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1 APPEARANCES
2 PATRICK RYAN, United States Attorney for the
Western
3 District of Oklahoma, and RANDAL SENDEL, Assistant U.S.
4 Attorney for the Western District of Oklahoma, 210 West
Park
5 Avenue, Suite 400, Oklahoma City, Oklahoma, 73102,
appearing
6 for the plaintiff.
7 LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,
GEOFFREY
8 MEARNS, JAMIE ORENSTEIN, and AITAN GOELMAN, Special
Attorneys
9 to the U.S. Attorney General, 1961 Stout Street, Suite
1200,
10 Denver, Colorado, 80294, appearing for the plaintiff.
11 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,
REID
12 NEUREITER, and JANE TIGAR, Attorneys at Law, 1120

Lincoln

13 Street, Suite 1308, Denver, Colorado, 80203, appearing
for
14 Defendant Nichols.

15 * * * * *

16 PROCEEDINGS

17 (In open court at 9:00 a.m.)

18 THE COURT: Please be seated.

19 Good morning.

20 You have, Mr. Mackey, an estimate of the
length of

21 your opening? Or whoever is delivering the openings.

22 MR. MACKEY: I am, your Honor; and I would
estimate an

23 hour and 40 minutes, perhaps.

24 THE COURT: All right. Is the defense going
to do an

25 opening?

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1 MR. TIGAR: Yes, your Honor. We'll open. Mr.
Woods

2 and I will open about the same amount of time.

3 THE COURT: Well, we'll probably be needing or
--

4 maybe need a recess in there; and instead of my
interjecting,

5 you may suggest where it's an appropriate time, seeing
how it
6 develops.

7 MR. TIGAR: We'll do that, your Honor. Thank
you.

8 THE COURT: Okay. All right. Let's bring in
the
9 jury.

10 (Jury in at 9:01 a.m.)

11 THE COURT: Members of the jury, good morning.

12 We've assigned seats for you this morning, and
what
13 we'll be doing in the course of the trial is changing
the
14 seating arrangement every now and then so that each
person on
15 the jury will, in the course of the trial, then have a
little
16 different perspective on the courtroom and the ability
to see
17 the exhibits and so forth. So we'll let you know when
we
18 change the seat assignments.

19 Now, as I indicated when I reviewed with you
when we
20 were last together, on Thursday, the outline of the
trial,
21 we're going to begin, first of all, with asking all of
you to
22 take the oath as jurors for deciding the case according
to the
23 law and the evidence, and then we'll proceed with

opening

24 statements.

25
stand, raise

And at this time, I'll ask you please to

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1 your right hands, and take the oath as the jury for the
trial

2 of this case.

3 (Jurors sworn.)

4 THE COURT: Please be seated.

5 Now, again, just to review with you briefly
again the

6 stages of the trial that I outlined for you before, we
will

7 start with opening statements. And the opening
statements are

8 simply an opportunity for the lawyers on each side to
give you

9 an overview, a preliminary view, an introduction, if
you will,

10 of what they expect the evidence in the case to be.
But before

11 hearing from counsel, I want to remind you that what is
said in

12 opening statements is just that, expectation of what
the

13 evidence may be in the case. It will not be a part of
the

14 evidence. The evidence will come in, of course, as
witnesses
15 are called to the stand and the evidence is taken.
16 So these opening statements, though, are a
chance for
17 us to sort of get a picture in the beginning of just
what we
18 can expect to hear and what the issues will be in the
case. So
19 with that, I'll call on the Government counsel for the
opening
20 statement, Mr. Mackey.

21 OPENING STATEMENT

22 MR. MACKEY: Thank you, your Honor.
23 May it please the Court. Ladies and gentlemen
of the
24 jury, good morning. April 19, 1995, fell on a
Wednesday, the
25 middle of the workweek. On that morning, Terry Nichols
was

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1 home. He was home in Herington, Kansas, with his wife
and his
2 daughter. He was home and at a very safe distance from
a truck
3 bomb that exploded in downtown Oklahoma City in front
of the
4 federal building in Oklahoma City in the heartland of
America.

5 And Terry Nichols had planned it just that way.

6 There were others in Oklahoma City on that
morning,

7 and Terry Nichols had planned on that, too. Tim
McVeigh was in

8 Oklahoma City on the morning of April 19. He was one
of those

9 people. And on that day, Terry Nichols knew exactly
where Tim

10 McVeigh would be and knew exactly what he would be
doing.

11 Tim McVeigh was there to do one thing, one
thing only,

12 the only thing left to do, the final act in a plan of
terrorism

13 that Terry Nichols and Tim McVeigh had embarked upon
months and

14 months before that date.

15 This is a case about two men who conspired to
murder

16 innocent people. Their plan succeeded when the bomb
went off

17 and people died.

18 On that day, at that moment, Terry Nichols was
not in

19 Oklahoma City; but during the months before that date,
Terry

20 Nichols had been side by side with Tim McVeigh,
together in

21 their plan of violence.

22 And true to that plan, on Wednesday, April 19,
1995,

a large
building
McVeigh

23 Terry Nichols knew that Tim McVeigh would be delivering
24 Ryder truck as close as he could get it to the federal
25 in downtown Oklahoma City. And true to that plan, Tim

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1 detonated that bomb.
2 When the bomb exploded at 9:02 that morning,
it
3 consumed the truck, it destroyed the building, and it
changed
4 the face of American history forever. And it killed
168
5 people, men, women, and children, the cross section of
this
6 country, whites, African-Americans, Hispanics, Native
7 Americans, people of all ages, races, and backgrounds.
8 For just as Terry Nichols and Tim McVeigh had
planned,
9 there were others in Oklahoma City on April 19,
innocent
10 others. And at that moment, in fact, there were
hundreds of
11 people inside the Murrah Building. Most of those
people were
12 there as workers, men and women carrying out the
business of

13 the federal government. Others were there as citizens,
seeking
14 the assistance of that very same government. And still
others
15 were youngsters and toddlers and infants entrusted by
their
16 parents to the safekeeping of the day-care center in
that
17 building.

18 Those who died were there inside the building.
Scores
19 of people, including 19 children, died because they
were there
20 inside the building. They were inside a nine-story
building as
21 the floor below them gave way and the ceiling above
them
22 crashed down.

23 As time stood still in downtown Oklahoma City
that
24 morning, Terry Nichols was home in Kansas, a long, safe
25 distance from the blast that rocked that city just the
way he

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1 had planned it.
2 At that same moment, Terry Nichols also
thought he was
3 safe from ever being linked to that horrible crime.
Prior to

4 the blast, without detection, Tim McVeigh and Terry
Nichols had
5 together managed to buy or steal every ingredient
necessary to
6 build that bomb: 4,000 pounds of ammonium nitrate,
hundreds of
7 blasting caps and explosives, 165 gallons of racing
fuel, and
8 numerous 55-gallon plastic barrels. And they had
managed to do
9 so for months before their target date of April 19,
1995, the
10 second anniversary of the tragedy at Waco.

11 Together, they had hidden the ingredients in
storage
12 sheds, many of which were under false names. Together,
they
13 had acquired the knowledge to make those ingredients
into a
14 bomb; and together, just the day before the bombing,
they had
15 mixed those ingredients and prepared that bomb, just as
they
16 had planned.

17 And as they had planned, by the time the bomb
went
18 off, Tim McVeigh's getaway car was safe in Oklahoma
City,
19 waiting for him as his means of escape. Their plan did
not
20 call for Terry Nichols to be in Oklahoma City on that
day.

21 But Susan Hunt, whom you will meet in this
case, did
22 need to be in Oklahoma City on April 19. She had a
job. She
23 had an important job. She was the office manager for
the
24 Department of Housing, Urban and Development (sic).
And she
25 had a plan. It was a simple plan: go to work and do
what she

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1 could to provide housing for people in the state of
Oklahoma.
2 She followed her plan that day and somehow survived the
3 bombing.
4 But Terry Nichols and Tim McVeigh also
followed their
5 plan that day, and 35 of Susan Hunt's co-workers died.
6 Their plan was not perfect. As the evidence
will
7 show, not all things went according to plan. Within
minutes of
8 the blast, Tim McVeigh was arrested by an alert
Oklahoma
9 highway trooper stopped on the highway. At the time of
his
10 arrest, Tim McVeigh was carrying a concealed weapon and
driving
11 on Interstate 35, north out of Oklahoma City, north to

Kansas.

12 Within hours of the blast, the FBI had traced
the
13 Ryder truck bomb back to its origin, back to Junction
City,
14 Kansas. And by the next day, the FBI had found a
witness who
15 had seen Tim McVeigh driving a Ryder truck in Junction
City,
16 Kansas. Junction City, Kansas, is only a short
distance from
17 Herington, Kansas, where Terry Nichols was living at
that time.

18 And within two days of the blast, on Friday,
April 21,
19 FBI agents were on the way to Herington, on their way
to talk
20 to Terry Nichols. Terry Nichols had not planned on Tim
21 McVeigh's arrest nor on the rapid developments of the
FBI's
22 investigation. He had not planned on any of it
happening at
23 all and certainly not as quickly as it did. And within
two
24 days of the blast, Terry Nichols was being questioned
by the
25 FBI, and his home was searched. And in the course of
this

1 trial, you will hear what Terry Nichols told the FBI,
the
2 denials of involvement; and you will see the physical
evidence
3 taken from his home that contradict those denials.
4 You will see the physical evidence such as a
receipt
5 for the purchase of 2,000 pounds of ammonium nitrate
and a
6 phony name with Tim McVeigh's fingerprint on it found
in Terry
7 Nichols' house. You will see 300 feet of blasting caps
found
8 in Terry Nichols' house, a cordless drill used to break
in and
9 steal explosives found in Terry Nichols' house, 55-
gallon
10 plastic barrels of the kind used to hold the bomb found
in
11 Terry Nichols' house, and stolen guns used to finance
in part
12 the bombing plan, all found in Terry Nichols' house.
13 In the course of the days that will now
follow, you
14 will hear the testimony from witnesses that will prove,
as the
15 grand jury has charged in an 11-count indictment,
first, that
16 Terry Nichols conspired with Tim McVeigh and others
unknown to
17 use a truck bomb against the Murrah Building and the
people
18 inside the building; second, that Terry Nichols aided

and

19 abetted Tim McVeigh's use of that truck bomb to kill
people and

20 destroy that building; and third, that Terry Nichols
aided and

21 abetted the first-degree murder of the eight federal
law

22 enforcement officers who died that morning on April 19.

23 During this case, you will hear legal terms
like

24 "conspiracy" and "aiding and abetting," and these terms
simply

25 mean that a defendant may be guilty of a crime even if
he

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1 wasn't at the scene. Under the law, Terry Nichols did
not have

2 to be in Oklahoma City on April 19 to be guilty of
conspiring

3 with Tim McVeigh or to be guilty of aiding and abetting
the

4 murders that took place that day.

5 Those criminal charges will shape the evidence
in this

6 case. They will focus on the question: Did Terry
Nichols know

7 of the plan to bomb the Murrah Building? And if he did
know,

8 did he intentionally help carry out that plan? The

answer to

9 those questions, as the evidence will show, is that
Terry
10 Nichols knew from the beginning of the plan to bomb the
Murrah
11 Building and he intentionally helped that plan succeed.
Terry
12 Nichols was there at the beginning and he was there at
the end.
13 The evidence will show that Terry Nichols was there at
the
14 beginning to acquire the bomb ingredients and he was
there at
15 the end to stash Tim McVeigh's getaway car in Oklahoma
City and
16 to prepare the bomb.

17 Prior to the explosion, Tim McVeigh -- excuse
me --
18 Terry Nichols was there side by side with Tim McVeigh
each step
19 of the way. Terry Nichols plus Tim McVeigh equaled the
20 destruction of the Murrah Building.

21 The prosecution's evidence in this case will
focus on
22 the conduct of Terry Nichols. The only person on trial
is
23 Terry Nichols. The only charges before you are those
against
24 Terry Nichols. And as his Honor has told you, the
ultimate
25 question for you in this case will be did the United
States

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Terry
possible
will
Nichols.
fact is
bombing that
murder case;
the
their
by no
trial.
one
that once
the

1 prove beyond a reasonable doubt the charges against
2 Nichols. This case will not seek to identify every
3 other co-conspirator. As we proceed through trial, we
4 keep the evidence focused on the conduct of Terry
5 You are the fact-finders in this case. One
6 horribly true: 168 people died as a result of the
7 morning. 168 men, women and children. This is a
8 and because it is a murder case, we will prove to you
9 identity of each of those victims and the manner of
10 death. That kind of testimony will be emotional, but
11 means will every victim's story be told during this
12 Instead, in the course of our case, you will hear from
13 representative of the 13 agencies and organizations
14 had offices in the Murrah Building.
15 Those representative witnesses will describe

16 events of that morning. They will identify their
fellow
17 workers who died. They will tell you about the way the
blast,
18 the loss of life, and the total destruction of their
workplace
19 changed their lives and stopped the flow of services to
the
20 people in Oklahoma. And you will see from those
representative
21 witnesses, those federal employees who were there
inside that
22 building that day that they were hard-working,
conscientious
23 people who had done no harm to Terry Nichols or Tim
McVeigh and
24 certainly did not deserve to die.
25 But there were more victims than those who
simply

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1 worked there. The Murrah Building was a modern office
complex
2 and it had a day-care center. It was called the
America's
3 Day-Care Center (sic), and it was located on the second
floor.
4 There were deaths inside the day care that day. But no
one
5 from the day care can come to court and tell you about

those

Every one 6 who died. There were three adult workers that day.

care. 7 of those women died. There were 21 children in the day

survived 8 15 of those children died. Obviously, those who

And so 9 cannot come to court and testify about those who died.

appear 10 instead, one mother representing those who died will

workers 11 before you and identify the children and the adult care

12 who died.

the 13 But there were yet other victims, more than

Wednesday, 14 workers and more than the day-care people. On

And quite 15 April 19, the Murrah Building was open for business.

visitors 16 predictably, at the moment of the blast, there were

office 17 inside, people at the first floor Social Security

18 seeking assistance and others inside that public office

simply 19 building. 29 people, including four children, were

any 20 visiting at the moment the bomb exploded, people who on

alongside the 21 other day would not have been there. They died

22 federal workers and the people in the day-care center.

will be 23 All of this testimony about the loss of life
This 24 difficult to listen to, but it's the reason we're here.
25 is a murder case.

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outside a 1 The image of anyone exploding a truck bomb
ugly 2 day-care center is almost unthinkable, but that is the
reason in 3 reality of this case. What could give anyone enough
Terry 4 their own mind to commit such a crime? The answer for
bombing, 5 Nichols and Tim McVeigh is revealed in the date of the
Waco, 6 April 19, 1995, two years to the day after the fire at
federal 7 Texas. Terry Nichols and Tim McVeigh blamed the
April 19, 8 government for the events at Waco, and they selected
government. The 9 1995, as the date to strike back against that
and Tim 10 date of the bombing was no coincidence. Terry Nichols
11 McVeigh intended to send a message on that day.
the 12 Then why that place? Why Oklahoma City? Why

not only 13 Murrah Building? The motive in this case is revealed
As you 14 by the date but by the building they chose to attack.
thought 15 will learn from a friend of Tim McVeigh, Tim McVeigh
offices in the 16 that ATF agents who had served at Waco had their
he was 17 Murrah Building in Oklahoma City. You will learn that
who was 18 right, and you will hear testimony from one ATF agent
19 at Waco and who was also in that building on April 19.

compare the 20 The proof in this trial will allow you to
Terry 21 views of hatred of the federal government shared by
arrested 22 Nichols and Tim McVeigh. When Trooper Charlie Hanger
on the 23 Tim McVeigh on the morning of the bombing on April 19,
Waco. 24 front seat of McVeigh's car were documents referencing
later, 25 And when the FBI searched Terry Nichols' house two days

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Terry 1 inside that house, they found documents about Waco.
bombing, he 2 Nichols felt strongly about Waco. And before the

in this 3 described it as an injustice and predicted civil unrest
4 country because of it.

5 Terry Nichols and Tim McVeigh thought that
attacking 6 the Murrah Building was a justified way to express
their views 7 about Waco. The bombing of a federal office building
after the 8 workers and the day-care children had arrived was
nothing less 9 than an act of terror.

10 Of course, there could be no prosecution if
the only 11 proof was that Terry Nichols viewed the federal
government with 12 contempt. Each of us has our rights to our political
views.

13 But the proof will show far more than political dissent
and 14 contempt for the government. The proof will show that
Terry 15 Nichols teamed with Tim McVeigh in a plan of action, a
plan to 16 commit a horrendous act of murder. Actions do speak
louder 17 than words.

18 And we are not here because of anything Terry
Nichols 19 thought or said. We are here because of the actions of
Terry 20 Nichols. We are here because Terry Nichols purchased

4,000

Terry 21 pounds of ammonium nitrate in a false name, because
blasting 22 Nichols stole, transported, and concealed hundreds of
barrels 23 caps and other explosives, because Terry Nichols bought
Nichols rented 24 in which to mix those ingredients, because Terry
ingredients, 25 storage sheds in false names to hide the bomb

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in 1 because Terry Nichols stashed Tim McVeigh's getaway car
prepare the 2 Oklahoma City, because Terry Nichols helped McVeigh
destroy the 3 bomb and because Terry Nichols tried to conceal and
actions, Terry 4 evidence of his own role in that plot. By these
with the 5 Nichols displayed his commitment to a plan that ended
federal 6 death of many, many people and the destruction of a
7 building.
will 8 This will be a trial about that conduct. You
other and 9 learn that Terry Nichols and Tim McVeigh knew each

10 had known each other for many years before the bombing,
before
11 they decided to take action against the federal
government and
12 its employees. Their relationship dates back to 1988
when they
13 first met as they entered the U.S. Army together. Tim
McVeigh
14 was a 19-year-old recruit, and he worked hard to
impress his
15 platoon leader, Terry Nichols, a man who had enlisted
in the
16 Army at the age of 33. These men were more than 13
years apart
17 in age. They left the service at different times, but
they
18 remained friends. By 1993, they were living together.
Tim
19 McVeigh spent a part of 1993 with Terry Nichols and his
family
20 in Decker, Michigan. By that time, Terry Nichols,
divorced
21 from his first wife, was married to a young Filipino
woman whom
22 he had met during a short visit to that country. But
both
23 Terry Nichols and Tim McVeigh left Michigan in 1993 and
neither
24 ever returned there to live.

25 Instead, by early 1994, Tim McVeigh had
settled in

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of 1 Kingman, Arizona, a small town near the western border
Tim 2 Arizona and Nevada. Terry Nichols lived briefly with
Marion, 3 McVeigh in Kingman and then in early 1994 moved to
distance did 4 Kansas, central Kansas. But as you will learn,
the late 5 not separate these two men for long. In fact, during
Arizona -- 6 summer 1994, Tim McVeigh traveled from Kingman to
his 7 excuse me -- to Kansas and lived with Terry Nichols and
September 8 family. Tim McVeigh was still there in Kansas in mid
this 9 of 1994 when Terry Nichols' wife and his daughter left
daughter 10 country and returned to the Philippines. His wife and
Their 11 did not return to this country for the next six months.
together 12 departure left Terry Nichols and Tim McVeigh alone and
place 13 in Marion, Kansas, and that combination of time and
jury's 14 begins a series of events spelled out in the grand
15 indictment.

16 September 1994 marks the time and central
Kansas marks

17 the place where Terry Nichols and Tim McVeigh took
their first
18 steps in their plan to attack the federal government.
They
19 began with their commitment to each other and Tim
McVeigh's
20 attempt to recruit a third person, a man named Michael
Fortier,
21 into their plan.

22 Michael Fortier, who had met both Terry
Nichols and
23 Tim McVeigh when they were together in the Army, will
be called
24 by the government as a witness. Michael Fortier is in
custody
25 and is awaiting sentencing on his conviction on four
felonies,

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1 including conspiring with Terry Nichols and Tim McVeigh
to
2 transport and sell stolen firearms and including crimes
arising
3 from false statements he made to the FBI when first
questioned
4 about the bombing in 1995. Because he is testifying
pursuant
5 to a plea agreement, you should consider Michael
Fortier's
6 testimony with caution and care and look for

corroboration.

7 The evidence in this case will provide that
corroboration.

8 Michael Fortier will tell you that after he
left the

9 Army, he and Tim McVeigh remained friends and the two
of them

10 spent time together, time together in Kingman; and
because of

11 the time spent together, Michael Fortier knew that Tim
McVeigh

12 held a deep-seated hatred for the federal government
about

13 Waco. He will tell you that in 1994, he got a letter
from

14 McVeigh and in the letter, Tim McVeigh told him, "Terry
and I

15 have decided to take offensive action against the
government."

16 The letter went on to solicit Michael Fortier to join
McVeigh

17 and Terry Nichols in their plan of violence.

18 Michael Fortier will also tell you that
shortly after

19 he got the letter, he had a face-to-face conversation
with Tim

20 McVeigh, who was there to recruit Michael Fortier.
Michael

21 Fortier spelled out to -- Tim McVeigh spelled out to
Michael

22 Fortier what their plan was. He described the plan of
Terry

23 Nichols and Tim McVeigh. "Our plan is to bomb a

federal

24 building." Michael Fortier rejected McVeigh, but his
refusal

25 did not stop Terry Nichols and Tim McVeigh from
pursuing their

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1 plan. And in fact, in the 30 days thereafter, in the
fall of

2 1994, Terry Nichols and Tim McVeigh together had
gathered

3 virtually all of the ingredients they would need for
their

4 bomb.

