

13 PROCEEDINGS

14 (In open court at 8:30 a.m.)

15 THE COURT: Please be seated.

16 Good morning. Are we ready with 549?

17 Good morning. Would you please raise your
right hand

18 and take the oath from the clerk.

19 (Juror No. 549 affirmed.)

20 THE COURTROOM DEPUTY: Thank you.

21 VOIR DIRE EXAMINATION

22 BY THE COURT:

23 Q. Please be seated there in that chair by the
microphone.

24 And you don't have to worry about the microphone. You
don't

25 have to position yourself with respect to it at all.
It'll

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1 pick you up.

2 A. Okay.

3 Q. And the only reason we have it there is to help us
hear

4 you.

5 A. Okay.

6 Q. So we're not broadcasting this. I don't want you
to get

7 the wrong idea about the microphone.

8 A. Okay.

9 Q. Now, you know that when that oath refers to "the
case now

10 on trial," that is the case of the United States
against Terry

11 Lynn Nichols.

12 A. Yes.

13 Q. And you got a summons notifying you that you have
been --

14 well, your name has come up through a random selection
process

15 as a juror --

16 A. Yes.

17 Q. -- for this case. And we asked of you to respond
to that

18 by telling us some things on -- about you on a short

19 questionnaire. You did that. And told us two things
that

20 concern you about possibly serving in the case, one
being an

21 injury that you sustained in a car accident --

22 A. Yes.

23 Q. -- affecting your ability to sit, and the other is
the

24 financial impact of a loss of wages.

25 A. Yes.

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1 Q. We didn't ignore that, but we did ask you to come
out to
2 the Jefferson County Fairgrounds with others on
September the
3 17th to respond to some questions, a lot of questions.
And in
4 the course of that proceeding and actually before
giving you
5 this questionnaire to fill out, I introduced the people
who
6 were there with me when I met with you and the other
members of
7 the jury panel. I want to do that again so you know
who's with
8 us this morning.

9 A. Okay.

10 Q. And here at the first table, which is the table for
11 Government counsel, are Mr. Lawrence Mackey and Ms.
Beth
12 Wilkinson, who were with us there last month. They are
now
13 joined by Mr. Patrick Ryan, Mr. Jamie Orenstein, who
are
14 additional lawyers for the Government.

15 You met Mr. Michael Tigar, Mr. Ronald Woods,
attorneys
16 for Terry Nichols; and Mr. Nichols, of course, was
present.

17 And then I explained the background of the
case; that

18 is to say, giving the sort of basic information, most
of which
19 was probably already known to you; that is that this
case
20 arises as a result of an explosion that occurred in
Oklahoma
21 City, Oklahoma, on April the 19th of 1995, when a
federal
22 office building was destroyed, people in it were killed
and
23 injured; that later, the Government lawyers filed
charges in
24 the form of an indictment, a statement of accusations
charging
25 that a man named Timothy James McVeigh and Terry
Nichols -- and

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1 the indictment then refers to "and other persons not
named" --
2 were in a conspiracy, a criminal plan, to bomb that
building,
3 to kill and injure the people in it. The charges
included not
4 only the conspiracy or planning to do that, but also
5 allegations that the defendants carried that out,
carried out
6 that plan and -- plan and did bomb the building with
the intent
7 to destroy it and to kill and injure people in it; and

the

8 charges include some eight charges or counts of first-
degree
9 murder, premeditated murder of eight law enforcement
agents who
10 were present in the building and died in the explosion.

11 To these charges, the defendants entered their
pleas
12 of not guilty, thereby creating the issues for trial.

And that

13 the case was moved for trial from Oklahoma to here in
Denver
14 because of a concern about jury -- you know, getting
people
15 from Oklahoma to serve on the jury.

16 And then I ordered separate trials. That the
evidence

17 as it may relate to Mr. Nichols be considered
separately from

18 the evidence relating to Mr. McVeigh --

19 A. Yes.

20 Q. -- as a matter of fundamental fairness so that the
21 defendants would be separated and separate juries
consider
22 whatever the evidence may be.

23 There was a trial here of the evidence
relating to

24 Mr. McVeigh. A jury was selected for that case and
returned a

25 verdict of guilty; and also a second trial or hearing
was held

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jury 1 before that jury on the issue of punishment, and the
2 returned a recommendation for a death sentence.
3 A. Yes.

begin the 4 Q. That was earlier this year. We are now ready to
with 5 trial of Mr. Nichols and whatever the evidence may be
must be 6 respect to him. All that happened in the McVeigh trial
And 7 set aside now by all those who know anything about it.
must 8 those who have read, seen, or heard something about it
has no 9 disregard that; and of course, the outcome of that case
that case 10 bearing on this case. To allow the jury verdict in
obviously 11 to in any way influence a jury in this case would
understand? 12 violate the reason for the separate trials. You
13 A. Yes. Yes, I do.

answered 14 Q. Okay. Now, I -- and what we're doing here is you
and we 15 all of these questions on the written questionnaire,
16 made copies of it for the people who are here with us

this

17 morning. And their use of it is limited to what we're
doing
18 here now. These copies haven't been given to anybody
else,
19 certainly will not be made public. And also, we have
20 attempted, so far as we can, to try to balance out the
privacy
21 interests of the people who are answering questions
that are
22 quite personal in nature and the public interest in
this trial
23 proceeding. And as a part of that, we're not using
your name
24 here, and we make these arrangements so you can come
and go to
25 and from the courthouse without TV and press
photography taking

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1 your picture. So that's the background of all of that.
2 Now, you understand we are in open court and
what is
3 said here is public.
4 A. Yes.
5 Q. Okay. Now, you, as I recognize, did answer this
first
6 questionnaire with telling us of your back injury, and
I just

condition 7 want to ask you about that now. What is your present

8 as far as your back is concerned?

down and 9 A. I am now in a new job where that I can get up and

all 10 out of the chair where it's not -- where that it's not

standing. 11 day -- or most of the day being in a chair or -- or

before 12 My back has caused me to change my job because the job

it was 13 that was in a chair, was working at a PC all day, and

14 just -- it was just too much for it.

described on 15 Q. Now, is the job you have now the one that you

16 the questionnaire?

17 A. Yes.

about -- 18 Q. Okay. And of course, this job that we're talking

lot of 19 that is to say, the work of the jury here -- involves a

20 sitting.

21 A. Uh-huh.

jury 22 Q. You're in a chair. You see the other chairs in the

23 box are the same.

24 A. Uh-huh.

position 25 Q. And, you know, you're here for about -- in this

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1 about two hours at a time, generally speaking. We do
take a
2 recess roughly midmorning, there's a noon recess
obviously, and
3 for about an hour and a half during the trial, and then
a
4 recess in the afternoon. So there is a chance for the
jury,
5 you know, about every two hours, we would say, to get
up and
6 move around; and of course, there's a hallway back here
for
7 people to exercise, walking up and down if they want to
do it.

8 A. Uh-huh.

9 Q. And you've seen the jury room facilities.

10 A. Yes.

11 Q. So you just have to tell us because we don't know
any other
12 way to find out -- you tell us whether you can perform
this
13 jury duty physically as far as your back is concerned
and your
14 well-being.

15 A. Yes. I -- to be honest, I -- when I am traveling,
I am
16 told that -- that -- that I can set for two hours at a
time; so

the two 17 if that would be the case where that it would just be

In other 18 hours in the chair, I would think that I could do it.

19 words --

yesterday. 20 Q. You were here yesterday, had to wait all day

21 A. Yes.

yesterday, but 22 Q. Right. And we're sorry to keep you all day

such that 23 we just don't have the ability to judge the time here

But -- 24 we can put people on one after another and organize it.

of 25 so you were in a chair part of the time yesterday, and

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to then. 1 course, you could get up and move whenever you wanted

Bengay, 2 A. When I -- when I got home, I took a very hot bath,

back. 3 and put heat on my back, so it -- so it did affect my

4 Q. Yeah. Were you sitting most of the day?

5 A. I'm sorry?

6 Q. Were you sitting most of the day?

I was 7 A. No. No. I was up and down. I got up and walked.

8 known as the pacer for a while because I walked back
and forth.

9 Q. Sure. Well, and you'd be free to do that at breaks
during

10 the trial; but, you know, this is day in and day out.
And I

11 don't know -- I'm not trying to talk you in or out of
anything.

12 Do you take pain medication for this condition?

13 A. Only over the counter, but it is daily. I always
carry it

14 with me.

15 Q. Like Motrin or something like that?

16 A. Tyle --

17 Q. Tylenol?

18 A. Tylenol. I kind of balance it around so I don't
always

19 affect the same part of my body daily. It's not good
for the

20 body. The liver, the kidney, the stomach, whatever.

21 Q. Yeah. Well, tell us about the new job, too. When
you --

22 when did you get this new job?

23 A. I -- it was in May, the middle of May. I think it
was the

24 18th.

25 Q. So it's the same job you had when we first
contacted you

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1 with the summons?

in

2 A. Yes. When I -- when I did quit my old job, it was

3 August of '9 -- of '96.

4 Q. Uh-huh.

to work

5 A. And I was at home for -- for a while and went back

could get up

6 in May of this year. But it was with a job that I

7 and down with.

8 Q. Yeah.

computer

9 A. Still working on the -- still working on the

10 because that is my background.

11 Q. Your injuries were in an automobile collision?

12 A. Yes. Yes. It would be three years in December.

injuries?

13 Q. Did you sustain injuries in addition to the back

14 A. I -- it was -- was my head, neck, back, hips, so --

were you

15 Q. In connection with the head injury, were you --

head

16 unconscious for a while? Did you have a -- you know, a

17 injury in that sense?

am told

18 A. I was -- I was in an El Camino, hit from behind. I

brought the

19 that I -- I -- that the impact was enough that it

back 20 seat back, which therefore, I -- excuse me -- I hit the
back 21 window, and I was the one that broke the -- the back --
back 22 window out. So the back of my head was -- was bruised.
23 Q. Were you unconscious?
24 A. I don't recall being unconscious. And if so, it
was for a 25 very short time, but I don't believe I was.

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1 Q. Sometimes they refer to certain types of head
injuries as a 2 closed-head injury where the brain gets bruised or
there's 3 bleeding onto the brain. Anything like that happen?
4 A. No. No. I -- there was pain for a -- for a long
while.
5 It took a lot of tests and X-rays and whatnot. It was
just --
6 it was just more involving the -- it didn't even go all
the way 7 to the skull. That was not fractured.
8 Q. I see.
9 A. So my brain was not --
10 Q. You had neck -- a sore neck?
11 A. Neck. Which even still at times would -- but it
was

the time 12 whiplash. I was in a collar for -- being worn most of
of work 13 while being up for about two weeks. I was -- I was out
half-times. 14 for three weeks, went back for two weeks being only

-- you 15 Q. Has all of this affected you in ways other than the
and 16 know, this period of pain and discomfort and stiffness
you in 17 soreness and the residual on the back, has it affected
18 any other way physically?

always 19 A. If -- if you are asking about my speech, I have
20 stuttered, so no other way.

a -- a 21 Q. Well, you're very perceptive. I was trying to find
22 gracious way to ask about your speech.

23 A. Sure.

And 24 Q. But you saw what I was looking for, and thank you.
-- 25 don't be embarrassed about that. You don't seem to be

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1 A. No.

tell us 2 Q. -- at all. And that's good. Now -- well, just

3 whether you think you can do this physically because if
you
4 can't, we understand that. We're not trying to put
people
5 through, you know, something that would injure them
further or
6 where because of their physical limitations they just
can't
7 focus on what's happening here. Obviously, we need
people on
8 this jury who can listen attentively for days at a time
here.
9 This could last a long time.
10 A. The days at a time is -- I would feel would be more
of the
11 months at -- at a time. And I really doubt if -- that
my back
12 could take it.
13 Q. Yeah.
14 A. I woke up with a sore neck this morning. I cannot
turn --
15 turn -- turn -- I cannot turn my head around.
16 Q. Yeah. And it's one thing to do a day or two days
or three
17 days, but we're talking about the possibility of having
people
18 sit in these chairs for several months.
19 A. Yeah. That -- that is what I'm saying. I really
do have
20 my doubts if -- if -- that my back would not --
21 Q. Yeah.

22 A. -- create a problem for me.

23 Q. Well, and a problem for you is a problem for us.

24 A. Sure.

25 Q. Because we're all concerned about people being able
to do

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1 this work, and physical limitations are a problem. I
don't
2 know.

3 THE COURT: Do counsel have any questions?

4 MR. TIGAR: No, your Honor.

5 MR. MACKEY: Judge, we consent.

6 MR. TIGAR: We consent.

7 THE COURT: May we agree then?

8 MR. TIGAR: Yes, your Honor.

9 THE COURT: We're going to excuse you. We
don't want

10 to put you through some torture here for your back, and
we do
11 indeed appreciate your efforts.

12 JUROR: Okay.

13 THE COURT: And, you know, it isn't that we
didn't

14 believe you the first time when you said you had a bad
back,

15 but what is necessary in these circumstances is to find

out

16 more about it and to talk with the person involved. So
thank

17 you for your efforts.

18 You're now excused from service in this case.
You're

19 excused from your summons, and you can leave. And we'd

20 appreciate, however -- you understanding the importance
of not

21 talking about this with others until we get a jury
seated in

22 this case.

23 JUROR: Okay. Sure.

24 THE COURT: Okay.

25 JUROR: Thank you.

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1 THE COURT: Thanks.

2 22.

3 Good morning. Would you raise your right hand
and

4 take the oath from the clerk.

5 (Juror No. 22 affirmed.)

6 THE COURTROOM DEPUTY: Thank you.

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

8 microphone.

9

VOIR DIRE EXAMINATION

10 BY THE COURT:

was for

11 Q. And you understand that the summons you received

Terry

12 service as a juror in the case of United States against

13 Lynn Nichols.

14 A. Yes, I do, your Honor.

yourself,

15 Q. You responded to the summons by the return of a

16 questionnaire in which you gave us information about

jury

17 including that you're a practicing lawyer and a sole

18 practitioner, and you're certain about the impact of

financial

19 service on your practice, both with respect to your

clients.

20 interests and the -- and your representation of your

21 A. That is correct, your Honor.

persons

22 Q. In spite of that, you were directed to come to the

23 Jefferson County Fairgrounds, along with the other

written

24 summoned, and to respond further to the questions on a

questions

25 questionnaire. You did appear and did answer those

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1 for us, as well.

2 A. Yes, I did.

3 Q. And at the time of your appearance, along with
other

4 members of the jury panel, I introduced myself,
discussed the

5 background of the case, and also introduced the
attorneys and

6 the defendant in the case. And I'll do that again to

7 acquaint you with the people who are present,
including

8 Mr. Lawrence Mackey and Ms. Beth Wilkinson here at the

9 Government's table, along with now Patrick Ryan and
James

10 Orenstein, who were not there then but who have now
joined the

11 prosecution.

12 Also, you recall meeting Mr. Michael Tigar and

13 Mr. Ronald Woods, attorneys for Terry Nichols; and Mr.
Nichols

14 was present.

15 I explained the background of the case, and
you

16 probably were already aware of the background of the
case; but

17 again, so that the record will reflect it, I advise you
again

18 that this case arises out of the explosion of a -- that

19 destroyed a federal office building, injuring and
killing

1995, the 20 people in it in Oklahoma City on April the 19th of
21 filing of an indictment later then in the United States
22 District Court for the Western District of Oklahoma in
Oklahoma
23 City, accusing a man named Timothy James McVeigh,
together with
24 Terry Nichols -- and the indictment refers to "and
other
25 persons not named" -- with a conspiracy to bomb that
building

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1 and to injure and kill people in it. The accusations
in the
2 counts of the indictment include not only the
conspiracy, but
3 also the carrying out of a plan to do that and eight
counts of
4 first-degree murder with respect to the lives of eight
law
5 enforcement agents who died in the explosion. And I
explained
6 further that the defendants entered their not guilty
pleas in
7 Oklahoma City.

8 The case was transferred here to Colorado for
trial
9 because of a concern about obtaining a jury in
Oklahoma. Then

10 I entered an order for separate trials, ordering that
to avoid
11 confusion and to provide fairness in their trials, the
evidence
12 relating to Mr. Timothy McVeigh would be considered by
one jury
13 at a separate trial from that relating to the evidence
relating
14 to Mr. Nichols. We did have such a trial here with
respect to
15 the evidence as concerns Mr. McVeigh. The jury was
selected in
16 that case and heard that evidence, returned a verdict
of guilty
17 on all counts and then, as a result of the further
hearing on
18 penalty, returned a recommendation for the death
sentence for
19 him.

20 That, too, you probably already knew? Yes?

21 A. Yes.

22 Q. And I reviewed it, of course, so that all persons
would
23 have the same background information.

24 Now, we want to turn directly to your
situation and
25 your practice. As I gathered it from your response to
the long

And
lawyers
protect
here by
entry and
and so

1 questionnaire -- and you have it there in front of you.
2 you know, I think, that I've provided copies to the
3 participating here and that we're also attempting to
4 the privacy interests of all who have been summoned in
5 not using their names and by including the manner of
6 exit from the courthouse to prevent press photographers
7 forth.

happens

8 Now we're in open court, of course, and what
9 here is public. I'm sure you understand that.

10 A. Yes, I do, your Honor.

and have
1994?

11 Q. And you told us here you graduated from law school
12 been in private practice as a sole practitioner from

13 A. That's correct, your Honor.

general

14 Q. And your -- what does your practice include? Is it
15 practice?

16 A. Yes, it is.

17 Q. A bit of everything?

18 A. That's about right, your Honor.

19 Q. Including trial work?

20 A. Yes.

the 21 Q. Any criminal? I see at one time, you interned with
22 Colorado public defender's office.
about 25 23 A. Yes, I did, your Honor. My practice consists of
to 24 to 30 percent criminal defense work, another 25 to 35
general 25 40 percent family domestic law, and the rest is simply

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1 litigation, collection work.
several 2 Q. All right. And what's your schedule for the next
schedule. 3 months, your own schedule? You know, professional
up next 4 A. I have quite a few hearings, a felony trial coming
the 5 week and then some county court cases throughout. Over
seems, from 6 past three years, my business has been busiest, it
this year. 7 August through February, and it's showing true again
defense of a 8 Q. So your court schedule includes, you said, a
9 felony case next week?
10 A. That's correct, your Honor.
11 Q. And then are there more trials scheduled in --

12 A. Yes -- I have some county court, you know, criminal
cases.

13 I have some municipal cases coming up, and then there
are some

14 custody, divorce-type hearings coming up also through
January.

15 I know I have a few of those.

16 Q. And in all of these, are you the only lawyer
representing

17 the clients you're serving?

18 A. Except for the felony case, which I am co-counsel
on, I am

19 the only attorney of record.

20 Q. Okay. So the situation is as you first reported
it, I

21 guess, in the original summons questionnaire; that you
are

22 committed to these people to represent them during this
same

23 period of time that would be involved in the trial of
this

24 case?

25 A. That is correct, your Honor.

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1 THE COURT: All right. Well, do you have any
2 questions of this --

3 MR. MACKEY: No, your Honor. We would consent

to his

4 release.

Honor? 5 MR. TIGAR: May I ask two questions, your

6 THE COURT: You may. Yes, Mr. Tigar.

7 VOIR DIRE EXAMINATION

8 BY MR. TIGAR:

9 Q. Good morning.

10 A. Good morning, sir.

11 Q. My name is Michael Tigar, and we're not -- not
trying to

12 harass you. I just want to focus on something -- you
know, a

13 couple of things in your questionnaire. You understand
that

14 it's important to everybody here that we have a jury
that's as

15 representative as possible and that there are no
volunteers?

16 A. I understand that.

17 Q. And have you thought about what would happen if you
were

18 selected for jury service on a long case like this?

