

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 81)

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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 8:45 a.m., on the 19th day of
 November,
 15 1997, in Courtroom C-204, United States Courthouse,
 Denver,
 16 Colorado.

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23
24
Transcription
Street,
629-9285

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

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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 ADAM
THURSCHELL,
12 Attorneys at Law, 1120 Lincoln Street, Suite 1308,

Denver,

13 Colorado, 80203, appearing for Defendant Nichols.

14 * * * * *

15 PROCEEDINGS

16 (In open court at 8:45 a.m.)

17 THE COURT: Please be seated.

18 Good morning.

19 MR. MACKEY: Good morning.

20 THE COURT: Are we ready to proceed?

21 MR. MACKEY: Yes, your Honor.

22 THE COURT: Okay.

23 (Jury in at 8:45 a.m.)

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

25 JURY: Good morning.

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next 1 THE COURT: We are ready to proceed with the
2 witness.

you. We 3 MR. MACKEY: Good morning, your Honor. Thank
4 would call at this time, Mr. Bob Chowdhury.

5 THE COURT: All right.

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

7 (Mesbah Chowdhury affirmed.)

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

9 Would you state your full name for the record
and
10 spell your last name.

11 THE WITNESS: Mesbah Chowdhury, C-H-O-W-D-H-U-
R-Y.

12 THE COURTROOM DEPUTY: Thank you.

13 THE COURT: Mr. Goelman.

14 MR. GOELMAN: Thank you, your Honor.

15 DIRECT EXAMINATION

16 BY MR. GOELMAN:

17 Q. Good morning, Mr. Chowdhury.

18 A. Good morning.

19 Q. Where are you from originally?

20 A. Originally from Bangladesh.

21 Q. When did you come to the United States?

22 A. 19 -- August, 1979.

23 Q. Did you go to school in America?

24 A. Yes.

25 Q. Where did you go?

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Mesbah Chowdhury - Direct

1 A. First I went to University of -- Indiana college in

America. 2 Indiana, Franklin College in Indiana, when I came to
here? 3 Q. And did you also get married and raise a family
4 A. Yes.
Sunset 5 Q. At some point, Mr. Chowdhury, did you purchase the
6 Motel in Grandview Plaza, Kansas?
7 A. Right.
8 Q. Where is Grandview Plaza?
east of 9 A. It's same town in Junction City. It's about 2 mile
10 Junction City.
11 Q. It's right next door to Junction City?
12 A. Right, yeah.
13 Q. When did you purchase the Sunset?
14 A. 1993. March 15.
15 Q. And were you also the manager of the Sunset?
16 A. Right.
Sunset? 17 Q. When did you start becoming the manager of the
18 A. Same time, when I took over.
of the 19 Q. What was your responsibilities as owner and manager
20 Sunset?
care of 21 A. I used to take care of customer, management, take
22 the maid and supervise the whole thing.
23 Q. And where did you live at that time?

apartment 24 A. Premises, right behind the front desk. I had a
25 right behind the front desk.

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Mesbah Chowdhury – Direct

register, 1 Q. And when a guest came in to the front desk to
time? 2 would there be a procedure that you followed every

3 A. Yes.

4 Q. What would that procedure be?

card, they 5 A. When we tried to check, we gave the registration
go from 6 signed in, ID, how many days they're going to stay. We

7 there.

8 Q. What would you do when you checked their
identification?

9 A. I beg your pardon?

10 Q. What kind of ID would you require?

11 A. We check driver's license, picture ID.

12 Q. Why would you do that?

correct. 13 A. Make sure the address and all the information is

14 Q. Would you always check guests' identification?

15 A. Most of the time. Unless we know somebody.

16 Q. Okay. And once you knew a guest, what would you

do?

17 A. Usually then we don't check this that much.

18 Q. Usually you don't --

19 A. No.

20 Q. -- demand a identification then? Do you also have
a daily

21 log that you file?

22 A. Right, yes.

23 Q. What was the purpose of that?

24 A. That, we keep it all day the people checked in the
motel.

25 We keep the record for the whole day, all 24 hours'
record.

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Mesbah Chowdhury - Direct

1 Q. And what would that record include, what kind of
2 information?

3 A. Their name and how many days they going to stay,
when they

4 going to check out and their unit number.

5 Q. Would the room number they stayed in be on that?

6 A. Room number, yes.

7 Q. Mr. Chowdhury, do you have a folder in front of you
up

8 there?