5 The Murrah Building in downtown Oklahoma City
is gone.

6 It's gone entirely from where it once stood. And the
hole that

7 remains is proof that it takes very little to build a
weapon of

8 mass destruction; a little know-how and just a few
ingredients.

9 The truck bomb that exploded on that day in downtown
Oklahoma

10 City, as the evidence will show, was enormously
powerful, but

11 it was also quite simple. It consisted of tons of
ammonium

12 nitrate fertilizer, gallons of fuel, mixed inside large
plastic

13 barrels. And that mixture was then rigged with
explosives that
14 would both ignite the blast and boost the power. And
you will
15 hear from experts in this case who will describe the
recipe for
16 that bomb and how very, very simple that recipe is.
And you
17 will learn, too, that Terry Nichols and Tim McVeigh had
the
18 know-how. They knew how to build a fertilizer bomb.
19 The main component of that bomb was ammonium
nitrate,
20 and it was Terry Nichols who acquired it. Unlike Tim
McVeigh,
21 Terry Nichols had spent many years on farms in Michigan
and
22 Kansas, and that farming experience made Terry Nichols
the
23 natural candidate to walk into a Kansas farm supply
store and
24 pay for 4,000 pounds of ammonium nitrate. And the
proof will
25 be that Terry Nichols did just that.

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1 Buying ammonium nitrate fertilizer is not
illegal.
2 Possessing ammonium nitrate fertilizer is not illegal.
And yet

when he 3 as the proof will show, Terry Nichols used a phony name
op in 4 bought 4,000 pounds of fertilizer at the Mid-Kansas Co-
on both 5 McPherson, Kansas. The phony name Terry Nichols used
first on 6 occasions at the farm supply store was Mike Havens,
fertilizer 7 September 30, 1994, when he paid for 2,000 pounds of
pounds. 8 and later on October 18, when he paid for another 2,000

9 On both occasions, he used the false name Mike Havens.

10 Staying at motels is certainly not illegal.
And yet

11 as the proof will show, Terry Nichols used phony names
when he 12 registered at motels. And twice in October of 1994,
within 13 days of the ammonium nitrate purchases, Terry Nichols
used the 14 phony name Havens when he checked into motels. First,
he used 15 the name Terry Havens, and later, he used the name Joe
Havens.

16 And on both occasions, Terry Nichols checked in under
the same 17 false address and the same false license plate number.

18 The trail that began at the farm supply store
in 19 McPherson, Kansas, in the fall of 1994 ended at Terry
Nichols' 20 house in Herington, Kansas, in the spring of '95. On

April 22,

21 the FBI executed a court-issued search warrant at the
Terry
22 Nichols residence; and inside the house, they found a
receipt,
23 a receipt from the McPherson farm supply store. The
receipt
24 was found inside a kitchen drawer in Terry Nichols'
kitchen.
25 The receipt was dated September 30, 1994, and it
reflected the

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1 sale of 2,000 pounds of ammonium nitrate to a customer
using
2 the name Mike Havens. So the proof in this case will
answer
3 the question who was Mike Havens, and the answer is
Terry
4 Nichols.

5 The proof will be that on September 30, Terry
Nichols
6 was at that farm store, using the name Michael Havens
and
7 purchasing a ton of fertilizer, a key ingredient in the
bomb.
8 September 30, 1994, was a Friday. It was also
the
9 last day that Terry Nichols worked for a Kansas
rancher, a man

10 by the name of Tim Donahue. Mr. Donahue's ranch is
located
11 less than 40 miles from the McPherson, Kansas, supply
store.
12 Mr. Donahue will be a witness in this case, and he will
tell
13 you that Terry Nichols surprised him on the last day of
work
14 when Terry Nichols announced that he would be leaving
early.
15 Terry Nichols did leave work early that day; and
several hours
16 later that same day near dusk, Tim Donahue went back to
Terry
17 Nichols' house to run an errand. When he got back to
Terry
18 Nichols' house, Terry Nichols was there and so was Tim
McVeigh.
19 Parked at the house on September 30 was Terry Nichols'
truck, a
20 dark-colored pickup with a light-colored camper shell.
21 The employee at the farm store on that same
day will
22 also testify, Rich Schlender. And he will tell you
that the
23 customer, Mike Havens, was driving a dark-colored
pickup with a
24 light-colored camper shell. Mr. Schlender encountered
the same
25 Mike Havens the second time on October 18 when he
returned to

again, 1 buy yet another 2,000 pounds of ammonium nitrate; and
2 the customer was driving the dark-colored pickup with a
3 light-colored camper.

point 4 Rich Schlender will not come to the stand and
5 out Terry Nichols to you and swear to you that he knows
that 6 man was Mike Havens, but he will tell you that the
receipt 7 found in Terry Nichols' house was for the sale of 2,000
pounds 8 of ammonium nitrate from his store; his store in
McPherson, 9 Kansas.

10 The evidence in this case will also answer the
11 question if you buy 2,000 pounds of ammonium nitrate
for an 12 illegal purpose, what do you do with it. And the
answer is you 13 hide it. And that's what Terry Nichols and Tim McVeigh
did as 14 part of their plan. They rented storage sheds,
multiple 15 storage sheds, and more often than not in phony names.
Before 16 Terry Nichols purchased that first 2,000 pounds of
ammonium 17 nitrate on September 30, they already had a place to
hide it.

and 18 On September 22, several days before, while Tim McVeigh
rented a 19 Terry Nichols were living together in Kansas, McVeigh
20 storage shed. He used a phony name, but he left his
provide 21 fingerprints behind on the lease. And when asked to
And on 22 for an address, he gave them Terry Nichols' address.
23 that date in September of 1994, Tim McVeigh selected
the
24 storage facility in, of all places, Herington, Kansas,
the very
25 same city that Terry Nichols selected to move to in
March of

6377

1 1995, only weeks before the bombing.
2 Ammonium nitrate fertilizer, even tons of it,
cannot
3 hurt you if left alone, but by its chemical nature, it
is an
4 oxidizer; and combined with certain other ingredients,
it can
5 become deadly. In the fall of 1994, Terry Nichols and
Tim
6 McVeigh launched a plan to acquire all those other
ingredients
7 that would turn commonplace fertilizer into something
very

8 dangerous, and together, they used whatever means
necessary to

9 get those other ingredients.

10 Burglary and theft were some of those means
that Terry

11 Nichols and Tim McVeigh used to get the explosive
components.

12 Together, they broke into explosive sheds at a Kansas
rock

13 quarry near where Terry Nichols lived; and together,
they stole

14 from the sheds hundreds of blasting caps and other
explosives.

15 In the course of this trial, you will hear
from people

16 who make their living around explosives. One such
person is

17 Bud Radtke. Mr. Radtke has a job title. He's known as
a

18 blaster, and he does that just about every day at the
Kansas

19 rock quarry where he has worked for years. It's his
job to use

20 explosives to blast rock out of the earth for road

21 construction. And each day, Mr. Radtke sets off
explosives

22 that are a combination of ammonium nitrate fertilizer
and fuel,

23 and he boosts the four of those explosives with
sausage-shaped

24 explosives called Tovex, and he often initiates those

25 explosions with blasting caps often referred to as

Primadet.

6378

1 Mr. Radtke's explosives are obviously
dangerous, and
2 so they are stored some safe distance away from the
operations
3 quarry as well as the offices of the quarry. They are
secure
4 under padlock, and they are surrounded by walls of dirt
to keep
5 them safe.

6 When Bud Radtke came to work on Monday,
October 3, he
7 discovered that his explosives sheds had been broken
into and
8 hundreds and hundreds of Tovex sausages and Primadet
blasting
9 caps had been stolen. Whoever broke in had come
prepared
10 because each shed was protected with a padlock and that
padlock
11 in turn protected by a shroud, and someone had a
cordless drill
12 to reach up inside that shroud and drill out the
padlocks that
13 protected the sheds. The thieves left behind one
padlock,
14 padlock that had been drilled out; and that padlock has
become

15 evidence in this case.

16 The evidence in this case will answer the
question

17 where was Terry Nichols when Bud Radtke's explosive
sheds were

18 broken into. And the answer will be that he was
together with

19 Tim McVeigh, engaged in the theft of those explosives.
You'll

20 learn that Mr. Radtke's rock quarry is about 10 miles
from

21 where Terry Nichols and Tim McVeigh were living in
central

22 Kansas in the fall of 1994. And on the other hand,
Kingman,

23 Arizona, is more than 1,000 miles away, more than 1,000
miles

24 away from central Kansas. And that's how far Terry
Nichols and

25 Tim McVeigh drove in order to hide the stolen
explosives.

6379

1 On Tuesday, April 4, the day after Mr. Radtke
had

2 discovered the burglary, Terry Nichols and Tim McVeigh
were

3 together in Kingman, Arizona. And on that date in
Kingman, Tim

4 McVeigh rented a storage shed. And Michael Fortier
will tell

and 5 you that he went to that storage shed with Tim McVeigh
the 6 Terry Nichols. He'll describe what he saw: Boxes with
7 emblem of explosives.

only to 8 The FBI's investigation in this case led not
after the 9 Oklahoma and to Kansas but to Arizona, as well. And
Kingman, 10 bombing, the FBI recovered Primadet blasting caps from
fingerprints, 11 Arizona, and they tested those blasting caps for
Nichols' 12 and you'll learn the results of those tests. Terry
Kingman, 13 fingerprints were found on blasting caps recovered in
Terry 14 and you will learn that the blasting caps that had
caps found 15 Nichols' fingerprints were identical to the blasting
identical to 16 in Terry Nichols' house in Kansas and, in turn,
17 the blasting caps stolen from Bud Radtke.

yet 18 In the course of this case, you will also hear
Nichols to 19 other kinds of physical evidence that links Terry
when the 20 the theft of Mr. Radtke's explosives. In April 1995,
21 FBI learned about the break-in at the rock quarry, they
22 gathered up the evidence from the local sheriff's

office,

found a 23 including the padlock. And at the same time, they also
Nichols' 24 cordless drill and a set of drill bits inside Terry
those 25 home, and then they went to work to see if either of

6380

You'll 1 might hold the clues to the identity of the burglars.
2 learn what they found.

the 3 Under a microscope, a person can see and study
padlock, 4 marks that were inside the padlock, the drilled-out
drilled 5 and they can see the marks left by the drill bit that
and 6 that padlock out. And just as easily, someone can see
left by 7 study the marks of which -- the marks that would be
marks are 8 drill bits taken from Terry Nichols' home. And expert
9 witnesses will tell you when those two sets of tool
one of 10 compared, they match and tell you that one of the bits,
used to 11 the drill bits found in Terry Nichols' home was the bit
12 drill the padlock at Bud Radtke's quarry.

13 Of course, it is not illegal to use phony
names. But
14 in this case, you will learn that Terry Nichols did so
over and
15 over again. And the question is why. And the answer
is, the
16 evidence will show -- is that he did so repeatedly in
order to
17 conceal his involvement with Tim McVeigh and the
bombing plan.

18 When questioned, Terry Nichols was asked by the FBI,
"Have you
19 used a name other than your own?" He told them about
two, Ken
20 Parker and Jim Kyle, but he concealed others. Terry
Nichols
21 did not reveal his use of the name Havens, but then
Havens was
22 the name used to purchase 4,000 pounds of ammonium
nitrate.

23 The other name he concealed was Bridges, Daryl
24 Bridges. And during this trial, you will learn exactly
why
25 Terry Nichols concealed from the FBI the fact that he
was Daryl

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1 Bridges, because to discover that fact would mean the
FBI could
2 easily trace the activities and the whereabouts of both

Terry

3 Nichols and Tim McVeigh.

4 What Terry Nichols attempted to conceal from
the FBI

5 nonetheless will be proven to you in this trial, and
you will

6 learn that, together, Terry Nichols and Tim McVeigh
bought a

7 telephone calling card in the name of Daryl Bridges and
the use

8 of that phone card left a trail. By following that
trail, you

9 will see that both men used that card in 1994 to
acquire

10 bombing components; and by following that trail, you'll
see

11 that both men used that card in 1995 to finalize their
plan of

12 violence.

13 And during the course of this trial, you'll be
able to

14 follow the entire trail left by the Daryl Bridges phone
card.

15 The trail begins at Terry Nichols' house again because
that's

16 where the FBI found the Daryl Bridges phone card. And
as you

17 will learn, they followed that trail by trying to
determine who

18 paid for the phone calls on that card. And the proof
will be

19 that only two men ever paid for calls on the Bridges
card: Two

20 men, Terry Nichols and Tim McVeigh.

21 But the FBI did not stop there. They gathered
the

22 records that would show when and where those phone
calls were

23 made on the Bridges card. And you'll hear testimony
from a

24 computer specialist from the FBI, a man named Fred
Dexter, who

25 studied those records and prepared a chronological
summary of

6382

1 the phone calls made on the Bridges phone card, and
that

2 summary is the rest of the trail. The Daryl Bridges
phone

3 summary will serve as an important source of
information to you

4 in the course of this trial. It will help you and
other

5 witnesses reconstruct the activities of Terry Nichols
and Tim

6 McVeigh. And the trail left by the Bridges phone card
will be

7 part of the proof, for example, that Terry Nichols and
Tim

8 McVeigh were successful in the fall of 1994 in finding
yet

9 other bomb ingredients.

10 Again, ammonium nitrate by itself is harmless,
but if
11 mixed with fuels, a sensitizing process, it is one step
closer
12 to becoming an explosive. One different -- among the
different
13 types of fuels that can be used to accomplish that
purpose is
14 nitromethane. Nitromethane is not the kind of fuel you
buy at
15 a gas station. It's a special kind of fuel for
dragsters and
16 race cars. It's sold by chemical companies and by
distributors
17 at dragstrips, and the proof in this case will show
that Terry
18 Nichols and Tim McVeigh knew that's where you go in
order to
19 find nitromethane.
20 The evidence in this case will answer the
question
21 where was Terry Nichols during the month-long search to
acquire
22 nitromethane. The answer will be right there side by
side with
23 Tim McVeigh. Like the other bomb components, the
search for
24 nitromethane began in central Kansas in the fall of
1994. The
25 Bridges phone card left a trail of 30 phone calls made
to

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1 chemical companies, racetracks, and distributors for
2 nitromethane. Most of those calls were made during the
last
3 week in September, the last week of Mr. Nichols'
employment at
4 the Donahue ranch, the same week of the purchase of the
2,000
5 pounds of ammonium nitrate.

6 The search for fuel that began in Kansas in
1994 ended
7 in Texas later in October of 1994. It ended on October
21 at a
8 dragstrip south of Dallas, Texas, almost 500 miles from
central
9 Kansas. The search ended when a fuel salesman at a
dragstrip
10 sold three 55-gallon drums of nitromethane for cash to
a man
11 with Tim McVeigh's physical features. The salesman
will
12 testify in this case, and he will tell you that he
loaded that
13 165 gallons of racing fuel into the back of a pickup
with a
14 light-colored camper shell.

15 He will tell you that Terry Nichols was not
there when
16 he made that sale. But the proof in this case will
show you

17 where Terry Nichols was, and the answer will be close
at hand.

18 You will see proof that Terry Nichols spent
the night
19 before the fuel purchase in a motel in Oklahoma. That
motel
20 sits south of Oklahoma City and on the interstate that
connects
21 to Dallas. When Terry Nichols left the motel the next
morning,
22 the same day of the fuel purchase, he was driving his
pickup
23 with the camper shell, and he left his fingerprints
behind on
24 the registration card, a card he had filled out in a
phony
25 name.

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1 Now, in order to mix ammonium nitrate and
2 nitromethane, you need a container, and the evidence in
this
3 case will answer the question where was Terry Nichols
when the
4 containers for the bomb were being sought. And the
answer
5 again, just as with the ammonium nitrate, just as with
the
6 explosives, side by side with Tim McVeigh.

7 As the evidence will show, in October 1994,

Terry

8 Nichols and Tim McVeigh were quite busy. They were
hiding the
9 stolen explosives in Arizona, they were acquiring the
second
10 ton of ammonium nitrate in Kansas, they were tracking
down
11 racing fuel in Texas, they were searching for
containers that
12 would hold those ingredients and they were
crisscrossing huge
13 parts of this country while doing all of that. And
again, the
14 trail left by the Bridges phone card will reconstruct
that
15 activity, including the search for the bomb containers.
16 On October 18, 1994, the second 2,000-pound
purchase
17 of ammonium nitrate was made; and later that same
afternoon,
18 October 18, there were a number of phone calls made on
the
19 Bridges calling card from nearby Council Grove, Kansas.
Calls
20 were made from a pay phone located across the street
from a
21 storage facility where Terry Nichols had rented a unit
in one
22 of his false names. Several of the calls from that
Council
23 Grove pay phone were made to companies that used
barrels and
24 containers.

to a 25 The last phone call on that day, April 18, was

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1 coin shop in Wichita, Kansas; and on the very next
morning,

2 Terry Nichols walked into that very same coin shop.
You will

3 hear the testimony of the coin shop dealer, and you
will see

4 Terry Nichols' pictures captured on the store's
security

5 camera. Moments after Terry Nichols walked out of the
coin

6 shop, the Bridges trail started up again, from a pay
phone

7 across the street from the coin shop, five phone calls
made in

8 a row, all five made to phone companies listed --
excuse me --

9 to companies listed in the phone book in the Yellow
Pages under

10 barrels.

11 And the proof will be that Terry Nichols got
what he

12 was looking for as he stood at a pay phone in Wichita,
Kansas,

13 going down the Yellow Pages, calling companies under
barrels.

14 Part of that proof was found in the bomb

crater in

15 Oklahoma City. The other part of the proof is found in
Terry
16 Nichols' garage. The bomb that destroyed the Murrah
Building
17 left very few traces of the bomb that it once was.
Large,
18 well-made bombs, when they explode, leave little trace
behind,
19 and that was the case here. But there were some clues
that did
20 remain. Small amounts of ammonium nitrate were found
embedded
21 into a piece of the Ryder truck. And in addition,
small
22 plastic fragments were found among the streets
surrounding the
23 bomb crater. You will see those plastic pieces. They
are
24 off-white in color. And you will see when you look at
them
25 that they have been subjected to intense heat and
pressure.

6386

1 You will hear testimony from witnesses about
those
2 plastic pieces, including Linda Jones. Linda Jones is
an
3 explosive expert from Great Britain, and she will tell
you that

close, 4 those plastic pieces found near the bomb crater were
5 quite close to the explosion.

plastic 6 And as you will see in this case, the same
7 fragments found in the streets of Oklahoma City were
linked to 8 evidence taken from Terry Nichols' garage. Among the
many 9 items discovered during the search were plastic
barrels. Each 10 was a 55-gallon container. Each was off-white in
color.

can look 11 Plastic is a chemical compound and a trained chemist
and a 12 inside a piece of plastic and tell you how it was made
that the 13 chemist will do so in this case and he will tell you
plastic 14 charred pieces of plastic found in Oklahoma City and
made by 15 from the barrels found in Terry Nichols' garage were
16 the same manufacturer.

want to 17 Your Honor, this would do. How long did you
18 go?

take a 19 THE COURT: Well, all right. We'll -- we'll
20 break at this time. Perhaps we can take a 15-minute
break.

21 And members of the jury, we're doing this so -- you can

step

22 back to counsel table. We're doing this so that, you
know, you

23 can focus attention on these statements. We're not
going to

24 always be breaking at the same time in our recesses
here, so

25 I'll acquaint you with that now, but we know that all
of us

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1 have limited attention spans, so we're going to be
breaking in

2 at times to assist, recognizing the importance of what
counsel

3 are providing here in these overviews and we'll be
doing the

4 same thing, of course, during the defense opening.

5 So I'm going to also be saying to you at every
break

6 what I'm going to say to you now and which you'll get
very

7 tired of hearing, but it is important for you to
recognize that

8 you must, among yourselves, wait until you've heard it
all

9 before you even talk about it or talk about any part of
it. So

10 during all of our recesses, I'm going to be instructing
you

11 that you must not discuss anything that you see and
hear in the
12 courtroom or anything about the case. That seems
unnatural at
13 first, but I'm sure you'll get used to it. And it
simply
14 recognizes, as I'm sure each of you does recognize,
that we
15 can't put the trial on all at once and of course, we're
not
16 into any evidence even yet, so please withhold
discussion of
17 the case among yourselves and even in your own minds
withhold
18 forming any judgments.
19 Opening statements are not a part of the
evidence in
20 the case so what is said in opening statements does not
factor
21 in to your decision, even, but I just mention this
caution to
22 you now and as I say, I'll be repeating it whenever we
recess
23 because it is an extremely important part of your duty
as
24 jurors to withhold judgment in the case as well as not
let
25 anything outside of the case interfere with your
decisions that

1 are to be made on the law and the evidence.

2 We're going to recess now about 15 minutes.
So you're

3 excused from the jury box.

4 We'll be going out this way. We'll get you
used to

5 this routine as we go.

6 (Jury out at 9:52 a.m.)

7 THE COURT: Okay. 15 minutes.

8 (Recess at 9:53 a.m.)

9 (Reconvened at 10:07 a.m.)

10 THE COURT: Be seated, please.

11 (Jury in at 10:08 a.m.)