19 A. Since I received the summons, yes, I have thought
about it.

20 Q. Okay. Is there any way in the world that you can
think of

21 that you would be able to serve as a juror in this case
and

22 still stay afloat?

23 A. No. I mean, I could work after hours, in the
morning hours
24 like I do now. I put in at least ten hours a day now.
But I
25 would lose new clients. I get referrals quite often.
People

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1 come in the door; and if I'm not there, they are going
to go
2 on. Once the existing work dries up, I'm going to be
stuck for
3 a few months afterwards. So I'm not going to be able
to pay my
4 overhead, my education overhead expenses, et cetera.

5 Q. And the domestic relation -- the felony criminal
trial --
6 as I understand it, you say you also have a number of
settings
7 in civil cases?

8 A. That is correct.

9 Q. And these are custody matters and so on?

10 A. Yes.

11 MR. TIGAR: Thank you very much for answering
my
12 questions.

13 May I just have a moment to confer, your
Honor?

14 THE COURT: You may. Yes.

15 MR. TIGAR: I'm sorry, your Honor. One more.

16 BY MR. TIGAR:

17 Q. Did -- did you factor in that the court does not
sit Friday

18 afternoons?

19 A. Yes, I was aware of that from the last --

20 MR. TIGAR: Okay. Thank you.

21 We consent, your Honor.

22 THE COURT: All right. Well, we're going to
excuse

23 you, and we appreciate your cooperation with us in
going

24 through this process to this point. And of course, you
know,

25 we're concerned about you and your ability to continue
to

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1 practice; but principally, of course, it's the impact
on your

2 clients and the other courts that are involved. We
don't

3 excuse lawyers automatically, as you understand. So
thank you

4 for your cooperation.

5 You're now excused. We'd appreciate it if you
not

6 talk about this process with others until we get a jury

seated.

7 JUROR: Thank you.

8 THE COURT: Thank you. You're excused.

9 680.

10 Good morning. Would you please raise your
right hand

11 and take the oath from the clerk.

12 (Juror No. 680 affirmed.)

13 THE COURTROOM DEPUTY: Thank you.

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

15 microphone. Excuse me. And you don't have to worry
about

16 positioning yourself with the microphone. It's just
there to

17 help us hear you, and it'll pick you up without having
to lean

18 over and talk into it.

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. You understand that the oath there refers to the
trial of

22 the United States against Terry Lynn Nichols for which
you

23 received a summons for jury service last July.

24 A. Yes, I do.

25 Q. In response to that summons, you sent back a short

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1 questionnaire, and we appreciate that. And then the
second
2 thing was that you were notified to appear at the
Jefferson
3 County Fairgrounds' auditorium building last month on
September
4 the 17th to answer a much longer questionnaire. And
you did
5 that. You appeared there and you did fill out the
6 questionnaire, but as part of that, I also made some
7 explanations about the case and introduced people who
were
8 there with me. They're here with me again today and I
want to
9 reintroduce them so you know who's here with us this
morning.

10 First for -- at the table here for counsel for
the
11 Government, we have Mr. Lawrence Mackey and Ms. Beth
Wilkinson.
12 You met them out there at Jefferson County. They are
now
13 joined by Mr. Patrick Ryan and Mr. James Orenstein.
They were
14 not there. They are additional lawyers for the
Government.

15 You did meet Mr. Michael Tigar and Mr. Ronald
Woods,
16 attorneys for Terry Nichols. Of course, Mr. Nichols
was there

17 with us and is with us again today.

18 And then I want to just review with you
briefly what I

19 told you out there about the background of the case and
some of

20 the basics here. And please understand that I'm not
suggesting

21 you didn't hear and listen to what I said or that you
don't

22 remember it, but it's important -- we speak often in
court

23 about doing something for the record. And it's
important for

24 the record to review this again as sort of the backdrop
for the

25 questioning, and we're going to ask you some more
questions, if

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1 you can believe it.

2 But I told you and the others that this case
is -- has

3 been filed because of a -- an explosion that destroyed
a

4 federal office building in Oklahoma City, Oklahoma, on
April

5 the 19th of 1995, resulting in the deaths and injuries
to many

6 of the people who were in the building. That the
attorneys for

of 7 the Government then filed an indictment -- a statement
Federal Court 8 accusations or charges -- in Oklahoma City in the
along with 9 there, accusing a man named Timothy James McVeigh,
other 10 Terry Lynn Nichols -- and then the indictment says "and
criminal 11 persons not named" -- of conspiring or entering into a
the 12 agreement to bomb that building and to kill and injure
13 people in it.

or 14 Now, the indictment consists of some 11 counts
15 charges that include the conspiracy and then include
plan and 16 allegations that these people went forward with that
and 17 did, indeed, bomb the building with the intent to kill
charges 18 injure people in it. And the indictment includes eight
agents who 19 or counts of first-degree murder of law enforcement
employees of 20 were in the building. These are officers of or
government, 21 different law enforcement agencies of the national
22 persons who died in the explosion.

their 23 To all of the charges, the defendants entered
trial. 24 pleas of not guilty, thereby creating the issues for

Denver 25 The case was then moved from Oklahoma City here to

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1 because of a concern of asking people in Oklahoma to
sit on a 2 jury since the event occurred there.

3 And then after the case was here in Colorado,
I 4 entered an order for separate trials, finding that it
would be

5 fundamentally unfair to both Mr. McVeigh and Mr.
Nichols to be 6 tried and the evidence with respect to each of them
tried in 7 the same -- at the same time before the same jury
because of 8 expected differences.

9 So as a result of that order, there has been a
trial

10 earlier this year of the evidence concerning Mr.
McVeigh. And

11 Mr. McVeigh was represented by lawyers other than the
lawyers

12 representing Mr. Nichols. That a jury was picked for
that

13 case, using much the same process as this. That jury
heard

14 evidence relating to Mr. McVeigh and found him guilty,
and then

the 15 the jury was required to hear a second trial concerning
16 issue of punishment and did do that and returned a
That's 17 recommendation for a death sentence for Mr. McVeigh.
18 over.

19 Now we're getting ready to hear the evidence
And of 20 concerning Mr. Nichols and picking a jury to do that.
21 course, what happened in the trial of Timothy McVeigh
now 22 cannot be considered in connection with Mr. Nichols.
So

23 whatever anyone coming in on the jury here may have
read, seen, 24 or heard about what happened at Mr. McVeigh's trial,
that has 25 to be set aside. We start with a clean slate with no
evidence

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1 at all in the case. You understand these points?
2 A. I do.
hear the 3 Q. And now, the purpose, of course, is to have a jury
4 evidence that the Government may have with respect to
5 Mr. Nichols and determine whether it meets the required
6 standards under the law. And I want to mention these

any more 7 fundamental principles of law, too, before we ask you
jury in a 8 questions. And, you know -- you've never been on a
9 criminal case, have you?

10 A. No.

11 Q. And that's true, of course, of most of the people
who have 12 been summoned in here, and that's why I took time then
and I 13 want to take a few minutes to repeat now these basic
principles 14 of our criminal justice system. They are basic because
they're 15 required under the United States Constitution, so
they're a 16 part of our fundamental law. And they are applicable
in all 17 criminal cases in the United States regardless of who
the 18 defendant is or what the crimes charged are or who the
19 prosecution is or even what court it's in as long as
the 20 court's in this country, following our Constitution.

21 Basic to all is the -- of course, a fair jury,
having 22 a jury consisting of 12 persons who can fairly hear and
23 consider the evidence in the case and follow the law.

And

24 that's what we're engaged in here, picking a jury,
selecting a

25 jury. But then the defendant, whoever he is and
whatever he's

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1 charged with, is presumed to be innocent of those
charges.

2 These statements of charges are simply allegations,
3 accusations, and the person charged is presumed to be
innocent.

4 And that presumption carries throughout the trial and
entitles

5 that person to an acquittal, a verdict of not guilty,
unless 12

6 jurors, hearing and considering only the evidence on
trial,

7 determines that it proves the defendant guilty and
proves it

8 beyond a reasonable doubt.

9 No person who is accused has any burden or
duty of

10 proving himself not guilty or indeed of proving
anything in his

11 trial. He need not call any witnesses or introduce any
12 evidence, and no person accused need take the witness
stand and

13 answer any questions from the lawyers or explain
anything to

14 the court and jury. In other words, a defendant who is
charged

15 can simply remain silent and challenge the evidence

against him

16 by objections to the admissibility of evidence and by
17 cross-examining the witnesses and so forth.

18 And at the end of the trial, after all of the
evidence

19 is in, the court gives the jury instructions about the
law,

20 which include the specific requirements of what has to
be

21 proved by the evidence. The -- as to each offense
charged --

22 we refer to it as the elements of the offense, what
things must

23 be proved to find the defendant guilty of a conspiracy
or

24 guilty of first-degree murder -- and then goes through
other

25 detailed instructions with respect to the consideration
of

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1 particular types of evidence and the like and then asks
the

2 jury to decide whether what you've heard and seen as
evidence

3 in the case proves it to your satisfaction beyond a
reasonable

4 doubt. And if not, then the jury's duty, of course, is
to

5 return a verdict of not guilty.

6 Do you understand these points?

7 A. I do.

8 Q. And those instructions always say in a case in
which a

9 defendant does not testify that the jury may not
consider that

10 fact at all. It's not something that would warrant any
kind of

11 inference that well, what's he hiding or, you know, if
he's an

12 innocent person, why doesn't he take the stand and tell
us.

13 There are many reasons why a person who is innocent of
a crime

14 would not testify at trial. Do you understand that?

15 A. Yes.

16 Q. And so we say routinely in such circumstances on
the

17 instructions that look, you can't think about it, you
can't

18 talk about it. You have to put that aside. And then
what the

19 rule about the presumption of innocence really means is
that if

20 at the end of -- and of course, the jury talks about
what they

21 heard and saw as evidence in their deliberations, but
in the

22 end, the jury is asked to -- or directed to follow the

23 principle that if, after all of that, there is a
reasonable

24 doubt about whether the evidence shows guilt, then the
25 defendant must receive the benefit of that doubt and be
found

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1 not guilty. Do you understand?

2 A. Yes.

3 Q. And so, in very real terms, you understand that Mr.
Terry
4 Nichols sits in this room with us this morning presumed
to be

5 innocent of these charges made about him?

6 A. Yes.

7 Q. And do you agree with these principles?

8 A. Yes.

9 Q. And are you prepared to follow them if you were to
serve on
10 the jury in this case?

11 A. Yes, I am.

12 Q. Now, after I went through these same -- briefly,
these same

13 explanations, I asked you to turn to the written
questionnaire

14 and answer all these 166 questions, and you did that,
and we

15 appreciate that. Then what we did was take these
answers that

16 you gave us, made copies for the people who are here

17 participating in this process, the people I've
introduced, and
18 with, of course, the understanding that because a
number of
19 things that we asked of you might be thought of as
personal and
20 private, we respect your privacy and we have not given
this
21 information to anybody else and won't use it for any
purpose
22 other than this. And we are not referring to you by
name here,
23 and we arranged for you to come and go to the
courthouse so
24 there can't be press photographers taking your picture
and all
25 that.

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1 So we balance that privacy interest out and
also
2 recognize the public interest in the proceeding.
Please know
3 that what we do now is public. You understand?
4 A. Yes.
5 Q. So your answers to these questions now are in the
-- in
6 public.
7 A. Yes.

do have 8 Q. Okay. Well, you may not want it that way, but we

9 to balance --

10 A. I have to answer them; right?

11 Q. Yes, you do.

12 A. Okay.

sensitive 13 Q. If there's anything that we're to be particularly

14 to, you tell us.

questions all 15 We're not going to go through all these

is 16 over again. Don't worry about that. All I want to do

ask you 17 review with you a few of the things that you said here,

some 18 to explain or expand on a few of them; and then I have

And 19 additional questions that are not on the questionnaire.

will have 20 when I'm done with questions, a lawyer for each side

while, 21 an opportunity to ask you some more, so bear with us a

22 if you will.

right 23 And I want you to know, too, that there are no

going to 24 or wrong answers. This isn't a test, and you're not

criticize you 25 be challenged on what you say. Nobody's going to

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1 for any answer that you give. In the areas where the
questions
2 asked for your opinions, attitudes, beliefs, you know,
you just
3 tell us what they are and don't worry about how we
react to
4 them because we've just about heard it all, you know.
So I
5 don't think anything that you say to us will cause us
to think
6 less of you or be concerned.

7 Now, if I could just review your background a
little
8 so that we understand it. You are originally from
Denver. You
9 were born and raised here.

10 You have to answer out loud. That's one of
the
11 rules --

12 A. Yes, I am.

13 Q. -- so that your answers can go into the record.

14 A. Yes.

15 Q. Okay. And you are married with four children
living at
16 home.

17 A. Yes.

18 Q. And you are also now employed, and the work you do

for your

19 employer is in the human resources field.

20 A. Yes, it is.

21 Q. And you've been there for a good long time.

22 A. (Juror nods head.)

in human

23 Q. Tell us -- you refer to yourself as a coordinator

you do

24 resources. Would you tell us a little more about what

25 in that work.

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can do

1 A. Well, that's a term that you can use so that you

do the

2 anything, I think. So I assist the vice president. I

recruitment.

3 company newsletter, unemployment, training,

their

4 Q. You work directly with personnel on things like

5 insurance benefits and --

6 A. I help a little bit with that, too.

I

7 Q. -- and all that. And what about areas of dispute?

procedure?

8 assume this employer has some kind of a grievance

9 A. Yes.

10 Q. And there are also union contracts there; right?

would
11 A. Yes. Right now, I'm taking notes for one of the
12 negotiation processes, but only because the person that
13 be just resigned, so . . .

both union
14 Q. All right. So do you deal with the -- you have
15 employees and nonunion employees?

16 A. Yes.

17 Q. And do you deal with both?

18 A. Yes, I do.

they
19 Q. And with respect to the union employees, obviously,
20 have particular procedures applicable to them because
21 bargaining contract?

22 A. Yes.

employees?
23 Q. And is there a different procedure for nonunion

example,
24 I'm talking about where they have a grievance, for
25 against a supervisor or something of that nature.

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1 A. They would just come to human resources directly.

2 Q. Yeah.

3 A. There's not a contract or anything. A written
procedure,

4 no.

5 Q. No written procedure for the nonunion?

6 A. Right.

7 Q. So again, do you monitor compliance with the
requirements

8 of the union contracts?

9 A. Not specifically. I mean, employees come to me
sometimes

10 as a liaison or just --

11 Q. Uh-huh.

12 A. -- to speak about something, but I don't really
have the

13 authority to --

14 Q. Do you have a formal role in investigating
grievances or

15 complaints and taking them through this -- I assume
there are

16 various steps in the process.

17 A. No. Sometimes I can explain the contract to them,
but I

18 don't have a role.

19 Q. Do you also have a role in the hiring of new
employees?

20 A. Yes, I do.

21 Q. And I take it you follow some formal procedure for
22 applications, interviews, and so forth?

23 A. For the most part.

24 Q. And is -- do you work with lawyers?

25 A. We use lawyers occasionally, but I don't
specifically work

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1 with them.

2 Q. Okay. Well, I was only referring to things like if
3 there -- again, I seem to be dwelling on grievances and
things,

4 which is not to suggest that your employer has more
than

5 others; but we're simply looking at it in terms of
whether

6 you've been involved in some kind of fact-finding and
7 investigation process of working with lawyers to
resolve

8 disputes, that kind of thing.

9 A. When we have grievances that, say, go to litigation
or --

10 we get attorneys. I do not sit in on those.

11 Q. Okay. And your husband is also employed, and as I
12 understand it, he works with an energy company?

13 A. Yes.

14 Q. And works for them in computer-assisted or
computer-aided

15 drafting?

16 A. Right.

17 Q. And he's been with them for -- well, he's been in
that line

18 of work for a number of years?

19 A. Yes.

20 Q. Now, you -- in the area of opinion, we asked you
very

21 broadly your opinion regarding the effectiveness of the

22 criminal justice system. I'm referring now to page 22.
Please

23 refer to your own -- you have your questionnaire there,
I hope.

24 Okay. Please turn to 22. And it's at Question 100
there near

25 the top. Just take a moment to review what you said.

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1 There seem to be two parts to your answer, one
2 relating to your observations and opinions about the
trial of

3 this case of O. J. Simpson. Just tell us, if you would
--

4 expand on what you said here about that and its effect
on you.

5 A. Well, that -- that certainly -- the O. J. Simpson
trial,

6 the biggest trial that we've ever been able to follow
-- and,

7 you know, I did not think it -- it was done well.

8 Q. How much did you follow it?

9 A. You know, I watched some pieces of it at home at

night. I

10 wouldn't say that I dwelled on it like most people.

11 Q. It was telecast, of course, live as it was
happening.

12 A. Yes. I think there were certain parts -- and it
was rather

13 lengthy. It got a little boring after a while, I
think.

14 Q. And do you have criticisms of particular aspects of
the

15 case, like lawyers for one side or the other, the
judge, the --

16 A. Well, I don't think the judge seemed to have the
control

17 that maybe he should have. But having no experience,
it's hard

18 to say --

19 Q. Yeah.

20 A. -- if that's normal or not.

21 Q. So is that the only case that you followed with the
same

22 exposure to it as --

23 A. Yes.

24 Q. Did you ever sit and watch a trial in court --

25 A. No.

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Juror No. 680 - Voir Dire

1 Q. -- that wasn't telecast and publicized?

2 A. No.

3 Q. Then you mentioned another part of it as to traffic
4 municipal violations, minor offenses, like county courts and
5 courts.

6 A. Yes.

7 Q. And you don't think that they work well. Would you
8 expand on that answer a bit.

9 A. Well, I have four sons, so I've had occasion to
10 attend with them for small things.

11 Q. Like speeding tickets and --

12 A. Tickets. I think the -- the one that I didn't like
13 the which least (sic) was a violation for shooting a firecracker,
14 which is --

15 Q. You mention that in here.

16 A. -- which is possessing firearms and --

17 Q. Tell us a little about that, will you?

18 A. Well, I don't consider shooting --

19 Q. Well, what did happen?

20 A. Well, he was on his friend's driveway after the 4th
21 because team at a he had purchased these while he was with his baseball
22 he tournament in Wyoming where you can purchase them. So

23 didn't arrive back with them until after the 4th.

24 Q. Yeah.

25 A. So, you know, you tell them not to shoot them,
but . . .

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Juror No. 680 - Voir Dire

1 Q. How old was he then?

2 A. He was 17. So I think he only got one out. They
were on a

3 driveway, and I think probably it had been reported in
the

4 neighborhood prior to that. And, you know, I wasn't
there, so

5 he may have said something, too, but he got a ticket.
So you

6 go --

7 Q. The police came up?

8 A. Yes.

9 Q. Now, is this in the same city where you live?

10 A. Yes.

11 Q. Okay. In your neighborhood?

12 A. Yes.

13 Q. And so --

14 A. And the parent was home, also. And first of all, I
think a

15 warning would be okay, but it's not -- but I'm not sure
it

16 should fall under possession of firearms for one thing.

17 Q. That's your understanding of the charge?

18 A. Yes. Because when he had to go up, they asked if
you

19 understand the charge, and I told him, "Well, if you
don't

20 understand it, say you don't understand it."

21 Well, it took the judge quite a while to find
it in

22 the big book. And then he read it and went into guns
and, you

23 know, bombs and explosives and, you know, "Do you
understand

24 it?"

25 "Well, I guess so."

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Juror No. 680 - Voir Dire

1 Q. Was this a city ordinance? Was that your
understanding?

2 A. I assume so.

3 Q. Okay.

4 A. And the problem was is that there are several kids
here at

5 the same time for various reasons. And it was kind of
6 interesting that the kid that had marijuana had a
probationary

7 officer with him and just kind of received a reprimand;
and if

you 8 you have good behavior, no fine, it's okay. This was,
"That 9 know, it's on your record, \$80 fine. And my son said,
10 doesn't seem fair."

