

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF COLORADO
 3 Criminal Action No. 96-CR-68
 4 UNITED STATES OF AMERICA,
 5 Plaintiff,
 6 vs.
 7 TERRY LYNN NICHOLS,
 8 Defendant.

ff

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 10 REPORTER'S TRANSCRIPT
 (Trial to Jury: Volume 62)

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12 Proceedings before the HONORABLE RICHARD P.
 MATSCH,
 13 Judge, United States District Court for the District of
 14 Colorado, commencing at 1:40 p.m., on the 4th day of
 November,
 15 1997, in Courtroom C-204, United States Courthouse,
 Denver,
 16 Colorado.

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24
Transcription
Street,
629-9285

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

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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, BETH WILKINSON, GEOFFREY MEARNES,
JAMIE
8 ORENSTEIN, and AITAN GOELMAN, Special Attorneys to the
U.S.
9 Attorney General, 1961 Stout Street, Suite 1200,
Denver,
10 Colorado, 80294, appearing for the plaintiff.
11 MICHAEL TIGAR, RONALD WOODS, and JANE TIGAR,
Attorneys
12 at Law, 1120 Lincoln Street, Suite 1308, Denver,

Colorado,

13 80203, appearing for Defendant Nichols.

14 * * * * *

15 PROCEEDINGS

16 (Reconvened at 1:40 p.m.)

17 THE COURT: Be seated, please.

18 Ready?

19 MR. MACKEY: Yes, your Honor.

20 (Jury in at 1:40 p.m.)

21 THE COURT: Next witness, please.

22 MR. MACKEY: United States would call Clark
Anderson.

23 THE COURTROOM DEPUTY: Raise your right hand,
please.

24 (Clark Anderson affirmed.)

25 THE COURTROOM DEPUTY: Would you have a seat,
please.

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1 Would you state your full name for the record
and

2 spell your last name.

3 THE WITNESS: Clark H. Anderson, A-N-D-E-R-S-
O-N.

4 THE COURTROOM DEPUTY: Thank you.

5 THE COURT: Mr. Mackey.

6 MR. MACKEY: Thank you, your Honor.

7 DIRECT EXAMINATION

8 BY MR. MACKEY:

9 Q. Mr. Anderson, do you work for Ryder?

10 A. Yes, sir, I do.

11 Q. Did you work for them on April 19, 1995?

12 A. Yes, I did.

13 Q. On that day did you learn that the truck that blew
up in

14 downtown Oklahoma City was a Ryder?

15 A. Yes, sir, I did.

16 Q. And on that day thereafter did it fall to you to
represent

17 Ryder in the production of records and witnesses?

18 A. Yes, it has.

19 Q. And is that the capacity that you appear here
today?

20 A. Yes, sir, it is.

21 Q. Mr. Anderson, how many years have you worked for
Ryder?

22 A. A little over 24.

23 Q. And I don't mean this to be an insult, but is there
a sync

24 way that you can summarize the jobs and the duties that
you've

25 carried out for Ryder over those 24 years?

Clark Anderson – Direct

1 A. Sure. I started with Ryder as a rental
representative,
2 which is a rental agent that rents trucks at the rental
3 counter. I rose through the ranks from there to a
salesman,
4 and then as a regional sales manager in charge of a
5 multiple-state area; from there as a district manager,
which is
6 a profit center manager of a metropolitan area in
Evansville,
7 Indiana; St. Louis, Missouri; and New York City; and
from New
8 York City moved to our corporate headquarters in Miami
as the
9 director of operations for the Consumer Truck Rental
Business
10 Unit.

11 Q. Based on those many jobs and those many places,
have you
12 become thoroughly familiar with the operations of
Ryder, at
13 least that part of Ryder that rents consumer trucks?

14 A. Very much so, yes, sir.

15 Q. Are you familiar with the manufacture of those
vehicles?

16 A. Yes, I am.

17 Q. And the record keeping regarding both the origin,
titling,
18 and rental of those same vehicles?

19 A. Yes, sir, I am.
20 Q. I'm going to ask you a few questions, Mr. Anderson,
about
21 all those subject matters. And let's start with the
truck in
22 question. On April 19, 1995, did you search your files
to
23 determine whether a particular VIN number represented a
truck
24 owned by Ryder?
25 A. Yes, sir, I did.

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Clark Anderson - Direct

1 Q. And for the record, was that VIN No.
1FDNF72J4PVA26077, two
2 sevens at the end?
3 A. That's it.
4 Q. All right. You've studied that number more than
once
5 before?
6 A. That number is committed to memory, yes, sir.
7 Q. Once you had that VIN number, Mr. Anderson, what
did you do
8 to determine whether that was a Ryder truck?
9 A. I went to our records and searched our database
that
10 matches VIN numbers to unit numbers, and I found that
in fact

11 it was a certain unit number and that, you know, it was
12 manufactured on a certain date and licensed and titled
by Ryder
13 and was out in our rental fleet at a certain location.

14 Q. You were satisfied on April 19 that was a Ryder
truck?

15 A. Yes, sir, I was.

16 Q. Let's talk, then, about the origin of that vehicle.
Did
17 you research how that truck came to exist?

18 A. Yes, sir, I did.

19 Q. In the course of your answers as to that, would you
refer
20 to Government's Exhibit 644 and 645. Should be on the
top of
21 your stack of exhibits.

22 And did the information in each of those two
exhibits
23 help you track down when that truck was built and first
owned
24 by Ryder?

25 A. Yes, sir. These two documents are the purchase
orders that

6755

Clark Anderson - Direct

1 Ryder issued to Ford Motor Company and . . . for the
2 manufacture of the vehicle.

3 Q. For the record, is the purchase order to Ford

Government

4 Exhibit 644?

5 A. Yes, sir, it is.

6 Q. And for the record, what is Exhibit 645?

7 A. Exhibit 645 is a purchase order from Ryder to
Morgan

8 Corporation for the purchase -- manufacture and
purchase of the

9 body that fits on the Ford chassis.

10 Q. What I might call the compartment, the storage
compartment?

11 A. Yes, sir.

12 Q. The two pieces that go to a Ryder, the chassis and
the

13 compartment?

14 A. Right.

15 Q. And those two exhibits represent Ryder's records as
it

16 relates to the truck in question?

17 A. Yes, sir, these are Ryder records from our files
that

18 describe the vehicle.

19 MR. MACKEY: Your Honor, we would move to
admit

20 Government's Exhibit 644 and 645.

21 MR. TIGAR: No objection, your Honor.

22 THE COURT: They are received.

23 BY MR. MACKEY:

24 Q. Based, Mr. Anderson, on those records and your

other

-- the 25 research, could you tell the jury when the truck bomb

6756

Clark Anderson - Direct

1 truck that was first used in the bombing, when was it
built?

2 A. This truck was ordered in December of 1992; and
these two

3 pieces of evidence, Mr. Mackey, do not show when it was
built.

4 This just shows the ordering of the same. But it was
ordered

5 on December 23, 1992.

6 Q. And ordered from Ford and then --

7 A. Ordered from Ford, and the body was ordered on
January 8,

8 1993, from Morgan.

9 Q. What kind of truck did Ryder order from Ford in
that time

10 period?

11 A. The truck is a Ford F-700 conventional chassis,
truck

12 chassis, made at a proper length to fit a 20-foot body.

13 Q. And what kind of box or compartment did Ryder order
for

14 placement on that chassis?

15 A. A 20-foot, and it's described as a low-profile
body. And

16 it's manufactured primarily of a material called FRP,
17 fiberglass-reinforced plywood.

18 Q. Are you intimately familiar with the design and
manufacture

19 of that truck to Ryder's specification?

20 A. Yes, sir, I am.

21 Q. And how so?

22 A. I was one of the executives that negotiated with
Ford for

23 the purchase of this group of trucks and subsequently
ordered

24 the trucks and supervised the receiving of the invoices
for

25 same and their preparation for being put in service and
being

6757

Clark Anderson - Direct

1 put in service and into our rental fleet.

2 Q. How many total trucks did Ryder order on that same
purchase

3 order?

4 A. This is for an order of 400 units. All identical.

5 Q. And how do you know by looking at those records
that the

6 truck in question was among those covered in the
purchase

7 order?

Unit 8 A. The purchase order is for a group of units from
9 No. 137200 to 137599, and the particular truck that you
10 described in that VIN number, 26077 falls within that
range of 11 purchase order numbers.

12 Q. Ryder keeps track of its trucks by unit numbers?

13 A. Yes, sir, we do.

14 Q. And the unit numbers referred to in the purchase
order?

15 A. Yes, sir.

16 Q. So every one of those 400 trucks within that range
of unit

17 numbers was built to the same specs?

18 A. Yes, sir, they were.

19 Q. Mr. Anderson, help me, if you would, by looking at
20 Government's Exhibits 311 through 315. It should be
next in

21 your stack.

22 A. Yes, sir.

23 Q. And have you seen those photographs before?

24 A. Yes, sir. I have.

25 Q. And do each of those photographs represent accurate

6758

Clark Anderson - Direct

1 depictions of 20-foot F-700 series Ford model Ryder
truck --

2 A. Yes, sir.

3 Q. -- as to the precise kind as the truck in question?

4 A. The exact kind, yes, sir.

admit

5 MR. MACKEY: Your Honor, we would move to

6 Government's Exhibits 311 through 315.

7 MR. TIGAR: No objection.

8 THE COURT: All right. They're received.

photographs to

9 MR. MACKEY: And may we publish these

10 the jury?

11 THE COURT: Yes.

12 BY MR. MACKEY:

your

13 Q. Let's start with 311, and could you describe with

Ryder

14 expertise, Mr. Anderson, a little bit about the 20-foot

15 truck we're looking at.

of the

16 A. This is a view of the left-hand side, driver's side

the

17 20-foot Ryder truck. And it shows the -- almost all of

18 truck from the hood back through the end of the body.

that photo

19 Q. And are the decal markings that are depicted in

20 precisely the same as on the truck in question?

21 A. Yes, sir, they are.

22 Q. Showing you 312.

23 A. Yes, sir.

24 Q. What is that, please?

25 A. This is the right-hand view of the side of the
truck,

6759

Clark Anderson - Direct

1 passenger-side view, if you will, showing from the
front of the

2 truck to the back of the truck.

3 Q. This is on the passenger side?

4 A. This is -- taken from the passenger side, yes, sir.

5 Q. I note that there is a compartment door, what
appears to be

6 a entryway into the storage compartment on 312. Could
you tell

7 the jury about that?

8 A. The Ryder 20-foot consumer vehicle is the only one
of the

9 large trucks in our fleet that comes equipped with what
we call

10 a curbside side door, "curbside" meaning the side that
is

11 always closest to the curb of the street. You see the
side

12 door right almost towards the front half of the body.

13 Q. Is the door that's meant to be opened and shut --

14 A. Yes, sir.

15 Q. -- to allow access without --

16 A. Allow easier loading from the sidewalk.

17 Q. In 1995, were you familiar with the features of
18 competitors; that is, other companies that offer
consumer
19 trucks for rental?

20 A. Yes, sir, I was.

21 Q. And in 1995, did any competitor offer a storage
compartment
22 with a side-door entry?

23 A. No, sir.

24 Q. Ryder was unique?

25 A. Ryder was unique in this, yes.

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Clark Anderson - Direct

1 Q. Showing you Government Exhibit 313.

2 A. Yes, sir.

3 Q. Tell us what we're looking at.

4 A. This is a head-on front view of the same truck, so
it shows
5 the grille and cowl and the front of the body.

6 Q. And in the upper right-hand corner, do you see a
series of
7 numbers, six numbers?

8 A. Yes, sir.

9 Q. And what are those; what do they represent?

of the 10 A. These are the unit numbers that are decaled on each
and each 11 trucks. So each truck has its own unique unit number,
12 truck is decaled with its own unique unit number.

the one 13 Q. And what unit number would the truck in question,
14 that blew up, have at that same spot?

15 A. 137328.

16 Q. Show you 314, please. And what is that?

door of 17 A. This is the rear view, so the view facing the rear
that's 18 the truck, the back end of the truck, of the same truck
19 depicted in all of these photographs.

registration 20 Q. Let's turn now, Mr. Anderson, to the title and
those 21 history for the truck in question. Did you research
22 documents as well?

23 A. Yes, sir, I did.

among your 24 Q. And can you find Government Exhibit 650 and 651
25 materials?

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Clark Anderson – Direct

1 A. Yes, sir. I have them.

2 Q. Tell his Honor and the jury what Exhibit 650 and

651 are,

3 please.

4 A. Exhibit 650 is the original certificate of title
for this 5 particular unit, 137328.

6 Q. And would that exhibit prove ownership of that
vehicle by 7 Ryder?

8 A. Yes, sir, this is the proof of ownership of that
vehicle.

9 Q. And for the same truck with the same VIN that we've
read 10 into the record earlier?

11 A. Yes, sir.

12 MR. MACKEY: Your Honor, we'd move to admit
into 13 evidence Exhibit 650.

14 MR. TIGAR: No objection.

15 THE COURT: Received, 650.

16 BY MR. MACKEY:

17 Q. In the course of your duties, did you see to it
that all of

18 the vehicles were lawfully licensed and registered for
the 19 states they were in?