12 THE COURT: All right.

13 Mr. Mackey, you may resume.

14 MR. MACKEY: As you will learn through the
course of

15 this trial, by the close of October of 1994, Terry
Nichols and

16 Tim McVeigh had acquired virtually all of the
ingredients they

17 would need in order to build the bomb. Those
ingredients were

18 hidden safely in storage sheds. But the two men knew
at that

19 time there would be more costs to put their plan in
final

20 stages, more costs as they waited for April 19 to
arrive, they

21 would need money to rent a bomb truck, they would need
money to
22 continue to pay the rent on the storage sheds where
they hid
23 their components, and they would need money to pay the
bills on
24 the Bridges phone card, all of those needs at a time
when
25 neither man had regular income and both were living out
of

6389

1 hotels and traveling great distances. That was their
problem.
2 Armed robbery was their solution. And again the search
at
3 Terry Nichols' house produced evidence that you will
see, this
4 time evidence of armed robbery.

5 In addition to the 55-gallon off-white plastic
6 barrels, in addition to the receipt for the ammonium
nitrate,
7 in addition to the drill and drill bit, in addition to
the
8 blasting caps, in addition to the Bridges' phone card,
in
9 addition to all of that, the FBI found firearms and
ammunition
10 stolen during an armed robbery of an Arkansas gun
collector.

11 That evidence and other testimony will answer
the
12 question where was Terry Nichols on November 5, 1994,
when Tim
13 McVeigh's former friend and gun collector, Roger Moore,
was
14 robbed at gunpoint at his home in Arkansas.

15 The answer is that Terry Nichols was there;
the answer
16 is Terry Nichols was the robber.

17 As the evidence will show, on that day, Terry
Nichols,
18 wearing a ski mask and carrying a pistol-gripped
shotgun, stole
19 firearms, ammunition, currency, gold and silver coins,
pieces
20 of jade, and other valuables from Roger Moore. And
Terry
21 Nichols committed that robbery as one means to finance
his plan
22 with Tim McVeigh.

23 During this trial, you will meet Roger Moore.
Roger
24 Moore is 62 years old. For many years, he's lived in a
remote
25 area of Arkansas near Hot Springs. He owns horses and
other

6390

1 livestock that he keeps on his property. And for

years, he has

2 run a mail-order business from that home selling
ammunition

3 around the country. He also attends weekend gun shows
where he
4 sells ammunition.

5 And Roger Moore will tell you that during one
of those
6 gun shows, he met Tim McVeigh and that on more than one
7 occasion afterward, Tim McVeigh stayed at his home in
Arkansas.

8 Roger Moore will also tell you that his relationship
with Tim

9 McVeigh ended very badly, ended in an argument. On
Saturday,

10 November 5, 1994, Roger Moore was home alone because
his

11 business associate and companion, Karen Anderson, was
on the

12 road at a gun show.

13 And around 9:00 that morning, Roger Moore
walked out

14 of his home to tend to his animals; and just as he
stepped

15 outside his home, he was confronted by a man wearing a
ski

16 mask, carrying a pistol-gripped shotgun. The man tied
Roger

17 Moore up, put duct tape across his eyes, and over the
course of

18 the next hour or so virtually cleaned out Roger Moore's
home.

drove off. 19 He loaded the loot into Roger Moore's van and then

Moore 20 That van was recovered empty a short distance from the
21 home later.

22 During the robbery, the masked gunman took
scores of 23 firearms, cash, gold and silver coins, precious stones,
pieces 24 of carved jade, camera equipment, ammunition, alarm
devices, 25 even the quilt off of Karen Anderson's bed and the keys
to

6391

items 1 Roger Moore's safe-deposit boxes. I mention these
2 because many of them were found, found in Terry
Nichols' house.

Roger 3 Because the gunman wore a ski mask and because
4 Moore had his eyes taped, he cannot positively identify
the 5 robber, but he knows it was not Tim McVeigh. He knows
Tim 6 McVeigh is tall and thin and that the robber, his
robber, was 7 shorter with a medium build. And as the evidence will
show, 8 Tim McVeigh was not the robber. Tim McVeigh was not
even

9 there. Instead he was miles away at a gun show and
then later
10 at his father's home in western New York. But because
the
11 gunman knew exactly where to find many of Roger Moore's
12 possessions and because they had split on very bad
terms, Roger
13 Moore always suspected that Tim McVeigh had something
to do
14 with the robbery. Roger Moore was right.

15 Michael Fortier will testify that Tim McVeigh
told him
16 that he and Terry Nichols had settled upon a plan to
rob a gun
17 collector who Tim McVeigh knew and who lived in
Arkansas.
18 McVeigh also told Fortier that Nichols and he -- that
is,
19 McVeigh -- would share the proceeds from that robbery.

20 In the course of this case, you will learn a
bit about
21 U.S. geography. You will learn, for example, if you
drive from
22 Roger Moore's house in Arkansas, you can get to
Junction City,
23 Kansas, in nine and a half hours, time enough to rob
Roger
24 Moore in the morning and check into a motel in Junction
City
25 the same day.

1 The Sunset Motel in Junction City is where
Terry
2 Nichols checked into that day. When he checked in, he
used a
3 false name and a false address. And on the next
morning,
4 Sunday, Terry Nichols began calling for Tim McVeigh in
New
5 York, and Tim McVeigh began calling for Terry Nichols
in
6 Kansas. And as the evidence will show, they did not
stop
7 calling until they connected. Between Sunday morning
and
8 Monday evening, the two men made 16 phone calls to each
other,
9 often from pay phones, six different pay phones.
10 November 7 was a Monday, the first business
day after
11 the robbery. And on that Monday, Terry Nichols rented
a
12 storage shed, Unit No. 37, at Council Grove, Kansas,
using the
13 name Ted Parker. The woman who met Terry Nichols at
the
14 storage facility to rent him the unit remembers him
driving a
15 dark-colored pickup with a light-colored camper shell.
Terry
16 Nichols rented Unit No. 37 on that day even though he

already

17 had Unit No. 40 at the very same facility.

18 storage names

As of November 7, Terry Nichols had two

19 facility in

(sic) under two different false names at the same

20 keep for

Council Grove, Kansas, two units that he would pay to

21 first

months. The evidence will show that at least one thing

22 happened between the time that Terry Nichols rented his

23 answer

storage unit at Council Grove and the second. And the

24 is that Roger Moore lost a truckload of property.

25 Nichols

Within days of the Roger Moore robbery, Terry

6393

his

1 left Kansas and drove to Las Vegas. He spent time with

and two

2 ex-wife, Lana Padilla, and their 12-year-old son, Josh;

Philippines.

3 weeks later, he left this country and flew to the

alive.

4 You will learn that when Terry Nichols left for the

5 Philippines, he was afraid that he would not come back

assure that

6 And so before he left, Terry Nichols took steps to

in the 7 his bombing plans with Tim McVeigh could succeed, even
8 event he did not return alive.

boarded 9 On November 22, 1994, immediately before he
10 his plane to the Philippines, Terry Nichols handed Lana
11 Padilla, his ex-wife, a paper bag, a paper bag wrapped
in tape 12 with instructions not to open the bag unless he failed
to 13 return by a future date. Lana Padilla was curious; and
shortly 14 after Terry Nichols left, she opened the bag. She was
not 15 supposed to unless Terry Nichols did not come back.
She did so 16 anyway.

found, among 17 Inside the bag, as she will tell you, she
18 other things, a letter from Terry Nichols to Tim
McVeigh. And 19 in that letter, Terry Nichols specified that he was
writing to 20 Tim McVeigh only in the event that something should
happen to 21 him; in his words, only for my -- purpose of my death.
The 22 letter explained that if McVeigh received the letter,
it was 23 because Lana Padilla had mailed it to him at Terry
Nichols' 24 instructions, but Terry Nichols assured Tim McVeigh in
that

25 letter that was all Lana Padilla knew.

6394

1 The letter to Tim McVeigh spelled out
instructions to
2 McVeigh about the two storage units that Terry Nichols
had in
3 Council Grove, Kansas. And at the end of those
instructions,
4 Terry Nichols wrote the words, "You're on your own. Go
for
5 it." At the very bottom of the letter, Terry Nichols
added the
6 words, "As far as heat, none that I know."

7 Inside the bag, Lana Padilla also found
directions to
8 a secret compartment that Terry Nichols had built into
the back
9 of one of her kitchen cabinet drawers. She followed
the
10 directions and found \$20,000 of currency hidden in that
11 compartment.

12 Inside the paper bag, she also found
instructions to
13 another storage unit, yet another one, and this one in
Las
14 Vegas. Lana Padilla visited that storage shed while
Terry
15 Nichols was still in the Philippines. She'll describe

what she

16 saw. She spent time in that storage shed.

17 Inside the shed she saw a ski mask. She also
saw a

18 box of carved jade, camera equipment, precious stones,
among

19 other things, like the things just stolen from Roger
Moore.

20 As it turns out, it was never necessary for
Lana

21 Padilla in fact to mail anything to Tim McVeigh. In
mid

22 January, 1995, Terry Nichols came back from the
Philippines

23 safe and unharmed. And so Terry -- excuse me -- Lana
Padilla

24 never married -- excuse me -- never mailed Terry
Nichols'

25 letter.

6395

1 When he got back, they talked about what she
had

2 found, and they quarreled about the money that Terry
Nichols

3 had hidden in her drawer, and she kept part of it. But
she did

4 not tell Terry Nichols that she also kept a copy of the
letter

5 that he had written to Tim McVeigh. After the bombing,

Lana

6 Padilla turned over that copy to the FBI, and you will
see that
7 letter in evidence in this case. And you will see in
Terry
8 Nichols' own words, "Go for it."

9
Philippines in

10 When Terry Nichols returned from the
January of 1995, he was alone. His wife and daughter
were

11 still in the Philippines. He owned no real estate
anywhere.

12 He had no job, no regular paycheck. He could have
chosen to

13 live anywhere. He could have chosen to live in Las
Vegas near

14 his son. His choice was to return to Kansas. Within
days of

15 his return to this country, he was back in Kansas and
together

16 again with Tim McVeigh, together with Tim McVeigh at
the Sunset

17 Motel in Junction City, Kansas.

18 Terry Nichols immediately went back to the
place where

19 the bomb components were stored, the stolen property
hidden,

20 and back to the company of Tim McVeigh.

21 As the evidence will show, after their initial
22 rendezvous in January of 1995, Terry Nichols and Tim
McVeigh

23 kept their distance from one another during the waiting

period

24 that followed. Terry Nichols stayed in Kansas; Tim
McVeigh
25 stayed in Arizona. While Terry Nichols waited, he made
more

6396

1 payments on the storage shed, paid money on the Bridges
card,
2 but other than that, there was little else left to do
but wait
3 for April 19. In 1995, there was no need for the plan
to
4 absorb every waking hour; and in fact, in 1995, Terry
Nichols
5 did other things, many entirely innocent things.

6 But on April 11, 1995, the wait was over.
Eight days

7 before the bombing, the wait was over. On that day,
April 11,

8 Terry Nichols called for Tim McVeigh in Arizona, and
Tim

9 McVeigh called for Terry Nichols in Kansas. And on the
next

10 day, Tim McVeigh checked out of his Arizona motel and
began the

11 drive to Kansas, to the site of the bomb components and
to

12 Terry Nichols.

13 The proof in this case will establish exactly

when Tim

14 McVeigh arrived in Kansas in April of 1995. Proof will
not
15 come from police authorities but from men who make
their living
16 working on cars. On the evening of Thursday, April 13,
six
17 days before the bombing, Tim McVeigh had just made it
across
18 the Oklahoma border into Kansas. Tim McVeigh stopped
there
19 briefly at a Wal-Mart, the city called Arkansas City,
Kansas.
McVeigh
20 And at the Wal-Mart, because he had car problems, Tim
21 bought an oil filter that would fit the small Pontiac
station
22 wagon he had just driven from Arizona. Tim McVeigh got
a
23 Wal-Mart customer receipt for the oil filter, and that
receipt
24 showed the purchase took place shortly before 6:00 p.m.
on
25 Thursday, April 13.

6397

April 14,

into

1 At 9:00 a.m. the very next morning, Friday,
2 Tim McVeigh drove that same small Pontiac station wagon

just a 3 the Firestone store in downtown Junction City, Kansas,
wagon was 4 few miles north of Terry Nichols' home. The station
were too 5 belching white smoke, and in time it was clear repairs
6 expensive.

7 In the course of that morning, as the evidence
will 8 show, Tim McVeigh got another car and made two phone
calls.

9 For \$250, Tim McVeigh bought a 1977 Mercury Marquis
from the 10 Firestone manager and left his Pontiac station wagon
there as 11 part of the deal. And while the Firestone store was
working on 12 the Mercury to get it ready for the road, Tim McVeigh
walked

13 across the street to the bus stop and made two pay
phone calls 14 at that bus stop, using the Daryl Bridges card. The
first call 15 he made from that pay phone at the bus stop was to
Terry 16 Nichols' home. It lasted about a minute. He hung up
and 17 immediately made a second phone call.

18 Tim McVeigh's very next phone call was to the
Ryder 19 dealership in Junction City, Kansas, to the very same
Ryder 20 dealership that would later rent him the bomb truck.

21 When Tim McVeigh drove out of the Firestone
store that
22 morning with his old, large Mercury, he told the
manager he was
23 headed to Michigan. That's not where he went. He
stayed right
24 there in Kansas near Terry Nichols. Later that same
day,
25 Friday, April 14, McVeigh drove his Mercury into the
Dreamland

6398

1 Motel in Junction City. The Junction City Dreamland
Motel sits
2 right next door to the Sunset Motel. When he checked
in, Tim
3 McVeigh used his true name, Tim McVeigh. But he listed
as his
4 address the Decker, Michigan, farm where Terry Nichols
and he
5 had once lived together.
6 At the time he checked in, he paid for four
nights in
7 advance, four nights' lodging, indicating he would
leave on
8 Tuesday, April 18, the day before the bombing.
9 When Tim McVeigh drove into the Dreamland, he
had his
10 Mercury. In the course of his stay, the car
disappeared, and

in this 11 he was last seen driving a Ryder truck. The evidence
would 12 case will explain why and how it came that Tim McVeigh
proof 13 show up with a Mercury and leave in a Ryder. And the
days 14 will focus on the events that happened in the three
15 immediately preceding the bombing.

Sunday, Tim 16 The proof will be that on Sunday, Easter
City and 17 McVeigh's Mercury was driven from Kansas to Oklahoma
his 18 parked near the Murrah Building where it would serve as
McVeigh 19 getaway car. The proof will be that on Monday, Tim
components, the 20 rented the Ryder truck. On Tuesday, the bomb
preparation of 21 tons of bomb components were mixed together, the
McVeigh 22 the bomb complete. And of course on Wednesday, Tim
23 delivered that truck bomb to downtown Oklahoma City.

question: 24 The evidence in this case will answer the
answer 25 Where was Terry Nichols on each of those days? And the

1 will be that whenever Tim McVeigh needed help to finish
the
2 plan, Terry Nichols was there, side by side with Tim
McVeigh.
3 Their plan called for stashing the getaway car in
Oklahoma
4 City. Terry Nichols was there to do that. Their plan
called
5 for moving and mixing the ingredients to prepare the
bomb.
6 Terry Nichols was there to do just that.

7 In the course of this trial, you will learn
there is
8 no dispute about one thing: Terry Nichols was in
Oklahoma City
9 on Easter Sunday. He was in Oklahoma City on Easter
Sunday
10 with Tim McVeigh. There will be considerable dispute
about
11 why. As fact-finders in this case, you will be called
upon to
12 decide: Was Terry Nichols in Oklahoma City on Easter
Sunday
13 with McVeigh to stash the getaway car as part of the
bombing
14 plan or, as Terry Nichols told the FBI, was he there to
pick up
15 a used television set?

16 The answer in this case will be that Terry
Nichols on
17 April 16, 1995, Easter Sunday, was there just as he had
been,

18 as Tim McVeigh's partner in the plan to bomb the
building. His
19 presence in Oklahoma City had nothing to do with a
television
20 set and everything to do with completing their plan.
21 You must resolve that question in the course
of this
22 trial because Terry Nichols first posed it when he made
his
23 statement to the FBI after the bombing.
24 The series of events that led the FBI to Terry
Nichols
25 all emanate from one single clue left behind by Tim
McVeigh.

6400

1 When Tim McVeigh checked into the Dreamland, as I
mentioned, he
2 left behind the address of Decker, Michigan, an address
shared
3 with he and Terry Nichols. When he was arrested on the
day of
4 the bombing, April 19, he listed his address as Decker,
5 Michigan. That clue led the FBI to Terry Nichols in
Herington,
6 Kansas. It led them to Terry Nichols on Friday, April
21. And
7 by that day, April 21, the FBI knew that Terry Nichols
and Tim
8 McVeigh had been friends. They knew they had lived

together in

9 Decker, Michigan; and they knew that at that very time
Terry
10 Nichols was living in Herington, a city just nearby
Junction
11 City where Tim McVeigh had stayed before the bombing
and where
12 the bomb truck had been rented.

13 And the proof will show, just as the FBI was
learning
14 about Terry Nichols, Terry Nichols was learning about
the FBI's
15 investigation. Before Terry Nichols ever spoke to the
FBI, he
16 already knew that Tim McVeigh had been arrested. He
knew that
17 the bomb truck had been traced back to Kansas, and he
knew that
18 it was suspected that the bomb was made of ammonium
nitrate and
19 he heard news on the radio that the FBI was looking for
him.

20 Terry Nichols later told the FBI he left his
house
21 that Friday to avoid another Waco. At 2:45 p.m. on
that
22 Friday, Terry Nichols, his wife, and his daughter got
into his
23 pickup and drove off. They did not go to the Herington
police
24 station. Instead they drove off in the opposite
direction.
25 And only when Terry Nichols spotted the FBI cars that

arrived

6401

1 in tiny Herington did he stop, turn around, reverse
course, and

2 then go to the police station.

3 In the course of this trial, you will have the
4 opportunity to hear what Terry Nichols told the FBI on
Friday,

5 April 21. You will hear from Agents Steve Smith and
Scott

6 Crabtree. They'll describe that interview for you.

7 They'll tell you that consistent with FBI
policy, they

8 did not tape-record Terry Nichols' statement but rather
took

9 contemporaneous notes and then prepared a written
report.

10 Agent Smith, who is a former accountant for Arthur
Andersen,

11 will describe the very meticulous notes that he took as
he

12 spoke to Terry Nichols at Herington police station, and
he will

13 describe how Terry Nichols' very deliberate manner in
answering

14 allowed him to keep pace with everything that Terry
Nichols

15 said. In his statement to Agent Smith and Crabtree,
Terry

bombing, 16 Nichols denied any involvement in the Oklahoma City
17 and he denied knowing of anyone else's participation.

18 Now with the benefit of the FBI subsequent
19 investigation, you'll have the opportunity to test the
20 truthfulness of Terry Nichols' statements. Terry
Nichols will
21 fail that test because what he told the FBI on April 21
simply
22 was not true.

23 As you might expect, Agents Smith and Crabtree
wanted
24 to know from Terry Nichols about his last contact with
Tim
25 McVeigh. Terry Nichols told them that he had spoken
personally

6402

1 with Tim McVeigh on Easter Sunday and that Easter
Sunday was
2 the first time that he had any contact with Tim McVeigh
for
3 months. Terry Nichols told the FBI that on Easter he
got an
4 unexpected phone call from Tim McVeigh who told him
that he was
5 calling from Oklahoma City. Of all people, Tim
McVeigh; of all
6 places, Oklahoma City; of all times, three days before

the

7 bombing.

earlier 8 And according to Terry Nichols' story, months

used 9 he had written to Tim McVeigh and asked him to bring a

Arizona. 10 television set to Kansas. Tim McVeigh was living in

Easter, 11 Terry Nichols was living in Kansas. And supposedly on

Terry 12 Tim McVeigh called from Oklahoma City, announced to

Nichols 13 Nichols that his car had broken down, and if Terry

drive 14 wanted his used television set, he would simply have to

15 to Oklahoma City and pick it up.

despite 16 Despite the fact that it was Easter Sunday,

Easter 17 the fact that McVeigh called while Nichols finished his

18 dinner with his family, despite the fact that Josh, his

despite all 19 12-year-old son, was visiting on his spring break,

home and 20 of that, Terry Nichols agreed to immediately leave his

Oklahoma 21 to make the 500-mile, 10-hour, round-trip drive to

22 City and back.

Nichols 23 Within 10 minutes of McVeigh's call, Terry

24 left his house. He left his wife, his daughter, and

his son.

25 Before he left his family, he told them where he was
going. He

6403

1 said, I'm going to Omaha, Nebraska. Omaha, Nebraska.
He did

2 not tell his family that he was going to Oklahoma City.

3 In the course of this case, you will have to
answer

4 the question: Why would Terry Nichols lie to his
family about

5 where he was headed on Easter Sunday?

6 According to Terry Nichols' story, he was to
go to

7 downtown Oklahoma City and McVeigh would find him.
Terry

8 Nichols said he drove past the Murrah Building and then
found

9 Tim McVeigh in the vicinity.

10 He told Agents Smith and Crabtree that when he
picked

11 up McVeigh, McVeigh was standing there in a light rain
with his

12 used television set and green laundry bag, no car in
sight,

13 according to Terry Nichols.

14 Terry Nichols also told the agents that he
drove Tim

15 McVeigh from Oklahoma City back to Junction City,
Kansas,
16 passing through Herington along the way, and then
dropped Tim
17 McVeigh off in the middle of the night, 1:30 in the
morning, at
18 a closed McDonald's restaurant. According to Nichols,
without
19 knowing where Tim McVeigh would be staying, without
knowing
20 when or if he would ever see him again, he left his
Army buddy
21 standing at a closed McDonald's in the middle of the
night.
22 Agents Smith and Crabtree asked Terry Nichols
about
23 the conversation he had with Tim McVeigh as the two
drove back
24 from Oklahoma City to Junction City, the 5-hour drive.
Terry
25 Nichols admitted that the two men talked about Waco.