11 And I said, "Well" --

12 Q. Didn't to you, either?

you 13 A. But what are you going to do? You really can't --
mean, you 14 can't plead not guilty because you were guilty. So I
things. 15 really cannot express your opinion in these types of

16 Q. Well --

17 A. So --

agreed 18 Q. -- the way I get it from you is you and your son
19 that he was guilty of a firecracker --

20 A. Yes.

as 21 Q. -- violation, but you didn't think that's the same
22 shooting a handgun?

know, 23 A. Well, that; and I don't think it's the same as, you
24 getting caught with an illegal drug or --

25 Q. I see.

1 A. -- shoplifting; you know, the variety of the things
that
2 were -- we were kind of protecting the child that had
been in
3 trouble, trying to keep him out of trouble, and he --
and --

4 Q. So is that the principle -- and this was a city
court, as
5 you understood it?

6 A. Yes.

7 Q. A municipal court.

8 A. And I had been for other things with my kids, you
know,
9 minor things that you have to go for, but --

10 Q. Okay.

11 A. But that was the most one that I --

12 Q. Now, you do also refer to a matter lower on that
page at

13 102. And is this another one that you think was
handled poorly

14 all around?

15 A. Yes.

16 Q. Can you tell us what happened there.

17 A. Well, of course, this is just getting the
information

18 from -- not being there, but my son and three of his
friends

19 were jumped as they were coming out of a King Soopers.

20 Apparently, two of the kids had had an altercation with

these

21 people downtown, picked up my son and another friend
after the
22 fact; but these people had followed those two. They
jumped
23 them. Actually, you know, just hit my son. I mean, he
went
24 down. Never even knew what hit him. But the police
come, and
25 they were all ticketed for disturbing the peace, I
believe it

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Juror No. 680 - Voir Dire

1 was.
2 Now, we wanted to, you know, get an attorney
and --
3 and -- these -- the -- the adults that did it were on
probation
4 and had been involved in things before. But he -- he
was over
5 21, and he just -- his friends told him, "It's not a
big deal.
6 It's just a misdemeanor. Just pay the fine, and it's a
lot
7 easier that way."
8 But I -- that's our own fault for not fighting
--
9 Q. What happened to the people you believe to be the
10 perpetrators?

11 A. I know that they went on trial because they had
called my

12 son to be a witness but then excused him before he
went, so I

13 don't know.

14 Q. Do you know what happened?

15 A. I don't know what happened.

16 Q. And then on the next page, there's another
incident. And

17 this one, as I understand it, involved some assault on
your

18 husband?

19 A. No. Actually, he was a witness.

20 Q. Oh, just a witness. Okay. And tell us what you
understand

21 that one to be about.

22 A. Well, that was after a basketball game that he was
23 attending. And when the -- these were friends that
were

24 playing, young kids. And when they came out, one of
the

25 players from the other team just blindsided the one
kid, and my

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1 husband was a witness to that. He was called -- it's
been

2 quite a while ago -- to testify. But the problem was
the kid

before 3 never really got in trouble, and he had been in trouble
don't 4 for assault. And as I recall, he just got off. I -- I
5 remember the details.

6 Q. He got what?

7 A. That he just got off. You know, he didn't --

8 Q. No charge filed?

9 A. No.

10 Q. How old were these people?

11 A. Probably 19, 20, 21.

12 Q. Was it like a high school game or a --

-- not a 13 A. I think it was like right around in that age. At

14 high school game, but, you know, kids that get teams --

15 Q. Pickup game.

16 A. Uh-huh.

was 17 Q. And is your understanding of this event that this

happened 18 something done in retaliation for something that

19 during the game?

20 A. Uh-huh.

-- and 21 Q. Okay. You were asked here, also, your views about

and the -- 22 I'm going to go to page 27 -- about the Constitution

freedom- 23 really the First Amendment of the Constitution. The

24 of-speech aspect. And I'm looking at page 123 --
excuse me --

25 Question 123 where you say that perhaps there ought to
be some

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1 guidelines to writing opinions, could hurt someone.
Could you

2 explain your view there and offer any suggestions, if
you have

3 any, about what kind of a guideline you would think
there ought

4 to be?

5 A. Well, I think we already have, I suppose, some
guidelines.

6 I mean --

7 Q. Like lawsuits for defamation, for example?

8 A. Yes. But I'm just, you know -- think that you
could hurt

9 someone if you -- if everyone could express their
opinion in

10 writing. I think most papers or whatever try to be
selective

11 and have guidelines, but --

12 Q. Some speech hurts, is offense to other people?

13 A. Yes.

14 Q. Without any physical harm to them?

15 A. Right.

16 Q. Now, are you suggesting some restriction with
respect to

17 speech of that type?

18 A. Well, I don't know what it would be.

19 Q. Well, that was my question to you.

20 A. It would be, you know, someone's opinion of -- of
where --

21 where you draw the line. I suppose it would be hard to
do.

22 Q. Sometimes, those who are critical of too much --
too freely

23 expressing opinions refer to some things as hate speech
where a

24 person speaks out against a particular race or -- or
gender or

25 whatever and is very offensive to the -- that group.
What

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1 would you do about that, if anything?

2 A. Well, I guess we already have laws, you know,
handling

3 that. But that's kind of a different -- I think that's

4 probably different than what I mean, race, and -- you
know, we

5 already have laws protecting race and gender and people
type --

6 Q. Well, we do in certain circumstances; but there's
also the

7 broad treatment of the First Amendment --

8 A. Right.

9 Q. -- that permits people to speak out even in ways
that are
10 offensive to other people.

11 A. But there again, it's just a language thing that,
you
12 know -- in the workplace, anyway, where it -- it might
be put
13 in writing and generally followed, but then when you
get behind
14 closed doors or -- your true feelings come out anyway.

15 Q. I see. So are you more concerned here about things
like in
16 the workplace when someone says something offensive to
17 co-workers and that type of thing?

18 A. No. But that's probably more where my experience
is at, in
19 viewing it.

20 Q. Okay. Well --

21 A. Not everybody acts the same -- they think that they
are
22 saying the correct thing; but then in a different
situation,
23 away from this person, you know, they are totally
saying
24 something else.

25 Q. Let's take a specific example about rallies of the
Ku Klux

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a lot of
Klan
forth.
on a

1 Klan which sometimes involves speech very offensive to
2 people. And you know there have been instances where
3 members have organized protests, demonstrations and so
4 Do you think that there should be greater restriction
5 group like that?

6 A. Yes.

7 Q. And what restriction would you impose?

mean,
experienced
years
be

8 A. Well, I don't see why they wouldn't fall under -- I
9 they are definitely a hate group and -- I mean, I
10 it when they had practically a riot downtown several
11 back, and I don't think it was necessary that they even
12 allowed to organize like that.

13 Q. Well, they were allowed to --

14 A. They were.

15 Q. -- by a court order.

that if --

16 A. Yeah. And -- so I don't know how you get around

do

17 if they can go through those channels and be allowed to

18 that. But I -- it was something I felt very strongly
they

19 should not have been allowed to -- to do.

20 Q. If you could do it, you would prohibit them from
having a

21 gathering and speaking out?

22 A. Yes. On that particular day, for sure.

23 Q. All right. Well, this is what we want to hear from
you,

24 what your views are.

25 A. I mean, I think their sole purpose was to create a
problem

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1 on that day.

2 Q. Uh-huh.

3 A. And which they did.

4 Q. Do you know who the judge was that entered that
order? Me.

5 A. No, I don't. Do you?

6 Q. You do now. And the only reason I -- you know, I'm
not

7 trying to challenge you.

8 A. Can I go now?

9 Q. No. Anything from that that would affect your --
you know,

10 these attitudes affect you in considering the issues in
this

11 case and also recognizing I'm the judge in this case?

12 A. I don't see why it would.

13 Q. Okay. And you do understand and have expressed
here at

14 page 30 the importance -- page 30, Question 129 -- of
following

15 the court's instructions on the law.

16 A. Yes.

17 Q. And you didn't explain your answer because I assume
you

18 felt that by saying "Agree strongly," that's
explanation

19 enough. You recognize that's a responsibility of the
court to

20 instruct the jury on the law and for the jury to follow
it,

21 whether the jurors individually may agree with the law
or not

22 agree.

23 A. Yes.

24 Q. Okay. Now, we had to ask you some questions here
about

25 your opinions with respect to punishment and
particularly the

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1 punishments of death, death penalty, and the
punishments of

life 2 life in prison without any possibility of release, true
potential 3 imprisonment. And we did that because of the -- a
of their 4 for a jury to have to consider such an issue as a part
5 duties in the case.

6 Now, we said at page 27 again, turning back
and gave a 7 rather lengthy explanation that the fact that these
questions 8 about punishment are being asked of you should not be
in any 9 way considered contrary to the principle that Mr.
Nichols is 10 presumed innocent. It's just that if there is a
conviction in 11 the case, then the jury may have a responsibility to
hear and 12 consider punishment questions. Understood -- did you
13 understand that?

14 A. Yes.

15 Q. And at page 28, we asked you some questions about
your 16 attitudes, opinions, and beliefs concerning these
possible 17 punishments, recognizing that, you know, this is an
issue upon 18 which there is strong disagreement among the public.
So just 19 take a moment to review that.

20 And also, on the next page, there's -- page

29,

21 there's another one.

22 Now, we recognize that these questions came to
you

23 sort of right in the middle of the questionnaire and
that we

24 didn't give you much opportunity to think about it
because

25 these were included in a lot of other questions and a
certain

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1 time pressure on you, so it may well be that upon
reflection,

2 your answers would be something different from this.
Has that

3 occurred? I mean, have you thought about these
questions and

4 your answers since you wrote these answers?

5 A. Well, certainly, with the recent execution, it
brings to

6 mind that thought a lot more.

7 Q. There was a lot of publicity about different views?

8 A. Uh-huh.

9 Q. In connection -- you're talking about the execution
of this

10 man named Davis --

11 A. Yes.

Colorado 12 Q. -- or -- as a result of a murder conviction in the

13 state courts?

14 A. Yes.

15 Q. Did you read much of that?

was in 16 A. I read some of it. The night that it happened, I

it was 17 the car and it -- and I did sit there and listen until

really 18 final. It was kind of keeping me there. And I had a

what it 19 strange feeling, but I -- I couldn't quite pinpoint

20 was, you know, that I was feeling.

21 Q. Uh-huh.

sad, 22 A. It just seemed sort of odd. I didn't know if I was

anything so 23 and then I didn't know if it really accomplished

24 far later, you know.

25 Q. Uh-huh.

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but I 1 A. Ten years later. So I thought about it a lot more,

were 2 don't know that I came to -- to any conclusions that

strange 3 different. But it did leave me just feeling a little

4 about the whole thing.

5 Q. Did you give some thought to what the jurors who
heard that

6 case might be thinking or feeling at that time?
Anything like

7 that come to mind?

8 A. Yeah. I think there was too much publicity on the
whole

9 thing, but I would imagine that they had some feelings.
I

10 don't know. I -- you know, if you're not there and you
weren't

11 around the man and you didn't hear all the evidence and
how

12 brutal or whatever it was, I'm not sure you can --

13 Q. Yeah.

14 A. I almost felt a little bit for the man. I just --
a little

15 bit in the death thing, but -- but I don't know. I
guess

16 that's just a feeling when someone is --

17 Q. Well, let me put it this way: If I asked you these
same

18 questions right now here today, would you give us the
same

19 answers that you wrote?

20 A. I think so.

21 Q. All right. And here too, you know, we want you to
be

22 forthcoming and -- and just tell us what you think.
We're not

23 trying to get a certain answer from you or push you
into a

24 particular point of view. And the way I have
understood your

25 position is that you pretty much sum it up on page 29
with what

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1 you wrote under E there.

2 A. Well, I think so, but referring to the -- the first
page

3 and the recent execution, I mean, I think that I stated
what my

4 religion was and there was a lot of publicity from my
Church.

5 Q. Yes.

6 A. I mean, I -- I read more papers with their views
which made

7 me think, now, this is how I'm supposed to be thinking.
You

8 know, I -- I respect life, but I still don't know if
you

9 don't -- aren't faced -- for the most part, I would say
I'm

10 against it. But then I think, well, you know, what if
Charles

11 Manson or Hitler or someone were in a room with me for
a long

12 time.

13 Q. Yeah.

14 A. I -- I don't know what I -- I might feel such a
different

15 feeling for them that I might be able to. And I think
it's a

16 similar issue with abortion. You know, I'm against it.
But if

17 I had a daughter or -- or a rape situation or something
that I

18 was faced with, who knows what my feeling would be.

19 Q. So you're -- you follow the Church.

20 A. Yes.

21 Q. You're active in the faith?

22 A. Yes.

23 Q. And a practicing Catholic.

24 A. Yes.

25 Q. But there are times when you -- the teachings of
the

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1 hierarchy, if we can refer to the church organization
in that

2 way, may be something different from your personal
view.

3 A. No. I'm not really saying that. I mean, I -- I
pretty

4 much follow everything. I'm just saying if you -- you
know,

5 that I'm against it, I wouldn't want to say. But if I
sat here
6 and was exposed to some extremely horrible -- horrible
thing,
7 who knows what I might feel. I don't think if you're
--

8 Q. Well --

9 A. You can always give your opinion, but until you're
faced
10 with it in your personal life, you really don't know
what you
11 would do.

12 Q. There are those, I suppose, who in this church, as
in some
13 other churches, believe that if you go against
something that
14 is recognized as teaching from the leadership, that you
have in
15 some fashion committed a sin or that you're going to
have, you
16 know, consequences affect you personally from it. Do
you have
17 any view like that?

18 A. Well, we have confession in the Catholic Church.

19 Q. You have absolution, even.

20 A. It's not like they get rid of it. And I think this
Gary
21 Davis thing, too, it's -- it's so long between the time
that
22 these penalties are actually carried out that they lose
their
23 value anyway. So I think that whole part of the system

makes

24 it kind of a -- not that big of an issue. I mean, if
you
25 sentence someone to death and ten years later they die,
I don't

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1 know that you accomplished anything.
2 Q. Of course, there have been some changes in the law
with
3 respect to that, and also, there's federal law that
deals with
4 the process of review in a different way from what the
state
5 law is. But let me go through it with you as to what
actually
6 is done in Federal Court. And that's where we are, and
we're
7 following federal laws and federal practices. So I
think to
8 help us in this discussion, I should explain to you
exactly
9 what's done.

10 We have the -- the Congress has passed
statutes that
11 provide for certain kinds of crimes that punishment may
be life
12 in prison with no possibility of ever getting out, the
person
13 spends the rest of his days on earth in prison. The

second

14 possibility is the death sentence. And then there can
be a
15 sentence lesser than those two. And this applies to
certain
16 kinds of crimes.

17 Now, for purposes of simplification, let's
simply
18 limit this to cases involving the intentional killing
of other
19 people, essentially murder, because the Congress has
provided
20 for such punishments for that crime, that type of
crime. And
21 in other federal cases not involving murder but cases
like bank
22 robbery or, you know, selling drugs, all these other
federal
23 offenses, the procedure in those cases is the jury
comes in,
24 hears the evidence, makes a decision guilty or not
guilty
25 following these principles that we've already discussed
at some

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1 length here including the presumption of innocence, the
2 necessity to prove beyond a reasonable doubt the
elements of
3 the crime and so forth.

4 And if the jury returns a verdict of not
guilty,
5 obviously, that's the end of it. If the jury returns a
verdict
6 of guilty, that's still the end of it as far as the
jury is
7 concerned, because the jury has now performed the
function of
8 determining whether the evidence proves the crime
beyond a
9 reasonable doubt. And then the matter of sentence is
left to a
10 judge. And the judge who heard the case with the jury
then has
11 another hearing at a later time than the day that the
verdict
12 was returned, and that hearing is for the decision as
to what
13 the sentence should be for this person.

14 And before the judge can make a decision like
that,
15 recognizing that the decision must be individual and
particular
16 for this person, not just for the crime -- because we
don't
17 have automatic punishments for crime. It's not like
perhaps
18 the situation you had in municipal court where here's
the
19 violation, here's the fine. I don't know if that was
the
20 situation. But at any rate, we don't have a schedule
of

21 punishments. What happens is that the court gets a lot
more
22 information than what was presented as the evidence at
the
23 trial, and that information includes additional
circumstances
24 about the crime, things like what was the impact and
effect on
25 others, victim testimony and so forth, and then also
gets all

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1 the information available about the defendant, the
person found
2 guilty, including that person's life history, really,
all about
3 where he was born and raised, family life, what
happened to him
4 after that, education, what was the education, things
that can
5 relate to his intelligence levels, things relating to
his
6 health if that becomes pertinent, family history, then
in
7 connection with marriages, divorces, children,
employment
8 history, military history, good things that he's done,
bad
9 things that he's done, if there's a criminal record,
10 essentially, you know, the story of this person, what

has he

11 done, what has been done to him.

12 And then there's a hearing at which both
sides, the

13 prosecution and defense counsel, can present their
views and

14 the judge makes a decision considering all of these
things.

15 And take a case in which there are multiple defendants,
more

16 than one person involved in the same crime. The judge
has to

17 make individualized decisions as to the punishment for
each of

18 them, and it can be different because one of the
factors in

19 decision-making is also what is the relative role in
the crime,

20 you know, what did this person do as compared to what
some

21 other person did. And I suppose you could illustrate
that with

22 a bank robbery, for example, with somebody going in
with a gun

23 and another person -- and holding the people at bay and
another

24 person grabbing the money, another person out in the
car

25 driving the getaway car. You could view those as
different

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-- and 1 roles. And then the judge makes these decisions. Now
2 the jury doesn't play any role in that at all.

3 If the crime, however, is one that, like
murder, 4 involves these other punishments, then under federal
law, the 5 jury has to make a decision and has to make a decision
about 6 life or death because they could say -- the jury could
say 7 well, something lesser than life or death and turn it
back to 8 the judge, but the life or death has to be made by the
jury, 9 and that's because Congress has said that's not a
decision for 10 judges to make. It's not a decision for one person.
That's 11 for the 12 people on the jury.

12 And the jurors then who heard the trial and
decided 13 the evidence supported a guilty verdict must do more
now in 14 deciding what should the punishment be. And
accordingly, there 15 is another trial on that issue. Punishment is not
involved as 16 an issue in hearing the evidence and determining its
17 sufficiency. But now, all of the attention is focused
on what

the 18 should the punishment be. And so witnesses are called,
for both 19 exhibits are received in evidence, both sides, lawyers
trial, 20 sides participate in very much the same fashion as at
21 itself. Understand?

22 A. Yes.

second trial 23 Q. And what is heard now in this second stage or

24 is the same kinds of things that a judge factors into a
crime 25 sentencing decision, again, the things that involve the

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then also 1 and the circumstances and the consequences of it and

because -- 2 the things that are individual to the defendant,

making a 3 excuse me -- what the law says is, you know, if you're

you need 4 decision about whether to take another person's life,

that 5 to know whose life you're taking and everything about

6 person. Follow me?

7 A. Uh-huh.

that 8 Q. And so there would be all of these things about

9 person's background, you know, his life story. And
then at the
10 end of this second trial or hearing, the court gives
11 instructions summing, really, what has been heard and
reviewing
12 with the jury what has been heard and dividing it up
into the
13 classification of what may be considered as aggravating
factors
14 or circumstances, the things that the jury has been
given
15 information about that suggests that death is the
deserved
16 punishment for this crime and this person who committed
it.

17 On the other hand, the court would explain
those
18 things that could be considered as mitigating factors,
19 mitigating against such punishment, and suggesting to
the jury
20 that although the crime is such that the death penalty
could be
21 imposed for it, this particular person does not deserve
to die
22 for it. Understand?

