckerman

Carpenter

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Bonnie

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