6404

1 The Government's evidence in this case will
prove that
2 Terry Nichols concealed what he knew to be the real
purpose of
3 the trip to Oklahoma City on Easter. He made a false
statement
4 when he told the agents that he assumed the call came
from

5 Oklahoma City because, as the evidence will show, there
was a
6 phone call to Terry Nichols' house on Easter Sunday,
about
7 3:00 p.m. It didn't come from Oklahoma City. As the
evidence
8 will show, it came from Herington, a few blocks away
from Terry
9 Nichols' house, a phone call made from Tim McVeigh on
the Daryl
10 Bridges phone call. It was the phone call to let Terry
Nichols
11 know it was time to take the vehicles to Oklahoma City.
12 And that Easter afternoon, two vehicles drove
from
13 Kansas to Oklahoma City, Terry Nichols' pickup and Tim
14 McVeigh's Mercury; and that evening, that night, one
vehicle
15 came back, Terry Nichols' truck carrying Tim McVeigh
and Terry
16 Nichols. The getaway car was planted in Oklahoma City.
17 Terry Nichols also made a false statement, as
we will
18 prove, when he told the agents that he had not spoken
or talked
19 to Tim McVeigh for months before the Easter Sunday
phone call.
20 In fact, as the evidence will show, the two men saw or
spoke to
21 each other virtually every day in the week preceding
the
22 bombing.

23 You will see physical evidence that Terry
Nichols and
24 Tim McVeigh got together almost immediately after Tim
McVeigh
25 arrived in Kansas in April of 1995 and that they had
been

6405

1 together in Kansas before they ever drove to Oklahoma
City.

2 As you will recall, when McVeigh arrived in
Kansas, on
3 April 13, he bought an oil filter at Wal-Mart. By the
next
4 morning, Friday, he had no use for that oil filter for
that
5 small Pontiac station wagon. He had just bought a
large
6 Mercury.

7 On the next day, Saturday, April 15 -- before
Easter
8 Sunday -- Saturday, April 15, Terry Nichols had both
that
9 Wal-Mart receipt and the oil filter in his possession.
You
10 will see the receipt, and you will learn where the FBI
found
11 it.

12 When Terry Nichols arrived at the Herington
Police

inside 13 Department on April 21, he was carrying his wallet, and
could not 14 the wallet was the Wal-Mart receipt. Terry Nichols
provide 15 have known the clues that would -- that receipt would
on it, 16 to the FBI's investigation. The receipt had two dates
filter, and 17 April 13, the day that Tim McVeigh bought the oil
filter 18 April 15, the day that Terry Nichols presented that oil
19 at a Wal-Mart store near his home.

One 20 The receipt also had two fingerprints on it.
McVeigh. 21 belonged to Terry Nichols. One belonged to Tim
McVeigh 22 According to his story, Terry Nichols had not seen Tim
receipt 23 for months until Easter Sunday, but he had the Wal-Mart
show, 24 on Saturday, the day before. And as the evidence will
25 both can't be true.

6406

that Terry 1 The Wal-Mart receipt will show, will prove,
central 2 Nichols and Tim McVeigh were together face to face in

Nichols 3 Kansas before Easter Sunday. It will prove that Terry
Oklahoma 4 tried to conceal the real purpose of his drive to
5 City.

Nichols, 6 On Monday morning, only hours after Terry
7 according to his story, had dropped Tim McVeigh off in
the 8 middle of the night, the two men were in touch again.

That 9 Monday morning, Tim McVeigh called Terry Nichols' home
from the 10 Dreamland. And later that same day, Tim McVeigh went
to the

Junction City 11 Ryder truck dealership, Elliott's Body Shop, in
On that 12 and rented the truck that would become the truck bomb.

Tim 13 Monday afternoon, using the false name of Bob Kling,
become the 14 McVeigh picked up the 20-foot Ryder truck that would

15 bomb truck. Terry Nichols was not with Tim McVeigh at
dealership 16 Elliott's Body Shop, but Tim McVeigh had to tell the

truck, just 17 where it was that he was taking their 20-foot Ryder
going 18 like Terry Nichols had to tell his family where he was

Omaha, 19 when he left on Easter Sunday. They both chose to say

20 Nebraska.
21 Monday ended the way it started, with phone
calls
22 between the two men. This time it was Terry Nichols
who called
23 for Tim McVeigh. Standing at a pay phone late Monday
night,
24 April 17, only hours before -- or rather after the bomb
truck
25 had been rented, Terry Nichols called for Tim McVeigh
at the

6407

1 Dreamland. The evidence will be that on that Monday
night,
2 Terry Nichols drove his son, Josh, to Kansas City to
put him on
3 a plane to send him home to his mother. With his son
on a
4 plane and while still at the airport, Terry Nichols
called Tim
5 McVeigh at the Dreamland using the Bridges phone card.
Even
6 Tim Mc -- excuse me, even though Terry Nichols had
insisted to
7 the FBI he had no idea where Tim McVeigh was staying,
he called
8 the Dreamland Motel, the precise place where Tim
McVeigh was
9 staying.

Monday 10 And the evidence will show that Terry Nichols'
purpose 11 night phone call from the airport had a purpose. The
location 12 was to make plans to meet the next morning at a
The place 13 between Terry Nichols' home and Tim McVeigh's motel.
that 14 was Geary Lake, a low-lying area next to the highway
Junction 15 connects Herington, where Terry Nichols lived, and
men, 16 City, where Tim McVeigh was staying, a place where two
storage, 17 after removing the tons of ingredients from nearby
18 could mix those same ingredients into a bomb.
before the 19 The next day, April 18, Tuesday, the day
sitting 20 bombing, was a day that one man spotted a Ryder truck
pickup. A 21 on the bank of the Geary Lake. He also spotted a
workday 22 second man got an even better look. April 18 was not a
go 23 for Army Sergeant Richard Wahl. He took the day off to
fishing by 24 fishing with his son. It was not a perfect day for
miserable. But 25 any means. It was cold. It was windy. It was

1 a promise is a promise, and his son insisted.

2 And Richard Wahl will tell you that he fished
all

3 morning on Tuesday, April 15, at Geary Lake. He will
tell you

4 that he didn't catch a thing and that it was unpleasant
to be

5 outside as the wind, so strong, continuously blew his
boat to

6 shore. But as he and his son fished there for three
hours, he

7 noticed something. He noticed that though there were
no other

8 fishermen there, his son and he were not alone. From
the time

9 he got there in the morning until the time he left at
noon,

10 there were two other vehicles parked nearby, less than
11 150 yards from the boat ramp that he used. And while
he was at

12 that lake, those two trucks remained parked side by
side. One

13 was a large, yellow Ryder truck. The second one was a

14 dark-colored pickup with a light topper.

15 Richard Wahl watched for people around the
truck but

16 did not see anyone, but he will tell you that he saw
signs of

17 activity because the side door on the Ryder truck was
open at

18 one point and then later closed shut.

19 And as you will hear, Terry Nichols and Tim
McVeigh

20 knew how to build fertilizer bombs. They had spent
time

21 reading literature, researching the different recipes,
talking

22 among themselves about which recipe was most explosive.
They

23 knew what they were doing on April 18.

24 After helping to mix the bomb on Tuesday,
April 18,

25 Terry Nichols' part of the plan was over. The last
step would

6409

1 be left to Tim McVeigh, just as they had planned. When
Terry

2 Nichols drove from Geary Lake that morning, he drove to
a

3 military surplus center at Fort Riley, an Army post
outside of

4 Junction City. We will prove to you that he did not
sign in

5 until 1 p.m. that afternoon.

6 However, Terry Nichols gave an entirely
different

7 accounting for his whereabouts that same day when
questioned by

8 the FBI. He told Agents Smith and Crabtree that he had
been
9 there all morning outside looking at surplus military
items,
10 all morning in the cold, windy, miserable conditions.

11 He also told the agents that early that
morning,
12 unexpectedly, he got another phone call from Tim
McVeigh; and
13 Tim McVeigh wanted to borrow his pickup. And with very
few
14 questions asked, according to Terry Nichols, he loaned
his
15 pickup to Tim McVeigh that morning.

16 But as the proof will show, Terry Nichols was
not at
17 the Army surplus center all morning on Tuesday, April
18. No
18 one saw him there, because he wasn't there. He was
with his
19 truck at Geary Lake. He was with Tim McVeigh. And
Terry
20 Nichols' and Tim McVeigh's plan was tragically
completed the
21 next day at 9:02 in downtown Oklahoma City.

22 On Friday morning, April 21, Gladys Wendt, who
will be
23 a witness in this case, as usual, drove from her
farmhouse to
24 her hair appointment in Herington, Kansas; and after
her hair
25 appointment, as usual, she went to her friend's home to
pick

6410

1 her up for the two to go out for coffee.

2 The friend lived in Herington on 2d Street,
the same

3 street that Terry Nichols lived on. Gladys Wendt
pulled her

4 car up and, as was her custom, waited outside for her
friend to

5 come out. As she sat there waiting, she noticed a man
across

6 the street furiously tossing ammonium nitrate on his
tiny

7 unkempt yard, as she will describe it, so much so, that
it

8 began to accumulate like snow. The man was Terry
Nichols. And

9 the fertilizer toss was one attempt to conceal his
involvement

10 in the Oklahoma City bombing. Later that day, Terry
Nichols

11 admitted to the agents that he had tried to get rid of
the

12 ammonium nitrate because he thought having fertilizer
in his

13 house would make him look guilty to a jury.

14 He also insisted the only ammonium nitrate he
had ever

15 purchased was a hundred pounds in the spring of 1995
and that

16 the only reason he bought that was to resell it as
plant food
17 at gun shows.
18 On Wednesday morning, April 19, 1995, the huge
truck
19 bomb exploded outside the nine stories of plate glass
windows
20 in downtown Oklahoma City. The explosion ripped a
gaping hole
21 in the building and snuffed out the lives of 168
innocent men,
22 women, and children. No one in that building, no one
in that
23 city, no one in the nation could comprehend that anyone
could
24 hate so much. But the evidence in this case will prove
us
25 wrong. It will prove that over the eight months
leading up to

6411

1 April 19, Terry Nichols and Tim McVeigh had together
carefully
2 and methodically prepared for that one day when they
would
3 launch a violent attack against America. And on that
day,
4 America's TV screens filled with the images of
collapsed
5 buildings, a city in chaos, and the lifeless bodies of

small

6 babies. And on that day, Terry Nichols was home. He
was home

7 in Herington, Kansas, with his wife and his daughter.
Terry

8 Nichols had planned it just that way.

9 Thank you.

10 THE COURT: Are you prepared to proceed, Mr.
Tigar?

11 You have heard of course, only from counsel
for the

12 Government. There is another side in the case, of
course. So

13 you'll hear now opening statement for the defense. Mr.
Tigar.

14 MR. TIGAR: I will begin, your Honor, then;
and at

15 some point, we might take a break.

16 THE COURT: Yes, wherever you say.

17 OPENING STATEMENT

18 MR. TIGAR: May it please the Court, Counsel,
19 Mr. Nichols, members of the jury, on the 19th morning
of April

20 at 9:02 in the morning, or actually just a few minutes
before,

21 Timothy McVeigh parked in front of the Murrah Building
in

22 Oklahoma City. He was in a Ford F-700 truck from Ryder
rentals

23 with a 20-foot box. And Timothy McVeigh was not alone.
With

24 him in the cab of that truck were one or two other
people. The
25 driver parked the truck and set the bomb to go off.

6412

1 Yes, Terry Nichols was not there and did not
know
2 about the bombing until the next day. He was at home
in
3 Herington, Kansas, at 109 South 2d Street in a house
he'd
4 bought and moved into one month and six days before.
He was at
5 home. With him there were his pregnant wife, Marife;
their
6 infant daughter, Nicole; Marife Torres Nichols, born in
the
7 Philippines, who came to the United States as Terry
Nichols'
8 wife. Terry Nichols was building a life, not a bomb.
9 My name is Michael Tigar; and with our team, I
10 represent Terry Nichols. We're here to gain respect
for the
11 undeniable fact that right now Terry Nichols is
presumed
12 innocent. We're here to help point out the hundreds of
13 reasonable doubts that lurk in the evidence.
14 In this opening statement, I want to introduce
you

15 first to our team members, the ones that are going to
help us

16 here; and then I want to outline for you the
allegations, the

17 charges, to point out what is not in dispute, what we
agree

18 with these prosecutors about, and what on the other
hand we do

19 contest, what the Government will try to prove and
fail, and

20 where you may find the reasonable doubts when the
evidence is

21 all in. Yes, when the evidence is all in.

22 Can you see my hand? You can't see my hand.
Not

23 until I've turned it over and showed you both sides
could you

24 say that you've seen my hand.

25 And just as in life, the last bit of evidence
about an

6413

1 important thing may be the thing that lights up the
whole

2 picture, so we beg you to have open minds. We'll
present

3 evidence to you, beginning with our cross-examination
of the

4 very first witnesses that take that witness stand; but
for the

5 first few weeks of the trial, the Government has the
choice of
6 what witnesses to bring, what evidence to bring. He
that
7 pleadeth his cause first seemeth just, but the
defendant come
8 and searcheth it out.

9 Over and over again, you're going to hear
about the
10 presumption of innocence. That means we start with a
clean
11 page. That means that suspicion, prejudice,
prejudgment,
12 speculation have no place.

13 Now, when the Government rests, we are going
to
14 present our witnesses and exhibits. So after
introductions and
15 review of the allegations here, Ron Woods and I, my co-
counsel,
16 are going to do an opening statement in three parts so
that you
17 can have a perfect way of keeping track of the strands
of
18 proof.

19 First, I'm going to describe for you the
results of
20 our investigation into the Oklahoma City bombing. I'm
going to
21 describe for you how Timothy McVeigh planned this
crime, who he
22 planned it with, and who helped him commit it. I will
tell you

the 23 about the people that Timothy McVeigh used and lied to,
24 people he used in ways that he had to know would put
them under 25 unjustified suspicion.

6414

about 1 Second, Ron Woods and I are going to tell you
community, 2 Terry Lynn Nichols, born and raised in a farming
you about 3 married, the father of three children. Ron will tell
radio that 4 what happened when Terry Nichols first heard on the
McVeigh, how 5 he was being sought as somebody who knew Timothy
a-half 6 he went right to the police station and spent nine-and-
FBI, even 7 hours telling the truth -- yes, the truth -- to the
lied to 8 as the FBI agents lied to him, lied to his family, and
9 the court.

about the 10 And third, I'm going to talk very briefly
of whom 11 FBI and its laboratory, its so-called "experts," some
vital 12 are going to testify here, how those people ignored

rushed 13 evidence, used junk science, did sloppy fieldwork, and
"briefly," 14 to a very wrong and quite early judgment. I say
examine 15 because when their witnesses testify, we will cross-
that's 16 them fully and you'll have a chance to see who it is
17 right and who is not.

18 So who's on the Nichols team? Well, the first
member 19 is Terry Lynn Nichols. Me, I'm Michael Tigar; and I am
a 20 school teacher. I teach at the University of Texas in
Austin, 21 Texas. My co-counsel is Ron Woods, solo practitioner
from 22 Houston, former United States Attorney for the Southern
Federal 23 District of Texas and formerly special agent for the
young 24 Bureau of Investigation. We have some lawyers here,
25 lawyers helping: Reid Neureiter from Washington, Adam

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1 Thurschwell from New York, and Jane Tigar from Austin.

2 Now, handling the evidence -- and you'll see

3 people working in the courtroom from time to time -- we

have

4 Rose Haire, Tia Goodman, and Jan Halbert and Molly Ross
from
5 Oklahoma City and Stephanie White from Denver.

6 So let's begin by asking: What are those
prosecutors

7 charging that Terry Nichols did? What are they going
to try to

8 prove beyond a reasonable doubt? Well, you know
there's an

9 indictment, and there are 11 separate charges. When
the case

10 is all over, Judge Matsch will tell you what the
formal, legal

11 elements of each of these charges are; and he'll say to
you, in

12 effect, that if the Government fails to prove any
element of a

13 charge beyond a reasonable doubt, then it becomes your
duty to

14 acquit on that charge and to say not guilty.

15 Now, the first charge is that Timothy McVeigh,
Terry

16 Nichols, and others used -- conspired to use a weapon
of mass

17 destruction against the Murrah Federal Building and the
people

18 in it. We do not contest that Timothy McVeigh did
indeed

19 conspire with several other people to blow up that
building.

20 We agree and understand and stipulate and concede that
at least

21 168 people died from that crime, that the crime visited
22 enormous harms on the hundreds of others. There's no
dispute
23 about that. The dispute is can they overcome the
presumption
24 in law that Terry Nichols had nothing whatever to do
with it.

25 But I want to warn you: The prosecutors may
choose

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1 not to accept the reality that we accept. They may
choose to
2 put before you graphic, emotional, tragic evidence of
the
3 devastation on April 19. These evidence -- these
events, I
4 repeat, are -- they're not in dispute. We understand
that
5 there's not a joy the world can give like -- like that
it takes
6 away. The prosecutors may replay these terrible images
over
7 and over as if to say that somebody has to be punished
for
8 these things. That, of course, is not the question.
The
9 question for you at the end of the evidence will be
who; and
10 that is a question to be answered, we trust, in the

light shed

11 by the evidence and the law and not in flashes of
anger.

12 If the prosecutors present this evidence, our
concern

13 will be to show how it fits the picture that we have
drawn and

14 not theirs. We will cross-examine all the witnesses
who come

15 here, even those who have lost so much. By doing that,
we mean

16 them no disrespect. To the living, we owe respect. To
the

17 dead, we owe the truth.

18 Now, there will be plenty of evidence that
Timothy

19 McVeigh promised to do violence and that he preached
his gospel

20 of hate, that he assembled the bomb materials. But
there will

21 not be any witness who will say that they heard Terry
Nichols

22 utter any threats of violence to anybody. The key to
this case

23 is the charge, the allegation that Terry Nichols knew
there was

24 a conspiracy to use a weapon of mass destruction
against the

25 building and the people in it and intentionally joined
in that

1 agreement. As to that, Terry Nichols says not guilty,
and as
2 to that, the evidence will show you plenty of
reasonable
3 doubts. Guilt by association is not conspiracy,
knowing is not
4 conspiracy, being associated is not conspiracy.

5 In saying what the evidence will show -- by
the way --
6 we don't assume a burden we don't have. Terry Nichols
is
7 innocent. He's presumed innocent. If they want to
change
8 that, they've got to bring you evidence, to satisfy you
beyond
9 a reasonable doubt. We don't have any burden of proof
here.

10 And our job is simply to show the reasonable doubts;
and to do
11 that, we'll show you the hard evidence, the truthful
12 alternatives to their theory. And from the first
witnesses
13 they present, we'll do that when we rise to cross-
examine.

14 Back to the charges. The second charge is
that Terry
15 Nichols -- who wasn't there -- knowing, intentionally,
16 willfully, maliciously helped Timothy and others to
make and
17 deliver a weapon of mass destruction. Once again,
plenty of

guilty. 18 reasonable doubts; we'll ask for a verdict of not

knowingly, 19 The third charge is that Terry Nichols

Timothy 20 intentionally, willfully, and maliciously helped

people 21 McVeigh destroy the Murrah Building and cause death to

ask for 22 in it. The evidence will show reasonable doubts; we'll

23 a not guilty verdict.

murder, 24 And the charges in Counts 4 through 11 are

day in the 25 premeditated murder of federal officers working that

6418

on duty 1 Murrah Building. They all were killed; they all were

many, many 2 at that time. The bomb killed them. There will be

plan to 3 reasonable doubts that Terry Nichols knew there was a

4 kill and that he intended to kill anybody. Not guilty.

evidence: 5 So those are the charges. Here's the

19th 6 Part 1. How did this bomb arrive there on the

born in 7 morning of April just before 9:02? Timothy McVeigh was

8 New York. He enlisted in the Army in May 1988. There
he met
9 Terry Nichols and Michael Fortier. By coincidence,
Nichols
10 from Michigan, McVeigh from New York, and Fortier from
Arizona,
11 all entered the Army on the same day, May 24, 1988. In
the
12 Army, Timothy McVeigh began to show interest in bombs
and
13 bombing. I don't just means military ordnance. One
expects
14 that of a soldier. I don't mean pop-bottle bangers.
The
15 evidence will show that his interest, that he pursued
by
16 writing away for publications, was in manufacturing
fringe
17 large-scale, homemade bombs. He was also drawn to
18 groups with an agenda of violence, racial violence.
19 McVeigh stayed in the Army until December 31,
1991,
20 just the new year, just the start of '92. Terry
Nichols had
21 gotten out of the Army in May of '89. Timothy McVeigh
served
22 in the Gulf War. But after he got out of the Amy,
McVeigh's
23 friends noticed that he became changed, more prone to
talk
24 about violence. The evidence will show that he began
to talk

25 about his views to anyone who would listen and even
some who

6419

1 did not want to.

2 He gave away copies of books in which he had
marked

3 things, he gave away pamphlets and writings with racist

4 messages and sent out mailings with violent sentiments.
He

5 sent copies of this stuff to dozens of people,
including all

6 his former Army friends, including Terry Nichols. And
not

7 surprisingly, some of Tim McVeigh's friends handled
these

8 things, they'd had them in their house, they got their

9 fingerprints on it. In fact, at one time Timothy
McVeigh even

10 borrowed Terry Nichols' copier to make copies of
things.