23 A. Yes.

24 Q. And then the court can give to the jury some
questions that
25 may assist in analyzing and sorting through it, and the
jury

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1 will discuss all -- all 12 of the jurors will discuss
it, but
2 there's no formula that can be applied. It is a very
3 subjective decision. And in the end, each juror has to
make
4 this decision, should the defendant live or die. And,
you
5 know, the best way to characterize such a decision,
subjective
6 as it is, is a decision based upon the information that
has
7 been received and a decision that is a rational,
reasoned moral
8 response to that information. Understand?
9 A. Yes.
10 Q. Now, you -- the question for you and what you must
tell us
11 is whether you can participate in that process and make
such a
12 decision.
13 A. I'd say that I could, but, you know, I -- I would
find it
14 very hard to do --
15 Q. Well, nobody questions that.
16 A. Is it a majority? Does everybody have to -- I mean
--
17 Q. Well, the punishment can't be imposed without
unanimity,

18 but each person has to make a decision. You know, this
is not
19 like --
20 A. But I mean if all 12 are -- if there's one that
doesn't, I
21 mean, what happens? I don't know what the majority --
22 Q. Well, the penalty cannot be imposed without
unanimity, but
23 that should not be the basis for your answer here.
24 A. No. I just --
25 Q. I mean, you have to decide this as an individual
decision.

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1 Sure, you talk about it with others. But, you know,
you can't
2 just say, well, the votes -- you know, the majority is
-- I'll
3 go along with the majority one way or the other. You
have to
4 really make the decision yourself. And then it is a
matter of
5 everybody made the same decision, but that should not
play a
6 role for you to decide whether you can make a decision.
And
7 what we're really looking for is whether you are -- and
if
8 you're not, you tell us -- whether you are open to both
--

9 well, to the whole range of punishment and would
consider the
10 penalty of death, would consider the penalty of life in
prison
11 with no release or even the possibility of a lesser
sentence.
12 A. Well, I'd have to say that death would be the least
option
13 that I -- I'm sure -- would be the hardest option for
me to
14 choose for.
15 Q. Yes.
16 A. Life imprisonment would not be; but there again,
it's, you
17 know -- it's a hard thing to say.
18 Q. Of course. And what makes it even more difficult
is that
19 we cannot tell you what to anticipate --
20 A. Right.
21 Q. -- in the way of the information. We can't tell
you
22 anything about Terry Nichols. We can't tell you about
what you
23 would hear in aggravation. We can't even tell you what
the
24 evidence at the trial is going to be with respect to
25 Mr. Nichols. Now I heard the evidence at the trial of

1 Mr. McVeigh, and I know what that is and was. But I
can't
2 anticipate that the same evidence would come in in this
trial.
3 I have to start with a clean page, too. So it does
make it
4 doubly difficult to deal with this in a vacuum, not
knowing
5 what will come in. But the point of it is are you open
to the
6 consideration, as the jury is required to do, of these
7 alternative punishments and decide it on the basis of
the
8 Court's instructions and the information provided?
9 A. Yes.
10 Q. And you know, what we're really asking you, in a
sense, is
11 can you set aside the Church's teachings with respect
to this
12 matter and do it according to the law as it is?
13 A. Well, I don't think when you put it that way, I
mean --
14 those teachings are going to factor into my feelings.
I mean,
15 when you're raised with those teachings --
16 Q. Well --
17 A. You know, I can't say I'm going to set it totally
aside.
18 That would be a consideration, I'm sure, for me.
19 Q. One, you know -- one could characterize many of the

20 teachings of your Church as being a high regard for the
21 sanctity of the life and the individual soul.

22 A. Yes.

23 Q. Right?

24 A. Yes.

25 Q. And nobody is asking you to disregard that. That's
not

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-- what 1 what we're talking about. What we're talking about is

specifically 2 I'm talking about is when the Church leadership

and 3 talks about a penalty as saying this penalty is immoral

is, that 4 should not be in the law and criticizes the law as it

explained it. 5 is the point that departs from the law as I've

this jury 6 Because the law provides -- the law that applies to

7 and to this court, to me, includes the possibility of a
8 sentence to death. Now, understand?

9 A. I do.

can go 10 Q. So we're simply asking you to tell us whether you

11 according to the law as it is.

12 A. Yes.

13 Q. And make a decision on the basis of the law and of
course,

14 the information that's provided you.

15 A. Yes.

16 THE COURT: All right. Well, we have
questions from

17 counsel.

18 Mr. Ryan.

19 MR. RYAN: Thank you, your Honor.

20 THE COURT: Please bear with us a while
longer.

21 VOIR DIRE EXAMINATION

22 BY MR. RYAN:

23 Q. Good morning. My name is Pat Ryan. I'm the United
States

24 Attorney in Oklahoma City. I'm here with fellow
prosecutors to

25 present the Government's case involving Terry Nichols.
I have

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1 a few questions based on some of the things that you
discussed

2 with his Honor.

3 A. Right.

4 Q. I gather that the task of raising four boys is a
formidable

5 one?

6 A. Yes.

7 Q. And you have had all of them living at home right
now?

8 A. Yes. They are going to college here, so they are
all at

9 home.

10 Q. A little tuition?

11 A. Well, it saves me to provide them room and board as
opposed

12 to paying their tuition.

13 Q. And do they like to keep the same hours that you
and your

14 husband keep?

15 A. No.

16 Q. I -- I read in the questionnaire that you were
reading the

17 book The Sanctuary.

18 A. Yes.

19 Q. Is that -- does that have anything at all to do
with

20 capital punishment, the Church, or anything we've been
talking

21 about today?

22 A. I don't think so. I really enjoyed it.

23 Q. As opposed to this?

24 A. I mean, I don't think we got to any trial in that.

25 Q. You indicated that you had followed the O. J.
Simpson case,

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1 and you've expressed some criticisms you had of the way
the
2 case was handled. Did you have an opinion about the
verdict in
3 the case?

4 A. Well, it seemed to me that he was guilty; but, you
know, I
5 wasn't there. I didn't hear all the evidence. You
know, still

6 very sad. And someone obviously did it, and, you know
--
7 there's a good chance that it was him; but I didn't --
8 obviously, all the evidence did not point to him.

9 Q. All right. And if I could -- if I could ask you to
turn to
10 Question 126 on page 29.

11 Would you read your answer to yourself, and
then if
12 you would be kind enough to expand on that and tell me
what
13 you're thinking.

14 A. Well, certainly, you know, all the things that
happen in
15 the presidency and everything do not point toward
honesty in
16 the government. They never have.

17 Q. You're talking about individuals within the
government?

18 A. Yes. But that basically turns out to be the
government. I

19 mean, we have some -- of course, we elect individuals,
but

20 there is certainly a lot of dishonest people. I think,
you

21 know -- this is going way back, but the Kennedy thing
just

22 still haunts me that that whole thing could be covered
up like

23 that. Still.

24 Q. The Kennedy thing.

25 A. The assassination. And, you know, I still don't
think any

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1 of that is, you know -- I still think there's
government

2 involvement there and --

3 Q. In what way?

4 A. I don't know that we'll ever know. Conspiracy and
the

5 whole -- I guess I've watched "JFK" too many times, but
I just

6 don't think -- nothing is open to the public, and
there's just

7 a lot of dishonesty that we can't really do anything
about.

8 You know, we elect people, but they're not -- you might
just be
9 electing the lesser of two evils half the time.
There's a lot
10 of dishonest people and, you know -- but they are
dishonest in
11 the -- in the workplace. I mean, the top people in a
lot of
12 companies are dishonest. Maybe that's how they get
where they
13 got. I don't know. I'm just kind of a big person on
honesty,
14 but I don't think that you can necessarily fight it.
It's
15 just --

16 Q. Do you have a view with respect to the
assassination of
17 President Kennedy that the government had President
Kennedy
18 killed?

19 A. In -- you know, I think -- you know, somewhere
along the
20 line, they -- somebody played a part in that. There
were too
21 many -- too many things covered up; and, you know, I
just -- I
22 just don't think it was a single person assassinating
him. And
23 I don't know why we can't know now.

24 Q. I'm going to get off this subject, but let me just
pursue
25 one more question if I could. Is it your view that

there was

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1 more than one person involved in that assassination or
that the

2 government was involved in it or both?

3 A. Well, I think it's a conspiracy-type thing; but
yes, I

4 think that there was probably some government
involvement.

5 Q. All right. Now, you -- you have told us about a
few little

6 skirmishes that you've attended with your kids in
traffic court

7 and minor things that we all go through as parents. Do
any of

8 your experiences that you've had do you feel at all
color your

9 ability to judge this case?

10 A. Oh, no. I mean --

11 Q. Do you have a feeling that the Government is --
it's a

12 practice of the Government to bring false charges
against

13 people?

14 A. No. No. I just don't think they give you the
opportunity

15 to -- in those smaller issues to explain. You can
never

like 16 explain. Of course, that wouldn't happen in something

17 this.

respect 18 Q. All right. Now, did you -- you gave an answer with

page 30, 19 to the events at Mt. Carmel and Waco, and that's at

20 Question 132. Do you see your answer?

21 A. Uh-huh.

children, 22 Q. Aside from the natural loss and sorrow of losing

at 23 do you have a view as to what happened there or who was

24 fault in the loss of those lives of those children?

ones at 25 A. Well, I think the adults that were there are the

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1 fault.

2 Q. The Davidians for not letting the children out?

3 A. Yes. Yes.

the 4 Q. All right. Now, do you recall when the bombing of

5 Murrah Building in Oklahoma City occurred?

6 A. Yes.

news? 7 Q. Do you recall where you were when you heard the

8 A. I was at work.

9 Q. Did you have a television?

10 A. No. Some -- an employee just told me; and, you
know, it

11 was just -- he had just heard it.

12 Q. Did you take time out then to go look at a
television set?

13 A. Yes.

14 Q. What did you think?

15 A. Well, I would just say in shock.

16 Q. Did you follow the story of what occurred there in
Oklahoma

17 City for a few weeks after the initial bombing?

18 A. For a -- yes. Yes.

19 Q. Was there any particular aspect of that story that
captured

20 your attention?

21 A. Well, it's mostly just the feel for the loss of,
you

22 know -- of lives and the people that are left.

23 Q. Have you read any of the stories about the -- about
the

24 victims that have been published in the newspapers in
the last

25 couple of years?

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1 A. I'm sure that I did around the time that it

happened.

2 Q. Anything recent?

3 A. No.

4 Q. Now, if I could, I'd like to turn to this issue of
the

5 death penalty.

6 A. Okay.

7 Q. You feel like you've already answered enough
questions on

8 that subject?

9 A. I probably haven't answered it very well, I guess.

10 Q. Do you have a view as to what purpose or a valid
purpose

11 for the death penalty is?

12 A. Well, I don't see that it has a lot of purpose when
we do

13 it once -- one out of 90 people or something. I just
-- I

14 mean, I don't see that it can be a deterrent when it's
handled

15 that way. And I don't know that it would be anyway
because,

16 you know, some of these people just can't be deterred,
you

17 know. So I don't know. It just -- it doesn't happen
very -- I

18 guess in Texas, it happens quite often.

19 Q. Do you think it has any valid purpose?

20 A. The way that it's handled, no.

21 Q. And when you say "the way it's handled," you're

speaking

22 now of the time frame that you talked about --

23 A. Uh-huh.

24 Q. -- to his Honor, between when the sentence --

25 A. Ten years later.

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1 Q. Right. Okay.

2 A. I don't know, you know, that it . . .

3 Q. Do you think it has a purpose in society if you
didn't have

4 that delay?

5 A. I -- I don't know. I mean, it's only going to be
used

6 in -- in cases, you know -- of extreme cases, and I
don't know

7 that that type of person is definitely not mentally --
you

8 know, that is capable of that behavior, I don't know
that that

9 would be a deterrent to that type of person.

10 Q. All right. Now, do you know what your Church's
views are

11 on the death penalty?

12 A. Oh, they are definitely against the death penalty.

13 Q. In all circumstances?

14 A. Yes.

15 Q. I mean -- in all cases?

16 A. Just taking life at all is -- is wrong.

Honor 17 Q. All right. You -- you indicated earlier to his

it would 18 that -- he asked you a question about would you think

penalty in a 19 be a sin if you were a juror voting for the death

20 case, and your -- do you recall that question?

21 A. Uh-huh.

22 Q. And you said something about well, we have penance.

23 A. Well --

sin, but 24 Q. Do -- do I take from that that you think it is a

25 it's one that you could go to confession for?

5803

Juror No. 680 - Voir Dire

issue of 1 A. Well, it -- it would certainly be, I guess, an

a -- you 2 having a hand in taking a life, so it would be kind of

know, birth 3 know, a moral thing for me to think about; but, you

mean, 4 control is a sin, too. So I mean, I certainly -- I

follow 5 without going into too much detail, I didn't exactly

6 that one to the --

7 Q. Right. I won't ask you any details about that. I
just
8 simply want --
9 A. Now, I don't think the Church is quite into those
set sins.
10 It would be an issue that I would have to deal with.
11 Q. Right. And you understand we're -- we're here just
to get
12 your views. We're here to find out whether you're
capable and
13 able and willing to give both Mr. Nichols and the
United States
14 Government a fair trial in this case. And one of the
issues is
15 guilt or not guilty. And the other issue is what the
16 punishment is. And what we're trying to find out from
you --
17 and I'm probably doing it in a very awkward manner --
is to
18 simply have you tell me are you willing to not just
consider --
19 not just listen to the evidence on the penalty phase
and not
20 just consider it but actually willing, if you thought
it was
21 the right punishment, to give the death penalty.
22 A. Well, if I thought it was, but --
23 Q. Well, can you conceive of circumstances -- I'm not
asking
24 you to name them right now; but can you conceive of
25 circumstances in which you -- you would find that it

was the

5804

Juror No. 680 - Voir Dire

1 right punishment, the death penalty?

2 MR. TIGAR: Objection, your Honor.

3 THE COURT: Sustained.

4 VOIR DIRE EXAMINATION

5 BY THE COURT:

6 Q. You're not being asked for particular
circumstances. I

7 think that the question here -- and that's the reason I
8 sustained the objection -- that what Mr. Ryan is
getting at and

9 what I've attempted to get at is after discuss --
considering

10 all of the information and listening to what I would be
saying

11 about aggravating circumstances and mitigating
circumstances,

12 are you open to considering that because of what you've
heard

13 and considering aggravating and mitigating, there's the

14 possibility that the aggravating circumstances would
warrant

15 the death penalty?

16 A. I'm open to that, but I -- I have to be honest and
say

17 that, you know, I'm -- that was going to be the thing I

would

18 lean furthest from, but it would have to be something
that just

19 struck me so emotionally to make me opt for that. I'm
--

20 Q. Well, it can't be an emotional decision. It has to
be a
21 rational, reasoned decision, you understand.

22 A. Right. I mean, you know, I've said, you know, they
ought

23 to kill somebody or, you know, they ought to drop a
bomb on

24 this guy and get rid of him. You know, that's probably
wrong

25 for me to say that; so I'm saying there are some people
out

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Juror No. 680 - Voir Dire

1 there that I've said that about and maybe that type of
person,

2 I could say, you know, we would be better off without
this

3 person anywhere. But I -- I don't really understand --
I guess

4 it's a very important issue, but why, you know --

5 Q. Well the issue is whether you can follow the law.
It's

6 that simple. And what the law requires you to consider
in the

7 event of a conviction and in the event then of

sufficient

8 information that would be provided at this sentencing
hearing

9 that under the law says for this crime, this person
could be

10 put to death; for this crime, this person could be sent
to

11 prison for the rest of his life -- and you have to
decide

12 which.

13 A. You know, I -- I can say I would have trouble with
it, but

14 I don't know, you know.

15 VOIR DIRE EXAMINATION

16 BY MR. RYAN:

17 Q. And I'm --

18 A. Now, that's probably --

19 Q. This is my last question. I know you're tired of
answering

20 these. I mean, the question I'm trying to -- to find
out from

21 you is whether or not, no matter what the facts, no
matter what

22 the aggravating circumstances are that the Government
would

23 introduce, are you always going to choose a life
sentence?

24 A. That would certainly be my first choice, but I --
you know,

25 like I say, I don't know. I've never been in a
situation where

5806

Juror No. 680 - Voir Dire

evidence 1 you've been presented with some -- some very graphic
type 2 or something that might, you know, bring out a hate-
right. 3 feeling in you that would make you think maybe that's
4 Maybe this is the right thing.

5 Q. So you think you could do it given the right facts?
to say 6 A. I think I could do it. But, you know, I -- I want
that I 7 that I wouldn't certainly -- it would not be the option
8 would want to do.

9 MR. RYAN: Okay. Thank you.

10 THE COURT: Mr. Woods.

11 MR. WOODS: Thank you, your Honor.

12 VOIR DIRE EXAMINATION

13 BY MR. WOODS:

14 Q. Good morning.

15 A. Good morning.

have 16 Q. We have to go last. The Judge and the prosecutor
much left 17 already covered just about everything. There's not
of here. 18 for me to cover. So a few questions and you'll be out

19 A. Okay.

20 Q. Mike Tigar and I, Ron Woods, were appointed by the
United
21 States District Judge in Oklahoma City shortly after
May the
22 10th of '95, when these Government lawyers accused Mr.
Nichols
23 of being responsible for the bombing of April 19, '95.
How do
24 you feel about him having lawyers appointed by the
court to
25 help him here in court against all these government
lawyers?

5807

Juror No. 680 - Voir Dire

1 A. Well, that's part of his right.

2 Q. Does he start off at any disadvantage because he
couldn't
3 afford a lawyer?

4 A. No. I would assume that the court appoints lawyers
that
5 are capable.

6 Q. Okay. So it's not going to bear any weight in your
7 consideration of the case against him if you were to
end up on
8 the jury, the fact that he has court-appointed lawyers?

9 A. No.

10 Q. Okay. What did you think when you first saw Mr.

Nichols in

11 person last month at the fairgrounds? I assume you had
been

12 reading or hearing about him for over two years. You
must have

13 had some picture in your mind. What did you think when
you

14 first saw him?

15 A. Well, I wasn't prepared to see him, so I was a
little

16 shocked. I think I remember commenting he looked quite
normal.

17 Q. Okay. What do you think of him seeing him this
close?

18 A. He looks about the same.

19 Q. Okay. Did you have any picture in your mind that
seeing

20 him in person changed or to confirm what you thought,
or what?

21 A. I don't think I really had a picture of him in my
mind

22 before. I really hadn't followed too much the
involvement.

23 Q. Okay. Okay. Without naming where you work, there
are

24 people where you work that have followed this case very

25 closely. Would you agree?

5808

Juror No. 680 - Voir Dire

1 A. Yes.

2 Q. After you got your jury summons and it became known
that
3 you were a possible juror -- juror, did anybody talk to
you
4 about your service on the case?

5 A. No.

6 Q. Okay. Anybody mention, you know, that Mr. Nichols
should
7 get the same thing that Mr. McVeigh got?

8 A. No.

9 Q. Okay.

10 A. However, I think that a lot of people know I am in
a jury
11 pool. I mean, just -- you kind of have to tell --

12 Q. Sure. You've got to tell your employer?

13 A. Well, and when you get that, you're kind of like --

14 Q. Why did I get that?

15 A. You're all excited. You run in and say, Look what
I just
16 got. Then it spreads pretty quickly, so . . .

17 Q. Anybody suggest to you about how you can get off,
answer
18 questions certain ways?

19 A. I had a lot of suggestions.

20 Q. What kind of questions or -- what kind of
suggestions did
21 you get?

22 A. Let's see. Definitely for or against the death

penalty.

23 Q. Well, you certainly haven't taken that position
either way,

24 have you?

25 A. Let's see. They thought just considering where I
worked

5809

Juror No. 680 - Voir Dire

1 would automatically disqualify me. Being a mother
might

2 disqualify me easily.