20 A. Yes, sir, I did.

21 Q. Is that the case with the unit in question?

22 A. Yes, sir, it is.

23 Q. Turn to Exhibit 651 and tell everyone, please, what

that

24 is.

25 A. 651 is a collection of documents that include the

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Clark Anderson – Direct

1 registration, application for title, and manufacturer's
2 certificate of origin, all of which make up the
necessary
3 documents for this truck to be registered and receive a
license
4 plate to drive on the roads.

5 Q. How was this truck, the one in question, licensed?
By what
6 state?

7 A. This particular truck was licensed in the state of
Florida.

8 Q. And is that true for many of your trucks because of
the
9 Miami headquarters?

10 A. No. Actually, the trucks are licensed in every
state in
11 the United States on a pro rata portion of the fleet.
However,
12 this particular truck just happened to be licensed in
the state
13 of Florida.

14 Q. In 1995, approximately how many Ryder trucks were
in the

15 consumer rental fleet?

16 A. 33,000.

17 MR. MACKEY: Your Honor, we would move to
admit, if I

18 haven't already, please, 651.

19 MR. TIGAR: No objection, your Honor.

20 THE COURT: 651 is received.

21 BY MR. MACKEY:

22 Q. Mr. Anderson, before a Ryder truck is put out on
the road

23 for use by its customers, are there any final
maintenance steps

24 that are taken?

25 A. One final last check that it goes through an in-
service

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Clark Anderson – Direct

1 inspection where the -- for one last time. We make
sure all

2 the bolts and nuts are tight on it and the truck is
full of oil

3 and air pressure is correct and all of the unique
elements of

4 the truck are recorded in the maintenance records so
that one

5 final check and recording of unique things to that
truck.

6 Q. And was that done or followed in the case of Unit
137328?

7 A. Yes, sir, it was.

8 Q. Turn your attention to Exhibit 668. Tell the jury,
please,
9 what that document is.

10 A. 668 is a photostat copy of the consumer new truck
11 inspection work sheet and repair order for Unit No.
137328.

12 Q. And does that document show when the Ryder truck in
13 question was placed into service?

14 A. It shows that -- yes, it does. It shows when the
15 inspection was complete and when it was ready for
service.

16 Q. And does it also record the key code assigned to
that
17 particular truck?

18 A. Yes, sir, it does.

19 MR. MACKEY: Your Honor, we would move to
admit
20 Exhibit 668.

21 MR. TIGAR: No objection.

22 THE COURT: Received, 668.

23 BY MR. MACKEY:

24 Q. Mr. Anderson, how is the key code used by Ryder?

25 A. The key code is used by Ryder to create duplicate
keys in

Clark Anderson – Direct

1 the event that the key to the truck is lost.

652. Do 2 Q. Turn your attention now, Mr. Anderson, to Exhibit

3 you know what that is, please.

4 A. Yes, sir. This is the registration, original
registration

5 certificate for Unit No. 137328.

6 Q. And that's the same unit in question?

7 A. Yes, sir, it is.

8 Q. And would that document reflect the registration
decal

9 number for that truck as it existed in April of 1995?

10 A. Yes, sir, it does.

11 MR. MACKEY: Your Honor, we would move to
admit

12 Exhibit 652.

13 MR. TIGAR: No objection, your Honor.

14 THE COURT: Received.

15 BY MR. MACKEY:

16 Q. Mr. Anderson, in the course of your participation
in this

17 proceeding, have you seen physical evidence gathered
from the

18 crime scene that relates to or corresponds to
information from

19 Ryder's own records?

20 A. Yes, sir, I have.

21 Q. Would you take a look at Exhibit 637. Previously

been

22 admitted into evidence. You might recognize it as a
very

23 bent-up license plate.

24 A. Yes, sir.

25 Q. Is there information on that exhibit, the license
plate

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Clark Anderson - Direct

1 itself, that corresponds with the registration document
you've

2 just previously identified?

3 A. Yes, sir, in two ways. The license plate number is
the

4 exact same that is recorded on the registration
certificate,

5 and the decal, the -- has the exact same number on the
license

6 plate that is recorded on the certificate.

7 Q. Mr. Anderson, in addition, relying upon many of the
8 documents you've already identified, did you examine a
rear

9 axle housing and associate CVIN number on that piece of
10 evidence with information in your own files?

11 A. Yes, sir, I've seen a rear-axle housing and
examined the

12 confidential VIN number that's stamped thereon.

13 Q. And do those numbers correspond to your own

records?

14 A. Yes, sir, same truck.

15 Q. Mr. Anderson, let's shift gears now and talk about
the

16 rental history of that particular truck. In doing so,
let me

17 start by asking if you'd tell the jury a little bit
about the

18 dealership system that Ryder operated in April of 1995.

19 A. Ryder operates its business -- rents those trucks
through a

20 distributed network of independent business people that
we call

21 dealerships. They act as commissioned sales agents for
Ryder,

22 if you will. Ryder places the vehicles at their place
of

23 business. The dealer will rent them to the public and
in

24 return receive a commission on the gross sales for
doing so.

25 And they're located in every continental state
in the

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Clark Anderson - Direct

1 nation, all 48 lower states in the nation, yes, sir.

2 Q. I'm sorry, how many dealerships existed in 1995?

3 A. In the neighborhood of 4500 or so.

4 Q. In 1995, in the spring of '95 particularly, what

size

5 vehicles did Ryder offer through its consumer
dealerships?

6 A. We offered four vehicle sizes: A 10-foot minivan,
a

7 15-foot parcel van, a 20-foot what we called a full-
sized

8 truck, and a 24-foot moving van -- big, long moving
van.

9 Q. Did you mention a 15-footer?

10 A. Yes, sir, 15-footer, parcel van.

11 Q. Parcel van, all right.

12 Could you describe for the jury what system of
record

13 keeping was common to dealerships in the spring of '95?

14 A. All of the dealers around the country have a
computerized

15 system that they rent the trucks by. This computerized
system

16 is owned by Ryder, operated by Ryder, and the only way
the

17 dealer has to conduct the Ryder rental business at
their

18 dealership, if you will, is by using the Ryder computer
system.

19 So that allows us to have consistent record keeping or
creation

20 of records at every point in the United States that we
rent our

21 trucks.

22 Q. Mr. Anderson, did you have some personal role in
the

23 development and implementation of this nationwide
computer
24 network?
25 A. Yes, sir, I was the executive in charge of the
development

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Clark Anderson - Direct

1 and roll-out of the system that we call Ryder First
that I'm
2 describing.

3 Q. And based on that involvement, are you familiar
with the

4 kinds of information about individual rental
transactions

5 that's available to you in Miami by examining your own
computer
6 files?

7 A. Yes, sir.

8 Q. Did you do so in the case of the unit in question
in April
9 of 1995?

10 A. Yes, sir, I did.

11 Q. And would you tell the jury what you learned from
examining
12 your records about the last known rental of the truck
in

13 question.

14 A. The last known rental of the truck in question took

place

15 at Elliott's Body Shop in Junction City, Kansas; and
the

16 vehicle was rented one way to -- from Junction City, to
Omaha,

17 Nebraska, by a Mr. Bob Kling.

18 Q. Mr. Anderson, did Ryder keep on record, both in
Miami and

19 its dealership locations, a rental agreement number for
each

20 transaction?

21 A. Yes, sir, we did.

22 Q. And did it keep on file the name and address of the
renter?

23 A. Yes, sir.

24 Q. Did it keep on file the name and address of the
Ryder

25 dealer that was dispatching or releasing that truck?

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Clark Anderson - Direct

1 A. Yes, sir, we did.

2 Q. Did it keep on file the date and time the truck was
3 released to the renter?

4 A. Yes, sir.

5 Q. Did it keep on file information about the size of
truck

6 rented?

7 A. Yes, sir.

8 Q. Did it keep on file the unique unit number?

9 A. Yes, sir, it did.

10 Q. And did it keep on file identifying information
about the

11 renter, driver's license and the sort?

12 A. Yes, sir.

13 Q. Turn your attention now, Mr. Anderson, to
Government

14 Exhibit 2050.

15 A. Yes, sir.

16 Q. And does that document contain the same sorts of
17 information or categories of information that I've just
asked

18 you by way of question as relates to the Kling rental?

19 A. Yes, sir, it does.

20 Q. Is the information on Exhibit 2050 then information
kept by

21 Ryder in the course of its business as it relates to
that

22 particular transaction?

23 A. Yes, sir.

24 Q. Does it bear any signatures?

25 A. No, sir, it does not.

admit 1 MR. MACKEY: Your Honor, we would move to
2 Government Exhibit 2050.
3 MR. TIGAR: No objection, your Honor.
4 THE COURT: Received. Excuse me. Received.
5 MR. MACKEY: May we publish, please.
6 THE COURT: Yes.
7 BY MR. MACKEY:
8 Q. Can we focus in on the far left-hand corner under
"rental
9 agreement"? Can you see that?
10 A. I can see it, yes, sir.
11 Q. All right. Maybe we'll just read some of the
information
12 into the record. Mr. Anderson, with your pen, can you
circle
13 the rental agreement for the Kling transaction off that
14 document.
15 A. The rental agreement number?
16 Q. Yes, sir. And could you read that number to the
record.
17 A. The rental agreement number is 1964911.
18 Q. According to Ryder's records, what was the name and
address
19 given by the renter for the Kling transaction?
20 A. The customer's name is Bob Kling, and address is
428 Maple
21 Drive, Omaha, Nebraska, 68107.
22 Q. And immediately to the right is information

recorded about

23 who was dispatching that same truck?

24 A. Yes, sir. There is.

25 Q. What's shown there, please.

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Clark Anderson - Direct

an 1 A. The dispatching dealer is Elliott's Body Shop with

66441. 2 address of 1430 Goldenbelt, Junction City, Kansas,

your 3 Q. And back now again to the left-hand column, does

4 record show when that truck was picked up?

5 A. Yes, sir. It shows that the truck was picked up on
after 4:00 6 April 17, 1995, at 1619 hours, which is 19 minutes

7 in the afternoon.

back? 8 Q. And does that same record show when it was due

21, 9 A. The -- yes, sir, it does. It was due back on April

in the 10 1995, again at 1619 hours, which is 19 minutes after 4

11 afternoon.

please. 12 Q. If we can enlarge the information just below that,

13 A little farther down, please.

14 A. There's a -- this is a --

15 Q. Two-sided document?

16 A. Two-sided document.

17 Q. Let's turn to page 2 of Exhibit 2050. And in the
bottom

18 left-hand corner of that document, if we could enlarge
that,

19 please. There we go.

20 According to that exhibit, Mr. Anderson, where
was

21 that truck supposed to end up?

22 A. This truck was to go to Exhaust Pros with an
address of

23 3216 Q Street, Omaha, Nebraska, ZIP Code 68107.

24 Q. And if we could go back up to the -- just slightly
up on

25 the right-hand corner of that same document. Focusing
in on

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Clark Anderson - Direct

1 the driver's information on the bottom left-hand
corner.

2 A. The driver's information is -- driver's name is Bob
Kling.

3 It shows a driver's license number of YF942, I believe
that's

4 an A6.

5 Q. A, as in Adam, 6?

6 A. A, as in Adam, 6, yes, sir.

7 Q. What state was the license?
8 A. South Dakota.
9 Q. Mr. Anderson, in researching this matter, did you
identify
10 other documents relevant to the transaction?
11 A. Yes, sir, I did.
12 Q. And did you find a quote and reservation document?
13 A. Yes, sir, I did.
14 Q. Turn your attention now, please, to Exhibit 305.
15 A. I have it, yes, sir.
16 Q. And just generically, what is Exhibit 305?
17 A. 305 is a quotation document quoting a price to a
Bob Kling
18 for rental of a 20-foot van, one-way, from Elliott's
Body
19 Shop --
20 Q. Is it a quote --
21 A. -- to Omaha, Nebraska.
22 Q. Is it a quote document relating to the Kling
transaction?
23 A. Yes, sir.
24 Q. All right. Does it contain any customer
signatures?
25 A. No customer signatures, no, sir. This is -- this
document

1 is not signed.

2 Q. And would not be in the normal course?

3 A. Not in the normal course of our records, no, sir.

4 Q. Is this document, Exhibit 305, one that's routinely
created
in each
5 and maintained according to the system set up by Ryder
6 of these dealerships?

7 A. Absolutely, yes, sir.

8 MR. MACKEY: Your Honor, we move to admit
Exhibit 305.

9 MR. TIGAR: May I take on the voir dire?

10 MR. MACKEY: Sure.

11 VOIR DIRE EXAMINATION

12 BY MR. TIGAR:

13 Q. Hello, Mr. Anderson. My name is Michael Tigar.
I've been
14 appointed to help out Terry Nichols.

15 I just want to ask, this document, and the one
that
16 you're looking at, looks like it has smudges on it, on
the
17 copy.

18 A. It's quite dirty is what it looks like.

19 Q. Well, what I want to know is: Is that a document
that
20 comes out of you-all's records in Miami, Florida?

21 A. No. The information contained hereon is the same,

but this

22 document is printed at the dealer location on the
Ryder-owned

23 computer.