11 Well, as the evidence will show, this is not
or should

12 not be a case about controversial beliefs. Everybody
-- you,

13 me, the prosecutors -- has a right to that. Timothy
McVeigh

14 was different. His expressed beliefs included acts of
massive

15 violence. Yes, there will be evidence that Terry

Nichols went

16 to gun shows; that he had copies of the literature you
can get

17 at gun shows. Some of that literature contains
sentiments that

18 could only be described as radical, right-wing
sentiments. And

19 the evidence will be that there are movements in this
country

20 who think that we shouldn't have a strong federal
government,

21 who think that the gun laws are wrong, who think that
there

22 shouldn't be an income tax, who think a lot of things
like

23 that.

24 And the important thing will be to try to
distinguish

25 among people who associate with those movements or who
hang

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1 around with people who have those views, between those
who

2 express violence and a willingness to use violence and
those

3 who do not. That will be the crucial inquiry.

4 So let's look at the crucial period here, from

5 McVeigh's discharge from the Army, beginning of '92,
until

6 April 19, 1995, a little over three years.

7 During this time, McVeigh held all sorts of
jobs. He
8 was a security guard, stock clerk, a farmhand, and he
9 discovered the world of gun shows, where all sorts of
things
10 are bought and sold. Now, once again, you know, there
are
11 millions of Americans, I think, trade at, go to, make
their
12 living at these gun shows, including Terry Nichols; and
you're
13 going to hear a lot about them. If you've never been
to one,
14 they're a little bit like a swap meet or a flea market
or a
15 craft show even, in some respects. A promoter,
somebody like
16 Sertoma civic organization hires a space and advertises
the
17 show. And individual dealers can then rent tables to
sell
18 their wares. People sell guns, ammunition, military
goods, and
19 other things that would appeal to those at the show or
to some
20 of them. Roger Moore, for example, who you'll meet,
made
21 thousands of dollars selling porn movies at gun shows.
22 But for Timothy McVeigh, the gun shows were a
special
23 place. Mr. McVeigh began his interest in gun shows in

the

24 Army, and he first worked one in May 1992. Terry
Nichols was

25 not there.

6421

1 Early in 1993, Mr. McVeigh was preaching his
ideas to

2 his friends Michael and Lori Fortier in Kingman,
Arizona.

3 Terry Nichols was living with his family on the Nichols
farm in

4 Michigan.

5 On February 13, 1993, McVeigh met Arkansas gun
dealer

6 Roger Moore at a gun show in Florida. Moore and
McVeigh became

7 friends and allies. Yes, the evidence will be that
they

8 remained friends and allies through the spring of 1995.
Moore

9 came to trust McVeigh, as he trusted few others. Moore
also

10 goes by the name Bob Miller, or just "Bob from
Arkansas."

11 The McVeigh/Miller friendship provides the key
to the

12 so-called "robbery" of Roger Moore. The Government
will not be

13 able to prove that Roger Moore was robbed. Too many

doubts,

14 too many contradictions in Moore's own stories to
different

15 people, just beginning with one version in which he
said his

16 robber was a smelly guy who hadn't taken a bath for
three

17 months, weighed 180 pounds, was big enough to drag
Moore across

18 the floor, had a beard, and was extremely dark-
complexioned.

19 Roger Moore has told six different stories at least
about that

20 robbery to as many different people. And whatever
version he

21 comes up with will be contradicted by the evidence. He
never

22 heard of Terry Nichols.

23 No, there was too much going on, as the
evidence will

24 show, between Timothy McVeigh and Roger Moore and
between

25 Timothy McVeigh and Roger Moore's girlfriend, Karen
Anderson.

6422

1 Within two weeks of their first meeting, McVeigh and
Moore were

2 partners at a gun show at Dinner Cay, Florida on
February 27

3 and 28, 1993.

4 Later in 1993, McVeigh did visit the Terry
Nichols --
5 did visit Terry Nichols at the Nichols family farm in
Michigan.

6 Now, there was where Terry grew up; where his dad,
Robert, and
7 his mother, Joyce, lived. Robert and Joyce were
divorced,
8 living apart. Terry's older brother, James Nichols,
was
9 managing most of the old family farm. Terry's eldest
brother,
10 Les, drove a truck. Sister Susie lived nearby. Tim
McVeigh
11 did stop by there. Worked a little bit, hung around
mostly,
12 moved on.

13 During part of the year, 1993, Terry Nichols
wasn't
14 even in Michigan, because the evidence will be that his
wife
15 Marife was a citizen of the Philippines, and the family
would
16 visit there as much as they could.

17 But something else did happen in 1993. On
18 February 28, the Bureau of Alcohol, Tobacco and
Firearms, the
19 ATF, raided the Branch Davidian compound in Waco. On
April 19,
20 1993, was the tragic fire that cost the lives of so
many men,

21 women, and children. Many Americans were concerned and
even
22 angry about these episodes. People have the right to
hold
23 differing opinions about Waco, and Terry Nichols
certainly held
24 opinions about it.

25 For Timothy McVeigh, the Waco events -- you're
going

6423

1 to hear this in the evidence -- they were a turning
point. It
2 moved him to step outside the law. It increased the
kind of
3 paranoia he had, even to the point of believing that
Russian
4 vehicles were being secretly stored at bases in
Mississippi.
5 And he spoke of this to his friends Michael and Lori
Fortier
6 and to Roger Moore -- but to Michael and Lori Fortier
in
7 Kingman, Arizona.

8 This is a good point to introduce to you
Michael and
9 Lori Fortier. Today, Michael Fortier is in prison.
He'll find
10 out when he gets out, only after he testifies in this
trial,

11 and after these prosecutors decide whether to make a
12 recommendation about his cooperation. Lori Fortier has
been
13 given complete immunity from prosecution. But in 1992,
through
14 May 1995, the Fortiers were living in a trailer house
in
15 Kingman, Arizona. Michael Fortier was Timothy
McVeigh's Army
16 buddy. The Fortiers barely knew Terry Nichols. He
never spent
17 more than an hour in their company. The evidence will
be that
18 McVeigh used the Fortiers' trailer house as a base and
that
19 they were his most trusted confidants, to them were to
go
20 warning messages. To them they described in detail how
he was
21 going to make a bomb to avenge Waco, or so they say.
22 You will hear in great detail because the
Fortiers
23 helped Timothy McVeigh and were used by him and lied to
by him
24 and how they wove their own web of lies. But the
Fortiers,
25 despite all this, are not conspirators with Timothy
McVeigh to

such by 1 bomb the Murrah Building and are not being treated as
2 the Government.

3 And here is the prosecutors' problem: Neither
Michael
4 Fortier nor Lori Fortier ever heard Terry Nichols say
that he
5 was going to bomb anything, wanted to bomb anything,
planned to
6 bomb anything, was going to hurt anybody, wanted to
hurt
7 anybody, or planned to hurt anybody.

8 In order to believe that Terry Nichols ever
planned or
9 wanted any such thing, you would have to put your faith
in the
10 Fortiers, even though they never heard it and more.
All they
11 know is what Tim McVeigh told them. And the evidence
will be
12 that what Tim McVeigh told them was a series of lies,
provable
13 lies. The evidence will be that the story told by the
Fortiers
14 here in court is just one more version that they've
concocted,
15 a story a day, a story a week, until they saw they were
caught
16 by their own involvement and made a deal. You'll hear
about
17 that deal. And you're also going to hear that the two
of them
18 were habitual users of one of the most dangerous drugs

being

19 peddled today, methamphetamine, speed. It makes you
paranoid,

20 it gives you delusions, and it makes you a liar.

21 The Fortiers you'll meet today are very
different from

22 the Fortiers of 1993, '94, and '95. We're going to
show you

23 the original Fortiers with pictures, their words, their

24 writings before they made their bargains and cleaned
themselves

25 up for presentation. We'll show you that they did not
even

6425

Nichols 1 come up with a story about Terry Nichols until Terry

2 had been charged and the major details they now recount
were

3 published in the papers.

4 It will be a dramatic moment, Michael Fortier
in a

5 motel in Oklahoma City with Lori Fortier and some FBI
agents,

6 and Michael Fortier steps out onto the balcony of the
motel and

7 says to the FBI agent, "You give me immunity, I'll give
you Tim

8 McVeigh." And the FBI agent looked back and said in
effect,

to get 9 "Son, we've already got Tim McVeigh. If you're going
10 something, you'll have to give us somebody else."

11 This would be a good point to break.

12 THE COURT: All right. Once again, members of
the

13 jury, we'll take a brief recess here to help us be
attentive

14 with respect to our ongoing proceedings and these
arguments.

15 Now, we may go into what would be the normal noon hour
a little

16 bit, so you may want to refresh yourself during this
break.

17 And again, of course, as you're recessed from
the --

18 excused from the courtroom during the previous recess,
please

19 hold on, don't talk about the case or anything about
it,

20 remembering that we're just in the very preliminary
statements

21 here. So you're excused now again about 15 minutes.

22 (Jury out at 11:10 a.m.)

23 THE COURT: Okay. We'll again be in recess.

24 (Recess at 11:11 a.m.)

25 (Reconvened at 11:26 a.m.)

1 THE COURT: Please be seated.

2 (Jury in at 11:26 a.m.)

3 THE COURT: Please continue.

4 MR. TIGAR: Thank you, your Honor.

5 Members of the jury, we were talking about the
6 Fortiers. The evidence is going to show that a lot of
the
7 things they say don't make sense because they defy the
laws of
8 the physical universe, one of which is that nobody can
be in
9 two places at once.

10 This evidence, however, is going to show there
is some
11 reason to sympathize with the Fortiers' plight. There
is no
12 question that Timothy McVeigh used them and lied to
them. He
13 used their tools. He used their house. He used their
phone.
14 He used their typewriter to make false identification.
He got
15 them to disguise bomb components; and we know these
things from
16 the Fortiers -- not solely from them but because there
is
17 independent evidence of each of them.

18 Every time that we ask you to accept something
that
19 the Fortiers have said, we're going to bring

independent

20 evidence to verify or corroborate it; and the
independent

21 evidence will show that Timothy McVeigh used the
Fortiers just

22 as he tried to use others, such as arms dealers Ed and
Dave

23 Paulsen, his boyhood friend Dave Darlak, his friend
Greg Pfaff,

24 the Nichols' family friend Kevin Nichols, James
Nichols, and

25 yes, Terry Nichols, too.

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1 So let's continue tracking Timothy McVeigh on
the road

2 to Oklahoma City. On March 16, 1993, Timothy McVeigh
visited

3 Waco in sympathy with the Branch Davidians. He was
4 photographed there. Terry Nichols was not there.

5 But later in 1993, later in March of that
year,

6 Timothy McVeigh began shopping for det cord. Now,
that's

7 something you can use to make an explosion; and there
is

8 nothing wrong, by the way, with having det cord or
blasting

9 caps or dynamite. And the evidence in this case will
show that

10 a very large number of people in this case had this
kind of
11 material or had access to it. Michael Fortier had it,
Michael
12 Fortier's father-in-law had it, Michael Fortier's
brother had
13 it, other Kingman residents had it, the Paulsens had
it, to
14 name just a few.

15 Indeed, the evidence will be -- and we might
as well
16 tell you -- that in 1976 and 1977, Terry Nichols and
his
17 brother James used dynamite on their family farm up in
Michigan
18 to clear stumps; and the evidence will be that in that
part of
19 Michigan that farmers have ready access to a formula
for mixing
20 ammonium nitrate and fuel oil to use (sic) explosions
for such
21 things as ditching and trenching and clearing the land.
In
22 fact, you can go to the county agriculture agents'
office in
23 that county and you can get a recipe for ammonium
nitrate and
24 fuel oil for farm purposes, the same official
government
25 publication that you can get in county agents' offices
all over

1 the United States in farm country.

2 We're also going to show you when witnesses
come how
3 many millions of tons of ammonium nitrate are used by
farmers
4 all over the United States every year. But McVeigh's
shopping
5 for det cord was in a different context, and Terry
Nichols
6 didn't have anything to do with that.

7 During the first eight months of 1993, Timothy
McVeigh
8 was on the move part of the time. Some of the time he,
9 however -- most of it, in fact, he spent in Kingman,
Arizona,
10 with his friends the Fortiers. Kingman, Arizona, was
Timothy
11 McVeigh's base of operations until April 12, 1995; and
the
12 evidence of this close, continual contact will be
indisputable.

13 McVeigh also traveled to gun shows to make
money and
14 to keep up connections with his friend Roger Moore. He
and
15 Moore were at a gun show in Kentucky on October 2 and 3
of
16 1993.

17 In early December of '93, Terry Nichols and

his family

18 had left the family farm in Michigan to move to Las
Vegas, so

19 Terry could look for work and be closer to his son by
his first

20 marriage, Joshua. McVeigh stayed in Michigan. He and
Terry

21 Nichols had very little contact, and McVeigh continued
to work

22 gun shows. But by the end of 1993, McVeigh's
sentiments were

23 taking shape. He confided them in a letter to his
sister, and

24 Terry Nichols wasn't there.

25 The evidence about these casual contacts,
people

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1 writing letters, people visiting each other, is
important, for

2 it helps to explain some of the fingerprint evidence in
the

3 case that I'll talk about later.

4 But by the spring of '94, Terry Nichols
despaired of

5 finding good work in Las Vegas -- wasn't his kind of
town; so

6 he moved back to farm country. His wife and daughter
returned

7 from a trip to the Philippines, so the Nichols family

occupied

8 a farmhouse together in Marion, Kansas. Terry Nichols
was
9 employed by the Donahue ranch.

10 You're going to hear that he was a good farm
worker.

11 He made from 325 to \$350 a week and had the use of a
12 three-bedroom house with utilities paid. But the work
was hard
13 and the hours were long, and everybody who worked for
14 Donahue -- some of them will be here -- will tell you
that.

15 And Marife and Terry Nichols wondered if there wasn't a
kind of
16 work that would let Terry spend more time at home with
the rest
17 of his family.

18 And that was when in the summer of 1994
Timothy
19 McVeigh, in one of his trips across the country, came
to the
20 Nichols' home in Kansas with a proposal. He wanted
Terry
21 Nichols to work with him, he said, in buying, selling
and
22 trading items at gun shows. McVeigh, with much more
experience
23 in this field, promised that they could make a good
living and
24 most of the shows are on weekends so they'd have free
time.

25 McVeigh, you see, was kind of a drifter. He'd

work

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1 some gun shows, hold a regular job, work some gun shows
some
2 more. No real family ties except to his dad and his
sister in
3 New York, who he rarely saw. His real attachments
where he
4 spent most of his time were with his friends the
Fortiers and
5 their buddies in Kingman, Arizona, and with his
confederate,
6 Roger Moore. Later, as the evidence will show, he
formed some
7 alliances with others.

8 In 1994, however, McVeigh had been living with
the
9 Fortiers before he came back to Kansas. He had been
the best
10 man at their wedding. In July of that year he was
their
11 housesitter when they went on their honeymoon. He sold
them
12 explosive components when he left Arizona. McVeigh and
Michael
13 Fortier had even gone to a militia organizer in Arizona
in
14 April of 1994, and Terry Nichols wasn't there.

15 Terry Nichols, not knowing these facts, agreed

to do

getting 16 business with McVeigh. And while the business was

Philippines 17 started, Marife Nichols decided to return to the

parents 18 with young Nicole, their daughter, to visit Marife's

home. 19 and take classes at the university near her childhood

20 She left the United States September 18, 1994.

working 21 On September 30, 1994, Terry Nichols finished

working in 22 at the Donahue ranch. Up until that date, he was

weekday and 23 the fields most weekdays and -- excuse me -- every

McVeigh had a 24 most Saturdays. As for the gun show partnership,

Fortiers that 25 different agenda. You're going to hear from the

6431

September, 1 McVeigh sent them a letter in late August or early

to take 2 1994, saying that McVeigh and Terry Nichols were going

this 3 action against the government. There is no copy of

4 so-called "letter" in existence.

5 The Fortiers never mentioned it until they

were

and 6 dealing with the prosecutors to escape years in prison
called 7 perhaps a greater punishment. In any event, this so-
they 8 "letter" that only the Fortiers know about was written,
9 say, by Timothy McVeigh.

10 One trouble with their story is that Lori
Fortier says 11 that just after they got the letter, McVeigh came to
Arizona 12 and they talked about it. She says that McVeigh was in
Arizona 13 September 16, 1994; but he could not have been. He was
in 14 Kansas at that time. The Fortiers and physical reality
15 collide. Another problem, of course, is that it isn't
so. 16 Terry Nichols never agreed to any such thing.

17 When we speak of these dates, these
contradictions, 18 there are going to be thousands of documents in
evidence. 19 Sometimes you'll have to resolve contradictions.

20 The FBI cast its net very wide. For example,
we have 21 a record in this case of almost every telephone call
made by 22 everybody connected with this case for years. The FBI
went out 23 and got all those records. Now, the problem with these

phone

We can 24 records is sometimes the phone companies make mistakes.

as 25 prove that. The problem with these phone records, such

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in -- 1 those that "Mr. Computerman," Mr. Dexter, is going come

see that. 2 is that sometimes the FBI makes mistakes, and you'll

them. 3 And often, the records don't show what is claimed for

records for 4 There are some examples. Let's take phone

before 5 a minute. There is no dispute way back in 1993, long

Nichols 6 anybody is charged with doing anything wrong, Terry

Marife were 7 bought one of those prepaid calling cards. He and

Terry's 8 living in Michigan at the time on a farm that's run by

of their 9 brother James. They didn't have long distance service

10 own.

the 11 Well, these days you can go to the drug store,

calling 12 laundromat, the service station and get one of these

13 cards; and the way you use it is you pay a certain
amount and

14 you get so many minutes of talk time.

15 And back in 1993, however, they were
relatively new;

16 and the conservative publication Spotlight advertised
them.

17 Terry Nichols not only didn't have long distance
service, he

18 had some financial difficulties. He had judgments
against him.

19 And he started doing business exclusively in cash, so
he didn't

20 have bank accounts, and in trade names, not his own
name. He

21 got one of these Spotlight cards in the name Daryl
Bridges; and

22 when he and McVeigh started their gun business, McVeigh
got the

23 PIN number so he could make calls on it, too. There
are a lot

24 of calls charged to that Bridges card, but the evidence
is

25 going to show you that the Bridges records cannot be
the basis

6433

1 to conclude that anybody ever called anybody. They're
just

2 numbers. In order to make a conclusion about who
called whom,

on, 3 you need more evidence. And in every instance we rely
4 we'll present that evidence to you.

5 But why would Terry Nichols get a card in a
different 6 name than his own? Well, the evidence is that one of
the 7 judgments against him was from AT&T. They had sued him
on a 8 credit card bill. He figured that if he tried to get
long 9 distance service in his own name even with some other
company 10 maybe AT&T could interfere with it. And the evidence
will be 11 that the forms are filled out and somebody on the farm
took 12 them to the post office, and we can prove that.

13 Now, that card was still being used in late
September 14 of 1994. So while Terry Nichols is out working on the
Donahue 15 ranch in Marion, Kansas, we can prove that he's out
there. 16 Somebody else -- and the only other person that had the
card 17 number is Tim McVeigh -- used that telephone card to
call 18 places that might supply components for a bomb. We can
track 19 the calls that were made, the sequence, the time of day
and

In 20 show you how that worked. Terry Nichols was not there.
stand 21 fact, members of the jury, we'll have witnesses on the
him before 22 that will identify Timothy McVeigh from having known
23 based on having made those calls.

McVeigh; 24 One of those is a person that had known Tim
because 25 that Tim McVeigh called -- and it had to be Tim McVeigh

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Terry 1 the person recognized him -- to get racing fuel. And
2 Nichols wasn't there and didn't make that call.

made? 3 What calls can it be shown that Terry Nichols

places where 4 Well, he called places he did business. He called

5 you'd buy things, lawful things you use in the gun show

business and 6 business, to store things that you need for your

7 things you're going to sell.

evidence will 8 Let's take just one example of what the

9 be about what Terry Nichols shopped for.

this little 10 The Nichols family: They have this house,

11 house in Herington, Kansas. There is a storage shed
out behind

12 it. They have plastic barrels back there. You're
going to see

13 pictures of those barrels, the ones that they had.
Now, you're

14 also going to hear evidence that when Timothy McVeigh
built the

15 bomb, he may have used plastic barrels to hold the
explosive

16 mixture.

17 Now, let's look what the evidence is going to
show.

18 First, most obviously, it's going to show that the
barrels that

19 the Nichols family had could not have been used to
build the

20 bomb because the Nichols family still have their
barrels back

21 in their shed. But the evidence is also going to show
that

22 these barrels -- they're 55-gallon barrels. 8 million
of them

23 are made every year by a single manufacturer. They're
made of

24 HDPE, high-density polyethylene, and they are designed
under

25 federal and international regulations to be reused from
15 to

1 30 times. Otherwise, you couldn't sell them.

2 And the evidence will be that in the heart of
Kansas,

3 in dairy barns, for example, which is where Terry
Nichols got

4 his barrels, there are -- there is udder wash and
dairy-barn

5 cleaner that is sold in these 55-gallon containers; and
when

6 the containers are empty, the dairy barn people put
them out to

7 recycling depots and you can buy them for five bucks
apiece,

8 which compares quite favorably to a Rubbermaid trash
barrel at

9 your local hardware store.

10 The barrels at Terry Nichols' house were not
even from

11 a barrel company in Wichita about which reference has
been

12 made.