3 Q. That wouldn't leave us with many potential jurors,
would

4 it?

5 Any other suggestions on how to get on or get
off that

6 you received?

7 A. Just act -- act kind of nutty or something. I
don't know.

8 Q. Okay.

9 A. They kind of quit talking to me about suggestions.

10 Q. Okay. I take it from your answers to the Judge and
to the

11 prosecutor that you're not attempting to get off; that
you're

12 attempting to answer questions honestly and let the
process run

13 its course; is that correct?

14 A. I am. And you know, I'm sorry that I can't be
more, you
15 know, definitive in that death penalty issue. I mean,
it's --
16 you know, one minute I say, Well, I'm against it; and
then --
17 but what about, you know . . . And then you think of
different
18 people in the past: What if, you know, he was sitting
there?
19 What if he was sitting there? Well, certainly, he
deserved to
20 die. So that just puts you in a situation that you're
--
21 you're not really sure.
22 Q. Sure. Sure. And I'll get to that in a second on
the death
23 penalty issue.
24 I notice that you've read a number of books on
the
25 criminal justice system. Undue Influence. Is that
Patterson?

5810

Juror No. 680 - Voir Dire

1 A. Yeah. Or Martini. I don't remember which one.
2 Q. And the Grisham books, Runaway Jury, etc.
3 A. Yes.
4 Q. What impressions did you get since those are
lawyers -- is

and
5 Patterson a lawyer? I don't recall whether or not he
6 Martini were lawyers.
7 A. I think.
criminal
8 Q. Grisham is. What impression did you get of the
9 justice system from reading those books?
courtroom.
10 A. That a very good lawyer can work miracles in the
the
11 Q. What impressions did you get about prosecutors in
12 criminal justice system?
focused
13 A. Nothing in particular either way. Just, you know,
would
14 on lawyers and how they can bring things out that you
15 never have thought of.
16 Q. All right.
17 A. Make people say things that -- you know --
lawyers
18 Q. What impression did you get of criminal defense
19 then?
between the
20 A. I don't -- I don't think I really distinguished
21 two.
could bring
22 Q. Okay. You didn't finish one answer there. We
develop
23 things out that the -- the role of the attorney is to
"make
24 the facts, but then you started another answer about

25 people say," and then you tapered off there. Make
people say

5811

Juror No. 680 - Voir Dire

1 what?

2 A. Well, you know, they get them all flustered and
then they

3 say damaging things, whether they are true or not, but
it is

4 just fiction so --

5 Q. Okay. From reading those books, would that affect
your

6 deliberations in this case and in watching the evidence
develop

7 from that witness stand where people are under oath and
have to

8 tell the truth?

9 A. No.

10 Q. Okay.

11 A. I truly read for pleasure, so I mean it's just --
it's a

12 pastime.

13 Q. Okay. And you haven't been on a jury before; and
as the

14 Judge asked you, you haven't set (sic) through any
trial; is

15 that correct?

16 A. No.

the
us.
remember.
about the
possession --
about
guns,

17 Q. And your only experience, I gather, from a trial is
18 O. J. Simpson case and whatever experience that gave
19 A. Yes.
20 Q. Okay. Have you seen any other case televised?
21 A. Probably not that I've followed. Not that I
22 Q. Okay. Now, in the questionnaire, when it talks
23 gun laws and your impression of the gun laws and
24 possessing guns, what are your feelings or opinions
25 people who are in the business of buying and selling

5812

Juror No. 680 - Voir Dire

was
And as a
so many
going
would

1 either retail or at gun shows such as that?
2 A. Well, I -- you know, I really hate guns. I mean, I
3 never brought up with hunting or anything like that.
4 mother, I really fear them because I know they are in
5 homes; so I fear the fact that maybe my child might be
6 somewhere where guns are laying around and I -- and I

7 really like tough gun laws.

8 But on the other hand, I know some people well
that
9 are in that business. It seems to be a very legitimate
hobby
10 for them.

11 Q. Okay. So it would -- I take it you would not hold
it
12 against someone if they were testifying, they were a
witness or
13 something? The mere fact that they are in the
business, which
14 is a legitimate business, you wouldn't hold that
against them
15 to observe their credibility?

16 A. No. As long as, you know -- I consider going to
gun shows
17 a little different than maybe selling them, you know,
on the
18 street to somebody. I don't know, you know --

19 Q. Right. I don't think we'll have any evidence --

20 A. That's what I mean, but . . .

21 Q. I don't think there will be any street sales here,
if
22 that's what you're referring to.

23 Now, you mentioned to the Court and to the
prosecutor
24 that you watched television pretty carefully the first
few days
25 when it happened back in '95. If you would look on
your

5813

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1 questionnaire on page 33. Question 144 asked the
sources from
2 which you have obtained information about the Oklahoma
City
3 bombing. And you checked off TV news, radio news,
newspaper,
4 conversations, and heard other people discussing the
case.

5 And then 145: "How would you describe the
amount of
6 media coverage . . ." And you -- you checked off
"quite a
7 bit."

8 And then the next question about "Have you
closely
9 followed news reports about any criminal trials or
criminal
10 cases over the past five years?" You checked
"somewhat."
11 What -- do you know what you're referring to there in
146, what
12 other trials?

13 A. Well, I suppose I only mean the O. J. Simpson
trial.

14 Q. Okay. Okay. From what you have seen, read, or
heard over

15 that period of time before the Court asked you not to
read

16 further, you know, out at the fairgrounds -- he asked
you, You
17 may be a juror on the case, so please don't read
anything
18 further. But up until that date, do you recall how
many people
19 were killed in the bombing from what you'd seen, read,
or heard
20 in the media?
21 A. It seems to me it was 160-something.
22 Q. Okay.
23 A. But --
24 Q. Do you recall whether or not there were children
killed?
25 A. Yes.

5814

Juror No. 680 - Voir Dire

1 Q. And do you recall why there were children killed in
the
2 bombing of a federal building?
3 A. Because of the day care.
4 Q. Okay. Do you remember how many children were
killed?
5 A. No.
6 Q. All right. And I'm sure you still recall the
images of
7 that day and the next day of the rescue workers and the
dead

that be 8 and the injured being removed from the building. Would

9 accurate to say?

10 A. Yes.

11 Q. Do you think you'll ever forget those images?

12 A. No.

it's 13 Q. Okay. If you were chosen as a juror in this case,

witnesses 14 likely that the Government will present a number of

15 that will relive those days, and there'll be
photographs and

16 videos and testimony that will be so emotional and

17 heart-wrenching and sad that most of the people in the

were on 18 courtroom will be crying. And my question is if you

is; that 19 the jury, can you look at that testimony for what it

is 20 is, evidence of the crime which nobody disputes, nobody

for what 21 disagreeing that that occurred, but can you look at it

22 it is and keep it separate from looking at what is the

Nichols 23 Government proving and offering into evidence that Mr.

look 24 was responsible for that -- that will take an objective

jury's 25 without letting all the emotions spill over into the

Juror No. 680 - Voir Dire

1 mind and thinking, well, somebody did this crime,
somebody

2 ought to pay for it. Can you keep those two things
separate?

3 A. Yes.

4 Q. All right. And back on the publicity issue, do you
5 remember how the bomb was delivered to the building?

6 A. In a truck. Ryder truck.

7 Q. Do you remember what the Government claimed the
bomb was
8 made of?

9 A. I think I only remember like fertilizer and
something --

10 not specifically.

11 Q. Okay. And from what you've seen, read, or heard,
do you
12 remember how Mr. McVeigh was arrested by law
enforcement?

13 A. I think he was pulled over for a traffic violation.

14 Q. Okay. And from what you've seen, read, or heard,
do you
15 recall how Mr. Nichols initiated contact with the law
16 enforcement authorities?

17 A. No.

18 Q. Okay. Do you remember whether or not he was in
Oklahoma
19 City at the time of the bombing?

20 A. No.

21 Q. That's no, you don't remember?

22 A. No. I don't remember.

23 Q. Okay. From what you have seen, read, and heard
over that

24 period of time, what is it that you recall that the
Government

25 here claims that Mr. Nichols did to make him
responsible for

5816

Juror No. 680 - Voir Dire

1 the bombing?

2 A. Well, to be honest, I didn't really follow too much
of --

3 of his involvement. I think it had to do with creating
the

4 bomb. Getting supplies or helping make it, or
something like

5 that.

6 Q. Okay. Can you -- do you remember what it is that
you saw,

7 read, or heard about creating a bomb?

8 A. That he might have gotten some of the supplies or
had

9 experience in knowing how to. I really didn't follow
it that

10 much.

11 Q. Okay.

12 A. As a matter of fact, when I got it, I kind of felt
13 embarrassed that I didn't know more about his
involvement and

14 kind of wanted to --

15 Q. Okay.

16 A. -- study it, but . . .

17 Q. And when you say "involvement," what do you mean by
that?

18 Are you -- are you saying that he is involved, or what
do you

19 mean by that?

20 A. What his alleged involvement is, you know.

21 Q. The alleged involvement. Okay. Okay. Was there
anything

22 else that you recall from the media other than that he
might

23 have helped create the bomb?

24 A. Not that I recall.

25 Q. Okay. Okay. And on page 34, you checked off the
names,

5817

Juror No. 680 - Voir Dire

1 the long list of names there; and you were fairly
thorough and

2 went through and picked out the names that you had
recalled; is

3 that correct? Mr. McVeigh and Mr. Nichols and Fortier
and

4 James Nichols.

5 A. Yes.

6 Q. Okay. And what do you recall about James Nichols?

7 A. Just that that's his brother.

8 Q. Okay. And do you know where he lives?

9 A. I thought they lived in the same place, but I'm not
sure.

10 Q. Okay. Okay. And do you know where that is if it's
the
11 same place?

12 A. I should know, but -- is it Kansas?

13 Q. Okay. Again, as the Judge said, this is not a
test. You

14 know, we're not grading your papers, and we're just
trying to

15 see what you recall and what information or opinions
you have.

16 A. I mean, I -- it's been a long time since I've been
able to

17 read it, and I really don't recall from -- you know,
really

18 focused on McVeigh and nothing else.

19 Q. Okay. As to the verdict on McVeigh, at your work
or at

20 your home or at your other associations, did you ever
hear

21 anybody say they disagree with that verdict?

22 A. No.

23 Q. And as to the death sentence, did you ever hear
anybody

24 say, well, that wasn't proper?

think 25 A. No. But I don't -- until it's carried out, I don't

5818

Juror No. 680 - Voir Dire

1 you get the people expressing their opinions.

television all 2 Q. Okay. Didn't read the newspapers and see on

was 3 the people being quoted right after the death verdict

4 rendered?

persons were 5 A. Well, yeah. I think I -- mostly the Oklahoma

6 very happy, as I recall.

of people 7 Q. Okay. Did you see the publicity about the crowds

the 8 that came out of the downtown buildings and lined up

9 sidewalk to clap for the prosecutors?

10 A. Yes.

11 Q. What did you think of that?

out to 12 A. I don't think it was something that I would come

situation 13 clap for. I mean, I would think it's a -- it's a sad

something I 14 and it -- I don't think that kind of reaction is

15 would be involved in.

penalty 16 Q. Okay. Did you personally disagree with the death

17 verdict on Mr. McVeigh?

18 A. I -- no. I mean --

19 Q. Okay.

20 A. It wasn't me that had to make it, so --

covered this 21 Q. Right. And the Judge and the prosecutor have

The 22 pretty thoroughly; but I just want to sum up, if I can.

juror 23 Judge explained to you what the law is. If you were a

penalty 24 chosen to set (sic) in a case and it reached the

and 25 stage -- and again, I want to emphasize that Mr. Tigar

5819

Juror No. 680 - Voir Dire

to it -- 1 Mr. Nichols and I are not conceding we're going to get

here. 2 to a penalty phase. Mr. Nichols is presumed innocent

3 The Government's got a theory about Mr. Nichols' being
are going 4 responsible. We don't agree with that theory. They

We're going 5 to have to put on witnesses to prove that theory.

6 to cross-examine them thoroughly.

7 And then when they get through, since they go

first,

8 even though the Judge told you we don't have to put on
9 witnesses, we are. We're going to put on a number of
witnesses
10 that will contradict their theory.

11 It'll be the judge -- the jury's job then to
weigh
12 that evidence and render a verdict. And only in the
event the
13 jury says Mr. Nichols is guilty beyond a reasonable
doubt of
14 premeditated and deliberate murder of all those
individuals --

15 only then will we get to a punishment stage. And
again, as I
16 say, we're not conceding that we'll ever get there; but
because
17 we won't have a chance to talk to you again, this is
the only
18 time we can talk to you about the penalty phase.

19 The Judge explained to you the law about how a
penalty
20 phase is handled. The Government here will be offering
21 aggravating circumstances in -- into evidence to try to
get the
22 jury to return a death penalty verdict. In the event
we're at
23 a punishment stage, then we will be offering mitigating
24 circumstances into evidence to try to get the jury to
go with
25 life imprisonment without release.

prosecution

19 will take with respect to information. But what we
have to

20 look to here are the possibilities. What is the
potential.

21 And certainly, it is the possibility and the potential
that the

22 prosecution, these lawyers, will ask the jury to return
a

23 recommendation for death. But you know, the only
reason this

24 comes up is because of the nature of the offense
charged and

25 the notice that the prosecution has given that this is
the kind

5821

Juror No. 680 - Voir Dire

1 of case in which they may ask for it. But they have to
support

2 it with aggravating circumstances information.

3 A. But is there ever a case where they wouldn't ask
for that?

4 I mean --

5 Q. Well --

6 A. I don't know. It almost seems like they have to
win --

7 Q. It isn't winning, no.

8 Look: This is not like a contest between
lawyers with

in this 9 winning and losing. The law -- the role of the lawyers
present 10 case, the prosecution and the defense lawyers, is to
lawyering 11 the evidence and the information that's necessary for a
skills 12 decision by a jury. But it's not a contest of
to push 13 and it's not a question of, well, the prosecution has
the 14 for death or anything like that. It's a question of --
conduct a 15 role of the lawyers as officers of the court is to
necessary 16 trial in cooperation with the judge to present the
it. 17 evidence and information to the jury to decide. That's

18 Understand?

19 A. Yes.

you then 20 Q. And I think what we're being asked here is: Can
the 21 perform the role of the jury and decide according to
22 information and according to the law?

23 A. Yes.

the 24 MR. WOODS: Okay. Thank you, your Honor, for
25 clarification.

1 And thank you for your answers. I appreciate
the time 2 you've given us.

3 JUROR: Okay.

4 THE COURT: We all do. And we've taken a lot
of your 5 time both waiting and in here, and we are most
appreciative of

6 your willingness to be forthcoming and tell us what you
think, 7 as I asked you to do.

8 I can't tell you now about the selection. It
takes 9 yet a while for us. We're talking with more people.

10 JUROR: Okay.

11 THE COURT: But we'll let you know as soon as
we can. 12 In the meantime, please assume that you'll be on the
jury.

13 Assume that you will have the responsibility to make
the 14 decisions that we're talking about; and accordingly, be
very 15 careful now about anything that you read, see, and hear
and 16 discussion with others to avoid anything that could
affect your 17 ability to serve in the case.

18 JUROR: Okay.

19 THE COURT: Please do that, and you're excused

for

20 now. If anything should happen here that changes your
21 circumstance, you get called out of town on a sudden
emergency
22 or something, let us know immediately.

23 JUROR: Okay.

24 THE COURT: All right. Thank you. We'll be
back in
25 touch with you.

5823

1 Let's take our recess. 20 minutes.

2 (Recess at 10:40 a.m.)

3 (Reconvened at 11:00 a.m.)

4 THE COURT: Please be seated.

5 572 -- 472. Lost my place here.

6 Good morning.

7 JUROR: Good morning.

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

10 (Juror No. 472 affirmed.)

11 THE COURTROOM DEPUTY: Thank you.

12 THE COURT: If you'll be seated, please, at
that chair
13 by the microphone. Don't be concerned with the

microphone.

14 You don't have to speak into it. The only reason it's
there is
15 to help us hear you. It's not something that's being
16 broadcast, you understand.

17 JUROR: Okay.

18 VOIR DIRE EXAMINATION

19 BY THE COURT:

20 Q. And you also understand that when the oath refers
to "the
21 defendant now on trial," we're talking about the case
of United
22 States against Terry Lynn Nichols. And you received a
summons
23 advising that your name came up through our chance
selection
24 process as someone summoned for possible service on the
jury of
25 the case. And you responded to that with a brief --
answering

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1 a brief questionnaire.

2 And then you got a notice to go out to the
Jefferson

3 County Fairgrounds on September 17, and you did. You
appeared

4 there with a number of other persons. I was there,
talked with

5 you and the others about the case, explaining the
background
6 and so forth; and I also introduced people who were
there with
7 me.
8 They're here with me again as participants in
this
9 case, and I want to reintroduce them again so you again
know
10 who is here with us.
11 Here at the first table are attorneys for the
12 Government, Mr. Lawrence Mackey and Ms. Beth Wilkinson.
You
13 were introduced to them out at Jefferson County.
They're now
14 joined by two additional lawyers for the Government,
15 Mr. Patrick Ryan, Mr. Geoffrey Mearns.
16 You also met Mr. Michael Tigar, Mr. Ronald
Woods,
17 attorneys for Terry Nichols; and Mr. Nichols was then
present
18 and is, of course, present now.
19 And I, after giving you some explanation about
the
20 background and some re -- reviewing some of the
principles of
21 the criminal justice system and the law that is
applicable,
22 asked you to answer a lot of questions on a very
lengthy
23 questionnaire. And you did that for us, and we're

appreciative

24 of that.

25
reemphasize

Before we go any further here, I want to

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1
concern about

something that I mentioned, and that is we have a

are

2 your privacy. We know that the questions we asked you

balance out

3 quite, some of them, personal in nature. We try to

also the

4 your privacy interests with the public interest in the

5 proceeding by not referring to you by name here and by

without the

6 process that gets you to and from the courthouse

you.

7 opportunity for the TV cameras and so forth to focus on

8 You understand that.

a

9 And now we are in a public courtroom. This is

You

10 public proceeding, and what is said here is public.

11 understand?

12 A. Yes.

you some

13 Q. And we'll try to be careful. We are going to ask

14 more questions. You've answered, I'm sure, in your

view, all

15 the questions we could possibly ask you; but we want to
go over

16 a few of the things that you've told us, ask you a few
17 additional things. And I will ask you a number of
questions,

18 and then a lawyer on each side will have a chance to
ask you

19 some more.

20 But before doing that, I want to again
emphasize there

21 is no right or wrong answer to these things. We have
some

22 things that you've told us about yourself factually,
and we

23 rely on that, of course; and then there are some other
things

24 we asked you about in connection with opinions,
attitudes,

25 feelings. You know, there can be no right or wrong
answer to

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1 that; there is only your answers. And we just ask of
you to be

2 forthcoming with exactly what you think and don't be
concerned

3 about how your answers will be considered by us.

4 The process calls for us to, you know, ask you
some

5 things so that we can know about attitudes, opinions,
and
6 beliefs as it might possibly affect the case. So
please -- and
7 don't -- don't think that any one question has
particular
8 significance because we're asking you. You remember I
9 mentioned that, too. I do want to just go back over
and review
10 some of the things that I said there; and it isn't
because I
11 think you've forgotten them, but I just want to
establish
12 something of a foundation for the questioning that
follows and
13 just review with you the factual background of the
case.