9 A. No, I don't see it.

10 MR. GOELMAN: It's 'cause it's not there.

11 BY MR. GOELMAN:

12 Q. Could you look in there and see if you can find the
13 following exhibits, and I'm going to read off a bunch
of them,
14 okay?

15 A. Okay.

16 Q. 211.

17 A. Yes.

18 Q. 215.

19 A. Yes.

20 Q. Okay. Mr. Chowdhury, you should be looking at the
21 exhibits, not just the list of exhibits.

22 A. Oh, okay.

23 Q. The actual exhibits up there.

24 1756.

25 A. Which one you want me to look at?

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Mesbah Chowdhury - Direct

1 Q. First start with 211. They should be in order up
there.

2 A. I don't see it. I'm not getting it. Are you
talking about
3 this paper right here?

4 Q. No, that's the list.

5 MR. GOELMAN: Your Honor, may I approach?

6 THE COURT: Yes.

7 THE WITNESS: Oh. Sorry about that.

8 BY MR. GOELMAN:

9 Q. That's okay. That's 211. These are all the rest
of them.

10 A. Okay. Thanks.

11 Q. Could you examine all of those exhibits that are on
your

12 desk now, Mr. Chowdhury. There should be 211, 215.

13 A. Yes.

14 Q. 1756.

15 You know, Mr. Chowdhury, why don't you look at
your

16 screen and we'll just do it this way, okay?

17 Mr. Chowdhury, you see the screen underneath
your --

18 A. Uh-huh.

19 Q. We'll just bring them up there, okay?

20 A. Okay.

21 Q. I'm showing you 211 now. I'm showing you 215 now.

22 A. No, it didn't come. It's coming now.

23 Q. I just want to take a look and see if you recognize
these.

24 A. Yeah.

25 Q. I'll show you 1758. I'll show you 1759. 1760,
1756, 1763.

Mesbah Chowdhury – Direct

1 1761, 1757. So altogether, that should have been 211,
215, and
2 1756 through 1763. Do you recognize all those
documents as
3 business records of the Sunset Motel?

4 A. Yes, that's correct.

5 MR. GOELMAN: We'd move to admit 211, 215, and
then
6 1756 through 1763.

7 MR. TIGAR: May I confer with counsel for a
moment?

8 THE COURT: Yes, go ahead.

9 MR. TIGAR: I think we can expedite this.

10 No objection, your Honor.

11 THE COURT: All right. They're received, 211,
215,
12 1756 through 1763.

13 MR. GOELMAN: Thank you, your Honor.

14 BY MR. GOELMAN:

15 Q. Mr. Chowdhury, do you know a man named Terry
Nichols?

16 A. Yes, his name is here. I beg your pardon?

17 Q. Do you know a man named Terry Nichols?

18 A. Yes.

19 Q. How do you know him?

20 A. Because he was my guest and he stayed at the motel.

years, 21 Q. You've had a lot of guests at the Sunset over the

22 haven't you?

23 A. Yes.

24 Q. How do you specifically remember Terry Nichols?

25 A. He came and paid the rate, and I stopped and I
talked to

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Mesbah Chowdhury – Direct

rate to 1 him a little bit; and he's always asking for a good

2 stay there. That's why he came.

in 1994 3 Q. Did he stay at the Sunset for some number of weeks

4 and 1995?

5 A. Right, he stayed there about three or four weeks.

6 Q. Do you see Mr. Nichols anywhere in court?

7 A. Yeah, right there.

8 Q. Could you point him out, identify by an article of
9 clothing?

10 A. Right there in the middle.

your 11 MR. TIGAR: The identification is conceded,

12 Honor. They know each other.

13 THE COURT: Thank you.

14 BY MR. GOELMAN:

15 Q. When did you first meet the defendant, Mr.
Chowdhury?

16 A. I think one day he came and paid the rent and he
talked to

17 me and see if he could get a better -- he wanted to
stay by the

18 week and he wants a better rate, and I gave him a
better rate.

19 Q. Was that early in 1994?

20 A. I think so, yeah.

21 Q. When did you last see the defendant?

22 A. I don't remember. I think somewhere in '95.

23 Q. Somewhere in 1995?

24 A. Right.

25 Q. I want to show you what's been admitted 1756. And
is that

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Mesbah Chowdhury - Direct

1 a registration card for Mr. Nichols?

2 A. Right, that's correct.

3 Q. How long is this for?

4 A. This one he paid for one night. He checked in on
March 2

5 and supposed to check out on March 3.

6 Q. Okay. I want to show you 1763. Is this also for
one

7 night?