13 Now, you also heard about fertilizer. Well,
it's true

14 that on September 30, 1994, and October 18, 1994, two
men

15 bought ammonium nitrate at a farm cooperative in
McPherson,

16 Kansas. The two co-op employees who sold the ammonium
nitrate

17 in bags were unable to identify the purchasers while
the

18 transactions were fresh in their minds. These

employees are

19 called Rick Schlender and Jerry Showalter. But Mr.
Schlender

20 gave a very precise description of the vehicle. He
said that

21 the men were in a Dodge pickup truck with Kansas
license

22 plates, pulling a trailer made from a Ford truck bed.

23 Terry Nichols had a GMC pickup truck with
Michigan

24 license plates and never owned a Ford pickup bed
trailer.

25 Now, the FBI got to these two witnesses,
accused them

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1 of making false statements, tried to get them to change
their

2 story; and you'll hear about how that process worked.
You will

3 even hear that Mr. Schlender committed perjury before
the grand

4 jury that indicted this case; but in the end, the
evidence is

5 that Terry Nichols was not there. In fact, on
September 29,

6 1994, Mr. Showalter, the other fellow -- he remembers
he got a

7 call. He was at McPherson at the co-op there working.
He got

8 a call from another branch of the co-op in Galva,
Kansas,
9 saying somebody is in the store, wants to buy 2 tons of
10 ammonium nitrate in bags. Showalter advised his
colleague in
11 Galva to send that person over to the McPherson store.

12 Now, on September 29, 1994, Terry Nichols was
working
13 on the Donahue farm. Couldn't have been him.

14 Now, Terry Nichols did have access, no
question, to
15 storage units, those rental storage units in the mid-
Kansas
16 area. You know the ones. When Terry Nichols told the
FBI

17 about these sheds -- and he did, and he told them in
what names
18 he rented them. They went out and searched them. No
residue

19 of any ammonium nitrate or other bomb component was
ever found
20 in these sheds. They were, as Terry Nichols told the
FBI, used
21 to store household furniture and things he was keeping
to sell
22 in trade.

23 Now, you are going to see a receipt for a
large
24 purchase of ammonium nitrate. The Government has told
you
25 what's on the front of the receipt. But let's turn the
receipt

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1 over on its back; and by the time all the witnesses
have
2 testified, you'll know the whole story, for on the back
of that
3 receipt are fingerprints of one and only one
individual,
4 Timothy McVeigh. And the way that that fingerprint
evidence
5 showed the receipt was handled shows exactly what
happened and
6 supports Terry Nichols' innocence.

7 Now, beginning October 1, 1994 -- that's the
time
8 we're in -- Terry Nichols was working to create a
viable gun
9 show business. Tim McVeigh had a different plan.
Unbeknown to
10 Terry Nichols, he called Michael Fortier and asked him
to max
11 out his credit cards and give him the money.

12 On October 2, 1994, McVeigh visited a
racetrack and
13 inquired about buying racing fuel. Terry Nichols was
not
14 there.

15 On October 21, 1994, McVeigh bought three 55-
gallon
16 drums of nitromethane, in Ennis, Texas. Terry Nichols

was not

17 there. And Lori Fortier's description of that
transaction will

18 prove again that she has a powerful imagination, for
she has it

19 taking place even before it could possibly have done
so.

20 The evidence will show that in searching for
racing

21 fuel, McVeigh used the Fortiers' phone on October 7,
1994. And

22 Terry Nichols was not there.

23 By late October, 1994, McVeigh's bombing plans
were

24 well advanced. Terry Nichols, who had started this gun
show

25 venture, had reached a parting of the ways with
McVeigh. Now

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1 their paths begin to diverge again. McVeigh went his
own way,

2 hooking up with the Fortiers in Kingman, keeping in
touch with

3 Roger -- Roger Moore -- excuse me -- and confiding in
the

4 Fortiers about his plans.

5 On October 29, 1994, Terry Nichols called a
travel

6 agency to book a flight from the United States to the

and 7 Philippines. He was going to join his wife, Marife,
8 daughter, Nicole, over there.

9 Terry Nichols planned to bring Marife and
Nicole back

10 to the United States and settle somewhere in the
Midwest to be

11 in business by and for himself. He had already sold
some coins

12 and things to raise money to make the trip and to help
finance

13 Marife's education; and before going to the
Philippines, the

14 evidence is going to show that Terry Nichols did not
just one

15 thing but many things that a normal person does when
going on a

16 trip to a foreign country where the political situation
is

17 unstable and there is a record of violence.

18 First, he updated his life insurance.

19 Second, he had some penny stock, so he changed
20 ownership provisions so they'd go to his family in the
event of

21 his death. We're not talking about a rich man with
lawyers to

22 draft wills; talking about practical things. He put
his

23 belongings, including his pickup truck, into a storage
shed,

24 rented a big enough one to put his pickup truck. And
he had

Vegas; 25 things spread around in storage sheds in Kansas and Las

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1 and some of these sheds were in different names for
reasons

2 you'll hear.

3 So Terry Nichols wrote a letter to be opened
only

4 after his death, so it couldn't be part of a live
conspiracy.

5 We're going to show you the entire letter, and you'll
see

6 evidence behind every word of it. In the letter he
asked

7 Timothy McVeigh to go to the storage units, take things
out,

8 and see that they were properly distributed to Mr.
Nichols'

9 family in the event of Mr. Nichols' death.

10 The letter also reminds Mr. McVeigh that the
rent on

11 the storage shed is due on particular days and so --
need to

12 pay that if he's not going to do it in a timely way.

13 Then it says something that somebody might say
to

14 someone that you had known in life but would be reading
the

15 words after you're dead. It says, "You're on your own;
go for
16 it," which happens to be one of the most overused
expressions
17 in the language and which was a motivational slogan in
an
18 insurance agency where Terry Nichols worked during the
1980's.
19 Today, "Go for it" is such a well-worn phrase you can
even find
20 it on boxes of Girl Scout cookies. There is no letters
-- no
21 reference in this letter to bombs or bombings or
violence or
22 anything illegal at all, not a word.

23 Having settled his affairs, Terry Nichols
spent a few
24 days camping with his son Josh to talk about the trip
he was
25 going to take. Then he went to the Philippines, where
he spent

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1 Thanksgiving, Christmas, and New Year's with Marife and
Nicole.
2 He planned to return and did return in January of 1995.
The
3 evidence will show that after he did he bought a house
for his
4 family, for Marife, Nicole and Josh, began acquiring a
stock of

and 5 military surplus items to sell supplementing gun sales,
his own 6 then began to establish his own separate business in
7 name centered in Kansas.

Terry 8 What did McVeigh do during those months while
States, 9 Nichols was there in the Philippines, not in the United
Fortier's 10 gone away with his family? McVeigh enlisted Michael
right wing 11 help. He reached out to known adherents to radical
negotiated 12 causes, he investigated Ryder truck rentals, and he
wasn't 13 for the purchase of bomb components. Terry Nichols
who was 14 there for any of this, but the evidence will tell you
15 and what they did.

was 16 On November 30, 1994, a power company employee
letter 17 working in the Arizona desert near Kingman. He found a
and 18 from Timothy McVeigh fastened to a high-voltage tower
Colbern, 19 addressed to SC. SC, the evidence will show, is Steve
his 20 connected to McVeigh through gun dealer Roger Moore and
recruit 21 paramour Karen Anderson. The letter was an effort to

Karen 22 Colbern, whose identity had been given to McVeigh by
23 Anderson and Roger Moore.
24 McVeigh contacted an arms and explosives
dealer named 25 Dave Paulsen. In a series of meetings and telephone

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1 conversations, McVeigh tried to induce Paulsen to sell
or trade 2 dynamite to him. First meeting was December 3 or 4,
1994, in 3 Kalamazoo, Michigan; and Terry Nichols, of course,
wasn't 4 there.

5 The evidence suggests a question. If, as the
6 Government claims, there was a robbery or burglary in
October 7 to get components, what was McVeigh doing seeking
dynamite in 8 December? On December 13, 1994, McVeigh sent a letter
to a 9 friend volunteering to help if she needed anybody, as
he put 10 it, "blown up."

11 In the middle of December, McVeigh enlisted
the 12 Fortiers once again. Lori Fortier wrapped up some
blasting

13 caps for McVeigh in Christmas paper so McVeigh could
transport
14 them. Tim McVeigh offered Michael Fortier \$10,000 to
help him
15 by driving to Kansas to pick up some things and to help
in
16 other ways. Michael Fortier went along with this plan,
17 although later McVeigh stiffed him for the 10,000.

Terry

18 Nichols was with his family in the Philippines
preparing for
19 Christmas.

20 McVeigh's Christmas packages were to trade
with arms
21 dealer Dave Paulsen for dynamite. The Fortier driving
trip was
22 to case the Murrah Building. Yes, Michael Fortier and
Tim
23 McVeigh drove together to Oklahoma City to look it
over; and
24 Terry Nichols wasn't there.

25 From early December, 1994, until January,
1995, Tim

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1 McVeigh called arms and explosive dealer Dave Paulsen's
phone
2 dozens of times. One of those calls was 49 minutes
long. When
3 Tim McVeigh was arrested on April 19, he still had Dave

get rid 4 Paulsen's business card, which he apparently tried to
car. 5 of by dropping it in the arresting officer's patrol

6 Oh, those blasting caps to trade with Paulsen?
-- bought 7 McVeigh told Kevin Nicholas he had bought, not stolen
8 them.

9 Tim McVeigh also reinforced his connection
with 10 Arkansas gun dealer Roger Moore. In September 1994,
McVeigh 11 had asked Michael Fortier to forward a letter to "Bob"
that 12 McVeigh had sealed in a plastic baggy to prevent there
being 13 fingerprints. Then in January, 1995, McVeigh sent
another 14 letter to Moore. Roger Moore's reply to that letter,
which 15 refers to a plan, refers to it being secret from
satellite 16 surveillance and other things. Moore's letter to
McVeigh 17 you'll find in evidence, and it is significant.

18 On January 16, 1995, Terry Nichols returned
from the 19 Philippines. He visited for a few days with his son
Josh, made 20 financial settlement for Josh's support with Lana
Padilla, his 21 former wife, assembled his available resources, met

with Tim

22 McVeigh in Junction City to divide up their wares; and
after
23 that meeting, Terry Nichols never worked with Timothy
McVeigh
24 again. Instead he bought -- shopped for and bought a
house in
25 Herington, Kansas, centrally located for the business
he was

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1 going to enter. He shopped for and bought furniture.
He began
2 to buy and sell at gun shows in his own name. He began
to
3 deal, in addition to the arms he had for sale, in
military
4 surplus, going to the Fort Riley, Kansas, sales and
auctions to
5 build an inventory, a business technique that Timothy
McVeigh
6 never used.

7 And Terry Nichols prepared for his wife,
daughter, and
8 son to come and live in Herington. We'll show you the
9 telephone calls he made, the places he stayed, and
introduce
10 you to the people he met along the way.

11 In Kingman, however, at the end of January,
McVeigh

12 was working on his plan. He enlisted the Fortiers to
go to gun
13 shows and sell weapons with him. On January 31,
McVeigh
14 checked into the Belle Arte Motel in Kingman, saying
that he
15 would stay several weeks. The motel management kicked
him out,
16 and he left on February 8. What happened? McVeigh was
having
17 loud gatherings in and near his motel room, including
one with
18 a person who resembles the description of the man with
McVeigh
19 when he rented the Ryder truck months later and when he
drove
20 it to Oklahoma City. Lori Fortier helped Tim McVeigh
make a
21 false driver's license in the name Robert Kling, the
name
22 McVeigh was to use when renting the Ryder truck in
Junction
23 City, Kansas.

24 Tim McVeigh approached a friend of the
Fortiers, James
25 Rosencrans, to recruit him to do some driving from one

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1 undisclosed location to another. Rosencrans says he
refused.

2 The evidence shows a pattern here. Tim
McVeigh didn't
3 confide his plans to the Fortiers, just like he didn't
tell his
4 boyhood friend Darlak or his other friend Pfaff why he
wanted
5 racing fuels. Except for the Fortiers and some hints
to his
6 sister Jennifer, he used people without leveling with
them.
7 Tim McVeigh left the Belle Arte Motel; but he stayed in
8 Kingman, some of the time in motels and some of the
time living
9 with the Fortiers at their home. This was his base of
10 operations.

11 In March and April, 1995, Tim McVeigh told
Michael and
12 Lori Fortier that Terry Nichols would not have anything
to do
13 with any plan to blow up a building. Now, of course,
the
14 evidence is the Fortiers are unreliable witnesses. You
can't
15 believe anything Tim McVeigh told them unless you find
16 independent corroboration. So let's look at what
McVeigh and
17 the Fortiers did, not just what they said.

18 Tim McVeigh questioned Michael Fortier about
using
19 James Rosencrans as a driver. He mentioned the
underground

20 connections of Roger Moore as a potential getaway plan,
21 corroborated by Rosencrans. The continued contact with
Moore
22 is documented by the exchange of letters.

23 But all during this time, Terry Nichols
continues to
24 his earn his living at gun shows in the Midwest and to
furnish
25 the home he bought for his family. On March 17, 1995,
Marife

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1 and Nicole Nichols arrived in Kansas, and the Nichols
family
2 took another step towards being reunited March 31,
1995. The
3 following two weeks, in Kansas, Terry Nichols continues
to work
4 and earn his livelihood.

5 But from Kingman, Arizona, on April 5 -- 14
days to
6 go -- Timothy McVeigh called a Ryder truck rental
outfit in
7 Lake Havasu, Nevada, and got a quote for a rental.
Terry
8 Nichols at that time was on his way to Michigan, to
visit his
9 family and work at a gun show.

10 But in Kingman, just minutes after calling the
Ryder

of a 11 Truck Rental place, Timothy McVeigh called the leader
Oklahoma, 12 violent right wing separatist group in Elohim City,
Germany 13 and asked to speak to Andreas Strassmeier, a citizen of
14 known for terrorist activities.

15 On April 5, McVeigh, using the name Tim
Tuttle, called
16 the National Alliance in Arizona, another arms
separatist
17 organization, and he called them nine times in two
days.

18 April 12, 1995, McVeigh headed east. He lied
to
19 Michael Fortier and told him he was going to Colorado.

20 When Timothy McVeigh arrived in Kansas, he
bought an
21 old Mercury Marquis from a Firestone dealer in Junction
City.
22 It was the car he was driving when he was arrested. On
the
23 drive from Arizona to Kansas, he may have stopped at
the
24 Oklahoma City federal building yet again. A senior
federal
25 employee reports seeing him there.

1 Friday, April 14, Junction City, Kansas:
McVeigh

2 using the name Robert Kling, the name on the fake
license that

3 Lori and Michael Fortier helped him make, called the
local

4 Ryder rental place and reserved a truck for the next
Monday.

5 He already knew how Ryder truck rentals worked from his
Arizona

6 call.

7 Timothy McVeigh stayed from April 14 to April
18 at

8 the Dreamland Motel in Junction City. He registered in
his own

9 name; but to leave a false trail, he gave an address
belonging

10 to Terry Nichols' older brother James in Michigan,
knowing to

11 do so would draw attention away from his base in
Kingman.

12 Saturday, April 15, in the evening, a Chinese
13 restaurant, the Hunam Palace, in Junction City received
a

14 delivery order from McVeigh's motel room. The caller
used the

15 name Robert Kling.

16 When the food was delivered to McVeigh's room,
the

17 order was accepted by a male person not McVeigh and
certainly

18 not Terry Nichols, matching the description of the man
who was

the man 19 with McVeigh when he rented the Ryder truck on April 17

20 who came to be known as "John Doe No. 2."

owner Lea 21 Saturday or Sunday night, Dreamland Motel

22 McGown heard two male voices talking in the McVeigh
motel room.

23 Terry Nichols was not there.

Mercury 24 Sunday, April 16, Timothy McVeigh drove his

Terry 25 Marquis to Oklahoma City. Along the way, he called

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come to 1 Nichols at his home and prevailed on Mr. Nichols to

2 Oklahoma City and give him a ride back to Junction
City.

Josh's 3 Terry Nichols knew that McVeigh had gone to

4 house in Las Vegas -- Josh Nichols' house to pick up a
5 television set of Terry's. You'll hear Josh Nichols
say that

6 McVeigh did come to the house in Las Vegas, pick up
that

7 television set. And McVeigh had agreed to deliver it;
so when

8 McVeigh called, he told Mr. Nichols, "You want the TV
set?"

9 Come get it or forget about it."

10 And indeed, when Terry Nichols returned home
after
11 that drive, both Josh and Marife noticed he had brought
the TV
12 set with him. Ron Woods will give more detail on that.

13 Monday, April 17, Tim McVeigh, posing as
Robert Kling,
14 picked up the Ryder truck. And the Ryder rental dealer
in
15 Junction City is Elliott's Body Shop. There are three
16 Elliott's employees who stood in the small office at
Elliott's
17 during the time that truck was being rented, and their
names
18 are Eldon Elliott, Tom Kessinger, and Vicki Beemer. If
the
19 Government does not call them, we will do so; for each
of them
20 said that McVeigh was not alone, he was with a somewhat
stocky
21 man with a dark complexion. And independently, they
all agreed
22 on the description of that second person. This other
person
23 was not Terry Nichols. Terry Nichols was not there.
And
24 later, a lot of people saw that Ryder truck with Tim
McVeigh
25 and this other person in and near it.

1 But all that weekend, except for picking up
the TV
2 set, the Nichols family did their chores; and on that
Easter
3 Sunday, they went to church. Terry Nichols' son Joshua
was
4 visiting from Las Vegas. The whole family was
together.

5 Tuesday, April 18, a crucial date: Terry
Nichols did
6 not build a bomb. There will be a great deal of
evidence on
7 that day. During a part of the day, Timothy McVeigh
had
8 borrowed Terry Nichols' pickup truck while Terry was at
an
9 auction at Fort Riley, Kansas. These are places where
military
10 surplus dealers, like Terry was becoming, buy goods to
sell or
11 trade. To buy the goods, you have to inspect batches
and
12 batches of stuff that are spread out over a big area.
You then
13 have to look and see what you think the stuff is worth,
and
14 then you make a sealed bid.

15 We'll present video footage of how that
process
16 worked. You make the bid; if you win, the stuff is
yours. We

17 have a lot of documents from that date to prove to you
that in
18 his new independent business, Terry Nichols was buying
19 peaceable military surplus items like picks, shovels,
nails,
20 ammo cans -- empty ammo cans.

21 As for what Terry Nichols did that day, there
is
22 plenty of evidence. After McVeigh returned the truck,
23 Mr. Nichols picked up his business cards at Kinko's,
picked up
24 a license plate tag at the local Kansas tax
authorities, did
25 other errands. He was building his life, not a bomb.

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1 The Government will try to tell you a
different story
2 about what Terry Nichols did that day, and they're
going to
3 present evidence of times and timers, of clocks and
clockers.
4 The biggest difficulty in the Government's evidence,
members of
5 the jury, will be their own clock. Yes, folks, the
official
6 time clock at the Fort Riley military base that day was
at
7 least one month and one hour off. We will have to

reconstruct

8 Mr. Nichols' movements from other evidence, and we'll
present

9 that evidence.

10 Terry Nichols knew where he had been that day,
and he

11 told the FBI where he had been that day. He was at
home with

12 his family Tuesday night.

13 But that night, Timothy McVeigh and his
accomplice

14 were on the move. At 9 p.m. that night, 12 hours and a
little

15 more before the bomb was ignited, Timothy McVeigh and
that same

16 man were at the wheel of the Ryder truck in Council
Grove,

17 Kansas; and other people saw McVeigh and his
accomplices that

18 night as well.

19 Notice what the evidence will be: Recruiting
in

20 Kingman, McVeigh with associates in Kingman, reaching
out to

21 known havens of violence, with another man on April 17
with

22 similar features to one of the people he's seen with in

23 Kingman; and on the 18th, we see him again with that
same

24 person matching that same description.

25 And on the 19th morning of April, in Oklahoma
City, a

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testify 1 half-dozen witnesses, each of whom will be called to
And 2 before you, spotted Timothy McVeigh and his accomplice.
3 Terry Nichols wasn't there at 9:02 a.m.
4 Actually, a few minutes before, Timothy
McVeigh and 5 his accomplice got out of the Ryder truck. An
explosion as 6 quick as a heartbeat and sadness as long as life.
McVeigh was 7 arrested less than 90 minutes later. He told the
trooper who 8 arrested him, he was coming and going from Arkansas
where Roger 9 Moore lives.
10 He did not give the address he had been using
in 11 Kingman, Arizona, where he told the Fortiers to keep
his mail, 12 where they had intercepted and delivered key messages
from him. 13 No, he gave the address of the Nichols family farm in
Michigan, 14 where he had been a couple of years before. In doing
so, he 15 focused unjustified suspicion on Terry's brother's
James and

16 diverted attention from his Kingman base.
17 Terry Nichols did not even know about the
bombing
18 until the next morning, when he went to arrange for
cable TV
19 service for his home. But by the evening of April 20,
1995,
20 the FBI had set its forces in motion, forces that would
result,
21 as the evidence will show, in false conclusions and
inaccurate
22 evidence. When Terry Nichols heard his name mentioned,
he
23 gathered up his wife and daughter and went to the
Herington
24 police station. And Ron Woods will describe what
happened
25 there.