14 As I explained, the case arises in court as a
result
15 of an explosion that destroyed a federal office
building and
16 resulting in death and injury to people who were in the
17 building and occurred in Oklahoma City, Oklahoma, on
April 19
18 of 1995; that some days later, there were charges filed
in the
19 United States District Court in Oklahoma City, where
lawyers
20 for the Government, in an indictment, which is simply
the word
21 for a statement of accusations, charged that a man
named

and then 22 Timothy James McVeigh, together with Terry Nichols --
entered 23 the indictment refers to "other persons not named" --
building 24 into a conspiracy or a criminal agreement to bomb that
the -- 25 and to kill and injure people in it; that in addition,

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the 1 there are 11 charges. The other charges in addition to
plan, did 2 conspiracy are that the defendants carried out that
injure 3 indeed bomb the building with the intention to kill and
enforcement 4 people. And then there are eight counts or charges of
law 5 first-degree murder, intent to kill eight law
and 6 agents, people who were employed by several national
7 enforcement agencies who were occupants of the building
8 died in the explosion.

pleas 9 To these charges, the defendants entered their
10 of not guilty, thereby creating the issues to be tried.

here to 11 The case was then moved from Oklahoma City
12 Denver because of a concern about getting juries --

asking the

13 people in Oklahoma to serve on a jury. And then after
the case
14 was here in Denver, I entered an order that there be
separate
15 trials and that the evidence as it may relate to Mr.
McVeigh be
16 considered by a jury at a trial in which he was the
only person
17 on trial and then the evidence as it may relate to
Terry
18 Nichols be tried with a different jury and in a
completely
19 different trial.

20 And as a result of that order, there has been
a trial
21 of the evidence relating to Mr. McVeigh. A jury
selected very
22 much like what we're doing here came in, heard that
evidence,
23 returned a verdict of guilty. And then the jury was
asked to
24 consider the question of punishment, and there was a
second
25 trial or hearing on that issue, and the jury
recommended a

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1 sentence to death.

2 Now, you probably already knew those things

before I

3 told you about them. Right?

4 A. Yes.

5 Q. But the important thing now is to understand that
for a

6 fair trial for Mr. Nichols, the McVeigh trial has to be
7 disregarded; and therefore, to whatever extent you or
any other

8 person coming in here for jury service might remember
seeing,

9 reading, or hearing anything about that trial, that has
to be

10 set aside. And certainly the outcomes -- that is, the
jury

11 verdict and recommendation -- cannot in any way be
considered

12 here; otherwise, there wouldn't have been any point in
the

13 separate trial order, because the separate trial order
is based

14 on the fundamental fairness question of each person
being

15 considered separately from the other. You understand
that?

16 A. Yes.

17 Q. Okay. Now, I also went over with you and the
others some

18 basics about our law and recognizing that most of you
have

19 never served on a jury and don't really have any
experience

20 with the criminal justice system in this regard. And

that's

21 true of you; right?

22 A. Yes.

23 Q. You've never been on a jury.

24 A. No.

25 Q. And so again without seeming to have the view that
you

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1 didn't pay attention or something, I just want to
review it

2 with you again, because these are fundamental things.
And

3 instructions about the law are given at the end of a
trial in

4 detail because a lot of the instructions depend on what
the

5 evidence was in the case and how the jury may consider
6 particular things in evidence and the like. But there
are

7 things that are so fundamental they're applicable to
all

8 criminal trials in the United States, because these are
the

9 commands of the Constitution; and that is that each
person who

10 is accused of any crime in the United States, no matter
what

11 that accusation is or what court it's in -- each person

is

12 presumed to be innocent of whatever he's accused of.
And that
13 presumption of innocence, as we refer to it, carries
throughout
14 the trial, entitles that person to an acquittal, a
verdict of
15 not guilty, unless 12 fair-minded people sitting on the
jury
16 hearing the evidence and following the law decides that
the
17 evidence proves the crimes charged beyond a reasonable
doubt.

18 No defendant in a criminal case has any burden
or duty
19 of proving anything. He certainly doesn't have to
prove
20 himself to be not guilty. He doesn't have to call any
21 witnesses or introduce any evidence.

22 The lawyers for the Government filing the
charges have
23 the responsibility to bring in the witnesses and the
exhibits
24 that are relied upon as evidence. And a defendant does
not
25 have to take the witness stand and answer any questions
from

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1 lawyers or explain anything. A defendant can simply

remain

2 silent throughout his trial, challenge the Government's
3 evidence by cross-examining the witnesses and by
objections to
4 evidence being offered under the rules of evidence that
govern
5 what a jury can hear and consider.

6 And at the end of it, the Court gives
instructions,
7 detailed, for the case about the law that applies and
then asks
8 of the jury: Now, has the evidence that you heard and
saw
9 under these instructions shown the defendant to be
guilty
10 beyond a reasonable doubt?

11 And of course, what the jury has to do, then,
is if
12 there is a reasonable doubt remaining after the 12 of
them
13 discuss it and consider it, they must give the
defendant the
14 benefit of that doubt, finding him not guilty. You
understand
15 these points?

16 A. Yes.

17 Q. And among the instructions that are given in cases
in which
18 a defendant does not take the stand as a witness and
testify,
19 the jury is instructed they may not consider that at
all. You

20 can't draw some kind of inference or suggestion that,
well, if
21 he's innocent, why didn't he tell us that? Because
there are
22 many reasons why an innocent person may not testify at
a trial.
23 And what I tell juries, then, is: Look, you can't talk
about
24 it, you can't think about it. Disregard the fact that
a
25 defendant doesn't testify, if that's the way it's done
at this

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1 trial. You understand those points?
2 A. Yes.
3 Q. Now, in addition to understanding these principles,
do you
4 agree with them?
5 A. Yes.
6 Q. Well, you kind of expressed some uncertainty about
that.
7 This is what is referred to as due process of law, a
phrase
8 that you probably heard before.
9 A. Uh-huh.
10 Q. That no person under the Constitution of the United
States

process. 11 shall be deprived of life or liberty without due
And 12 due process is these things that I have mentioned.
13 A. Okay.
14 Q. So do you accept that as our fundamental law?
15 A. Yes.
accept 16 Q. And not only do you accept it in principle, do you
17 it in this case and agree to be bound by it?
18 A. Yes.
19 Q. What I'm asking you, can you accept here that Terry
20 Nichols, although accused, sits with us in this room
now
21 presumed to be innocent of these charges?
22 A. I don't know. I guess. I don't know.
23 Q. Well, why do you -- just tell us what's in your
mind.
24 A. I don't want to be here.
25 Q. You don't want to be here?

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1 A. No.
2 Q. Well, no one does who is in the chair where you
are. And
3 of course, you have to understand that the law also
says we
4 don't put out a call for volunteers to serve on a jury

and that

here is 5 the -- a part of the basic constitutional structure

chance 6 that people are called to service in a random way, a

walks 7 way; and we expect people to serve who come in from all

referred to 8 of life, with different experiences, what are often

get 9 as a cross section of the community. So we just don't

It's a 10 people in here who don't have anything better to do.

to serve 11 very important part of our responsibility as citizens

12 on juries. You understand?

13 A. Yes.

to do 14 Q. And it isn't a question really of whether you want

the 15 it. The question is are you ready to do it and accept

these 16 responsibilities that I've talked about, including

17 principles of law.

18 A. Okay.

something you 19 Q. Now, I'm not trying to force you into saying

accused of 20 don't believe. Do you believe that a person who is

innocent 21 a crime in the United States should be presumed to be

22 of it?

23 A. Yes.

of a
24 Q. And do you believe that the person who is accused
25 crime is entitled to a jury who is fair-minded and who

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1 considers only the evidence received at the trial?

2 A. Yes.

burden
3 Q. And that the jury must hold the prosecution to its

4 of proving the case beyond a reasonable doubt?

5 A. Yes.

questionnaire,
6 Q. Okay. Well, in your responses here to the

review a
7 you've told us some things about yourself. I want to

additional
8 few of those things with you and ask you a few

will have
9 questions, as I said; and then a lawyer on each side

10 an opportunity to ask you some more.

11 A. Okay.

here; but
12 Q. Bear with us here. I know you don't want to be

13 as I said, most people have the same approach.

14 Now, you were born in or near a town in Ohio?

15 A. Yes.

place. 16 Q. What part -- I'm not familiar with the name of this

17 What part of Ohio is that?

18 A. It's close to the Indiana border.

19 Q. All right.

state 20 A. Just north of -- well, it's in the middle of the

21 towards the Indiana border.

north and 22 Q. And towards the middle of the state: You mean

23 south?

24 A. To the west. West of Ohio.

school in 25 Q. All right. And you lived there, went to high

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1 Ohio?

2 A. Yes.

ago, 3 Q. And then came out here to Colorado some 20 years

4 about.

5 A. Yes.

6 Q. And have lived here in Colorado since.

7 A. Yes.

same high 8 Q. Married a man also from Ohio, looks like from the

9 school.

10 A. Not the same high school, but it's like 8 miles
away.

11 Q. All right. You knew him there?

12 A. No, I did not.

13 Q. Oh, you didn't.

14 A. No.

15 Q. Met him out here?

16 A. Yes.

17 Q. By a coincidence, I take it.

18 A. Yes.

19 Q. You've got two children and they're in school.

20 A. Yes.

21 Q. And you have a couple of brothers living back in
Ohio where

22 you used to live.

23 A. Yes.

24 Q. And your work now is -- you told us administrative

25 assistant. We're not asking for the name of the
company

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1 because you gave it at page 9; and if you'll -- you
have your

2 questionnaire there, I believe. If you will turn,
please, to

3 that page.

4 And is this -- the business of this company,
looking
5 at your job duties, suggests that it has to do with
financial
6 management?

7 A. Yes.

8 Q. Of other persons' investments, that type of thing?

9 A. Yes.

10 Q. And you have worked with them more than four years.

11 A. Yes.

12 Q. And the particular office that you work in is a
small
13 office because in the original questionnaire you
mentioned
14 that.

15 A. Yes.

16 Q. That it would be a hardship on the office for you
to be out
17 of it for a while.

18 And I take it when you got your summons you
may have
19 discussed that with whoever is in charge of your work.

20 A. Yes.

21 Q. And what was that discussion? I mean, what did
that person
22 or those persons say to you about jury summons?

23 A. Um --

24 Q. I don't mean word for word, but I mean in

substance?

25 A. She just said it would be tough if you were gone
because we

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1 wouldn't get the books done.

2 Q. Right. And then after you came out to Jefferson
County and

3 completed the questionnaire, did you talk some more
about that?

4 I mean, with those persons?

5 A. No.

6 Q. Because you didn't mention in this full
questionnaire the

7 same thing. Maybe you thought, Well, we didn't listen
to you

8 the first time, so why mention it again?

9 A. Yeah. So I didn't.

10 Q. Okay. And, of course, this is again not something
that we

11 ignored. I read it and still asked you to come out
because for

12 the very reason that I just mentioned: Juries
ordinarily

13 consists of people who are busy, who are working and
doing

14 other things; and, you know, we recognize very well
that we

15 interrupt that and have people come in and that it has

effects

16 and consequences. So that's why we asked you to come
in, not
17 only to Jefferson County to complete the questionnaire
but to
18 come in here and answer some more questions.

19 And was there a discussion with your employer,
20 supervisor, about whether you would be paid if you were
serving
21 here on the jury, paid by them?

22 A. No, there was no discussion about it.

23 Q. Do you know what to expect in that regard?

24 A. I assume they would, just because we're close, it's
small.

25 Q. But has this ever happened to your knowledge before
that

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1 some person working there got onto a jury and it lasted
a
2 while?

3 A. Yes, there is one other person, and she got called,
but she
4 was only out for a day.

5 Q. Yeah. But not like -- and of course you're aware
that we
6 may be at this a while.

7 Did you talk with your husband about it?

8 A. Yes.

9 Q. And again, without the specific -- what he told you
10 specifically, what reaction did he have to the news
that you
11 had been summoned to jury service in this particular
case?

12 A. Just that it was mind-blowing to him that I was
called, you
13 know.

14 Q. That's pretty much --

15 A. Not much has been said.

16 Q. That's pretty much your reaction, too.

17 A. Yes.

18 Q. How in the world did it happen to me?

19 A. Uh-huh.

20 Q. Okay. And, you know, have you had discussion with
anybody
21 else about -- here you are being summoned in this case,
it
22 could take several months to try the case; that you
know
23 something about the issues -- anybody talk to you in
terms of,
24 well, you ought to try to get off by answering in
certain ways?

25 A. Yeah.

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1 Q. And what kinds of things were suggested to you in
that

2 regard?

3 A. Oh, you mean you want me to tell you --

4 Q. Yes.

5 A. -- what they said?

6 Q. That's why I'm asking.

7 A. Just, I don't know -- just say things like he's
guilty and

8 maybe they'll let you off.

9 Q. Uh-huh. Something you might have thought of on
your own,

10 for that matter.

11 A. Probably.

12 Q. Okay. Well, you know, we assume that under the
oath that

13 you've just taken you're going to be honest with us.

14 A. That's why I told you.

15 Q. Has anybody suggested to you, well, if you get on
the jury,

16 this is how you ought to decide it?

17 A. No.

18 Q. Something like that?

19 A. No.

20 Q. Expressing opinions about Mr. Nichols or about the
case?

21 A. No.

22 Q. Now, there are a few things I'd like you to look to
your
23 answers and then tell us a little bit more about. Your
husband
24 works for the company that you've identified and has
been there
25 20 or more years; right?

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1 A. Correct.
2 Q. And on page 11, if you'll please turn to that page,
you --
3 we asked you there under 53 some questions about
members of
4 your family ever being employed. One of them is in a
state,
5 county, or city law enforcement office. And you said
yes.
6 Please explain that answer. Who are you
talking
7 about?
8 A. My mother was a deputy clerk for a judge in the
county for
9 probate and juveniles.
10 Q. Okay. And in what county?
11 A. Mercer.
12 Q. In Ohio?
13 A. Yes.

14 Q. And how long was that? Was that when you were
growing up

15 in the family?

16 A. Yeah. She was employed for probably 20-some years.
She's

17 now retired, but she was employed for about 20-some
years at

18 that.

19 Q. All right. And then you also marked social
workers,

20 agencies using social workers. What's the reason for
that yes

21 answer?

22 A. Well, she also did that because it's a small --
they had

23 social workers that came in and dealt with juveniles
and things

24 like that.

25 Q. I understand. Okay.

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1 Then we asked of you to tell us -- very broad
2 question: What do you think about the criminal justice
system

3 and how well it's working? I'm referring now to page
22, and

4 this question is at No. 100 there towards the top.

5 And you said, "Adequately." And then we gave
you a

6 place to explain, but you didn't fill that in.

7 Would you just expand on your view there?

What do you

8 think about the effectiveness of the criminal justice

system?

9 And you may be thinking about it -- let me give you a

little

10 suggestion as to why I'm asking. Some people get

impressions

11 and form opinions about the operation of the system as

a result

12 of some personal experience and some as a result of

reading or

13 considering certain cases that get publicized, you

know, or

14 what somebody tells them. There are a lot of ways in

which we

15 form our opinions about the effectiveness of any human

16 activity.

17 So would you just expand on your view that

it's not

18 particularly good, it's not particularly bad; it's

adequate.

19 That's what you said.

20 A. Right. I don't know from my own personal view. I

just

21 feel that sometimes you think that this person is

guilty and

22 they got off and you're going, you know, why? And

then, you

23 know, at some point you see that justice was done right

and a

is a 24 person was found guilty; and he was. So I guess there
sometimes. 25 happy medium or -- I don't know. I guess it works

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connection 1 Q. And are you thinking of any particular case in

said, or 2 with either one of those that somebody got off, as you

been 3 where you, I guess, think that that person should have

4 convicted?

5 A. Nothing in particular. I guess the only thing that
from seeing 6 probably stands out for everybody is probably -- is

7 the justice system with the O. J. case, which was the
first

8 time that I've ever been -- I've ever even seen inside
of a

9 courtroom, you know, with everybody here.

10 Q. Yeah.

11 A. So --

12 Q. Well, you saw that on television?

13 A. Yeah.

14 Q. That was a televised trial as it happened. Is that
15 something you watched much of?

16 A. No.

17 Q. Did you see any of it -- as I understand it, that
was

18 televised while it was going and then rebroadcast,
segments of

19 it, at later hours and then of course in news programs
and the

20 like. What parts did you see? I mean, did you see it
on the

21 news?

22 A. I just saw it on the news. I never watched it on
Court TV

23 or anything like that, just because I work and I don't
have

24 time to watch it.

25 Q. During the daytime, you were working.

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1 A. Yeah.

2 Q. Was there anything particular about what you
watched there?

3 And I suppose you discussed it with other people. A
lot of

4 people did.

5 A. Right.

6 Q. Anything in particular about the case, the way in
which the

7 judge conducted the trial, the way in which the lawyers

functioned, or

8 represented their respective sides or the jury

it

9 can you break it down, or is it just that your view is

10 didn't come out right?

offhand, but

11 A. I don't remember anything in particular right

12 I just -- probably just the outcome itself, you know.

13 Q. Because you thought he was guilty?

14 A. Oh, yeah.

15 Q. And what did you base that on?

said he

16 A. Well, I guess after it was all said and done and he

he

17 didn't murder her, he was going to find the killer; and

like

18 never has, and he's never made any attempts. And it's

know.

19 he's the only one that could have done it. I don't

20 Q. Okay. Nobody else has been arrested for it.

21 A. No.

didn't

22 Q. Well, of course, you recognize, I trust, that you

23 sit in the courtroom and hear the evidence.

24 A. No.

what

25 Q. And participate in the whole process and don't know

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1 the jury considered.

2 A. No.

3 Q. Agreed?

4 A. (Juror nods head.)

5 Q. So would you also agree that it's pretty hard to
judge

6 whether the jury did its job in that case when you
don't know

7 the details?

8 A. Right.

9 Q. And, of course, the jury had to in that case, as in
all

10 cases, function in this way that I've talked about,
where the

11 only things that can be considered are the things that
actually

12 came into evidence. And a lot about that case, of
course, was

13 on the outside of the courtroom, people talking about
things

14 that never did get into evidence. You understand that?

15 A. Right.

16 Q. Okay. Now, you also had a time when someone stole
your

17 purse.

18 A. Yes.

19 Q. It's down on this same page?

20 A. Right. Right.

21 Q. And that person did get charged?

22 A. Yes, he did.

23 Q. Now, what were the circumstances? Was that grabbed
from

24 you on the street, or taken from a desk, or what kind
of thing?

25 A. No. Some gentleman came into my office; and at
that time I

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1 was at a previous job. And I was the only one there,
and I was

2 in the other room; and when I came out, he asked me
some

3 question. And about an hour or so later, I realized
that he

4 had been in the office before I knew he was there and
he had

5 taken my billfold out of my purse.

6 Q. Was it sitting on a desk?

7 A. Yeah --well, it was sitting over to the side. I
mean it

8 was in view.

9 Q. In plain view. You didn't --

10 A. Right.

11 Q. Okay. And then you reported that to --

12 A. Yes, I did.

13 Q. -- police. Now, was that in Denver?

14 A. Green -- Greenwood Village.

15 Q. And so that police department responded?

16 A. Yes.

17 Q. And so you had a good view of this person.

18 A. Yes.

19 Q. Was it a man?

20 A. Yes.

21 Q. Talked directly to you?

22 A. Yes.

23 Q. And then on page 23, you tell us that there was a
time when

24 they showed you pictures --

25 A. Right.

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1 Q. -- of people and, I guess, asked you, "Is one of
these

2 pictures the man?"

3 A. Right.

4 Q. And was it?

5 A. Yeah. Yes. They gave me six pictures, and I had
to pick

6 him out from those six pictures.

7 Q. Did you have any trouble doing that?

8 A. No.

9 Q. And so you picked out a picture.

10 A. Uh-huh.

11 Q. And then, what, you heard at later time that
somebody was

12 arrested?

13 A. Yes. He was going around in the Greenwood Village
area to

14 all the businesses and stealing billfolds, purses,
whatever;

15 and because I filed a report, then I was -- wrote a
letter or

16 something that they had a hearing. So I had to go to
Arapahoe

17 County, but then I guess he said he was guilty. I
don't know

18 what happened, but I -- we didn't have to do anything
after

19 that.