24 Q. I see.

25 A. So it's a Ryder record, yes, sir.

6773

Clark Anderson – Voir Dire

1 Q. Well, if -- I don't want to quibble about this, but
do you

2 have a document that looks exactly like this with all
this

3 information on it in your records in Miami?

4 A. I have a copy of it in my records.

5 Q. And that is made and kept in the regular course of
your

6 business; is that right?

7 A. Not all the time, no. Sometimes we keep copies of
quotes

8 and reservations, and sometimes we do not. Just
depends upon

9 their significant importance, I suppose.

10 MR. TIGAR: I'm going to object to this
particular

11 document, your Honor.

12 THE COURT: What's the objection?

13 MR. TIGAR: The objection is lack of
foundation, your

14 Honor, that this is not kept in the regular course of
their
15 business but in the regular course of the Elliott's
Body Shop
16 business there in Junction City, and that's the
business entity
17 that would have to authenticate -- that would have to
lay the
18 foundation for it.

19 THE COURT: How is this record prepared and
how does
20 Ryder get it -- your main office get a copy?

21 THE WITNESS: This document is printed off of
the
22 computer printer from the Ryder First machine at
Elliott's Body
23 Shop, and it comes -- this particular record came to
Ryder by
24 being hand-carried to us. We picked it up and kept it
and
25 later day turned it over to the FBI.

6774

Clark Anderson - Voir Dire

1 THE COURT: So who carried it in?

2 THE WITNESS: It was brought back by one of my
fellow
3 employees from Elliott's.

4 THE COURT: Sustained.

5

DIRECT EXAMINATION CONTINUED

6 BY MR. MACKEY:

7 Q. Mr. Anderson, do each of the dealerships throughout
the
8 country, including Elliott -- were they required to
keep quote
9 and rental and reservation agreements on file?

10 A. Yes, sir.

11 Q. Mr. Anderson, turn your attention now, please, to
12 Government Exhibit 670A. 670A.

13 A. Yes, sir.

14 Q. It's a series of photographs previously admitted
into
15 evidence. Prior to coming to court, Mr. Anderson, have
you
16 examined carefully what is shown on each of those 27
17 photographs?

18 A. Yes, sir. I've seen all of these before.

19 Q. And among that set, did you see a number of
photographs
20 that depicted what appear to be Ryder truck in the
center of
21 several of those photographs?

22 A. Yes, sir.

23 Q. Sir, based on 24 years of experience and your
involvement
24 in the manufacture of Ryder trucks, can you describe
the
25 vehicle that's depicted in those photographs?

Clark Anderson - Direct

1 A. The vehicle that's described in these -- or
depicted in
2 those photographs is a 20-foot Ryder truck. I believe
it's a
3 20-foot Ryder truck.

4 Q. And what do you base that on?

5 A. The Ryder truck part of it is the unique Ryder
decals that
6 are visible in here, and the 20-foot part on it based
upon my
7 knowledge and experience is the relative length of the
wheel
8 base and truck body and the position of the rear axle
relative
9 to the truck body.

10 Q. All right. Let's take a moment and just illustrate
that
11 description, if we can. We have one up now, okay.

12 A. Okay.

13 Q. Does that photograph --

14 A. That's not a very good photograph to do this. It
has a car
15 in front of it, it appears like, Mr. Mackey. I don't
know if
16 they're numbered or not.

17 Q. There we go. Take a look at the photo now in front
of you.

18 A. Okay.
19 THE COURT: Which number is being displayed?
20 MR. MACKEY: It is one photograph, your Honor,
of 670A
21 and specifically the frame noted at the time 8:56:56.
22 THE COURT: Thank you.
23 MR. MACKEY: Thank you, your Honor.
24 THE WITNESS: Obviously you can see the Ryder
name on
25 the truck. And the wheel base, there is the front --
there's

6776

Clark Anderson - Direct

1 the front axle. There's the rear axle back in here.
And the
2 relative distance that the rear axle is from about the
front of
3 the truck body up in here and also the amount of
overhang past
4 the rear axle to the end of the truck body is the
information
5 that I am using my experience to say that that is a 20-
foot
6 vehicle.
7 BY MR. MACKEY:
8 Q. Just a couple final questions, Mr. Anderson. You
mentioned
9 earlier that you offered a 15-foot rental vehicle?

10 A. Yes, sir.

11 Q. Are the tires on a 15-foot presumably smaller than
the

12 tires on the 20-foot?

13 A. Substantially so.

14 Q. You recognize the tire size of 75R165 to be the
size tire

15 affixed to 15-foot Ryder trucks?

16 A. A 75R165 are the size of the 15-foot tires, yes.

17 Q. And what load capacity would a 15-foot Ryder offer?

18 A. A 15-foot vehicle has a maximum load capacity of
2800,

19 3,000 pounds.

20 Q. As opposed to 20-foot?

21 A. A 20-foot vehicle can carry as much as 10,000
pounds.

22 MR. MACKEY: Thank you, Mr. Anderson.

23 Thank you, your Honor.

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

25 MR. TIGAR: Yes, I do, your Honor. I'm just
looking

6777

1 for an exhibit.

2

CROSS-EXAMINATION

3 BY MR. TIGAR:

4 Q. Mr. Anderson -- take your time. You ready?

5 A. I'm ready.

6 Q. Okay. Do you have records that show who rented
this truck

7 from the time that it was first delivered to you until
the time

8 that this fellow named Kling represented -- rented it?

9 A. Yes, sir, we do.

10 Q. Okay. And so that if we could go back in the
records and

11 see each person who had it and what dealership it was
rented

12 out of from the time it was first delivered to you; is
that

13 correct?

14 A. That is correct.

15 Q. Now, you mentioned when you were talking about the
rental

16 there at Elliott's Body Shop that there is certain
information

17 that your dealer is required to collect; is that
correct?

18 A. That's correct.

19 Q. Okay. Now, do you have a training program for your
20 dealers?

21 A. Yes, sir, we do.

22 Q. And in that training program, do you teach them how
to spot

23 theft and fraud; that is, potential theft and fraud?

24 A. We do our best.

work;
25 Q. I understand. And -- it's not always going to

6778

Clark Anderson - Cross

1 correct?

2 A. Doesn't always work, no, sir.

about
3 Q. Now, do you ask them to be particularly careful

rent
4 noting or remembering the descriptions of people who

5 vehicles?

training
6 A. That part I don't recall specifically in the

customers.
7 program, that they memorize physical descriptions of

there's a
8 Q. Not to memorize physical descriptions, but is there
9 something in the training that tells them that if

somebody
10 loss out of their agency or their dealership, that

about
11 from Ryder may be coming and wanting to ask questions

12 that?

bad
13 A. Yes, sir, we do tell them that if -- you know, when

some
14 things happen to good people, we're going to ask them

15 questions about what happened.

that 16 Q. Okay. And every one of your dealers would be aware
17 that's your policy; right?
18 A. Every one of them.
19 Q. Do you know Mr. Eldon Elliott?
20 A. Yes, sir, I do.
21 Q. Had you known him before April 19, 1995?
22 A. I had met him once before, yes, sir.
responsible 23 Q. And best of your knowledge, he's a good,
24 businessman there in Junction City?
25 A. Very much so.

6779

Clark Anderson - Cross

does he 1 Q. And in addition to renting you-all's trucks, what
2 do there?
3 A. His primary business is a body repair shop. He
fixes cars 4 when they're dinged and dented.
5 Q. And have you ever met his employees Tom Kessinger
and Vicki 6 Beemer?
7 A. I have met them, yes, sir.
8 Q. Had you met them before April 19, 1995?
9 A. No, sir, I had not met them prior.

10 people, Ryder

Q. Now, you said when good things happen to bad

11 does look into it --

12 A. Bad things happen to good people.

13 Q. You said it right and I said it wrong, and you
excuse me.

14 When things happen, let's just put it that way.

15 A. Yes, sir.

16 Q. Did Ryder conduct an investigation in this case?

17 A. Yes, sir, we did.

18 Q. And did -- did Ryder prepare any sort of a report
to

19 management on what had happened?

20 A. Written report, no, sir, I don't believe so. I
briefed the

21 chairman of the company on what had happened.

22 Q. But there's no -- no written document that you know
about?

23 A. I did not sit down and prepare a written document
detailing

24 what had happened.

25 Q. All right. You identified when you were testifying
a

6780

Clark Anderson - Cross

1 purchase order for this vehicle. And I wanted -- that
was

page 2 Government Exhibit 644. I want to put that up on the
3 here, the first page of it up on the -- turn on light.
There 4 it is. And then I have to zoom out, now in.
5 Now, you notice over here that the total price
-- 6 you've got a price here, and then right underneath it
you see a 7 \$256 item there?
8 A. Yes, sir.
9 Q. What is that \$256 item?
10 A. That \$256 is the price of the particular option
that is 11 detailed on that line, which is a 225-inch wheel base
with a 12 bumper-to-back-of-cab dimension of 103.1 inches.
13 Q. All right. Now, when you were negotiating these,
the 14 purchase of these vehicles, did you have occasion to
look at 15 the Ford Motor Company body builder's book that shows
how they 16 put these things together?
17 A. No, sir.
18 Q. All right. Are you familiar with the F-700 series
of Ford 19 trucks?
20 A. Yes, sir.
21 Q. All right. Let me take this off of here, then, and
just

22 ask you: Ford makes the F-700 series for other
customers than

23 Ryder; is that correct?

24 A. Absolutely, yes, sir.

25 Q. And they make the F-700 series with the dual wheels
in a

6781

Clark Anderson - Cross

1 number of different wheel bases; is that correct?

2 A. Yes, sir; that's correct.

3 Q. And the item that we were just looking at, the 225
inches,

4 that reflects a particular wheel base in the Ford F-700
series;

5 correct?

6 A. That's correct.

7 Q. Now, your 24-foot truck that you have, is that also
an

8 F-700 series truck?

9 A. Yes, sir, it is.

10 Q. Now -- does that have -- so is it fair to say it's
the same

11 truck, but it has a different wheel base?

12 A. Mr. Tigar, if I'm not mistaken -- and I'm doing
this

13 strictly from my memory -- it -- I believe it has the
same

14 wheel base as the 20-foot truck.
15 Q. Okay.
16 A. Don't hold me to it. I'm doing that from memory.
I don't
17 have those documents here.
18 Q. I understand. And this is not a memory contest. I
guess
19 what I'm asking is in that Ford F-700 series, the
stance of
20 your truck -- that is to say, the track width of the
truck --
21 will be the same for different wheel bases; is that
your
22 understanding?
23 A. The "track width" meaning the dimension from the
outside
24 of --
25 Q. From the centerline of the outer tire of the dual
wheels to

6782

Clark Anderson - Cross

1 the centerline of the opposite one, left or right.
2 A. On all of the vehicles that they manufacture?
3 Q. No, I'm just asking, sir, about your 20 and 24
inches
4 (sic), and then I'll move on.
5 A. Yes. Ours would, yes, sir.
6 Q. So that if I -- so if I went to your lot and had a

20 or

width? 7 24, it would be that same wheel base -- or same track

8 A. Same track width, yes, sir.

features of 9 Q. Now, I wanted, then, to look at some of the

put up 10 this Ryder truck that we were talking about. I want to

This, sir, 11 what's been received as Government 314, if I could.

12 is the rear view of your Ryder truck; is that correct?

13 A. Yes, sir, it is.

ramp, 14 Q. Now, I'm pointing to a slot right here. That's a

15 isn't it?

16 A. Yes, sir, it is. Loading ramp.

goes and 17 Q. Loading ramp. And when the customer gets that --

that 18 rents the truck and they want to load it, they can pull

19 loading ramp out; is that correct?

the 20 A. And attach it with a hook assembly to the back of

21 truck, yes.

to be 22 Q. Okay. So it is not integral to the truck, it has

23 hooked on; is that right?

the 24 A. It's -- when you pull it out, it's a -- you can see

25 ramp pocket is several inches below the floor.

Clark Anderson - Cross

- 1 Q. Yes, sir.
- 2 A. And so what you do, you pull it all the way out.
And you
- 3 pick it up, and you can see the little holes right
there; and
- 4 it has --
- 5 Q. Okay. There --
- 6 A. -- little L brackets on the end of the ramp that
fit into
- 7 those holes so that the ramp is flush with the floor.
- 8 Q. Okay.
- 9 A. And it's tied to the truck.
- 10 Q. All right.
- 11 Take that off there.
- 12 If -- now, when this fellow who called himself
Kling
- 13 rented a truck, he also rented a hand truck; is that
right?
- 14 A. Yes, sir, he did.
- 15 Q. Now, is that part of the regular Ryder truck
inventory that
- 16 is carried by the dealers?
- 17 A. Yes, sir.
- 18 Q. The hand trucks?
- 19 A. Yes, sir, it is.

20 Q. So those are owned by Ryder as well?

21 A. Yes, sir, they are.

22 Q. And is the hand truck that this fellow called
himself Kling

23 rented -- is that the sort of thing that we'd be
familiar with

24 from just watching people move heavy things?

25 A. Yes, sir. Quite common.

6784

Clark Anderson - Cross

1 Q. All right. So it's got two wheels, and I can put a
load in

2 it and then lean it back and then wheel it just like
I'm

3 showing you?

4 A. Put a load in it, strap it down, lean it back, and
push it,

5 pull it.