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1 THE COURT: Mr. Woods.
2 MR. WOODS: Thank you, your Honor.
3 If it please the Court, counsel, Mr. Nichols,
members
4 of the jury, the evidence will show that in conducting
the
5 investigation right after the bombing that the FBI did
an
6 excellent job for a day and a half. The evidence will

show

7 that the FBI was able to find the rear axle of the
Ryder rental

8 truck which had been blown a block away from the site.
And on

9 that rear axle is a VIN number, a vehicle
identification

10 number. Each vehicle has a separate identification
number so

11 that it can be traced back to the manufacturer. By
looking at

12 that number, they were able to trace that Ryder truck
back to a

13 Ford manufacturer; and then the sale from Ford to Ryder
rental.

14 They were able to go to Ryder rental's
national

15 headquarters in Miami and, through their computer
records, find

16 that that truck had been rented only two days before in

17 Junction City, Kansas, by Robert Kling. They had that

18 information on Wednesday, the 19th, that afternoon,
quickly, by

19 checking records and doing an efficient job.

20 They immediately sent the closest FBI agent
they could

21 find to Junction City, who was Scott Crabtree, in
Salina,

22 Kansas. They told him to call Eldon Elliott's Body
Shop and

23 get there right away.

24 Scott Crabtree will testify that he called

Eldon

25 Elliott's Body Shop, told them to keep the documents
handy,

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1 don't talk about the case: I'm coming there right away
to

2 interview everybody involved in the rental.

3 Agent Crabtree got there that afternoon and
separated

4 Eldon Elliott, Vicki Beemer, and Tom Kessinger, and
interviewed

5 them in depth as to the description of Robert Kling and
the

6 second person that was with him.

7 He then had the FBI headquarters in Washington
fly

8 down that evening one of their forensic artists, who
arrived

9 early morning hours and met with Vicki Beemer, Tom
Kessinger

10 and Eldon Elliott separately; and by interviewing them
and by

11 getting descriptions, he was able to come up with
sketches of

12 Robert Kling and John Doe No. 2.

13 During this period of time, the FBI, utilizing
the

14 information on the contract, had determined that the
name

15 Robert Kling and the address in South Dakota was false,
did not
16 exist, there was no address.

17 So when the artist completed the sketches,
they were
18 designated as John Doe 1 and John Doe No. 2. This is
early
19 Thursday morning, the 20th. And you may have seen --
you may
20 recall having seen those on television, those two
sketches.

21 That was done by talking to the three
witnesses whose
22 memory was fresh. This is on the 19th. Remember that
the
23 rental had only occurred two days earlier. Their
memories are
24 fresh. They can recall the details.

25 The FBI then took these sketches of John Doe 1
and 2

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1 and dispersed their forces throughout the Junction City
area
2 and the surrounding area, taking these sketches around
to all
3 the businesses, the filling stations, the restaurants,
the
4 motels, attempting to find out who John Doe 1 and 2
were. They

5 were also at that time released nationwide on
television that

6 you probably recall seeing.

7 They were very fortunate in arriving at the
Dreamland

8 Motel that afternoon, and the owner of the Dreamland,
Lea

9 McGown, told the FBI agents, this John Doe No. 1 sketch
is Tim

10 McVeigh, who was a renter in my motel from Friday,
April 14,

11 till Tuesday, April 18. The FBI looked at the
registration

12 records and found that Tim McVeigh had registered in
his own

13 name and had given North Van Dyke in Decker, Michigan.

14 They immediately contacted their Detroit,
Michigan

15 office and had them run down the address.

16 The FBI called Sergeant David Hall, who is a
deputy

17 sheriff in Sanilac County, near Decker, who has 20-
years-plus

18 experience. Mr. Hall -- Sergeant Hall checked his
records in

19 the sheriff's office and found that he did recall that
address,

20 3616 North Van Dyke, because several months earlier, he
had

21 conducted an investigation at that address. He
recalled that

22 Kelly Langenburg, the ex-wife of James Nichols, during

a child

23 custody dispute had made allegations that James Nichols
was

24 building small explosives on his farm there in Decker.

25 Sergeant Hall told the FBI this. The FBI was
very

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1 interested. They requested an immediate meeting with
Sergeant

2 Hall and Kelly Langenburg. That meeting was set up
early the

3 morning of Friday, the 21st.

4 The FBI came to Decker and met with Sergeant
Hall and

5 Kelly Langenburg; and at this time, Kelly Langenburg
told the

6 FBI that yes, she was the former wife of James Nichols,
she

7 lived at that address in Decker on the farm, and that
she knew

8 a brother by the name of Terry Nichols who had lived
there with

9 his family, his young Filipino wife, back in 1993, but
that he,

10 Terry Nichols, had moved away from that address in late
'93 to

11 move to the Las Vegas area to get work there and be
near his

12 son Josh, who was a son by the former marriage of Lana

Padilla.

13 And it's interesting, because Kelly Langenburg is the
sister of
14 Lana Padilla. Kelly Langenburg was able to tell the
FBI the
15 phone numbers for both the office and the home of Lana
Padilla.

16 She also said that she recalls meeting a Tim
McVeigh
17 who was an army friend of Terry Nichols -- had visited
and
18 stayed and did work around the farm for a very short
period of
19 1993.

20 The FBI became very interested in this
information and
21 told Sergeant Hall: This is the best information to
date we
22 have, and we're going to run with it.

23 Sergeant Hall will tell you that within an
hour or
24 two, by noon, on Friday, the 21st, the FBI had
assembled over
25 100 agents in this small community for the purpose of
executing

6455

1 a search warrant and arresting James Nichols on his
farm, in
2 which Sergeant Hall took part in.

a half 3 The evidence will show that this is a day and
evidence 4 later, after the -- the investigation began; and the
5 will show that this is when the FBI began to jump to
6 conclusions and conclude guilt by association.

was 7 The evidence will show that the search warrant
in 8 executed; that Mr. James Nichols was arrested and kept
evidence will 9 custody for 32 days before he was released. The
10 further show that all charges were dismissed.

immediately 11 Continuing the FBI investigation, they
12 notified the Las Vegas office to go pick up Lana
Vegas 13 the 12-year-old son, Josh, and bring them to the Las
14 office, which they do, early morning, Friday. Keep in
mind the 15 time difference here between the East Coast and the
West Coast.

16 But all this is happening Friday morning, the 21st.

Josh into 17 They bring Lana Padilla and her 12-year-old
different 18 the FBI office and they separate them, put them in
And 19 rooms. And teams of people interview the two of them.
keep them 20 they don't let them go back home for five days. They

21 in hotel rooms at night and not let them return home.

Lana 22 But during this meeting on Friday morning,

23 Padilla says: Well, yes, Terry Nichols is my former
husband.

24 As a matter of fact, I just got off the phone with him
a few

25 minutes ago. He's at his home in Herington, and here's
the

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just 1 address, 109 South 2nd Street. And my son Josh had

Easter 2 returned home a couple of days ago because he spent the

3 holidays with him.

4 That's the information that the FBI was
gathering at

5 that time.

6 Now, it's interesting: At this time the FBI
has set

7 up -- first, let me cover one more incident that
happened that

8 morning. The FBI finally decides to put Tim McVeigh's
name

9 into the National Crime Information Center computer
system

10 midmorning Friday, after they've had his name for a day
and a

11 half. They put it into the computer system and find
out
12 immediately that there is a Tim McVeigh who has been
arrested
13 in Perry, Oklahoma, was arrested approximately 10:30 in
the
14 morning on the 19th. That's approximately 90 minutes
away from
15 Oklahoma City and 90 miles away from Oklahoma City.
They found
16 out that Tim McVeigh was still in custody in Perry,
Oklahoma.

17 So they sent agents immediately to Perry,
Oklahoma, to
18 arrest and take custody of Mr. McVeigh and bring him
out. And
19 many of you probably recall seeing that scene; being
brought
20 out with the orange jacket.

21 By this time, the FBI has set up an SIOC -- an
SIOC is
22 a strategic information operations center -- in
Washington,
23 D.C., which is staffed by all of the top senior
officials of
24 the FBI and the top senior officials of the Department
of
25 Justice. They have an open phone line to the FBI
offices that

1 are involved in this investigation. They have an open
phone
2 line to the Detroit office. They have an open phone
line to
3 Oklahoma City, of course, because that's where the
4 investigation is centered. They have an open phone
line to Las
5 Vegas, and they have an open phone line to Junction
City and to
6 Kansas City, where the agents are conducting the
investigation.

7 Through this phone line, they're able to
coordinate
8 and distribute and share the information that they're
getting
9 so that everybody involved in the investigation will
know the
10 facts that they are obtaining at that time.

11 And at this time, approximately noon on Friday
of
12 April 21, a decision is made in Washington at the
highest
13 levels to arrest Terry Nichols. The problem with it is
they
14 didn't have any evidence that Mr. Nichols had committed
a
15 crime, so they make the decision, well, we're going to
go to
16 Herington and we're going to arrest him as a material
witness.
17 And a material witness warrant allows the individual to
be kept

jury. 18 in custody without bail until he is taken to the grand

office, 19 So the FBI sends out word to the Kansas City

team, a 20 the nearest big office; and they dispatch a S.W.A.T.

all their 21 special weapons arrest team, out of Kansas City, with

and their 22 vehicles, their black uniforms, their heavy weapons,

Nichols. 23 flak jackets to head to Herington to arrest Mr.

SOG, 24 They also send out a special operations group,

of agents 25 which is just a surveillance team. It's just a bunch

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1 who go to Herington, Kansas, for the purpose of keeping
material 2 Mr. Nichols under surveillance until they can get a

3 witness warrant signed by a judge in Oklahoma City.

that 4 Now, the problem that develops for the FBI is

Terry 5 somebody in the Government leaks word to the press that

case. 6 Nichols and James Nichols are wanted as suspects in the

was about 7 And that afternoon, shortly after noon -- in fact, it

8 2:00 in Central Daylight Time -- Terry Nichols is
running an
9 errand to the lumber store in Herington, Texas (sic),
and he
10 hears over the radio that Terry Nichols and James
Nichols are
11 wanted as suspects in this case.

12 He turns around and goes back home and tells
his wife,
13 Marife, who is at home on 2nd Street, he's just heard
his name
14 along with James Nichols' name as suspects wanted in
connection
15 with the Oklahoma City bombing case. They turn on the
news;
16 and within a few moments, they're able to see the news
that Tim
17 McVeigh has been arrested in connection with the
bombing; that
18 Janet Reno is holding press conferences demanding the
death
19 penalty, and that Terry Nichols and James Nichols are
wanted as
20 suspects in the case.

21 Now, Marife Nichols will testify that Terry at
this
22 time became very concerned and very worried and that he
wanted
23 to go to the police station right away.

24 She will testify that she and the infant
daughter,
25 Nicole, who is under two years old and is still breast-
feeding

6459

1 at that time, got in the truck with Terry to go to the
police
2 station; but she said, Look, just calm down; try to get
your
3 senses about you.

4 So Terry drove back to the lumber store where
he was
5 going initially to run the errand to try to calm down.
The
6 evidence will show that he went to surplus center and
got out
7 of the vehicle, but he became so concerned that he knew
he
8 needed to go to the police station as soon as possible.

9 He got back in his vehicle and drove directly
to the
10 police station.

11 Marife Nichols, along with everybody that was
in the
12 police station, Chief of Police Barry Thacker, Director
of
13 Public Service Dale Kuhn, Officer Delbert Lindsey, and
the
14 dispatcher, Leslie Starwalt, will testify that Mr.
Nichols,
15 along with his young wife and his infant daughter,
walked into

16 the police station and that he looked pale and scared,
but he

17 was very cooperative. He submitted to a search
immediately by

18 the officers when he said that Look, my name is on
television

19 as being involved in the bombing. I'm here to answer
any

20 questions and I'd like to know, you know -- ask some
questions

21 myself. What's going on?

22 The officers asked to search him. He readily
23 consented to a search; and then they asked him to sit
down and

24 have a seat while they were able -- or while they would
try to

25 contact somebody that could answer his questions.

6460

1 Now, the officers there didn't tell Mr.
Nichols that

2 an hour before, there had been an FBI agent that had
come into

3 the police station, Mr. Steve Smith, Agent Steve Smith.
Agent

4 Smith had come in and asked for information about Terry
5 Nichols: What is his address, because we're going to
set up

6 surveillance on him in connection with this bombing.

7 The problem was Steve Smith didn't leave any
way to be
8 contacted when he left; so all the officers there,
Chief
9 Thacker and Director Kuhn, just had to wait until the
FBI
10 contacted them.

11 Now, the evidence will show that Mr. Nichols,
his
12 house, and his vehicle had been under surveillance for
about an
13 hour beginning shortly after 2 p.m. This is 3 p.m.
when they
14 walked into the police station.

15 The evidence will show that all these
surveillance
16 agents from Kansas came out in a mass and grouped
together on
17 the outskirts of Herington to get from Steve Smith
information
18 that he obtained as to the address and to plan their
19 surveillance; that after spending some time trying to
get their
20 cars unstuck from the mud, they then proceeded to set
up
21 surveillance on Mr. Nichols' house and observed him
leave the
22 house with his wife and his infant daughter, drive to
Surplus
23 City, and then drive to the police station, which is
called the
24 Director of Public Service. That's the name of the
building.

25 They watched him enter the building with his
young

6461

1 wife and his infant daughter, carrying the infant
daughter; but

2 the agents didn't go in, because the surveillance
agents had

3 come to the conclusion that Mr. Nichols was now holding
the

4 police officers hostage. That's the mind-set that
we're

5 dealing with.

6 They were so concerned that they radioed their
7 supervisor in Kansas City, Bill Chornyak, and asked
Chornyak to

8 please call the police station, talk to the chief or
the

9 director, and ask discreet questions in a sort of a
coded

10 manner: Are you in danger, is there a hostage
situation,

11 what's going on?

12 They've surrounded the place. Yet their
assumption is

13 Mr. Nichols is holding the officers hostage. Chief
Kuhn -- or

14 Director Kuhn will testify that yes, he received a call
from

Director 15 Chornyak, who was talking in an unusual manner; but
16 Kuhn assured him no, there is no hostage situation,
there is no
17 danger, there is no crisis. Mr. Nichols has been here
for some
18 time, and he wants to talk to you, so why don't you
come on in.

19 The evidence will show that the FBI then
picked their
20 most experienced interviewers from the group they had
out there
21 to go in and interview Mr. Nichols and his wife. And
you will
22 see that Scott Crabtree is one of those that went in.

23 The agents went in and immediately separated
his wife
24 and child and began to interview her in teams and then
took
25 Mr. Nichols downstairs, where they interviewed him in
teams.

6462

1 Two teams of two each began to interview him.
2 And that when Mr. Nichols said, you know, I'd
like to
3 know why I'm being named as a suspect in the case, they
lied to
4 him. They said, We have no idea why you're being named
as a

5 suspect. We want to talk to you. Will you answer our
6 questions?

7 And they gave him a form to sign, a waiver of
rights
8 form. And Mr. Nichols said, I don't want to sign this
form.

9 I'd like to find out more information.

10 They then -- the agents then get on the phone
to

11 Howard Shapiro, who you will see is the top lawyer in
12 Washington for the FBI. Mr. Shapiro tells them: Keep
talking

13 to him. Try to get him to talk until we can get this
material
14 witness warrant signed and get him in custody.

15 So the agents go back in and they ask
questions and

16 Nichols asks questions. And at that point, the
interview
17 starts; and it lasts for nine-and-a-half hours.

18 Now, while this interview is going on, in
Oklahoma

19 City, where they're drafting the warrant, the
information has

20 been relayed to everybody in the country in the FBI.
The

21 information was relayed that Mr. Nichols had gone into
the

22 police station at 3:00, so the agents were on the phone
to

23 Washington. Washington is aware that he had
voluntarily walked

24 into the police station at 3:00. They get on the phone
line,
25 they notify Oklahoma City, Kansas City, Junction City,
and

6463

1 Vegas and Detroit: Mr. Nichols has voluntarily walked
in.

2 Yet in Oklahoma, where the people have this
3 information, they draw up an arrest warrant at 4:45
p.m., and
4 they go to a judge and tell the judge that Mr. Nichols
has
5 attempted to flee the jurisdiction of the United States
and
6 that we need an arrest warrant because it's impractical
to
7 secure his attendance in front of a grand jury any
other way.

8 The judge, based on this information, issues a
9 warrant; and this warrant allows the FBI to take Mr.
Nichols
10 into custody and hold him without bail until they take
him to a
11 grand jury.

12 This warrant is then faxed to all the offices
out of
13 Oklahoma City. It's faxed to Washington, it's faxed to
the

14 agents in Kansas City, and the agents there in
Herington who
15 are doing the interview. Everybody knows that there is
a
16 warrant issued at that time at 4:45 p.m. Yet they
never tell
17 Terry Nichols until the next morning when they conclude
the
18 interview.

19 But this interview is very important. It
lasts
20 nine-and-a-half hours. And I'm not going to go over
every
21 detail that's in the interview. We certainly will go
over
22 every detail when these agents take the stand and talk
about
23 it, because there are hundreds of factual statements in
that
24 interview that are true, and the FBI went out and
verified
25 them.

6464

1 Now, as the prosecutor told you, the interview
is not
2 recorded. It's not video-recorded and it's not tape-
recorded.
3 Whereas every major police department in this nation
tape-

FBI 4 records interviews with suspects, the FBI doesn't. The
5 wants to rely on the recollection of the agents.

6 The evidence will show that one of the reasons
they do 7 this is because at trial, the Government wants to rely
on the 8 credibility of the FBI, as opposed to the credibility
of the 9 suspect being interviewed.

10 The evidence will show that a tape recording
of that 11 interview would clear up those questions, would show a
jury 12 exactly what the suspect said and would clear up
exactly how 13 the FBI framed the question and in what context it was
said.

14 But we don't have a tape recording, and you
don't have 15 it in any FBI case. All you have is the recollections
of the 16 agents.

17 So when that happens, we're -- when these
agents take 18 the stand, you're going to see a lot of questions, and
you're 19 going to see these notes that this accountant wrote up.
They 20 are totally illegible. But we're going to spend a lot
of time 21 with him.

the 22 Now, I want to take us from that point where
that 23 interview has begun, because there are several things
need to be 24 happened in this interview, several things that you
case, the 25 aware of before you start hearing the Government's

6465

will 1 evidence they put on, because I anticipate the agents
2 probably come later after you've heard some evidence.

told the 3 Now, the evidence will show that Mr. Nichols
had seen 4 FBI during that nine-and-a-half hour interview that he
16, and 5 and been with McVeigh on Sunday, Easter Sunday, April
Sunday 6 on Tuesday, April 18. He told the agents as to the
months 7 visit with Mr. McVeigh -- he advised them that two
was 8 earlier, he had mailed a letter to McVeigh, who he knew
go by 9 staying in Kingman, Arizona, and asked Mr. McVeigh to
is very 10 Josh Nichols' and Lana Padilla's house in Vegas, which
belonging to 11 near Kingman, and to pick up the television set

12 Terry Nichols, to bring it to him on his next trip
through the
13 Midwest. And you will see during the course of this
trial that
14 McVeigh is always on the road. He is traveling from
one state
15 to the other constantly. Mr. Nichols asked that if he
would
16 please pick that set up and drop it by on his next trip
17 through.

18 Josh Nichols will testify in this trial that
yes, at
19 the end of March, Tim McVeigh came by and picked up the
20 television set.

21 Mr. Nichols will testify that on Easter
Sunday, after
22 returning from church with his wife and after having
Easter
23 dinner -- that shortly after 3 p.m., Tim McVeigh called
and in
24 this telephone call, he asked Terry Nichols to come to
Oklahoma
25 City to pick him up because his, Tim McVeigh's, car was
broken

6466

1 down in Oklahoma and that he was pressed for time to
get back
2 East to visit his relatives in New York state.

3 Mr. McVeigh also told Mr. Nichols, I've got
your
4 television set and if you want that, you can pick me up
down
5 here.

6 Mr. Nichols will testify -- told the FBI,
rather --
7 Mr. Nichols told the FBI that the -- that he, McVeigh,
asked
8 him, Terry Nichols, to tell his family that he was
going to
9 Omaha rather than to Oklahoma City. Mr. Nichols told
the FBI
10 that McVeigh was of a very private nature, never wanted
anybody
11 to know his business, and was always asking him to keep
things
12 secret or confused.

13 Mr. Nichols told the FBI he considered many of
these
14 requests to be trivial and unimportant, and that will
come out
15 during the interview of these agents.

16 Mr. Nichols will also -- told the FBI at that
time
17 that he had told his family he was going to Omaha, but
that he
18 then told his wife that he went to Oklahoma City
instead on
19 that day he told his wife.

20 So Mr. Nichols had not kept that a secret from
his

21 wife.

22 Mr. -- the police -- the FBI will, through
their
23 relating this interview -- will relate that Mr. Nichols
told
24 the FBI that McVeigh said come to Oklahoma City, take a
25 particular exit, take 8th Street, go down to some city
blocks

6467

1 and follow the city blocks around in a circle, and you
will see
2 me.