20 Q. You didn't have to come in at a trial and be a
witness?

21 A. No, no.

22 Q. Do you know -- I believe you said -- I'm going back
now to

23 the previous page -- that you thought it was all
handled very

24 well.

25 A. Yes, it was.

Juror No. 472 - Voir Dire

1 Q. Do you know whether there was a sentence?

2 A. No, I don't. I never heard.

3 Q. Did you lose money?

4 A. Let me see. Luckily, I only had like maybe 30
cents and

5 charge cards and maybe three checks in there, so I was
in

6 pretty good shape.

7 Q. So did you like cancel the charge cards --

8 A. Right, right.

9 Q. -- and all the things? So there wasn't any reason
to pay

10 you restitution --

11 A. Right.

12 Q. -- or something?

13 A. Right.

14 Q. Turning back to the time when these pictures were
shown to

15 you --

16 A. Yes.

17 Q. -- and these were police officers; and as they --
as you

18 looked at those pictures, did they say anything to you
to

19 suggest how you should look at them or to suggest that
one of

20 these pictures is somebody they suspect? You remember
how that

21 went?
22 A. I don't remember that well.
23 Q. Well, I would understand that.
24 A. Because it's been a while.
25 Q. About how long ago was this?

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Juror No. 472 - Voir Dire

so for
do you
remember when
you or any
a legal
he ever
had me

1 A. I'm going to say -- I just got my license renewed,
2 however long that was, to get a new license. How long
3 keep them? Six years?
4 Q. I don't know.
5 A. Six years, I guess. Maybe six years ago.
6 Q. Or five, maybe.
7 A. Yeah, whatever. Yeah. Something like that.
8 Q. Okay. You know, as you sit here now, do you
9 they showed you these pictures and what they said to
10 of the details?
11 A. I remember sitting at a desk, and they brought like
12 folder out, and they had them stapled. I don't know if
13 made a comment or something and then, you know, just

14 point which guy it looked like, you know. And I
pointed him

15 out.

16 As soon as I did, I go, "Well, it looked like
him."

17 He goes, "That's the guy."

18 So they must have known that -- who they were
kind of

19 looking for, I guess. That's what I'm assuming.

20 Q. Yeah. And what race was the person?

21 A. He was black.

22 Q. And the pictures, were they all --

23 A. Yes.

24 Q. -- of the same race?

25 A. Well, now --

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Juror No. 472 - Voir Dire

1 Q. Do you remember?

2 A. I think, but I'm not sure. I think they were.

3 Q. Okay.

4 A. There might have been one white person in there,
but I'm

5 not sure. It's been a while.

6 Q. Well, you're not on trial for what you did there.
Please

7 understand. We're just interested in the process that
you went

an
police
8 through, because sometimes that carries over and makes
9 impression on a person about the fairness in which the
10 act, or something like that.

of those
consider
part of
in which
just
11 So I don't want you to -- again, this is one
12 areas where I've pursued, but I don't want you to
13 there is something important about that. This is all a
14 having you explain to us what you think about the way
15 the system works. The system includes, of course, not
16 trials but investigation procedures and the like.

agree
It's at
offer your
you feel
17 Now, you mentioned that on page 30 -- that you
18 with the importance of following court instructions.
19 page 30, and the question is No. 129. And you did
20 explanation there, and I'm assuming that's still how
21 about that.

22 A. Yes.

hope
get --
not only
23 Q. And, of course, when this refers to instructions, I
24 you understand that means all of the instructions that
25 that are given by a court in connection with a case,

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Juror No. 472 - Voir Dire

1 the preliminary things like you've been instructed on
in this
2 case but also at a trial itself, the judge gives
preliminary
3 instructions to the jury, including the things that
I've
4 mentioned here about the law and the presumption of
innocence
5 and so forth. And then there are instructions about
evidence,
6 and there are things the jury is told about during the
trial,
7 and then, of course, after the trial. And after the
trial,
8 there are detailed instructions. And basically, they
outline
9 what the jury -- what the elements of the offense are,
what has
10 to be proved beyond a reasonable doubt as I have
mentioned, and
11 also how they may consider this or that type of
evidence, and
12 those are the things that you're agreeing that you have
to
13 follow as a juror. Right?
14 A. Uh-huh. Yes.
15 Q. Now, we had to ask you some questions here about
your --

beliefs 16 again in the area of your opinions and attitudes and
17 about punishment and particularly with respect to the
18 punishment of life in prison with no possibility of
ever 19 getting out and death. These are on page 28 and 29.
And we 20 had sort of a preliminary explanation on page 27,
explaining 21 that the only reason we're asking you these questions
is 22 because of the possibility that a jury may be called on
to make 23 a decision in that area.

24 And, of course, Mr. Nichols is presumed to be
25 innocent; therefore, we have to assume that that's the
way in

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Juror No. 472 - Voir Dire

1 which the jury verdict will come in; that it's not
guilty. And 2 by asking this type of question, we don't want to be
understood 3 by you as suggesting how the case will come out. You
4 understand that?
5 A. Yes.
6 Q. Do you?
7 A. (Juror nods head.)

8 Q. And also, this did not give you any information
about how a
9 punishment decision is made by a jury or what the law
is. I
10 didn't give you any instructions about that, because
what we
11 wanted to hear from you is what do you think coming in
here,
12 without knowing the law that applies and recognizing
that this
13 matter of what kind of punishment there should be for
certain
14 kinds of crimes is much discussed, much debated, and a
lot of
15 disagreement about it. And that's why we wanted to
know, you
16 know, if you could write the law, how would you do it,
and what
17 kinds of crimes would you say certain kinds of
punishments are
18 designed for.

19 And I take it that's the -- that's the
approach you
20 took in answering these questions. Is it?

21 A. Yes.

22 Q. And I don't know the extent to which this is
something
23 you've thought about before you had to answer these
questions.

24 Is it? I mean particularly the death penalty.

25 A. No. Just if you read something that's a brutal
crime or

5851

Juror No. 472 - Voir Dire

1 something; but, you know --

among

2 Q. Well, you know, there are strong views about this

wrong and

3 people, and there are views like the death penalty is

imposed.

4 it shouldn't be a part of the law, never should be

be

5 And then there are views like, well, sure, it ought to

give

6 imposed automatically; if somebody takes a life, they

between.

7 their life, forfeit it. And then there is a lot in

8 A. Right.

first

9 Q. And when you got to this part of the questionnaire,

questions?

10 of all, did it surprise you that we asked these

previous

11 A. Not really. I guess it was just because of the

12 trial that you want to find out --

Timothy

13 Q. Yeah. You knew about the jury's decision regarding

14 McVeigh.

15 A. Correct.

about it

16 Q. And have you since answering these had thoughts

here? 17 which would cause you to change any of the answers

18 A. No.

you'd 19 Q. So if I asked you these same questions right now,

20 give me the same answers? Would you?

21 A. Probably. I assume I would.

if a life 22 Q. All right. And, you know, your answer is, "Well,

23 is taken and how it was taken would be factors."

crimes, you 24 And then when we asked you about specific

25 said you don't know; and, you know, that's a perfectly

5852

Juror No. 472 - Voir Dire

asking 1 acceptable answer. Again, we're not causing you to --

get from 2 you to defend what you said because what we -- what I

law is in 3 this is that you're open and uncertain about what the

4 this area. Is that --

5 A. That's correct.

6 Q. That is a fair summary?

7 A. Uh-huh.

And we're 8 Q. Now, I want to review with you what the law is.

9 almost done with this part of it, so bear with me.

10 In cases that do not involve this type of
punishment,

11 life in prison or death -- and we're talking now about
federal

12 law, and there is differences among the states on this
point;

13 but here we're in Federal Court operating under
statutes passed

14 by the Congress, so it's federal. And it's clear under
federal

15 law what is involved where there is a death -- a
possibility of

16 a death sentence, and I'll get to that in a moment.
But taking

17 now cases that do not involve such punishment
possibilities,

18 the jury comes in, hears the trial, hears the evidence,
makes a

19 decision, not guilty or guilty. In either event,
whichever

20 decision they make, the jury has performed its function
and is

21 done with the case, goes home.

22 But that isn't the end of it if the verdict is
guilty,

23 because then the question becomes what to do about it,
what

24 should be the sentence. And in these other types of
cases,

25 that decision is made by the judge. The judge has to
hold

Juror No. 472 - Voir Dire

1 another hearing, because sentences are not decided on
the basis
2 of the evidence presented at the trial. Sure, that's a
part of
3 it; because if there is no conviction, there is no
sentence,
4 obviously. But in those cases where there is a verdict
of
5 guilty -- and just to use an example, let's say
somebody robs a
6 bank -- two or three people together rob a bank. One
goes in
7 with a gun, one grabs the money, one drives them away,
that
8 kind of thing. Such crimes are federal crimes, a bank
robbery.

9 And the judge then has to hear about the
defendant as
10 well as the crime. And so after the verdict is in, the
judge
11 gets more information about the crime, how much money
was
12 taken, what are the consequences to the bank, things
like that
13 and whether there were any persons who were hurt, bank
teller,
14 something like that.

15 And then the judge wants to get all the
information he

16 can about the defendants: Who are these people? And
that
17 really is the whole life story of the persons found
guilty,
18 including that person's early history, what was the
family
19 like, then what level of education did that person
have, what's
20 the employment history, military service or not,
marriages,
21 divorces, children. You know, each one of us has a
life story
22 that's different from everybody else, so we're all
unique and
23 individual in that respect, the things that we've done
and the
24 things that have been done to us.
25 And the judge then hears all that and hears
from the

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Juror No. 472 - Voir Dire

1 prosecutors and the defense counsel and then makes a
decision
2 which is individual as to the person being sentenced.
So it
3 isn't like this crime, this time. It is this crime,
now this
4 defendant; what is just?

5 And it can be different where, like in the
6 illustration I gave you -- where there are different

persons

7 and different roles. So there very well could be in
such

8 circumstances, because not only the individual
circumstances of

9 each person but the way in which the crime was
conducted and

10 their role in it, that a judge can consider and say
this person

11 gets X years, this person Y, this person probation,
whatever.

12 Now, under federal law, where the crime
involves the

13 intentional killing of other people, murder, there is
the

14 possibility of punishment: Life in prison with no
getting

15 out -- you know, the person lives the rest of his life
in

16 prison -- or death, or there can be lesser punishment.
But for

17 those cases, what the Congress has said is judges don't
make

18 that decision, juries do, because that's -- this life-
and-death

19 question, 12 people sitting in the jury box should
decide that.

20 And it's the same 12 people who decided that the
evidence

21 proved the case beyond a reasonable doubt.

22 But just like judges, those jurors don't
decide that

23 on the basis of what happened at the trial itself. As

a matter

24 of fact, punishment, potential for punishment, is not
even

25 considered by the jury in deciding guilt or not guilty.
Do you

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Juror No. 472 - Voir Dire

1 follow me?

2 A. Yes.

3 Q. So there has to be more presented. There is a
second trial

4 or a penalty phase hearing as we sometimes refer to it;
and it

5 is at that time that the jury gets presented with
information

6 much like a judge does in making an individualized
sentencing

7 decision. And so it proceeds like the trial, too, in
that the

8 lawyers for both sides will present witnesses whose
testimony

9 will be considered, present exhibits, and they will
provide

10 information again about the circumstances of the crime,
what

11 happened, how it affected people, and the like.

12 And also, the defense will present all the
information

13 about the defendant: again, a life history, what
happened to

And 14 him, what he's done in life and so forth, good and bad.
15 what the law says and the reason for this additional
hearing is 16 that when a jury is confronted with the question of
whether to 17 take a person's life, they should know a lot about the
person 18 whose life is being taken. Understand?

19 So again, just as is true with judge
sentencing, it 20 isn't that a particular crime results in a particular
21 punishment. It is very individual to the person being
judged.

22 And at the end of such a second trial, the
court gives 23 instructions again, and these instructions relate to
the 24 information provided. And, you know, I can't tell you
if 25 the -- that were to happen in this case what would be
involved

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Juror No. 472 - Voir Dire

1 there because, first of all, we don't know what the
evidence is 2 going to be in this trial, so we don't know what the
outcome 3 will be. Certainly the presumption is that it's not
guilty;

issue of 4 but if we had a verdict of guilty and went on with an
might be 5 penalty trial, there is no way to tell you now what
able to 6 heard there, so we have to talk about it without being
7 talk about anything specifically.

would do 8 But what the law says is and what the court
has been 9 in these final instructions is to summarize all that
the one 10 presented and then divide it up into two categories: on
that 11 hand, things that the jury may consider in suggesting
this 12 death is the deserved punishment for this person and
factors, 13 crime, and we refer to that in the law as aggravating
things 14 aggravating circumstances; and on the other hand, those
the 15 that have been presented that suggest that death is not
individual to 16 deserved punishment for this person. And it is
things 17 the person, and therefore it would essentially be these
law as 18 about this individual. And we refer to those in the
the 19 mitigating circumstances, mitigating against death as
20 punishment. Follow me?

21 A. Yes.
22 Q. And then in these final instructions, the court may suggest
23 through, to the jury some questions the jury may use to sift
24 analyze, and consider all that has been heard; but there is no
25 way to say, you know, this is the formula that you follow,

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Juror No. 472 - Voir Dire

1 because it comes down to a very individualized and subjective
2 judgment.

3 And of course, the jury discusses that. I mean, there
4 are people on the jury and 12 people aiding each other
5 in analyzing and considering what has been heard.

6 But in the end, each juror has to make a decision.

7 And the decision is whether the defendant should live or die.

8 And the decision has to be made on the basis of all of the
9 information that is presented and constitute a reasoned
10 moral judgment about it.

11 Do you understand now this explanation?

12 A. Yes, I do.

13 Q. Feel free to ask any question, if you have any.

14 A. No.

15 Q. Well, the question that you must answer for us is
that if
murder,
person
heard, both
that have

16 it came to that and you had found a defendant guilty of

17 then can you make the next decision about whether that

18 should live or die and base it on all that you have

19 aggravating and mitigating, all of the circumstances

20 been presented?

21 A. Yes.

22 THE COURT: Okay. Now we have opportunity for
counsel

23 to ask you a few more questions, so bear with us yet a
while.

24 Ms. Wilkinson?

25 MS. WILKINSON: Thank you, your Honor.

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Juror No. 472 - Voir Dire

1 VOIR DIRE EXAMINATION

2 BY MS. WILKINSON:

3 Q. Good morning, ma'am.

4 A. Good morning.

5 Q. I know you don't want to be here.

6 A. No.

7 Q. You're not the first person to tell us that. I'm
sure you
8 won't be the last person; but if you wouldn't mind just
setting
9 that aside like you have so far -- not your
questionnaire, just
10 that feeling, if you can.

11 A. Oh.

12 Q. And just answer a few more questions.

13 A. Okay.

14 Q. I know you've already answered quite a few.

15 I want to start by asking you if it's worse
sitting
16 here answering these questions or -- if it's harder
sitting
17 here answering these questions, or raising two teenage
sons.

18 A. Worse than here.

19 Q. It's worse than here. Okay.

20 You told us in your questionnaire that you
listen to a
21 variety of people on the radio, and one is Dr. Laura.
And can
22 you tell me what you like or why you listen to her?

23 A. She just comes on between Tom Martino and Jay
Marvin, so I
24 just don't change the channel and just listen where I
work.

25 Q. Would you say that you agree with a lot of her
views, you

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Juror No. 472 - Voir Dire

1 disagree, or --

2 A. She has some good points, but a lot of things I
don't agree

3 with her.

4 Q. What do you think her general good points are?

5 A. Oh, I don't know anything in specific; but, you
know, if

6 there is a topic or that somebody called in on -- Oh,
that was

7 good; I would have never thought about that. But
nothing in

8 detail.

9 Q. Do you listen to the radio regularly at your
office?

10 A. Yes, I do.

11 Q. And you listen to a variety of other talk shows and
other

12 hosts -- that you listen to. Have you ever heard them
13 discussing the Oklahoma City bombing?

14 A. Well, yeah. Well, not recently; but I mean, I was
15 listening to it at the time that it happened, and they
came

16 over the radio and was talking about it.

17 And I'm thinking, yeah, when there was the

first

18 trial, they came on and spoke about it where one of the
19 reporters always comes on and talks about it and
whatever.

20 Sometimes I pay attention, sometimes I don't. It
depends on

21 what I'm doing at the time as far as work.

22 Q. Did you pay more attention back at the time of the
bombing

23 than you did during the McVeigh trial?

24 A. Yeah.

25 Q. You were more interested --

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Juror No. 472 - Voir Dire

1 A. Yeah.

2 Q. -- in that?

3 Do you recall seeing pictures of the bombing
and the

4 building and the rescue workers back around the time --

5 A. Yes.

6 Q. -- of the bombing?

7 A. Yes.

8 Q. And what stands out in your mind about that?

9 A. Just the way the building looked and then all of
the people

10 coming out and how bloody they were and things like
that.

you're 11 Q. I take it that upset you at the time. You're --

12 grimacing.

13 You understand that in this trial, if you were
14 selected as a juror, there would be some evidence of
what

15 happened at the scene to prove the crime. And could
you look

16 at those pictures and obviously feel some emotion or
some

17 reaction to them but separate that from determining
whether we

18 had proved to you beyond a reasonable doubt that Mr.
Nichols

19 was guilty of the crimes charged?

20 A. I guess. I don't like blood, so . . . It would be
tough.

21 Q. Could you do that? Could you separate those two
things?

22 A. Yes.

23 Q. And recognize -- I'm sorry.

24 A. Yes.

25 Q. Thank you.

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Juror No. 472 - Voir Dire

1 You said that you listen to the radio
regularly. Did

2 you hear on the radio when the jury in the McVeigh case

3 announced that they had found Mr. McVeigh guilty?

4 A. Yeah, I did. I was at home at that time and it
came on TV.

5 Q. Did you have any reaction to that; do you recall?

6 A. No. No.

7 Q. Did you disagree or agree with the verdict, or not
have an

8 opinion?

9 A. I agreed.

10 Q. What about -- Do you recall some time passing
before the

11 jury recommended the sentence of death?

12 A. Say that again.

13 Q. I'm sorry. Do you recall when the jury recommended
the

14 sentence of death?

15 A. Uh-uh.

16 Q. Do you even recall whether that was separate from
the

17 guilty verdict?

18 A. It was separate. Yeah. It was separate, because
it came

19 on later, and then -- and then I saw that they were --
20 interviewed the jurors, or something.

21 Q. Do you recall anything about those interviews of
the

22 jurors? Anything they said?

23 A. Not in particular. I just remember them all
sitting there

never 24 and -- I remember what some of them looked like, but I
25 really paid attention.

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Juror No. 472 - Voir Dire

1 Q. Now, you said you recall there was some time
between the 2 guilty verdict and the penalty --

3 A. Right.

4 Q. -- announcement. Do you understand now from
listening to

5 his Honor that's because there is a second trial where
one 6 would hear all this different evidence and different
7 information?

8 A. Yes.

9 Q. Did you have any reaction to the sentence of Mr.
McVeigh?

10 Did you agree, disagree, or not have an opinion?

11 A. I'd agree from what I've seen.

12 Q. I'm sorry?

13 A. Just agree from what I've heard, you know, and so
forth.

14 Q. Again, is that with the caveat that you weren't
there and

15 you don't know what all the evidence was that was
presented?

16 A. Right. Same thing.

17 Q. Do you recall talking to anybody at work or your
husband or

18 your children about the McVeigh verdict or sentence?

19 A. No. I don't think so.

20 Q. Was it a big topic of conversation?

21 A. No.

22 Q. I ask you that because if you can turn to page 37,
I think

23 it's Question 162, we asked you a whole bunch of
questions

24 about publicity; and you said you didn't know much
about

25 Mr. Nichols. Is that right?

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Juror No. 472 - Voir Dire

1 A. That's -- that's correct.

2 Q. And down there I think you said something about he
may not

3 get the death penalty or the death penalty may not be
involved.