6 Q. Does it have straps?

7 A. It has straps, yes, sir.

8 Q. Are the straps such that I could take a large
object, such

9 as a large barrel, and strap it around to the dolly or
the hand

10 truck and then -- then wheel it without the thing
shifting from

11 side to side?

12 A. Yes, sir.

13 Q. Okay. Now, you also said, sir, that -- I forgot to
-- what

14 is the gross vehicle weight rated -- rated gross
vehicle weight

15 of this 20-foot truck that you all do?

16 A. The 20-foot truck has a manufacturer's gross
vehicle weight

17 of 23,900 pounds.

18 Q. Okay. And when you say the manufacturer's now, do
you

19 advise your customers not to load it that much?

20 A. Yes, sir. We license it for a lower registered
weight, and

21 we also tell them to -- not to put that much in it. We
tell

22 them how much it can carry.

23 Q. Okay.

24 A. Legally.

25 Q. Understood. And that's based on your arrangement
with the

6785

Clark Anderson - Cross

1 state licensing authorities; correct?

2 A. That's correct, yes, sir.

3 Q. Now, in addition to being the man that orders all
these

4 trucks, you are also the man who oversees building the

boxes;

5 is that right?

6 A. Yes.

that

7 Q. And you told us that the boxes are made of FRP; is

8 correct?

9 A. Yes, sir, FRP, fiberglass-reinforced plywood.

10 Q. And if I'm -- is it correct that that's a sandwich?

11 A. Of a type, yes, sir.

the

12 Q. All right. And in the center of the sandwich or in

13 middle of the sandwich is a piece of plywood; correct?

14 A. That's correct.

15 Q. What, three-quarter-inch ply?

inch.

16 A. It's probably about a three-eighths-inch, half-

it the

17 Q. And then on the outside, you put something to give

right?

18 color of your characteristic Ryder yellow; is that

it's

19 A. Well -- it starts out with the plywood, and then

side of

20 laminated with fiberglass resin, you know, on either

what is

21 the plywood. On the exterior, the Ryder yellow side,

yellow

22 added to the vehicle is a -- that gives it that Ryder

It's a

23 color, is a -- much like a -- very thin film decal.

24 Monsanto product called Tedlar.

25 Q. And if we wanted to get real technical, we could
read the

6786

Clark Anderson - Cross

1 spec sheet that you read earlier and got in evidence;
right?

2 A. Yes, sir.

3 Q. But basically find that this plywood has fiberglass
cloth

4 and then the resin?

5 A. Yes, sir.

6 Q. Is there another layer applied on the inside, a
paint-type

7 substance?

8 A. It's called a gel coat, and the interior of the
truck is a

9 white-colored gel coat, gel coat being kind of a shiny,
smooth

10 finish.

11 Q. And gel coat's familiar to -- that's the layer on a
boat?

12 If we went out to the lake and looked at white boats,
that's

13 gel coat?

14 A. That's gel coat, yes, sir.

15 Q. And then how do you caulk the seams inside? What
do they

16 use to make sure that stuff doesn't get down in the
corners
17 there?
18 A. There's a -- the fiberglass-reinforced plywood
panel sits
19 into an extruded aluminum piece at the top and bottom
rails and
20 a steel piece at the rear rails that had a channel that
the
21 plywood piece fits in. And there is a silicone
caulking that
22 is placed on the edge of the -- or of the panel so that
water
23 cannot, you know -- it's an attempt to waterproof it,
if you
24 will.
25 Q. And the silicone caulking, that's not very
different from

6787

Clark Anderson - Cross

1 what we see in the supermarket sold as tub and tile
caulk and
2 that sort of thing?
3 A. Probably not, no, sir.
4 Q. Okay. But silicone being the big ingredient there?
5 A. That's correct.
6 Q. Now, you mentioned that there are these aluminum
extrusions
7 that are there. In addition to that, are there wooden

rails

8 inside?

9 A. On the inside of the 20-foot body, there are
several rows

10 of what we call wooden slats that are riveted to the
sides of

11 the body, placed at various heights up from the floor
that you

12 would -- if you were moving your household goods, would
tie

13 them to the walls of the truck or, you know, secure
your load

14 to these slats, if you would.

15 Q. Okay. Now, you first heard that it might have been
a Ryder

16 truck that was involved in the Oklahoma City bombing on
the

17 19th; is that right?

18 A. Yes, sir.

19 Q. Okay. And then you proceeded to do the things that
you

20 described on direct examination: to get documents and
records

21 and so on?

22 A. Yes, sir.

23 Q. Now, when did you make your first -- strike that.

24 Did you make a trip out to Junction City,
Kansas, to

25 find out what had happened?

Clark Anderson - Cross

Oklahoma 1 A. I personally did not, no, sir. I made the trip to
2 City that night.

talk to 3 Q. Okay. Did you ever go to Junction City, Kansas, to
4 the folks in Elliott's Body Shop?

5 A. Yes. I have been to Junction City, yes, sir.

went to 6 Q. All right. And when was the first time that you
7 Junction City?

8 A. Couple years ago.

for the 9 Q. All right. How many times have you been -- I mean
this? 10 purpose of talking to the folks at Elliott's about

11 A. Just once.

12 Q. Just once?

personal visit. 13 A. I've talked to them over the phone, but one

over the 14 Q. When was the first time that you talked to them
15 phone?

16 A. Shortly, you know, 19th, 20th, somewhere in there.

remember 17 Q. And at that time did they tell you what they could
18 about who had rented the truck?

19 MR. MACKEY: Objection. Hearsay.

20 THE COURT: Sustained.

whether 21 MR. TIGAR: Your Honor, all I want to know is
22 or not they did. I don't want the conversation.

23 THE COURT: All right.

to 24 MR. MACKEY: Objection. Lack of foundation as
25 which one of the employees he's identifying.

6789

Clark Anderson – Cross

any of 1 THE COURT: Do you want to change it to did
2 them tell you?

3 BY MR. TIGAR:

4 Q. Did any of them tell you?

time I 5 A. That was not the nature of our conversation first
6 spoke with them, no, sir.

either 7 Q. Okay. And when you went out, did you ever talk to
8 Mr. Elliott, Miss Beemer, or Mr. Kessinger about what

rental 9 happened that day or what had happened during the

the 10 telephone conversations? Just yes or no. I don't want
11 content of that.

12 A. No.

13 Q. Did you talk to them about that when you visited up
there

14 in person?

15 A. Briefly.

16 Q. All right. And as best you can remember, when was
that

17 visit that you were able to make up there in person,
sir?

18 A. Summer of '95, I think. To the best of my memory,
during

19 the summer of 1995.

20 Q. And were you doing that in connection with your
duties as a

21 senior management person from Ryder Trucks?

22 A. Yes.

23 Q. Now, one of the things that -- let me see if I can
find the

24 picture here.

25 There it is.

6790

Clark Anderson - Cross

1 If I can show you what's been received as
Government

2 Exhibit 313. That's the -- part of the front view of
that

3 Ryder truck; is that correct?

4 A. Head-on view of the front of a Ryder truck, yes,

sir.

5 Q. Right. And one of the -- when you were shopping
for trucks
6 and trying to figure out, you know, what brand you
would buy
7 for Ryder, did you look at this question of what the
visibility
8 from the cab would be for the person driving the truck?
Was
9 that important to you; that you could get a good, clear
view?

10 A. That's an important safety feature of any vehicle.
I don't
11 know that that was a decision driver, Mr. Tigar.

12 Q. Okay. I'm not talking about decision driver, but
you did
13 take it into account; right?

14 A. I'm sure we did.

15 MR. TIGAR: Thank you, very much, sir, for
answering
16 my questions.

17 I don't have anything further, your Honor.

18 THE COURT: Mr. Mackey.

19 REDIRECT EXAMINATION

20 BY MR. MACKEY:

21 Q. I have just a few follow-up questions, Mr.
Anderson. Just
22 so that we're all clear, I take it it was not your
23 responsibility to investigate what role Eldon Elliott
or Vicki

24 Beemer or Tom Kessinger may have had in the rental of
the Kling
25 transaction?

6791

Clark Anderson – Redirect

1 A. No, sir.

2 MR. TIGAR: Objection as to leading, your
Honor.

3 THE COURT: Sustained as to leading.

4 BY MR. MACKEY:

5 Q. Could you describe in a general view, Mr. Anderson,
what
6 your purpose was in going to Junction City after the
bombing?

7 A. My purpose in going to Junction City was just to
assure
8 Eldon that when bad things happen to good people is not
a
9 reason that you would lose your Ryder dealership
necessarily.

10 And so it was more of a "hello, how are you, I think
you're
11 doing great, keep up the good work, nice place you have
here,
12 let's put up a few more Ryder signs and get the
brochures out
13 and sell some more business."

14 Q. Two final questions: Mr. Tigar asked you a series
of

recall 15 questions about the makeup of the compartment box. You
16 those questions?
17 A. Yes, sir.
that? 18 Q. And you described your background and expertise in
19 A. Right.
used in 20 Q. Can you tell the jury whether ammonium nitrate is
21 the manufacture of the compartment box?
the box. 22 A. Ammonium nitrate is not used in the manufacture of
23 Q. Before coming to court, have you examined a piece
of 24 evidence commonly referred to as Q507?
25 A. Yes, sir, I have.

6792

Clark Anderson – Redirect

1 Q. And is that a piece of a Ryder compartment box?
of body. 2 A. That is a piece of a Ryder truck, yes, sir. Piece
description? 3 Q. And how were you able to identify it? By
4 A. By description, from the Ryder yellow color, the
Tedlar 5 Ryder yellow decal that is on it, and the red decal
that is on 6 it. They're all unique colors to Ryder.

7 MR. MACKEY: Thank you, Mr. Anderson.

8 RECROSS-EXAMINATION

9 BY MR. TIGAR:

10 Q. Sir, I forgot to ask you before: It's a wooden
floor in
11 the Ryder truck; right?

12 A. Yes, it is.

13 Q. And I also forgot to ask you: You have an agency
in Lake
14 Havasu City; is that correct?

15 A. Yes, sir, we do.

16 Q. Or did as of April 1995. Do you know anyone named
Sandy
17 Crigler?

18 A. Yes, sir, I do.

19 Q. Who is Sandy Crigler?

20 A. Sandy operates the dealership in Lake Havasu City.

21 Q. And did Sandy Crigler -- that's a she; is that
correct?

22 A. It's a she.

23 Q. Did Ms. Crigler operate that in April of 1995?

24 A. Yes, sir, she did.

25 Q. Now, on the redirect, you were asked some questions
about

6793

Clark Anderson - Recross

1 something called Q507; is that correct?

2 A. Yes, sir.

3 Q. All right. Now, when was the first time you saw
Q507?

4 A. Perhaps a little over a year ago.

5 Q. Where did you see it?

6 A. I saw Q507 at the FBI office.

7 Q. In what city, sir?

8 A. Denver, Colorado.

9 Q. And to your recollection, it's a piece of what at
one time

10 was a part of a Ryder truck box; is that correct?

11 A. It is a piece of a Ryder truck box. It's a
delaminated

12 piece of FRP.

13 Q. That's what I'm -- I'm using the verb tense. I
mean it's

14 not attached to a Ryder truck anymore?

15 A. No, sir, not anymore.

16 Q. And at the time that you saw it, in fact it was
charred and

17 had evidently been through some stress; is that
correct?

18 A. I can say that it had been through quite a bit of
stress,

19 yes, sir, to delaminate it like that.

20 Q. And did you -- did you examine it? You didn't
perform any

21 chemical tests or other tests on it at that time?

- 22 A. Oh, absolutely not.
- 23 Q. That wasn't your function?
- 24 A. No, sir.
- 25 Q. In what context was it being shown to you?

6794

Clark Anderson – Recross

as, you
and
thing.

1 A. It was being shown to me as could I identify this
2 know, a part of a Ryder truck and, you know, what is it
3 from what part of the body is it and that type of

standards as to
insides

4 Q. Okay. And one last thing: Do you have any
5 how often your dealers are supposed to power wash the
6 of those trucks in between rentals?

But we
to be

7 A. We don't have any standards as to the exact timing.
8 do have standards that the inside of the vehicles are
9 kept clean, broom clean, yes, sir.

10 Q. Oh, broom clean?

11 A. Broom clean.

12 Q. You don't any standards about power washing?

they need

13 A. No. They're to be kept broom clean. Sometimes
14 to be power washed, and sometimes a broom will do it.

15 MR. TIGAR: Thank you very much.

16 MR. MACKEY: Nothing else, your Honor.

17 THE COURT: Is Mr. Anderson to be excused?

18 MR. MACKEY: Yes, your Honor.

19 MR. TIGAR: Yes, your Honor.

20 THE COURT: Step down. You're excused. We'll
take a
21 recess at this point, members of the jury.

22 There's reference here to something called
Q507, and

23 you haven't seen that or heard about that yet. Don't
worry

24 about it. Sometimes, so that a witness can come on and
be

25 excused and not have to stay and come back, the lawyers
in the

6795

1 case will anticipate something later in the case and
ask about

2 it; and I think that's what happened here. We asked
about an

3 exhibit that may be received in evidence later, or at
least

4 probably be offered, but I just -- you know, you didn't
miss a

5 page here. So I just wanted to reassure you of that.