8 A. No, that one he paid by the week.

9 MR. GOELMAN: Kathi, could I get that on the
jury's
10 screen?

11 BY MR. GOELMAN:

12 Q. Okay. This one is for a week, Mr. Chowdhury?

13 A. Right.

14 Q. How do we know that?

15 A. Because first he paid on the 3d and supposed to
check out
was from
16 on the 10. Then he extended from another week. This

17 10 to 17. So this card he stayed two weeks.

18 Q. And this was back in March of 1994?

19 A. Right; that's correct.

20 Q. Mr. Chowdhury, do you know Tim McVeigh?

21 A. No.

22 Q. Have you reviewed your motel records to determine
if Tim
of
23 McVeigh was registered at all in your motel in December

24 1994?

25 A. Yeah, he did.

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Mesbah Chowdhury – Direct

1 Q. Okay. I want to show you what's already been

admitted as

2 Government 215. And do you recognize that?

3 A. Which room number is that?

4 Q. Well, that's just the whole daily log, I think.

5 THE COURTROOM DEPUTY: 215, is that up on
yours?

6 MR. GOELMAN: Sorry?

7 THE COURTROOM DEPUTY: That wasn't part of
your list.

8 It wasn't admitted.

9 THE COURT: 215 was admitted.

10 THE WITNESS: Yeah, I see his name here.

11 BY MR. GOELMAN:

12 Q. Do you know what date this was for?

13 A. This is for 12-16-94.

14 Q. Tim McVeigh was registered in the Sunset on
December 16,

15 1994?

16 A. Right.

17 Q. Have you also reviewed your records to see if Tim
McVeigh

18 was ever registered at the Sunset Motel for a longer
period of

19 time?

20 A. No, I don't see it here.

21 Q. Okay. But have you seen registration cards in

22 Mr. McVeigh's name for a week-long stay?

23 A. No, I do not.

24 Q. Okay. I want you to take a look at 1758.

25 A. Yes. I see it here.

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Mesbah Chowdhury – Direct

1 Q. Is that also a registration card in the name of Tim
2 McVeigh?

3 A. Yes.

4 Q. And how long did he stay on that occasion?

5 A. First he paid for one night, and then he change it
to a
6 whole week.

7 Q. When is the beginning of his stay there?

8 A. One -- I think January, 19, '95.

9 Q. January 19, 1995?

10 A. Right.

11 Q. And when did he leave?

12 A. And he left on . . . supposed to leave on the 20th.
Then
13 he extended. Look like he stayed here close to one
month, up

14 to 1-27-95, checked out.

15 Q. 1-19 to 1-27-95?

16 A. Right.

17 Q. Is that closer to one week?

18 A. Yeah, almost. First day he paid by the day. That

would

19 take him to 20th. Then from 20th, he went and paid for
another

20 week.

21 Q. He extended?

22 A. To 27th.

23 MR. GOELMAN: Your Honor, the parties have
reached a

24 stipulation that the handwriting on the customer
portion of

25 this document is Mr. Tim McVeigh's.

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Mesbah Chowdhury – Direct

1 MR. WOODS: Yes, your Honor, that's our
stipulation.

2 THE COURT: Which document are we on?

3 MR. GOELMAN: 1758, your Honor.

4 THE COURT: Okay. It's been agreed 1758, the
5 handwriting portion is that of Timothy McVeigh.

6 BY MR. GOELMAN:

7 Q. Mr. Chowdhury, can you see from this document what
room

8 Mr. McVeigh stayed in from January 19 to January 27,
1995?

9 A. Look like 32. First he checked in 56 and moved to
32.

10 Q. So on the 19th he checked into Room 56?

11 A. Right, and then he changed it to 32.

12 MR. GOELMAN: Your Honor, I'd ask the Court to
read a
13 stipulation agreed by the parties, Factual Stipulation
17.
14 Contained in a letter of 10-13-97.

15 THE COURT: Concerning January 20?

16 MR. GOELMAN: Yes, your Honor.

17 THE COURT: All right. Members of the jury,
there has
18 been an agreement here on the following facts: That
"on the
19 evening of January 20, 1995, at approximately 8:05
p.m., Terry
when he
20 Lynn Nichols was driving in Grandview Plaza, Kansas,
Plaza
21 was stopped by Sergeant Randall McGaw of the Grandview
Terry
22 Police Department. Sergeant McGaw issued a ticket to
1984 GMC
23 Nichols for having a defective left headlight on the
McGaw's
24 pickup truck he was driving. In response to Sergeant
Sunset
25 question, Terry Nichols gave his address Room 56 at the

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Mesbah Chowdhury - Direct

1 Motel in Grandview Plaza, Kansas. Terry Nichols was
polite and

Terry 2 cooperative during his encounter with Sergeant McGaw.
hours and 3 Nichols had the defective headlight fixed within 24
4 the ticket issued to him was then voided.

summons 5 "Government Exhibit 1900 is a copy of the
1995. 6 issued to Terry L. Nichols on the night of January 20,

Motel, 7 It lists Terry Nichols' address as Room 56, Sunset
Terry Lynn 8 Grandview Plaza Kansas, and bears the signature of
9 Nichols."