4 Do you see that?

5 A. No. What question are you talking about?

6 Q. I thought it was Question 162, but let me check.

7 A. Okay.

8 Q. See 162?

9 A. Yeah.

10 Q. On page 37?

11 A. Uh-huh.

12 Q. You said, "He helped in the bombing" -- this is
what you've

13 heard?

14 A. Yeah.

15 Q. "Would possibly not have the death penalty."

16 Can you tell me what you meant there?

17 A. I just -- I thought I had heard that they weren't
going for

18 it. That's all I remember hearing.

19 Q. Meaning that the Government wouldn't be asking for
it?

20 A. Right. But I wasn't sure. I mean, sometimes --

21 Q. Were you surprised when you heard his Honor tell
you that

22 there could be the possibility of a death penalty in
this case?

23 A. No. I just heard there wasn't; but I mean, you
know, you

24 hear different reports and, you know, you just --
that's why I

25 guess I listen but I don't pay much attention, because
you just

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Juror No. 472 - Voir Dire

1 don't know.

2 Q. And I think you said that about your opinion of the
3 media --

4 A. Yeah.

5 Q. -- it depends and you can't always tell whether
it's
6 correct or not. Is that right?

7 A. Right. Right.

8 Q. Okay. So this isn't telling us you have any
opinion one
9 way or another of the ultimate result in this case. Is
that
10 right?

11 A. Right.

12 Q. You don't have any information, I take it now, to
base a
13 decision on because you haven't heard any evidence;
right?

14 A. No.

15 Q. The only other thing I want to ask you about is the
penalty
16 phase of a trial and if you were selected as a juror
where you
17 had to determine whether someone should live or die.
You
18 understand that you couldn't make that decision as a
juror

19 until you heard that whole second phase of the trial?

20 A. Right.

21 Q. You understand that?

22 A. Right, uh-huh.

23 Q. And could you go into that, even if you had
convicted
24 someone of murder and you knew beyond a reasonable
doubt they
25 had committed that murder -- could you keep an open
mind about

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Juror No. 472 - Voir Dire

1 their background and all the other circumstances you
might hear
2 about and decide whether they should get life or death?

3 A. Yes.

4 Q. And it doesn't matter how bad the crime is; you
would still
5 have an open mind as to both penalties. Is that right?

6 A. Yes. I think I would.

7 Q. I think you said to us in the death penalty when
you were
8 trying to describe your views in the questionnaire that
murder
9 could be -- life in prison could be appropriate for
murder and

10 then sometimes it would depend on how the crime, the
murder,
11 took place. Is that right?

12 A. Yes.

13 Q. Do you understand that his Honor would instruct you
that

14 you'd have to consider that but you'd also have to
consider the

15 defendant and his background and his role and
everything else

16 before you could come to that final decision?

17 A. Right. That's what I understand. Uh-huh.

18 Q. And you'd keep an open mind as to all those factors
before

19 you made your decision?

20 A. Yes.

21 MS. WILKINSON: That's all I have. Thank you
very

22 much.

23 THE COURT: Mr. Tigar?

24 MR. TIGAR: Yes, your Honor. Thank you.

25 VOIR DIRE EXAMINATION

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Juror No. 472 - Voir Dire

1 BY MR. TIGAR:

2 Q. Good afternoon.

3 A. Hi.

4 Q. Well, almost.

5 My name is Michael Tigar.

6 A. Hi.

7 Q. And Ron Woods, who is sitting there, and I were
appointed

of 1995, 8 by the United States district judge in Oklahoma in May
being 9 shortly after the Government charged Mr. Nichols with
us to 10 responsible for the bombing in April. And he appointed
11 help Terry Nichols.

12 A. Okay.

here. 13 Q. You start out by saying that you'd rather not be

14 Right?

15 A. That's correct.

16 Q. And that's right. Is that just because it's your
17 birthday --

18 A. No.

19 Q. Would you rather not be here any day?

20 A. Well, that on top of it.

21 Q. That on top of it. Okay.

get you 22 Well, I'm the last one, and then we'll try to

23 out of here.

24 A. Okay.

25 Q. At least for today.

5867

Juror No. 472 - Voir Dire

to serve 1 Now, you understand that if you are selected

2 on the jury, we may be here a while, as the Judge said.

3 Have you talked to folks at your office about
that?

4 A. Not in depth, no.

5 Q. I understand. Everybody understands it's okay to
talk with

6 the folks you work with. I mean, we'd expect that.
There is

7 nothing wrong with it in terms of the Judge's
instructions, and

8 so on.

9 You know that if you are selected and serve on
the

10 jury that we sit here in court from 9 to 5 Monday
through

11 Thursday and then 9 to 1 on Friday. And of course,
some time

12 is consumed with going and coming, because the Court
takes

13 precautions to make sure the media doesn't get your
picture in

14 the paper and all that.

15 And have you thought about how you would try
to

16 accommodate jury service with the other, you know --
with the

17 other demands and with what -- with work and so on?

18 A. No. Just like I had told the Judge is that it
would be

19 tough if I wasn't at work because I do all the books.

20 Q. Right.

21 A. They'd be -- and it would be just when they're
getting to
22 the end of the year, and there is only like three of us
at work
23 there; so that's why it would be tough and -- and I
guess just
24 for me to not be at home because I have, well, two boys
and my
25 husband -- I don't think they can function without me,
so

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Juror No. 472 - Voir Dire

1 that's another reason.
2 Q. Yeah. Okay. Well, you understand why we're
asking.
3 You know, this -- one of the most wonderful
things
4 about this country of ours is that we have a jury
system. You
5 know, we just don't do it like in some other places,
just pull
6 them in and let the cops decide things. And to make it
work,
7 we need folks from all walks of life; and as the Judge
said,
8 you know, we don't advertise for volunteers. And who
knows
9 what the jury system would be if we just had folks that
didn't
10 have anything better to do.

11 So do you think you can handle all of these
pressures

12 on you --

13 A. Probably not.

14 Q. -- and serve?

15 A. Probably not.

16 Q. Tell me about that.

17 A. Well, because I -- I do a lot. I mean --

18 Q. I understand.

19 A. I have a full-time job and I raise the two boys and
I

20 maintain the house and I take care of the bills and I
do

21 everything, so it would be tough.

22 Q. Okay. It would -- okay. It would be tough, but --
all

23 right.

24 And you said initially, you know, when you
talked, you

25 didn't want to here. Are you apprehensive about
anything other

5869

Juror No. 472 - Voir Dire

1 than just all of these time pressures that you can
foresee?

2 A. Mostly that, just --

3 Q. Anything else? And, you know, whatever it is,

please feel

4 free to share it with us.

As far

5 A. No. I've just never been in a courtroom, you know.

6 as that goes, I just -- I don't know.

bit

7 Q. Yeah. Just an intimidating atmosphere, a little

8 intimidating.

9 Well, take it easy. It's almost over.

you

10 You mentioned that among things that you read,

11 like to read or have read books by John Grisham.

12 A. Yes.

lawyers.

13 Q. Is there anything in those -- and he writes about

your views

14 He is a lawyer. Anything in that that has affected

15 of the criminal justice system?

16 A. No.

17 Q. Okay. I mean, they are just books.

18 A. Right.

your

19 Q. And you also -- if you could turn to page 27 of

about a

20 questionnaire, Question 121. It asked your feelings

and

21 case in which somebody essentially made a plea bargain

by

22 testified. If there is testimony in the case about --

23 someone who made a bargain with the prosecution, the

Judge will

24 give instructions on, you know, how to consider that
evidence,

25 and the Judge will give instructions on many other
aspects of

5870

Juror No. 472 - Voir Dire

1 the case.

2 Would you be able to follow the Judge's
instructions

3 and consider it in the way that he outlined in the
4 instructions?

5 A. Yes.

6 Q. Okay. You mentioned -- and I know that this has
already

7 been talked about -- at page 23 that in that purse
robbery case

8 they showed you a picture lineup.

9 A. Yes.

10 Q. Photo spread, I guess. Did they call it a photo
spread, or

11 did they --

12 A. I thought they just called it a picture lineup.

13 Q. Picture lineup, photo spread. I mean there is --
there is

14 no certain word. It's just to describe what happened.

15 A. Right.

16 Q. Were those six pictures of six different people?

17 A. Yes.

18 Q. Okay.

19 A. Yes.

20 Q. And did you feel that someone was trying to
influence your

21 selection in the way they did it, presented it to you?

22 A. I don't think so, but I just -- I don't remember.
Like I

23 said, I just remember sitting down and him giving it to
me.

24 Q. Okay.

25 A. But I don't remember in detail.

5871

Juror No. 472 - Voir Dire

1 Q. And again, if in this case we have testimony --
there might

2 be testimony from somebody who had seen a picture
spread or

3 something like that. The Judge might give instructions
on how

4 a jury was to evaluate that evidence. And would you be
able to

5 listen and apply those instructions?

6 A. Yeah.

7 Q. Okay.

8 A. Yeah.

gives 9 Q. Nothing out of the ordinary. It's just the Judge
different 10 instructions on a lot of different -- a lot of
different 11 things.

about 12 Well, then, let me ask you a little bit more
case. 13 the -- what you've seen, heard, and read about the

same place 14 During -- in April of 1995, were you working at this
15 where you work now?

16 A. Yes, I was.

radio 17 Q. And is it the practice in that office to have a
18 going?

separate 19 A. Well, we each have our own radio, because I'm in a
20 office.

21 Q. I see. You have a separate office?

and my 22 A. I have a separate office that I have my computer
23 radio and my books, so . . .

24 Q. Right. And is there a TV in the office?

25 A. No.

5872

Juror No. 472 - Voir Dire

1 Q. Okay. And did you first hear about the Oklahoma

City

2 bombing on the radio --

3 A. Yes, I did.

4 Q. -- when it came in?

5 And on the radio programs that you may listen
to in

6 your spare time during the day, you said there has been
some

7 talk about the case; right?

8 A. Yes.

9 Q. Over the years. And where -- do you remember where
you

10 were when you heard about the Timothy McVeigh -- the
jury's

11 verdict about the death penalty?

12 A. I don't know about the death penalty, or I might --
I'm not

13 sure. It was one or the other. I just was at home and
the TV

14 was on, and I thought it was on a Friday because I
don't work

15 on Friday afternoons.

16 Q. I see.

17 A. So I think. I'm not sure.

18 Q. Now, there was a verdict you agreed with. Right?

19 A. Yes.

20 Q. And in the O. J. verdict, you didn't think that
jury got it

21 right.

22 A. Right.

23 Q. Tell me about what it was in your mind that caused
you to

24 think that one jury did it right and the other jury
might have

25 been mistaken.

5873

Juror No. 472 - Voir Dire

1 A. I guess what you hear over the media and reading
the paper,

2 the different things that pointed to O. J. as being the
only

3 person that could have committed this crime and not be
found

4 guilty.

5 And then you look on the other aspect of the
McVeigh

6 and you hear -- and you read and hear that and you're
going,

7 Yes, he committed it and they did what they were
supposed to

8 do, so I just --

9 Q. Right.

10 A. That's my only opinion.

11 Q. No. I understand. And you know what, that's --
and I'm

12 not arguing with your opinion. Understand? I'm just
trying to

13 understand the process. And of course, afterwards, you

said

14 you heard or saw the McVeigh jurors --

15 A. TV.

16 Q. -- on TV; right?

17 A. Yeah.

18 Q. And they were talking about what they did?

19 A. Yeah.

20 Q. And you're aware if you're selected as a juror in
this case

21 after the case is over, somebody may try to interview
you. You

22 know, again, your name won't be released. This is no
-- this

23 is not -- Strictly something, you understand, that when
they

24 gave their interview, that was their choice to come
forward and

25 say, We are the people that were on this jury?

5874

Juror No. 472 - Voir Dire

1 A. Yeah. I understood that, yeah.

2 Q. Okay. And you also say in your questionnaire that
when

3 you're convinced you're right, you pretty well hold
your

4 ground.

5 A. Yes, I do.

6 Q. Okay. And so if you heard this case, the evidence
in this
7 case, and you listened to it and you said, you know
what, I've
8 still got a reasonable doubt here, the Government
hasn't met
9 their burden, your verdict would be not guilty. And if
that
10 was your verdict, would you have any hesitation about
coming
11 into court with your fellow jurors, announcing it and
saying,
12 well, that's what I decided and --

13 A. I guess, probably, unless there was another one
that was
14 just as adamant that I was that you talk about and
think --
15 might sway you or bring something up that you didn't
hear or
16 you didn't catch or whatever that might change your
mind.

17 Q. Sure. I understand. It's 12 people and it's a
18 deliberative process. I'm saying but whatever the
verdict was,
19 you wouldn't, you know -- wouldn't bother you that
people might
20 ask you about it afterwards; right?

21 A. (Juror nods head.)

22 Q. Okay. Now, if you could turn to page 37 of your
23 questionnaire, please.

24 At Question 159, you said that "He possibly
helped in

25 the bombing." That's what you had seen, heard or read.

5875

Juror No. 472 - Voir Dire

1 A. Right.

Terry

2 Q. And then it asked what you had heard or read about

and you

3 Nichols as a result of the trial of Timothy McVeigh;

4 say, "He helped in the bombing." You notice that?

5 And I just -- up at the top, you have the word

"possibly" is

6 "possibly." And then at Question 162, the word

I'm

7 gone. And I'm not trying to pick over words with you.

about the

8 just wondering if there was something that you heard

opinion

9 trial of Timothy McVeigh that caused you to change your

10 in any way.

mean, I

11 A. No. I probably just worded it differently. I

12 didn't mean anything by it.

question.

13 Q. Okay. But you understand why I would ask the

14 A. Sure.

some

15 Q. The Government has a theory here. They've made

16 charges. And Mr. Ron Woods and I and Terry Nichols --

we

17 disagree with that theory. And from the very first,
they will

18 put on witnesses and we will have the opportunity, the
chance,

19 to cross-examine those witnesses. And then when
they're done,

20 because they get to go first, even though we're not
obliged to

21 or required to under the law, we will present
witnesses. And

22 then it will be up to the jury to decide if they met
their

23 heavy burden.

24 And I know people have asked you a lot about
this

25 question of potential penalty, but I want to make clear
we're

5876

Juror No. 472 – Voir Dire

1 not skipping over that part.

2 From what you've seen, heard, or read, do you
have a

3 feeling as you come in here today, gee, you know, this
guy must

4 be guilty of something?

5 A. Just from what I heard, you know, or read; but
that's been

6 a while back, and that's about it.

7 Q. I mean, you know, you really would have to live in
a cave,
8 high, high up in the mountains not to have heard
something
9 about this.

10 A. Correct. Right.

11 Q. And so you're one of those folks that heard
something about
12 it.

13 A. Uh-huh.

14 Q. And again, we're not, you know -- my question is:
From
15 what you've heard or read, can -- can you start as a
juror with
16 a clean slate, wipe it completely clean, and say, you
know,
17 nothing -- nothing can be considered against Terry
Nichols
18 unless the Government puts it in evidence, the Judge
lets it
19 in, and they prove it?

20 A. Well, that would be tough.

21 Q. Tell me about it.

22 A. Well, just from like you said, we've heard
everything, or a
23 lot. It would be tough to start out with a clean
slate, not
24 have that in your mind, even a little bit of it in the
back of
25 your mind because you've heard so much about it; so, I
mean, it

Juror No. 472 - Voir Dire

1 would be tough.

2 Q. Do you think you could do it?

3 A. I don't know. I really -- I don't know.

4 Q. Okay. Let me talk a little bit about this question
of

5 potential punishment. Again, we don't concede we'll
get there;

6 but if for some reason a jury does find guilt on one or
more

7 charges, then we would have a separate trial on
punishment.

8 And we can't bring everybody back in and talk about it
then.

9 And I guess you are aware that this might come up
because

10 friends of yours said, Well, this is the way to answer
the

11 questions; right?

12 A. Right.

13 Q. This -- have you -- is the death penalty something
that

14 you've thought about in connection with events recently
in

15 Colorado, all the publicity in the paper about this
fella Gary

16 Davis?

17 A. I never really think about it unless it's, you

know, in the

18 paper or whatever. And I was -- I was living here when
that

19 happened; and yeah, I agree with it, so . . .

20 Q. So you had -- you had thought about it some?

21 A. Right.

22 Q. When you say you agree with it, did you think,
again, prior

23 to hearing what the Judge had said about how the system
works

24 today in Federal Court, that golly, somebody
intentionally goes

25 out and kills somebody, they should pay with their
life?

5878

Juror No. 472 - Voir Dire

1 A. Yeah, I do.

2 Q. Okay. And when is the first time you can remember
thinking

3 about that?

4 A. Gosh. I don't know. I think the very first big
murder I

5 ever, ever heard of when I was young is when all those
nurses

6 were killed in Chicago.

7 Q. Oh, yeah.

8 A. I'm going, They should just kill him. And I just
remember

But 9 that. And that's been I don't know how many years ago.

was a 10 that's a big thing I had never, ever forgotten, which
11 long, long time ago.

was the 12 Q. Right. And the -- as you thought about that, what
13 reason that you thought that the death penalty was the
right 14 thing for whoever did that?

-- I 15 A. Well, I mean, to kill those people, I mean innocent
mean, he 16 think they were nurses or whatever, and it's like -- I
took more 17 shouldn't live. He shouldn't live. I mean -- and he
18 than one life, so he should die. Crazy.

the 19 Q. Now, in a -- in the federal courts today, the way
premeditated, 20 system works is that if someone is convicted of
about 21 intentional murder, then there is a second hearing
22 punishment.

23 A. Uh-huh.

evidence 24 Q. At that second hearing, the Government presents
worse. 25 about aggravating circumstances, things that make it

Juror No. 472 – Voir Dire

1 The defense presents evidence about the mitigating
2 circumstances, positive things; that is, they may say
look,
3 there is more than one person involved and this
person's role
4 is different from that person. They present facts
about the
5 defendant, you know, background, the things the Judge
talked
6 about.

7 If you were a juror in a case -- and you
notice I talk
8 in a hypothetical way, in part because we can't predict
we're
9 going to get there in this case and in part because
it's not
10 right for us to be trying to load in, you know, things
we think
11 we're going to prove or that might come up in this
case. So
12 just talking hypothetically. If you were a juror in a
case in
13 which you had convicted someone beyond a reasonable
doubt of
14 intentionally killing a large number of people -- all
right --
15 would you go into the punishment hearing, the penalty
hearing,
16 favoring the death penalty, or leaning in favor of the
death
17 penalty?

18 MR. MACKEY: Objection, Judge.

19 THE COURT: Overruled. You may answer that.

20 JUROR: Yes.

21 BY MR. TIGAR:

22 Q. And could you foresee the circumstance, you know,
in which

23 you would say that someone who had killed many people
24 intentionally should receive a life sentence?

25 MR. MACKEY: Same objection.

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Juror No. 472 - Voir Dire

1 THE COURT: Overruled. You may answer that.

2 JUROR: Should he receive a life sentence?

3 BY MR. TIGAR:

4 Q. Yes.

5 A. No.

6 MR. TIGAR: Look, I want to thank you very
much for
7 sharing your opinions with us today. Thank you.

8 THE COURT: All right. You've answered the
questions,
9 and you're now excused. We'll get back to you as to
whether

10 you serve on this jury.

11 Court is in recess.

12 (Recess at 12:18 p.m.)

13 * * * * *

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REPORTERS' CERTIFICATE

transcript from

We certify that the foregoing is a correct

Dated

the record of proceedings in the above-entitled matter.

at Denver, Colorado, this 28th day of October, 1997.

Paul Zuckerman

Bonnie

Carpenter

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