6 Now, also, of course it's my duty to remind

you once

7 again during this 20-minute recess of continuing to
avoid

8 discussion of anything connected with the case among
yourselves

9 and with all others and also to maintain open minds.
You're

10 excused now, 20 minutes.

11 (Jury out at 2:40 p.m.)

12 THE COURT: Okay. We'll recess.

13 (Recess at 2:41 p.m.)

14 (Reconvened at 3:01 p.m.)

15 THE COURT: Be seated, please.

16 (Jury in at 3:02 p.m.)

17 THE COURT: Next witness, please.

18 MR. MACKEY: The United States would call
Helena

19 Garrett. Ms. Wilkinson will question her.

20 THE COURTROOM DEPUTY: Would you raise your
right

21 hand.

22 (Helena Garrett affirmed.)

23 THE COURTROOM DEPUTY: Would you have a seat,
please.

24 Would you state your full name and spell your
last

25 name for the record.

E-T-T. 1 THE WITNESS: Helena Annette Garrett, G-A-R-R-

2 THE COURT: Ms. Wilkinson.

3 MS. WILKINSON: Thank you, your Honor.

4 DIRECT EXAMINATION

5 BY MS. WILKINSON:

6 Q. Ms. Garrett, in answering the questions this
afternoon, can

7 you keep your voice up?

8 A. Yes.

9 Q. How old are you?

10 A. 29.

11 Q. Where were you born?

12 A. Peoria, Illinois.

13 Q. Where did you grow up?

14 A. Oklahoma City.

15 Q. Did you go to high school there?

16 A. Yes.

17 Q. Do you have any children?

18 A. I have two.

19 Q. Tell us about your oldest child.

20 A. Her name is Sharonda, and she's 8.

21 Q. Did you have a son?

22 A. Yes, I did.

23 Q. What was his name?

24 A. His name was Tevin.

25 Q. How old was he?

6797

Helena Garrett - Direct

1 A. 16 months.

2 Q. Did he die in the bombing on April 19, 1995?

3 A. Yes, he did.

4 Q. When was Tevin born?

5 A. November 25, 1993.

6 Q. And where was he born?

7 A. Oklahoma City.

8 Q. Let's turn to April, 1995, if we could.

9 Could you tell the jury where you were
employed at

10 that time?

11 A. Regents for Higher Education.

12 Q. What did you do for them?

13 A. Micrographics clerk.

14 Q. What does that mean?

15 A. We used to film the student files and so that we
could

16 destroy the files. We just put it all on microfilm to
cut down

17 on paper.

18 Q. What hours did you work when you worked for the
Regents?
19 A. 8 to 5.
20 Q. And did you work Monday through Friday?
21 A. Yes, I did.
22 Q. And where was your office located in April of 1995?
23 A. In the Journal Record Building.
24 Q. And what floor were you on?
25 A. The second floor.

6798

Helena Garrett - Direct

1 Q. Were there any other offices on that floor with
yours?
2 A. There was an attorney's office.
3 Q. I'm going to show you Government's Exhibit 940. It
should
4 come up on your screen. It's already in evidence.
5 Do you recognize that diagram?
6 A. Yes, I do.
7 Q. Could you take out your -- the pen up there? See
that, the
8 one -- no, the other one that's attached. There you
go.
9 Can you show the jury where your building is
located
10 on this diagram?
11 A. Yes. Right here.

12 Q. Okay. And show the jury where the Alfred P. Murrah
13 Building is, please.
14 A. It's right here.
15 Q. So how far was your office from the Murrah Building
in
16 April of 1995?
17 A. Just a block.
18 Q. And what's between the Journal Record Building and
the
19 Alfred P. Murrah Building?
20 A. A parking lot.
21 Q. Now, when you worked at the Regents and you were at
work
22 from -- during the week from 9 to 5, where was Tevin?
23 A. He was in the day-care center of the federal
building.
24 Q. How long had he been at the day-care center in the
federal
25 building?

6799

Helena Garrett - Direct

1 A. Since he was 8 weeks.
2 Q. And so he was there from 8 weeks to 16 months?
3 A. Uh-huh.
4 Q. Why did you choose that day-care center to put
Tevin there?

5 A. Because it was close to my job; and when I went to
go see
6 it for the first time, it was open and big, and I was
impressed
7 with the workers.

8 Q. Now, look at this diagram. You see the YMCA
building over
9 there?

10 A. Yes.

11 Q. Was there a day-care center there?

12 A. Yes, there was.

13 Q. And were there people in your building who had
their
14 children in the YMCA day-care center?

15 A. Yes.

16 Q. Now, since Tevin was there from 8 weeks to 16
months, did
Murrah
17 you become familiar with the day-care center in the
18 Building?

19 A. Yes.

20 Q. And did you learn about the -- did you get to know
the
21 children who were there?

22 A. Yes, I did.

23 Q. Did you get to know the facility?

24 A. Yes.

25 Q. All right. And did you know all of the children
who were

Helena Garrett - Direct

1 killed in the day-care center on April 19, 1995?

2 A. Yes, I did.

3 Q. Can you identify those 15 children for us if I show
you an

4 exhibit marked Government's Exhibit 1047?

5 A. Yes.

6 MS. WILKINSON: Your Honor, we'd move
Government's

7 Exhibit 1047 into evidence.

8 MR. TIGAR: I think we have a continuing
objection.

9 THE COURT: Yes. Your continuing objection is
noted.

10 1047 is received. It may be published.

11 MS. WILKINSON: Your Honor, while Agent
Tongate steps

12 to exhibit the chart, could I ask whether 940 has been
13 accepted? Could I move it into evidence, please.

14 MR. TIGAR: Our records show that it has not,
your

15 Honor; but of course, there is no problem with us.
It's just

16 that map.

17 MS. WILKINSON: Just the diagram I just
showed.

18 THE COURT: I don't think it had been

received. I

19 agree. So it's in now.

20 MS. WILKINSON: Thank you.

21 BY MS. WILKINSON:

22 Q. Ms. Garrett --

23 A. Yes.

24 Q. -- if I ask you to step down, can you keep your
voice up

25 and tell us --

6801

Helena Garrett - Direct

1 THE COURT: We'll use a microphone. I think
it will

2 help.

3 MS. WILKINSON: Thank you, your Honor. That
would

4 help.

5 BY MS. WILKINSON:

6 Q. Ms. Garrett, let me ask you one or two questions
before you

7 do that while they're getting the microphone ready.

8 A. Okay.

9 Q. You told us you got to know the children who were
in the

10 day-care center; is that right?

11 A. Yes.

the 12 Q. Did you also get to know the women who worked in

13 day-care center?

14 A. Yes.

15 Q. Now you can step down.

and 16 Could you tell the jury the name of each child

17 where they would have been in the day-care center?

She was in 18 A. The first baby is Aren's. That's Baylee Almon.

19 the infant's room.

Denise's 20 The second room was Danielle Bell. That's

21 baby. Most of these are in the infant's room.

He was 22 This is Zackary Chavez. That's Alicia's baby.

23 in the three-year-olds.

baby. 24 This is Anthony Cooper. He was Dana Cooper's

25 Q. Who was Dana Cooper?

6802

Helena Garrett - Direct

She had 1 A. She was the new director of the day-care center.

2 just taken over three weeks prior.

3 Q. Is that her son?

4 A. Yes, that's her baby.

and he 5 This is Antonio Cooper. That's Renç's baby,
6 was in the infant's room.

7 That's Dana Cooper, the worker.

8 And that's Aaron Coverdale. That's Jannie's
Elijah 9 grandbaby. And this is his brother, Elijah Coverdale.

10 had been with the two-year-olds, the toddler's room.

been in 11 This is Jaci Coyne. She was -- she would have
12 the baby's room, in the infant's room mostly.

13 Q. We'll show you the next chart.

14 Ms. Garrett, could you start again in the far
15 left-hand corner?

was the 16 A. That's Brenda Daniels. She was a worker, and she
17 toddler -- mostly with the toddler babies.

was mostly 18 That's Tylor Eaves. That's Mia's baby. He
19 in the baby's room, also.

toddler's 20 This is my son, Tevin. And he was in the
21 room.

22 That's Baby Lee -- I'm sorry -- that's Kevin.

23 Q. Is Baby Lee the nickname?

24 A. Yes. We called him Baby Lee.

25 Q. And could you give us his full name?

Helena Garrett - Direct

1 A. Kevin Gottshall. He was in the infant's room.

2 Q. Who is next to him?

3 A. Wanda Howell. She was a new worker. She just
started

4 three weeks prior.

5 That's Blake Kennedy. That's Laura's baby.
He was in

6 the toddler's room.

7 That's Dominique London. He would have been
like with

8 the two-year-olds.

9 And this is Chase Smith. That's one of -- of
Edye's

10 babies.

11 And this is Colton Smith, and that's Edye's
baby.

12 Q. Were those two brothers?

13 A. Yes, they're brothers. And he would have be with
Tevin,

14 also.

15 Q. Ms. Garrett, why don't you take your seat and you
can get

16 yourself some water.

17 I want to show you Government's Exhibit 952,
the

18 second-floor plan, which has previously been admitted
into

19 evidence.

20 MS. WILKINSON: Your Honor, could I ask the
marshal to

21 take down the easel? It's blocking the view.

22 THE COURT: Yes, we'll do that.

23 BY MS. WILKINSON:

24 Q. You just told us about the different children and
that they

25 were in different areas of the day-care center. Is
that right?

6804

Helena Garrett - Direct

1 A. Yes.

2 Q. Does this floor plan depict the day-care center as
of

3 April 19, 1995?

4 A. Yes.

5 Q. And can you tell us, starting where you would enter
the

6 day-care center, about the security of the day-care
center and

7 the different rooms that are depicted on this floor
plan.

8 A. Okay.

9 Q. Why don't you start by showing us where you would
bring the

10 children in.

11 A. The stairways was here. Here's the elevator.

12 You normally would come this way, to this
hallway.

13 Q. What were the procedures you used when you entered
the

14 day-care center?

15 A. You ring a doorbell.

16 Q. And then once you got in, what did you do?

17 A. You sign your baby in on the in-and-out list.

18 Q. Were those the procedures that you followed every
day?

19 A. Yes.

20 Q. Okay. Now, tell us about what you see when you get
into

21 the day-care center once you've signed in?

22 A. On this side it was glass doors going into the

23 three-year-olds' room. And over here was the
kindergarten's

24 room.

25 Q. What was located in the three-year-olds' room?

6805

Helena Garrett - Direct

1 A. A big slide, a house that the children could go
into and

2 play in, toys.

3 Q. Now, let's go over to the next room, the two-year-
olds'

4 room.

TV. 5 A. A lot of toys. Tables where they could sit at and

6 Q. The next room next to that, please.

actually 7 A. It was a table where the children, the toddlers,

cubbyholes, 8 sat in to eat their lunch at. A lot of toys,

9 things like that, cots for them to take their naps.

10 Q. And finally, the last room on the left?

wall. 11 A. It was rocking chairs. Cubbyholes was against this

12 Baby beds was all against the front of it.

heavy 13 Q. Now, look at the front of the diagram there, that

14 black line. Do you see that?

15 A. Yes.

what was 16 Q. Can you follow that with your pen? Tell the jury

17 located all along that wall.

18 A. Windows.

street in 19 Q. And could you see up into those windows from the

20 front of the Murrah Building?

21 A. Yes, you could.

driving by 22 Q. Could you see into those windows when you were

23 the Murrah Building?

24 A. Yes, you could.

25 Q. Did you, yourself, look into those buildings --

those

6806

Helena Garrett – Direct

1 windows?

2 A. Yes, I did.

Did you

3 Q. Now, I want you to tell us about April 19, 1995.

4 go to work that day?

5 A. Yes, I did.

6 Q. Did you take your children with you?

7 A. Yes, I did.

8 Q. What did you do with your children?

John

9 A. At the time Sharonda was five, so she went to St.

day care

10 Christian Academy the days that she didn't go to the

11 with Tevin, and that day she went to St. John.

12 Q. And what did you do after you dropped her off?

13 A. I took Tevin to the day care.

14 Q. And where did you park your car that day?

15 A. In the federal building garage.

long?

16 Q. And were you allowed to park your car there all day

17 A. No. It's a two-hour parking. I was running late.

18 Q. Had you done that before?

19 A. Yes, I had.

about 20 Q. What was your plan as to what you were going to do
21 leaving your car there all day long?
break and 22 A. Take Tevin, go to work, and go get my car on a
23 move it.
24 Q. Had you done that on previous occasions?
25 A. Yes.

6807

Helena Garrett – Direct

center 1 Q. Do you recall what time you arrived at the day-care
2 on April 19?
3 A. About 7:50.
4 Q. Did you take Tevin upstairs?
5 A. Yes, I did.
6 Q. What happened?
he let 7 A. I rung the doorbell. And Aaron Coverdale came, and
8 me in.
9 Q. Do you recall how old Aaron was at the time?
10 A. Five.
center? 11 Q. Was he one of the oldest children in the day-care
12 A. Yes. Yes.
13 Q. What happened when he let you in?