3 Mr. Nichols told the FBI that's what he did.
It took
4 him approximately five hours to drive to Oklahoma City
from
5 Herington and that he took that exit, he went down 8th
Street,
6 and then he went and circled these blocks; and the FBI
asked
7 him, Well, did you go by the federal building? And he
said,
8 Yes, I went by there a couple of times and I finally
saw
9 Mr. McVeigh at the end of an alley. I went around the
block
10 and picked him up; and he had with him a television set
and a

picked 11 green laundry bag which he had his clothes in; that I
him up 12 him up. I didn't see a car anywhere around. I picked
We got 13 and drove back to Junction City, where he wanted to go.
morning, and 14 back to Junction City, Kansas, about 1:30 in the
15 he wanted to be dropped off at a McDonald's.

this time 16 Now, the evidence is going to show that at
knew that 17 on Friday the 21st, neither the FBI nor Terry Nichols
Apartments one 18 there was a video camera on the Regency Towers
This 19 block down from the federal building in Oklahoma City.
vehicles 20 video camera looks out into the street and photographs
21 in the street.

video 22 The evidence will show that upon finding that
camera going 23 camera that Mr. Nichols' vehicle is shown on that
p.m., 24 by this block twice, once at 8:17 p.m. and once at 8:24
25 just exactly as Mr. Nichols had told the FBI.

6468

1 But the important thing to note in this video

is there

front of 2 is no Mercury Marquis that Mr. McVeigh had that's in

3 him or anywhere around. It never shows on that video.

the 4 The important thing to note is because that's

5 Government's theory -- and you just heard it -- the

caravanned down 6 Government's theory is that McVeigh and Nichols

show 7 to plant the car there. The physical evidence doesn't

told the 8 that. The physical evidence corroborates what Nichols

some 9 FBI. He was asked to go down there, he drove around

told 10 blocks. It's five hours after he left. It's 8:17. He

shows him 11 the FBI it took about five hours to get there, and it

what he 12 going by twice on this video camera. It corroborates

13 said.

City, 14 He told the FBI he then went back to Junction

-- he 15 took five hours to drive back. The reference to Waco

be some 16 told the FBI McVeigh mentioned Waco; there is going to

anniversary. 17 demonstration in Washington come the two-year

18 That's the extent of what he told the FBI.

19 But Mr. McVeigh wanted to be dropped off at a

call 20 McDonald's in Junction City. He said that he would

21 someone from there.

22 Now, it's very important to remember this
McDonald's

23 in Junction City on Washington Street. This is early
Monday

24 morning, the 17th, at 1:30, because this is the same
McDonald's

25 that later in the day, the evidence is going to show,
that Tim

6469

1 McVeigh called a cab in Junction City and had the cab
deliver

2 him to this McDonald's where he was captured on video
inside

3 the McDonald's. There must be videos everywhere now,
which

4 you're going to find out. But you're going to see a
video

5 inside this McDonald's that captures Tim McVeigh there
at 3:57

6 that afternoon. You're then going to hear from Vicki
Beemer,

7 Eldon Elliott, and Tom Kessinger that 15 minutes later
and one

8 mile away, Tim McVeigh and John Doe No. 2 walk into
Eldon

9 Elliott's to rent that truck.

10 This is sort of Tim McVeigh's base of
operations there

11 in Junction City, hanging around this McDonald's.
That's where

12 he asked to be dropped off, and he told Terry Nichols
he was

13 going to call somebody.

14 Now, Terry Nichols told the FBI that he
dropped him

15 off in Junction City and then drove back home 25 miles
south to

16 Herington. Josh Nichols will testify that he was
asleep on the

17 couch at about 2 a.m. that morning. He recalls being
woken up

18 by his father, Terry Nichols, who was coming in,
carrying a

19 television set. Mr. Josh Nichols will tell you this is
the

20 same set that Tim McVeigh had picked up two weeks
earlier at

21 the end of March in Las Vegas.

22 Now, the evidence is going to show that the
FBI took

23 this television set and they conducted every test in
the world

24 on it. They looked for secret codes inside. They
looked for

25 secret bomb-making material. They looked for
everything. All

without 1 they found was this is a normal working television set
set, and 2 an antenna. But that's the story of the television
3 you're going to hear it from separate witnesses.

4 As to the visit on Tuesday, the 18th, there is
no 5 contact there on Monday, April 17, when Mr. McVeigh is
picking 6 the truck up. The evidence is going to be that Mr.
Nichols was 7 home with his family that afternoon watching videos,
"The Lion 8 King," with his son and his daughter; and then at 6
p.m., they 9 left to go to Kansas City, which is several hours to
the east, 10 to take Josh Nichols to the plane to catch his ride
back to Las 11 Vegas.

12 Mr. Nichols told the FBI that on Tuesday, Mr.
McVeigh 13 had wanted to borrow his pickup because he didn't have
a car. 14 His car was broken down in Oklahoma City. They had
discussed 15 this over the telephone. Mr. Nichols told the FBI,
well, I 16 told McVeigh that I was going to be at an auction over
at Fort

17 Riley, which is real near Junction City, for those of
you who
18 aren't familiar with it. It's just outside Junction
City.

19 Mr. Nichols told the FBI that he told
McVeigh, I'm
20 going to be at the auction on Tuesday morning. You can
borrow
21 the truck then, but you've got to pick me up about noon
or so.

22 And Mr. Nichols told the FBI that he went over
to this
23 same McDonald's again Tuesday morning -- this is the
18th, a
24 day before the bombing -- and he picked up McVeigh at
that
25 McDonald's and that the two of them then drove to Fort
Riley to

6471

1 the DRMO, Defense -- I'll get that information for you
later.
2 It's initials that stand for something about how they
auction
3 off all of the Army surplus goods. They have a huge
facility
4 there.

5 Mr. Nichols told the FBI that McVeigh dropped
him off
6 there early that morning after 7:30, after it took them
time to

7 drive into the fort and go to the auction and that
McVeigh was

8 to return shortly after noon to pick him up.

9 Mr. Nichols told the FBI that McVeigh was not
there at

10 noon so that he, Terry Nichols, went to another part of
the

11 auction where you have to enter into a building to look
at the

12 items inside the building. And it's at this place
where you

13 have to sign in. You don't have to sign in at this
huge

14 fenced-in open lot where there are hundreds and
hundreds of

15 exhibits to observe. You only have to sign in when you
go

16 inside the building to look at the items inside the
building

17 and to look -- and to do your bid, place your bid.

18 And you're going to see a video of this huge
area of

19 items to inspect, and you're going to hear a number of

20 witnesses who will tell you that it takes hours to look
at

21 these items in this huge fenced area and that you don't
have to

22 sign in when you go to this outside area.

23 You're going to see documents that Mr. Nichols
had --

24 that the FBI had obtained -- where he looked at the
items

25 outside, circled them, and put bid prices on them, a
number of

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1 items. He put bid prices on them.

2 You're going to see documents also that he
then placed

3 a bid listing all these bid prices that day there at
the DRMO

4 bid.

5 When he went inside the building, he had to
sign in.

6 It was 12:50, according to the sign-in.

7 He then told the FBI that after spending about
an hour

8 there, he went back outside and McVeigh showed up; and
at this

9 time he, Terry Nichols, drove McVeigh back to that
McDonald's

10 and let McVeigh out. And this was the last time he saw

11 McVeigh.

12 He told the FBI that when he let McVeigh out,
McVeigh

13 had earlier told him that he had a room in Junction
City. He

14 told him that he had bought this car real cheap that's
broken

15 down in Oklahoma City, doesn't know if it's worth it to
fix it.

16 He also told him that, Look, I've got some items in a
storage
17 shed in Herington. If I don't get down there and pick
it up
18 before I leave, will you pick those items up for me?

19 He also told Nichols that I've got some
friends here
20 that I may be able to borrow a car to head on to New
York state
21 to see my relatives.

22 He also told Nichols that he had been going
around in
23 Nichols' car looking for another vehicle but apparently
had not
24 bought one.

25 Mr. Nichols told the FBI all of this.

6473

1 Now, the Government's theory is going to be
that
2 Mr. Nichols was not at the auction that morning;
instead, as
3 the prosecutor told you, they have a witness who saw a
Ryder
4 truck and a pickup similar to Mr. Nichols' at Geary
Lake.
5 Their theory is that Mr. Nichols and Mr. McVeigh were
building
6 a bomb at Geary Lake that morning; and their theory is

based on

Monday, 7 the fact that if the truck was rented late afternoon on
Wednesday, 8 the 17th, it shows up in Oklahoma City at 9 a.m. on
their 9 then the bomb had to be constructed on Tuesday. That's
10 deduction.

and they 11 So to corroborate this theory, they went out
that runs 12 set up a roadblock at Geary Lake. There is a highway
and they 13 between Junction City and Herington, and they set up a
14 roadblock to stop people who pass that way every day
vehicle 15 asked them: Do you recall seeing a Ryder truck and any
16 at Geary Lake?

are a 17 Well, the evidence is going to show that there
that spot 18 large number of citizens in central Kansas who pass
kids to 19 every day. A lot of people in Herington take their
them up 20 school in Junction City in the morning and they go pick
City and a 21 in the afternoon. A lot of people work in Junction
22 lot of people run errands, go to the doctor's, etc., in
23 Junction City.

only 24 The evidence is going to show that the FBI was

25 able to come up with a couple of witnesses that
corroborated

6474

1 their theory that saw a vehicle like Terry Nichols'
there.

2 There are over 20 witnesses that the FBI is not going
to

3 call -- that the Government is not going to call.
We're going

4 to have to call those people in our case when we put on
5 evidence.

6 There are over 20 people who saw a Ryder truck
with

7 different cars and different individuals at Geary Lake
during

8 that time period.

9 Nobody -- the Government hasn't found a
witness that

10 saw Terry Nichols at Geary Lake. There is no witnesses
that

11 saw Terry Nichols at Geary Lake, because he was at the
auction

12 that morning. The documents will show that he was --
the

13 bidding documents will show that, and the timing
sequence will

14 show that, but that's the Government's theory.

15 Now, as to this interview that's being

conducted on
evidence 16 Friday afternoon, the 21st, by the FBI in teams, the
defender for 17 is going to show further that the federal public
Phillips, 18 the State of Kansas, a person by the name of Dave
Nichols 19 heard on the news that afternoon that the FBI had Terry
heard on 20 in custody, interviewing him in Herington. He also
saying 21 the news that Janet Reno was holding press conferences
everyone 22 that they were going to seek the death penalty for
23 arrested in connection with in case.
the 24 Mr. Phillips will testify and tell you that as
he called 25 federal public defender, it was his obligation -- and

6475

let them 1 the police station and tried to talk to the agents, to
defender to 2 know that he was offering his services as a public
Phillips 3 Terry Nichols. But the evidence will show that Mr.
put on 4 was never able to get through. His calls were always

able to 5 hold or said that we'll call you back. He never was
show that 6 talk and offer his services. And the evidence will
talk to 7 the agents knew he was calling, yet they continued to
advise him 8 Terry Nichols. They didn't advise him. They didn't
ask 9 they had an arrest warrant for him. They continued to
they 10 questions and get information and continued to tell him
11 don't know why his name had been mentioned.

the 12 The evidence will show that at the very end in
the FBI 13 early morning hours of the next morning on the 22d that
went in and 14 decided to get aggressive with Mr. Nichols, so they
in the 15 very heavy-handedly accused him of being a participant
that time 16 bombing. Mr. Nichols denied his involvement, and at
took him 17 the Government served him with an arrest warrant and
18 into custody.

wife and 19 And, oh, yes, what about Marife Nichols, his
took 20 child who were upstairs? She will testify that the FBI
took them 21 her and the young daughter who was breast-feeding --
22 to a motel in Abilene, Kansas; and then over the next

35 days,

23 they moved her from city to city and from motel to
motel while

24 teams of agents and teams of lawyers out of the
Department of

25 Justice, even a lady, Donna Bucella, specially
designated out

6476

1 of Janet Reno's office, came to quiz her. 35 days,
they

2 quizzed her. She asked her, "Shouldn't I have a
lawyer?" They

3 told her, "As long as you tell the truth, you don't
need a

4 lawyer."

5 They even took her to Oklahoma City in mid May
and

6 told her, "We're going to put you in front of the grand
jury."

7 When they got down there, they told her, "Well, we're
going to

8 reset your appearance. We're going to call you later
on in the

9 month."

10 So at that time, they took her up to Kansas
City and

11 parked her in a motel while the agents went home to
visit their

12 family.

13 She had no money. She had no vehicle, no way
to leave
14 the FBI custody. There she was with her infant
daughter; and
15 during this period, she finds out that she's pregnant
with a
16 second child that she and Terry are going to have,
which has
17 since been born.

18 So this is what happened to Marife Nichols,
and you
19 will hear from her about this.

20 Now, you will note during the course of this
trial as
21 to John Doe No. 2 that so many witnesses saw at the
pertinent
22 time -- John Doe No. 2 was with McVeigh on Monday
afternoon
23 when he picked up that truck. John Doe No. 2 was with
McVeigh
24 on Wednesday morning, when he parked it in Oklahoma
City. You
25 will see during the course of this trial that the FBI
actively

6477

1 avoided running down any John Doe No. 2 lead if it
contradicted
2 their theory that it was just Mr. Nichols and Mr.
McVeigh

3 involved. And because of that closed mind-set and
because of
4 what they're trying to do by fitting square pegs in
round
5 holes, we're going to show this through cross-
examination and
6 through the presentation of neutral, unbiased witnesses
during
7 the course of this trial.

8 Thank you for your attention.

9 MR. TIGAR: Your Honor, I have five minutes
just to
10 conclude. Shall I do it now before lunch?

11 THE COURT: Is anybody uncomfortable?

12 MR. TIGAR: Five minutes.

13 THE COURT: Go ahead.

14 MR. TIGAR: I promise.

15 Briefly now, Part 3, the so-called "science."
I want
16 to wait on this because I want you to hear it from the
witness
17 stand.

18 The FBI Laboratory personnel moved quickly to
collect
19 things, fingerprints, writing, soil samples, tools,
bomb
20 residue.

21 The fingerprint evidence, I've discussed.

That
22 evidence corroborates that Mr. Nichols was what he said

he was,

23 a self-employed dealer in gun show items; and we'll
show the
24 other side as it comes in.

25 The residue evidence: There was no bomb
material

6478

1 residue at any storage shed or area to which Terry
Nichols had
2 access. None. Terry Nichols had the same kinds of
items in
3 his storage shed that many other people in this case
will be
4 shown to have: Michael Fortier, Fortier's brother,
Dave
5 Paulsen, Kevin Nicholas and dozens of others.

6 Barrels: We're going to show the truth about
the
7 barrels. Finding HDPE, high-density polyethylene --
that's
8 plastic -- barrels in your house is about as remarkable
as
9 finding a baseball cap at a Rockies game.

10 Soil samples: We'll show you pictures of how
the soil
11 samples were collected at Geary State Park and show the
FBI
12 performed sloppily and with an accustomed lack of
relevance.

13 Tool marks: An FBI agent will come in here
and try to
14 tell you that a drill bit from Terry Nichols' house was
used to
15 drill a lock at a quarry where some explosives went
missing.
16 Of course, the evidence will be that many people had
access to
17 that particular drill bit. But more importantly, that
drill
18 bit evidence -- and you'll hear it from this stand --
is an
19 example of bad testing procedures, inadequate research,
20 incompetent work, some of which can be laid at the door
of
21 Kansas law enforcement; but most of it will belong to
the FBI,
22 and that evidence is contraindicated by other evidence
about
23 the drill in question.
24 Finally, you're going to hear evidence about
the crime
25 scene. The Government's imported expert all the way
from

6479

1 England will admit to you that there is no ironclad
forensic
2 evidence that anybody (sic) that somebody could get
from that

3 burglarized quarry was used in the bomb at the Murrah
Building.
4 Of course, on April 19, 20, and 21 it was a
priority
5 to care for the injured, recover the dead. The FBI had
special
6 teams there whose responsibility it was to collect the
7 evidence, photograph it, label it, package it, and get
it to
8 the FBI Laboratory and that the responsibility of those
people
9 was to deal with it competently.
10 The evidence will be that the Federal Bureau
of
11 Investigation failed at every single one of those
tasks.
12 I'm about done.
13 For two months in 1994, Terry Nichols was Tim
14 McVeigh's business associate; and he had befriended Tim
15 McVeigh. Tim McVeigh did not treat his friends very
well. You
16 may ask how they even became acquaintances. Well, in
1988,
17 Lana Padilla -- after Terry had gone in the Army, he
found that
18 his wife had virtually abandoned their son, Josh. So
he went
19 back to Michigan, got Josh, rented a house in Kansas,
where he
20 could raise Josh himself while he was serving as a
soldier. To

21 help pay the rent, he advertised in the paper for
somebody to
22 let one of the rooms. That's when Tim McVeigh showed
up in
23 answer to the ad. And when Mr. Nichols got out of the
Army on
24 his single-parent discharge, he went back to Michigan
and cared
25 for Josh and for Lana's son by a former marriage.

6480

1 There he is. Terry Nichols living at 109
South 2d
2 Street in Kansas, presumed innocent, living in that
house he
3 just bought on a 15-year contract, printing business
cards in
4 his own name, receipts for the taxes he had paid,
picks,
5 shovels, ammo cans, nails, and arms for sure; yes, for
things
6 to sell at gun shows, in his shed.
7 Oh, and ammonium nitrate: Yes, he bought a
bag of
8 ammonium nitrate. And in his shed are hundreds of
little
9 plastic bottles with labels so he could repackage this
10 fertilizer and sell it for about five or ten times what
he paid
11 for it. And you'll see the labels and the little plant

food

12 jars, and you'll see how he ground it up to put it in
the 13 little jars.

14 He was building a life, not a bomb.

15 This trial, as you can see perhaps from the
length of 16 these statements, is a long journey. It is a journey
we will

17 take together. And over and over again, Judge Matsch
will tell

18 us not to make up our minds till the journey is done,
for we

19 all know at times at the close of day, when the sun's
last rays

20 illuminate something that we just hadn't noticed
before, you

21 may find the reasonable doubt in that last bit of
evidence.

22 And when the journey is over, we'll stand before you
and ask

23 you for a verdict of not guilty. For now and into the
journey,

24 we bid you well.

25 THE COURT: Members of the jury, we all
appreciate

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1 your cooperation in working on into what would normally
be our

opening
I
these
case
repeat
must wait
constitute the
this

2 noon lunch recess, but it is helpful to get all of the
3 statements together at the same time and to assist you,
4 think, in recognizing, as I have told you before, that
5 statements are statements of what the lawyers in the
6 expect the evidence to be. But, of course, again, I
7 that the statements themselves are not evidence. You
8 for the witnesses and the exhibits. That will
9 evidence, and we will start that this afternoon after
10 luncheon recess.

necessary.
one
hope --
discuss
can't. I'd
that you'd

11 Also, you know, we will be working with you on
12 scheduling and making special arrangements when
13 Tomorrow is an election day in Colorado, and it is also
14 where the communities -- and you come from different
15 communities -- have special ballot issues; so what I
16 and you can discuss this; this is something you can
17 during the noontime, but, of course, the case you
18 propose that we recess early tomorrow, like 4:00, so
19 have time to get to your respective polling places,

knowing

We do 20 that there is a difference here before the polls close.

citizens to 21 not, of course, ask you to give up that right as

you let 22 vote in your elections. So that's what I suggest, and

23 us know if there is any difficulty with that.

2:25. 24 Now, we're going to recess at this time till

know, you 25 These noon recesses may seem long to you because, you

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are 1 want to get moving on the case and so do we; but there

Witnesses 2 things that have to be done during these recesses.

get them 3 don't just come up out of the floor here. We have to

forth; 4 to the courthouse, arrange for their presence, and so

there are 5 and that's why some of these times out seem long, but

6 things going on.

interrupt 7 The main thing is, of course, that we don't

stop-type 8 once we have a witness on here excepting for our rest-

9 recesses.

10 Now, again, you know, you've heard a lot of
11 explanation here from counsel about what they expect to
happen
12 in the course of this trial; but, of course, what
actually
13 happens could be different from what they say; and one
of the
14 things that will be going on, as I'm sure you recognize
from my
15 explanation to you last week, is that there will be
16 disagreements among the lawyers in the case about what
you can
17 hear.

18 You recall that I mentioned rules of evidence,
and I
19 did that individually with you during the jury
selection
20 process. And I repeat it now again for all of you so
that you
21 will recognize what happens here when we do have
disagreements
22 and when one lawyer will object to a question put by
the
23 opposing counsel and I'll be ruling on that. Please,
again,
24 remember that these are the professional
responsibilities of
25 the lawyers and that my rulings will control what you
hear and

1 see as the evidence in the case. And you should not be
2 speculating about the reasons for the objections or in
the case
3 of an objection that's sustained what would the answer
have
4 been, that kind of thing. Let me take care of the
evidence.
5 And please recognize that the lawyers have a job to do
here in
6 raising these objections.

7 So you're excused now till 2:25, and please
don't
8 discuss the case or anything about it. We'll start
with our
9 first witness when you're back in the courtroom.

10 You're excused for now.

11 (Jury out at 12:56 p.m.)

12 THE COURT: We will, of course, invoke the
13 sequestration of witnesses ruling excepting to the
extent that
14 counsel have agreed on certain witnesses being present
at
15 certain times.

16 MR. TIGAR: Thank you, your Honor. Mr.
Manspeaker did
17 deliver the message. We had reached an agreement as to
one
18 witness.

19 THE COURT: All right. 2:25.

20 (Recess at 12:57 p.m.)

21 * * * * *

22

23

24

25

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3 OPENING STATEMENTS

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6411 5 By Mr. Tigar

6451 6 By Mr. Woods

6477 7 By Mr. Tigar

8 * * * * *

9 REPORTERS' CERTIFICATE

10 We certify that the foregoing is a correct transcript from

Dated 11 the record of proceedings in the above-entitled matter.

12 at Denver, Colorado, this 3d day of November, 1997.

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Carpenter

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Paul Zuckerman

Bonnie

Kara Spitler