14 A. I asked him why did he open the door, and he says,
"She
15 told me to."
16 Q. Did you know who he was referring to?
17 A. When I went in, the teacher, Wanda -- she said,
"I'm sorry,
18 I couldn't open the door. I have a baby on the
changing
19 table." She was changing a baby.
20 Q. Could you tell who that baby was that day?
21 A. No. I just know the little legs was white, but I
didn't
22 know which baby it was.
23 Q. Did you see other children in the day care that
morning on
24 April 19?
25 A. Yes, I did.

6808

Helena Garrett - Direct

1 Q. Who did you see?
2 A. I saw Elijah and --
3 Q. Elijah Coverdale?
4 A. Coverdale, Chase and Colton Smith. I seen the
Denneys,
5 Rebecca and Brandon. I seen Christopher and --
6 Q. Christopher Nguyen?

7 A. Nguyen, uh-huh. And Dominique. They were all
sitting
8 together on the floor.
9 Q. Were they all together in one room at the time that
you saw
10 them?
11 A. Yes, they was watching TV.
12 Q. What did you do next?
13 A. I put a form down that I had to fill out for the
teachers:
14 who could pick up Tevin, who couldn't. And I was going
to
15 leave, and Tevin start crying, and --
16 Q. What did you do?
17 A. When I turned around to look at Tevin, Aaron and
Elijah set
18 him down, and they was patting his back.
19 Q. Did you sneak out?
20 A. Yeah.
21 Q. And did you go to work?
22 A. Yes, I did.
23 Q. What time did you arrive at your office?
24 A. A couple minutes before 8.
25 Q. And what did you do when you got to your office?

1 A. I sat at my area and started filming.

2 Q. Now, you told us that you had parked your car
underneath

3 the Murrah Building that day. Is that right?

4 A. Right.

5 Q. And had you -- when was the last time you had done
that?

6 A. It was about a week prior to the bombing.

7 Q. And do you recall running into anyone on the street
that

8 day or in the building?

9 A. I saw Anita Hightower inside of the federal
building in the

10 lobby area. She had a table set up with her job. And
I used

11 to work with Anita Hightower.

12 Q. Had you seen her recently before that meeting?

13 A. No. I haven't seen her.

14 Q. Did you tell her that you had a baby?

15 A. Yes, I did.

16 Q. What did you do?

17 A. I told her that I had a new baby and it was a boy
and he

18 was just upstairs on the second floor. And she told me
she

19 couldn't leave her area to go up there.

20 And I said to her, "You could come outside and
see

21 him." And we did. We went outside of the federal
building and

and got 22 we looked up, and Aaron was at the window. And he went
Tevin to 23 Brenda, and she came back with Tevin. And she held
24 the window.
25 Q. Did she -- did you or Ms. Hightower have any
difficulty

6810

Helena Garrett - Direct

1 seeing Tevin at that time?
2 A. No.
3 Q. Could you see other things in the windows when you
looked
4 from outside the building?
5 A. The cribs, rocking chairs.
6 Q. Did you see any pictures?
7 A. Pictures and paintings and hand prints that the
children
8 would make. They would always tape them to the glass.
9 Q. To the best of your recollection, were you always
able to
10 see those items in the windows of the Murrah Building
when you
11 either walked or drove by?
12 A. Yes.
13 Q. Now, let's go back to April 19. You went to work
at 8:00

14 and started filming. Is that right?

15 A. Right.

16 Q. And what happened at about 9:00?

17 A. I was going to go move my car, and a co-worker
stopped me

18 to ask me some questions.

19 Q. Was that the time of your break?

20 A. No.

21 Q. Why were you going to go move your car?

22 A. Because I wanted to go see Tevin.

23 Q. And what happened?

24 A. I -- she stopped me to ask about the filming; and
then

25 shortly after that, it was the big boom.

6811

Helena Garrett - Direct

1 Q. Do you recall what happened after you heard the
boom?

2 A. It got dark, and the tiles from the ceiling start
falling

3 on us and stuff.

4 Q. What did you do?

5 A. I screamed. Everybody was screaming, and I yelled
for

6 Deborah.

7 Q. Who is Deborah?

8 A. She's my best friend I used to work with.

9 Q. What did you and Deborah do at that point?

10 A. I grabbed her hand, and we took the stairs out. We
went

11 out to the hallway to get to the stairway.

12 Q. Were you able to get out of the building?

13 A. No.

14 Q. What happened?

15 A. The door wouldn't open. When we got down to the
bottom

16 floor, and it was -- we couldn't open it. And some
people on

17 the outside opened it and we were able to go out. And
we had

18 to climb a wall to actually get out of the Journal
Record

19 Building.

20 Q. Now, I want to show you again Government's Exhibit
940,

21 which is the diagram. Can you use your pen and show
the jury

22 how you came out of the Journal Record Building that
morning

23 after the bombing?

24 A. Came out on this side of the -- of 6th Street.

25 Q. And what did you do at that point?

1 A. We went across the street to the parking garage.

2 Q. What happened then?

3 A. I noticed that the buildings around us, the glass
had been

4 blown out. And Deborah started yelling for Kendra.

5 Q. Who is Kendra?

6 A. Kendra is Deborah's baby. She went to the YMCA day
care.

7 Q. What did you two do at that point?

8 A. We start running from the Journal Record Building
to the Y.

9 Q. What did you find when you got to the Y?

10 A. The fence was down. It was destroyed. But there
was a man

11 standing there, and he told Deborah that all the kids
are okay

12 and they're around the building.

13 Q. Let me show you Government's Exhibit 974. Do you
recognize

14 that photograph?

15 A. Yes.

16 Q. What does that photograph show?

17 I'm sorry. That's not the right photograph
that I

18 want to show you. Hold on one second.

19 Here it is. Government's Exhibit 1014. Do
you

20 recognize that photograph?

21 A. Yes, I do.

22 Q. What does that photograph show?
23 A. That's the Y -- outside the playground of the YMCA.
24 Q. Is that what you saw when you came around the
corner?
25 A. Yes.

6813

Helena Garrett - Direct

1 MS. WILKINSON: Your Honor, we'd offer
Government's
2 Exhibit 1014.

3 MR. TIGAR: No objection.

4 THE COURT: 1014 is received. May be
published.

5 BY MS. WILKINSON:

6 Q. Tell the jury what they're seeing in this
photograph.

7 A. This is the YMCA playground, all of this area; and
this
8 fence used to be up -- this way.

9 Q. Did you leave Deborah there so she could find her
daughter?

10 A. I told her -- when the man told her that all the
children

11 were okay, they were around the corner, I said,
"Deborah, see

12 if Kendra is okay. I'm going to go see Tevin now."
And I

13 turned around to the federal building.

14 Q. And what did you see?

15 A. That it was gone.

16 Q. Let me show you Government's Exhibit 957. Do you
recognize

17 that?

18 A. Yes, I do.

19 Q. Is that what you saw when you turned the corner?

20 A. Yes.

21 Q. Ms. Garrett, would you like a Kleenex?

22 A. No, I'm okay.

23 MS. WILKINSON: Your Honor, we'd like to --
oh, it's

24 published, 957.

25 BY MS. WILKINSON:

6814

Helena Garrett - Direct

1 Q. Now, Ms. Garrett, what did you do when you saw the
2 building?

3 A. I tried to go to the building, and there was a
policeman on

4 the corner and he said I couldn't go up there.

5 Q. So what did you do then?

6 A. I went around another way.

7 Q. Okay. Let's show the jury. Let's go back. Hold
on one

8 second.

9 Go back to the diagram.

10 Now, show the jury with a pen where you tried
to get

11 to the Murrah Building and how you went around the
other way,

12 please.

13 A. I tried right here.

14 Q. And what did you do?

15 A. He told me I couldn't go, so I went back down
Robinson

16 around 6th Street. I came down Harvey to 5th Street.

17 Q. Tell us why you didn't cross through the parking
lot.

18 A. The cars was on fire. All of the cars in this
parking lot

19 was on fire.

20 Q. Let me show you Government's Exhibit 965. Do you
recognize

21 that photograph?

22 A. Yes.

23 Q. Is that what you saw --

24 A. Yes.

25 Q. -- at the parking lot?

6815

Helena Garrett - Direct

1 MS. WILKINSON: Your Honor, we'd offer 965.

2 MR. TIGAR: No objection, your Honor.

3 THE COURT: 965 received, may be published.

4 BY MS. WILKINSON:

5 Q. Is this what the parking lot looked like that
morning when

6 you tried to cross, Ms. Garrett?

7 A. Yes.

8 Q. Now, you came around the other way. Is that right?

9 A. Yes.

10 Q. And did you see the Murrah Building from the other
side?

11 A. Yes.

12 Q. All right. Let me show you Government's Exhibit
2101. You

13 recognize that?

14 A. Yes.

15 Q. Is that similar to the view that you saw that day?

16 A. The other way.

17 Q. The other side?

18 How about that?

19 A. Yes.

20 Q. Okay. You recognize that photo?

21 A. Yes.

22 Q. Is that what you saw when you came around the
corner?

23 A. Yes.

24 MS. WILKINSON: Your Honor, we'd offer

Government's

25 Exhibit 968. Actually -- yes, 968.

6816

Helena Garrett - Direct

1 MR. TIGAR: No objection, your Honor.

2 THE COURT: 968 is received, may be published.

3 BY MS. WILKINSON:

4 Q. When you came around that side, Ms. Garrett, what
did you
5 do?

6 A. I tried to come up the federal building. I start
climbing
7 the -- the debris and stuff.

8 Q. How did you do that?

9 A. I tried to find Tevin.

10 Q. And how were you able to determine where the day-
care
11 center was?

12 A. Because when I got to the building, I just closed
my eyes
13 and I imagined the first floor still there and the
second floor

14 still there, and I figured he would have been on this
side of
15 the day-care center.

16 Q. Did you attempt to climb the rubble?

17 A. Yes, I did.

18 Q. What happened when you did that?

19 A. A man told me -- he said, "You can't go up there,"
and he
20 pulled me back down.

21 Q. What did you do after he pulled you down?

22 A. I told him my baby is in there.

23 Q. And then what did you do?

24 A. I went to two ladies who was laying on the ground
on
she know
25 gurneys, and I went to one of them and asked her does

6817

Helena Garrett - Direct

1 where the babies were.

2 Q. What did she say, or did she respond at all?

3 A. Yes, she did.

4 Q. What did she say?

5 A. She said, "I don't know where the babies are."
Sorry."

6 Q. So what did you do?

7 A. I went around the back of the federal building.

8 Q. Do you recognize Government's Exhibit 1004?

9 A. Yes.

10 MS. WILKINSON: Your Honor, I believe this has
been
11 previously moved into evidence.

12 MR. TIGAR: It is, your Honor. That's what
our record

13 shows.

14 THE COURT: All right. Thank you.

15 BY MS. WILKINSON:

16 Q. Did you come around to the back to the plaza?

17 A. Yes, I did.

18 Q. What did you do when you got to the plaza, Ms.
Garrett?

19 A. I screamed for Tevin and Brenda. And there was two
men

20 standing on the back of the plaza, and I told them that
my baby

21 was in there; and they went inside. They said, "We'll
go get

22 your baby." They went inside.

23 Q. Where did you go when they went inside?

24 A. I stayed right there.

25 Q. Show us on this photo, if you can, approximately
where you

6818

Helena Garrett - Direct

1 were at that time.

2 A. Right up in here.

3 Q. What happened next?

4 A. They stayed in there and -- they started bringing
out

5 babies.

6 Q. Could you see who they were bringing out?

7 A. Yes.

8 Q. Who was the first baby that you saw?

9 A. Rebecca Denney.

10 Q. And could you tell whether she was dead or alive at
that
11 time?

12 A. She was alive, and she was looking at me; and she
looked as
13 if she's been dipped in blood. She's covered with
blood.

14 Q. But you recognized her as Rebecca Denney?

15 A. And I told the man -- yes, I did. And I told the
man,
16 "That's Rebecca."

17 Q. Why did you tell him the name of the baby?

18 A. Because he didn't know her. And I said, "That's
Rebecca,"
19 and he didn't hear me. And I said, "That's Rebecca."

20 And he said, "Yes, I hear you." And he walked
Rebecca
21 down the stairs.

22 Q. Who was the next child that you saw?

23 A. Nekia McCloud. Nekia.

24 Q. How did you recognize Nekia?

25 A. Because she looked just like my daughter, Sharonda.
She

6819

Helena Garrett – Direct

1 used to get them mixed up in the day care, except her
hair was
2 longer. I ran up to the man who was carrying her. I
said,
3 "That's my baby"; and when I got there, I realized that
wasn't
4 Sharonda.

5 Q. Did that gentleman take Nekia to get medical care?

6 A. Yes.

7 Q. Who was the next child that you saw?

8 A. Brandon Denney, Rebecca's brother.

9 Q. How did you recognize him?

10 A. By his legs. He had fat legs. And I thought it
was Tevin;

11 and -- and I asked the man was that my baby. And when
I ran up
12 there, I saw that it was Brandon; and I thought he was
dead.

13 Q. Brandon survived the bombing; is that right?

14 A. Yes, he did.

15 Q. Do you want to take a moment.

16 You all right?

17 A. Uh-huh.

18 Q. Okay. Who was the next child that you saw?

19 A. I saw Christopher Nguyen.

20 Q. How did you recognize Christopher?

He's a 21 A. I recognized his age and I recognized his hair.

22 little bit bigger. His pants was pulled down to his
thighs,

23 below his thighs.

24 Q. Was he taken for medical attention?

25 A. Yes, he was.

6820

Helena Garrett - Direct

taken 1 Q. And you were still there after those children were

2 away?

3 A. Yes, I was.

4 Q. What happened after that?

5 A. Then they brought out Colton Smith, Edey's baby.

6 Q. You recognized Colton?

7 A. Yes, I did.

8 Q. What did they do with Colton when they brought him
out?

9 A. I was there by a bench when they brought out
Colton, and

10 there was a doctor beside me; and the man ran Colton
out, and

11 he laid the baby on the bench. And the doctor said,
"I'm

12 sorry, there is nothing I could do."

13 And I stayed with Colton.

14 Q. Did they bring other children after that?

15 A. Yes, they did; but I stayed with Colton.

brought 16 Q. What did they do with the other children when they
17 them out?

18 A. The children after Colton was wrapped in white
sheets, but

19 their legs wasn't covered. And they laid the first
baby -- he

20 was bigger, and they laid him right at my feet. And
then they

21 brought out some more babies; and they laid them in a
row in

22 front of me on the ground by Colton, and they made a
line of

23 our babies.

24 Q. Did you stay with those children?

25 A. Yes, I did.

6821

Helena Garrett - Direct

1 Q. Did you know at that time whether they were dead or
alive?

2 A. No. I thought -- no. I didn't want them -- there
was

3 glass everywhere all over the place. It was thick,
black

4 glass; and I remember screaming, "Don't lay our babies

on the

5 glass." They wouldn't want their babies on the glass.
And a

6 man -- he went and got a custodian broom, and he
actually swept

7 the glass around where our babies were. And he was
crying when

8 he swept the glass away.

9 Q. At that time, did you see your son, Tevin?

10 A. No.

11 Q. And what happened then?

12 A. They just kept bringing out more babies and lining
them in

13 front of me. And I was still by Colton's head at the
top of

14 the bench.

15 Q. And did there come a time when you had to leave
that area?

16 A. Yes.

17 Q. What happened?

18 A. It was a second bomb threat, and they said that we
had to

19 leave. And I told them, "No, don't leave our babies up
here."

20 And the nurse said, "We're not going to leave
the

21 babies." And she said, "I promise. You leave. We're
going to

22 get the babies," and that's how they got me to leave
the plaza

23 area.

the 24 Q. They assured you they were going to take care of
25 children?

6822

Helena Garrett - Direct

1 A. Yes.

2 Q. What did you do?

3 A. I left. We all had to leave the plaza area.

4 Q. You didn't find Tevin that day, I take it.

5 A. No.

6 Q. And did there come a time when you were asked to
provide or
7 allow people to take fingerprints?

8 A. They came to my home Friday after the bombing and
9 fingerprinted things that Tevin would have touched.

10 Q. What happened on Saturday afternoon?

11 A. They -- we was at the church where the families had
to wait
12 at, and they -- Saturday evening, they called me back
to the
13 room and they told me that Tevin was dead.

14 Q. You were able to say goodbye to Tevin?

15 A. Yes.

16 MS. WILKINSON: No further questions, your
Honor.

17 THE COURT: All right. Questions?

18

CROSS-EXAMINATION

19 BY MR. TIGAR:

Tigar.

20 Q. Ms. Garrett, good afternoon. My name is Michael

just have

21 I'm a lawyer appointed to help Terry Nichols. And I

22 two questions.

23 A. Okay.

24 Q. Okay?

25 A. Okay.

6823

Helena Garrett - Cross

the

1 Q. All right. I wasn't clear about this picture of

up on

2 parking lot. Government's Exhibit 965. It should come

3 your screen there.

4 A. I see it.

5 Q. It's in evidence.

There we

6 Would you help me -- let me zoom out here.

7 go.

that's

8 Is this building that I'm pointing to here --

9 the Journal Record Building where you worked?

10 A. Yes, it is.

running 11 Q. Okay. And so where this street is here, where I'm

12 finger along, that's N.W. 5th Street?

13 A. Yes.

parking 14 Q. Okay. And then -- and these cars -- this is the

the 15 lot that essentially lies between N.W. 5th Street and

16 alleyway that runs behind the Journal Record Building?

17 A. I'm not understanding your question.

Government's 18 Q. Okay. Let me put this up, then, which is

parking lot 19 Exhibit 940. And I just want to make sure. That

here? 20 that we're seeing: Is that the one that's marked right

21 A. Yes.

about 22 Q. Okay. And the picture looks like it's taken from

23 where I have my finger here; right?

24 A. Right.

there? 25 Q. Right at the end of the T in the word "street" on

6824

Helena Garrett - Cross

1 A. Uh-huh.

2 Q. Is that about right where that was taken?

3 A. It looks like that.

4 Q. Okay. And all these cars that are in the picture
that are
5 on fire: That's what you saw when you tried to get
around to
6 go to the front of the building; right?

7 A. Yes.

8 Q. It looked about like that?

9 A. Yes.

10 MR. TIGAR: Thank you very much for clearing
that up.

11 I really appreciate it.

12 Thank you.

13 THE COURT: Witness excused?

14 MS. WILKINSON: Yes, she is, your Honor.

15 THE COURT: Agreed?

16 MR. TIGAR: Yes, your Honor.

17 THE COURT: You may step down. You're now
excused.

18 Next, please.

19 MR. MACKEY: United States would call Phil
Monahan.

20 Mr. James Orenstein will question.

21 THE COURT: All right.

22 THE COURTROOM DEPUTY: Would you raise your
right

23 hand, please.

24 (Philip Monahan affirmed.)

25 THE COURTROOM DEPUTY: Would you have a seat,

20 A. I am a photographer in the newsroom.
21 Q. Do you do any particular kind of photography?
22 A. Yes, videotape for the newscasts.
23 Q. And how long have you worked for Channel 12 in
Phoenix?
24 A. I've been there about four months now.
25 Q. Prior to working in Phoenix, where were you
working?

6826

Philip Monahan - Direct

1 A. I was at KOCO TV in Oklahoma City, the ABC
affiliate.
2 Q. That is a particular channel in Oklahoma City?
3 A. Yes, it's Channel 5.
4 Q. How long have you been employed overall as a video
5 photographer in news?
6 A. It will be 18 years very shortly.
7 Q. Mr. Monahan, were you employed on April 19, 1995,
for KOCO
8 in Oklahoma City?
9 A. Yes, I was.
10 Q. Do you remember that morning?
11 A. Yes, I do.
12 Q. Can you tell the jury what you were doing on that
morning.
13 A. I was sitting in the morning editorial meeting in
the

14 conference room off the newsroom at Channel 5
discussing what

15 we'd do to fill our newscasts that day.

16 Q. What's the next thing that you remember happening?

17 A. Very sharp explosion that rattled the windows in
the room;

18 and everybody at the table, about 15, came to their
feet.

19 Q. Did you see anything when you looked out the
window?

20 A. Not look out the window. I left the room and ran
through

21 the newsroom and out into the parking lot at Channel 5
and

22 looked towards my left towards downtown Oklahoma City
and saw a

23 large plume of smoke rising above the skyline.

24 Q. How far from downtown Oklahoma City was your
office?

25 A. 8 or 10 miles.

6827

Philip Monahan - Direct

1 Q. When you saw the smoke from rising above downtown
Oklahoma

2 City, what did you do?

3 A. I turned around and started back into the building
and

4 encountered one of our reporters, Rhonda Chapman, and
told her,

as fast 5 "We need to go," and got in the car and headed downtown

6 as I could.

7 Q. How long did it take you to get downtown?

8 A. Not quite 10 minutes.

arrived 9 Q. Do you recall about what time it was when you

10 there?

11 A. I believe 12 or 13 after the hour.

to show 12 Q. Mr. Monahan, I'd like to use the computer, please,

13 you what's been admitted already as Government's
Exhibit 949A.

14 Do you have that on your screen?

15 A. No.

16 Yes.

have a 17 Q. Using the diagram that's on your screen -- do you

18 light pen there?

19 A. This one?

20 Q. No, the thing connected by the black wire. Yes.

you 21 Would you show the jury where you went when

22 arrived in Oklahoma City, in the downtown area?

23 A. Okay. I got off the interstate and came to --

24 Q. You have to reach under the glass.

25 A. Reach under? Okay.

Philip Monahan - Direct

1 -- and came to this intersection and parked at
2 Broadway and N.W. 6th Street.

3 Q. And what did you do when you arrived there?

4 A. I got my equipment out of the back of my car and
crossed
5 Broadway and proceeded west down N.W. 6th Street and
started
6 taking pictures of what I saw along the way.

7 Q. Could you just press the pen down on the screen so
you can
8 show the jury where you were?

9 A. I'm pressing.

10 Q. All right. You were at the corner of 6th and
where?

11 A. 6th and Broadway.

12 There we go. And started -- right there --
and
13 started west down the street from that point.

14 Q. What did you see as you went down the street?

15 A. I saw a lot of -- a lot of people bleeding and
leaving the

16 area and a lot of broken windows. Saw an overhead
garage door

17 on the north side of 6th Street about here that was
blown back

18 into a building a couple feet and shot pictures of that
and

19 continued west on N.W. 6th to this intersection of
Robinson and

20 N.W. 6th.

21 Q. What did you see when you arrived at Robinson and
N.W. 6th?

22 A. I saw a large number of injured people, ambulances,
a lot

23 of emergency medical technicians and people from the
hospitals

24 nearby doing first aid and loading people into all
sorts of

25 vehicles and driving them away from the area.

6829

Philip Monahan – Direct

1 Q. Were they doing triage at that place?

2 A. It appeared to me that they were, yes.

3 Q. Did you shoot any film of that scene?

4 A. Yes, I did.

5 Q. You mentioned before that you heard an explosion
and saw it

6 over downtown Oklahoma City. Did you realize by the
time you

7 were at 6th and Robinson where the explosion had
occurred?

8 A. No, I hadn't. I heard on the police scanners
driving

9 downtown that it was at the federal building, but I
didn't

10 realize when I got to N.W. 6th and Robinson that I
wasn't there
11 yet. There were so many hurt people, so much damage,
it was
12 kind of hard to see past; but when I realized probably
five
13 minutes after reaching that intersection that I wasn't
there
14 yet, I started south down Robinson. And just as I
cleared the
15 Journal Record Building, about there, I saw the front
of the
16 Murrah Building.

17 Q. Did you continue filming as you went down north
Robinson?

18 A. Yes, I did.

19 Q. Were you the only news photographer from your
station in
20 that area that morning?

21 A. No, I wasn't.

22 Q. Who else was there from your station?

23 A. Kyle Hamm, Chris Lee, Richard Jackson, Charles
Shepard, and

24 De Hoang.

25 Q. Could you spell that last name, please.

6830

Philip Monahan - Direct

1 A. H-O-A-N-G.

2 Q. First name is De?

3 A. Yes, D-E.

4 Q. Those were all news photographers from your station
that

5 morning?

6 A. Yes.

7 Q. How long did you stay in the downtown area?

8 A. I believe about 90 minutes. After the second bomb
scare

9 came out, we got moved back across the railroad tracks
to the

10 east; and at that point, I realized there was -- I
wasn't where

11 I was any more, so I went back to the station with the
tape

12 that I had shot.

13 Q. What did you do with those tapes when you went back
to the

14 station?

15 A. Started editing to get the tape on our air as
quickly as I

16 could.

17 Q. Since then, have you also reviewed and edited film
taken by

18 other photojournalists for Channel 5?

19 A. Yes, I have.

20 Q. And have you seen a videotape of some of those
scenes?

21 A. Yes, I have.

22 Q. Is that Government's Exhibit 1380?

23 A. Yes, sir.

24 MR. ORENSTEIN: Your Honor, the Government
would move

25 the admission of 1380.

6831

Philip Monahan - Direct

1 MR. TIGAR: May I inquire, your Honor?

2 THE COURT: Yes, you may.

3 VOIR DIRE EXAMINATION

4 BY MR. TIGAR:

5 Q. Mr. Monahan, my name is Michael Tigar. I'm one of
the

6 lawyers appointed to help Terry Nichols.

7 There were six camera people down there that
day?

8 A. Yes, sir.

9 Q. And from your station?

10 A. Yes, sir.

11 Q. And the tape to which you just referred: That
represents

12 footage shot by all of those camera people?

13 A. Yes, sir.

14 Q. And how many minutes of tape was that altogether?

15 A. I can't tell you exactly. There was a large amount
of tape

16 that I went over often over the next year and a half.

tape to
17 Q. All right. And at what point did you deliver this
18 the Government?
19 A. I honestly don't remember, sir.
20 Q. Was it in January of 1996?
21 A. That is possible. It was before the McVeigh trial.
22 Q. All right. An FBI agent came to get it?
23 A. Yes, sir.
boxes or
24 Q. And how many -- do you have any idea of how many
25 videocassettes that you delivered at that time?

6832

Philip Monahan - Voir Dire

that I
1 A. I believe at that point I delivered just the tape
2 had shot that day.
3 Q. To your knowledge, was the tape shot by the other
five
4 photographers from your station also delivered?
5 A. Yes, it was, at some other point. I did not
deliver that
6 personally.
7 Q. Now, when you reviewed what's been referred to here
as this
8 exhibit -- How long is this exhibit?
9 A. I'd say five minutes or so.

10 Q. Does it have sound?

It's

11 A. Yes, it does. "Natural sound" is what we call it.

12 just the --

13 Q. Did you shoot all of the footage on it?

14 A. No, sir, I didn't.

-- of

15 Q. Do you have any idea what percentage of that shot

16 footage was shot by you?

17 A. I'd say 80 or more.

tape

18 Q. And who selected the images to be edited out of the

19 and presented as part of this Exhibit 1380?

20 A. I don't know.

some tape;

21 Q. So what happened was at some point you delivered

22 right?

23 A. Yes, sir.

some tape.

24 Q. At some point some of your colleagues delivered

25 Correct?

6833

Philip Monahan - Voir Dire

1 A. Yes, sir.

2 Q. That was hours of tape?

3 A. Yes, sir.

it. Is 4 Q. And then somebody -- you don't know who -- edited
5 that right?

6 A. Yes, sir.

7 Q. From your experience, are you able to tell us that
8 something you saw on the tape that you reviewed is

9 that was observed that morning?

10 A. Yes, sir.

11 Q. Can you tell that from your personal knowledge?

12 A. Yes, sir, I can.

13 Q. And that's because you were all around the downtown
area?

14 A. I was -- I saw the images and similar images to
what are on

15 something that tape. There is nothing on that tape that is not

16 that I saw there that morning.

17 Q. Okay. I understand. And there is -- and it was
clear,

18 isn't on then, that there is hours and hours more of tape that

19 this excerpt we're seeing; right?

20 A. Yes, sir.

21 MR. TIGAR: Your Honor, may I have just a
moment?

22 THE COURT: Yes.

23 MR. TIGAR: Your Honor -- with that
explanation, your

24 Honor, we have no objection. Thank you.

is about 25

THE COURT: All right. And the time of this

6834

Philip Monahan - Voir Dire

1 five minutes?

2 MR. ORENSTEIN: Approximately, Judge, yes.

3 THE COURT: All right. So I assume you intend
to run

4 it.

5 MR. ORENSTEIN: I do. I have one more
question before

6 I --

7 THE COURT: All right.

8 MR. ORENSTEIN: -- run the tape.

9 For the purposes of the record, it's been
loaded onto

10 a video laser disk, as I understand the technology, but
it's

11 the same exhibit; and I've discussed that with counsel.

12 MR. TIGAR: Yes, your Honor. I don't
understand the

13 technology, but I do agree that the Government can play
it.

14 THE COURT: Probably no one in this room
understands

15 the technology.

16 MR. ORENSTEIN: That's probably true.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. ORENSTEIN:

1380 has 19 Q. Mr. Monahan, the tapes that Government's Exhibit
20 been culled from: Are they many hours long?

21 A. Yes, sir.

like to 22 MR. ORENSTEIN: At this point, your Honor, I'd
I'll ask 23 publish the exhibit. And with the Court's permission,
scenes 24 Mr. Monahan to describe the locations that he -- that
25 are from as it plays, if that's permissible.

6835

Philip Monahan - Direct

part of the 1 THE COURT: I thought there was an audible
2 tape.

the 3 MR. ORENSTEIN: If I could inquire just to set
4 record.

call 5 THE WITNESS: The audio on the tape is what we
there. 6 "natural sound." It's simply ambient sound that was
7 Fire trucks driving by.

8 BY MR. ORENSTEIN:

9 Q. There is no narration on the tape. Is that

correct, sir?

10 A. Yes.

11 THE COURT: All right. You may do that. I
just want

12 to make sure the court reporter knows what is expected
of him.

13 Go ahead.

14 (Government's Exhibit 1380 played.)

15 THE WITNESS: This is on the N.W. 5th Street
looking

16 west towards the Murrah Building.

17 And this is north on Robinson looking south on
the

18 north side of the Murrah Building.

19 This is from the south of the Murrah Building
looking

20 at the upper floors.

21 And from the north of the building.

22 This is on North Robinson just south of 6th
Street.

23 This is the intersection of N.W. 6th and
Robinson.

24 THE COURT: It's a little hard to hear you
over the

25 ambient noise, so speak up a little.

6836

Philip Monahan – Direct

1 THE WITNESS: Yes, sir.

Street. 2 This is in front of the YMCA on N.W. 5th

3 And back to 6th and Robinson.

Robinson 4 And this is south of the Murrah Building on

5 looking north.

6 And N.W. 6th and Robinson.

7 This is in front of the YMCA on 5th Street.

8 This is N.W. 6th Street.

nothing 9 MR. ORENSTEIN: With that, your Honor, I have

10 further. Thank you.

examination? 11 THE COURT: All right. Do you have cross-

I think 12 MR. TIGAR: Yes, your Honor, very briefly; and

13 we can do it by 4:00.

14 THE COURT: Good.

Phoenix. 15 MR. TIGAR: We'll let this witness go back to

16 CROSS-EXAMINATION

17 BY MR. TIGAR:

of images 18 Q. Mr. Monahan, once again, sir, the -- we saw a lot

19 there of injured people. Is that right?

20 A. Yes, sir.

images that 21 Q. And again, you didn't make the selection of the

22 were to be shown from the hours you shot; is that

right, sir?

23 A. No, sir, I didn't.

24 Q. But that was what you saw that day?

25 A. Yes, sir.

6837

Philip Monahan – Cross

1 Q. Now, when the film first started, sir, we saw a
parking lot

2 with a bunch of cars on fire.

3 A. Yes, sir.

4 Q. And that's the parking lot across from the Murrah
Building.

5 Is that right?

6 A. Yes, directly north of the Murrah Building.

7 Q. And you mentioned that there was a bomb scare that
caused

8 people to have to leave; right?

9 A. Yes, sir.

10 Q. Now, when was that?

11 A. I believe that was approximately 90 minutes after
the

12 explosion. But I'm not entirely sure of the time line.

13 Q. Your best recollection, about 10:30?

14 A. I -- yes, sir.

15 Q. Now, by the time that happened, had the fires in
that

16 parking lot been put out yet?

17 A. To the best of my knowledge, yes, sir.

18 Q. When the firemen arrived to put out those fires,
what did

19 they do? Do they use regular hoses to hydrants, or
chemical

20 extinguishers, or what did you see them doing?

21 A. They had hoses. I don't know what their supply
was.

22 Q. Did you notice any hoses hooked to hydrants?

23 A. I can't say that I did, sir.

24 Q. Did you notice the crater in front of the building?

25 A. I did not get that close.

6838

Philip Monahan - Cross

1 Q. You were not permitted to; right?

2 A. No, sir. I got down about to the corner of the
Journal

3 Record Building on 6th Street, which was just adjacent
to that

4 parking lot.

5 Q. Your main concern was to take pictures; right?

6 A. Yes, sir.

7 Q. When you heard it, you raced for the door and said,
"I need

8 a reporter"; right?

9 A. Yes, sir.

first 10 Q. And you can remember doing that and grabbing the

11 reporter you could get and getting downtown; correct?

12 A. Yes, sir.

of 13 Q. Now, in the tape that we saw, we also saw a group

And they 14 firemen walking; and they had their fire jackets on.

behind a 15 were walking in some kind of formation, and they were

16 piece of earth-moving equipment.

17 A. Yes.

18 Q. Do you remember that picture?

19 A. Yes.

20 Q. Did you see that happen?

21 A. Yes, I took that picture.

as you 22 Q. What was that earth-moving equipment being used for

23 saw it in operation?

of the 24 A. It was brought in and taken down to the very front

front of 25 Murrah Building. By that time, I could not see the

6839

Philip Monahan – Cross

corner of 1 the building, because we had been moved back to the

2 6th and Robinson; so I can't say what exactly was done.

and all 3 Q. Now, that piece of earth-moving equipment is one --

4 we could see was the big rear tires. Is that correct?

5 A. I believe so, yes.

6 Q. Was it a skip-loader?

while I 7 A. They brought in several pieces of equipment past me

heavy 8 was there, including front-end loaders, backhoes, and

9 cranes.

-- 10 Q. All right. And the front -- a front-end loader is

earth and 11 that's an item that has a bucket on the front to push

12 so on around?

13 A. Yes.

looked like 14 Q. The final image I want to ask you about is it

in a 15 from when we were looking at it there was somebody up

16 window that had ATF on their jacket.

17 A. Yes, sir.

had "ATF" 18 Q. Did you see a number of people on the scene that

19 on their jackets?

seeing ATF 20 A. I recall seeing FBI jackets. I don't remember

21 jackets.

22 Q. You do remember that one thing we saw on the screen

that

23 said "ATF"?

24 A. Yes, sir.

25 Q. Is that the only one you can remember seeing?

6840

Philip Monahan – Cross

1 A. I did not take that picture. Kyle Hamm shot that
picture,

2 so I did not see him that day.

3 Q. All right. Who shot? I'm sorry.

4 A. Kyle Hamm.

5 Q. He's a good photographer, isn't he?

6 A. Yes, sir.

7 Q. He doesn't take pictures of things that didn't
happen?

8 A. No, sir.

9 Q. So if we saw "ATF," that's what that was?

10 A. Yes, sir.

11 MR. TIGAR: Thank you very much, sir. I
appreciate

12 your help.

13 THE WITNESS: Certainly.

14 MR. TIGAR: That's all the questions I have.

15 MR. ORENSTEIN: No further questions.

16 THE COURT: Witness excused, then?

17 MR. ORENSTEIN: Yes.

18 THE COURT: Agreed?

19 MR. TIGAR: Yes.

20 THE COURT: Mr. Monahan, thank you. You may
step
21 down. You're excused.

22 Members of the jury, I told you we'd recess
early
23 today so that you could vote; and we're going to do
that. But
24 before we do that, I again want to caution you, as I
must, on
25 the record, even though I'm quite confident you know
these

6841

1 cautions. But, of course, it is important that you do
keep
2 open minds, remembering that we're just getting
started, so to
3 speak; and the significance or not of evidence that you
hear,
4 you know, will become clearer as we go along.

5 But you have to wait till you've heard it all,
6 including the arguments of counsel and the instructions
of the
7 Court before even in your own minds you can decide the
8 significance of these things. So please withhold
judgment in

9 your own minds; and, of course, don't talk about it
with other
10 jurors or with anybody else. And be very careful now
about the
11 things that you read, see, and hear to avoid anything
which
12 could in any fashion influence your judgment in this
case.

13 I don't think any of the ballot titles on any
of the
14 ballots that I know about will have that effect on you;
but
15 this just is, of course, a responsibility that you have
under
16 your oath, and I'm sure you will meet that
responsibility.

17 So you're now excused. We'll resume the trial
at 9:00
18 tomorrow morning.

19 (Jury out at 3:58 p.m.)

20 THE COURT: There is -- it's sealed, as
appropriately
21 it was: a motion in limine concerning three exhibits
filed this
22 morning. Mr. Mackey, do you have that?

23 MR. MACKEY: Yes. May I approach?

24 MR. TIGAR: Yes, your Honor, we actually filed
two
25 such motions.

got one 1 THE COURT: Well, I only got one of them. I
2 with respect to three exhibits.

respect to 3 MR. TIGAR: There is that, your Honor, with
4 three exhibits and -- four exhibits, your Honor. The
fifth 5 exhibit is listed on page 4, if it's the same one to
which I'm 6 thinking your Honor is referring.

7 THE COURT: Yes, that's right.

8 MR. MACKEY: May we approach?

9 THE COURT: Yes.

10 (At the bench:)

court 11 (Bench Conference 62B1 is not herein transcribed by
12 order. It is transcribed as a separate sealed
transcript.)

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1 (In open court:)

2 THE COURT: We don't have many of these side
bars, but
3 when we have them it is because there is a discussion
of things
4 about the evidence that may never be in evidence; and
5 accordingly, it is consistent with the criteria that I
6 established for the non-public part of the trial that
we do
7 that. And we're going to do more of it at 8:45
tomorrow
8 morning. We'll -- trial with the jury will resume at
9.

9 Court is in recess.

10 (Recess at 4:05 p.m.)

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19 PLAINTIFF'S EXHIBITS

20	Exhibit	Offered	Received	Refused	Reserved
Withdrawn	21 305	6772		6774	
	22 311-315	6758	6758		
	23 644-645	6755	6755		
	24 650	6761	6761		
	25 651	6762	6762		

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1 PLAINIFF'S EXHIBITS (continued)

Withdrawn

2 Exhibit	Offered	Received	Refused	Reserved
3 652	6764	6764		
4 668	6763	6763		
5 940	6800	6800		
6 965	6815	6815		
7 968	6815	6816		
8 1014	6813	6813		
9 1047	6800	6800		
10 1380	6830	6833		
11 2050	6769	6769		

12 * * * * *

13 REPORTERS' CERTIFICATE

14 We certify that the foregoing is a correct
transcript from

Dated 15 the record of proceedings in the above-entitled matter.

16 at Denver, Colorado, this 4th day of November, 1997.

17

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19 Paul Zuckerman

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Kara Spitler

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