10 Has this been agreed?

11 MR. WOODS: Yes, that has been our
stipulation.

12 Sergeant McGaw is not available as a witness.

13 THE COURT: All right.

14 MR. GOELMAN: Thank you, your Honor. We would
move to 15 admit 1900.

16 MR. TIGAR: No objection, your Honor.

17 THE COURT: And it's received pursuant to the
18 stipulation.

19 MR. GOELMAN: Thank you, your Honor.

20 BY MR. GOELMAN:

21 Q. Mr. Chowdhury, do you have any independent
recollection of

for a 22 whether Terry Lynn Nichols was staying with Tim McVeigh
23 week in January 1995 at the Sunset?
24 A. No.
1995; is 25 Q. You testified that you last saw Mr. Nichols in

9473

Mesbah Chowdhury - Direct

1 that right?
2 A. Right.
1759 and 3 Q. I want you to take a look at Government Exhibit
4 tell me what information that reflects.
5 A. That was February 3, 1995, he checked in for the
week.
6 Q. So he checked in on February 3?
7 A. Right.
8 Q. And how long did he stay there?
9 A. 10, February 10, 1995, checked out there.
Government 10 Q. Okay. I'm going to show what's been admitted as
Nichols' 11 1760 now, and tell me what dates that reflects for Mr.
12 stay.
13 A. That's February 12, 1995, to February 16, 1995.
14 Q. Now, I want to show you page 13 of Government
Exhibit 1888.

15 Do you see any calls to the Sunset Motel on
16 February 12, 1995, on 2-12?
17 A. Yes, I see, uh-huh.
18 Q. Do you see five calls there?
19 A. Uh-huh.
20 Q. And what was the number of the Sunset Motel in
21 February 1995?
22 A. 238-4181 and Area Code 913.
23 Q. Can you tell where these five calls came from,
24 Mr. Chowdhury?
25 A. Let me see. Say from Hilltop Motel.

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Mesbah Chowdhury - Direct

1 Q. Where?
2 A. Kingsman (sic), Arizona.
3 Q. Do you have any idea of the identity of any of the
4 registered guests at the Hilltop Motel in Kingman,
Arizona, on
5 February 12, 1995?
6 A. I don't see it here.
7 Q. Excuse me?
8 A. I don't see it here.
9 Q. And you don't know from your own independent
knowledge?
10 A. No.

11 MR. GOELMAN: Your Honor, I'd ask the Court
now to
12 read Factual Stipulation No. 11, which applies to
Government
13 1903.

14 THE COURT: All right. "It's been agreed that
15 Government Exhibit 1903 is a guest registration card in
the
16 name of Tim McVeigh from the Hilltop Motel in Kingman,
Arizona,
17 for a period of time beginning on February 12, 1995."

18 Been agreed?

19 MR. WOODS: Yes, your Honor, that is our
agreement.

20 MR. GOELMAN: Your Honor, I'd move to admit
Government
21 1903.

22 THE COURT: I take it there's no objection
since it's
23 stipulated.

24 MR. WOODS: No.

25 THE COURT: Received.

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Mesbah Chowdhury – Direct

1 MR. GOELMAN: Thank you, your Honor.

2 BY MR. GOELMAN:

3 Q. Can you read the name on this registration card,

records. 4 Mr. Chowdhury? I know it's not one of your business

5 A. It's Tim McVeigh.

1888 now 6 Q. I want to show you page 14 from Government Exhibit

7 and have you look at phone calls on February 13, 1995.

8 A. Yes.

9 Q. Do you see any calls to your motel on that date?

10 A. Right. Uh-huh. Let me see. Yeah, top one.

11 Q. How many?

12 A. One, two I see here.

Kingman, 13 Q. And are they also from the Hilltop Motel in

14 Arizona?

15 A. Correct. Correct.

practice of 16 Q. Mr. Chowdhury, you've indicated that the usual

17 the Sunset Motel was to ask each guest for
identification; is

18 that right?

19 A. Most of the time.

asked 20 Q. Do you know for a fact whether or not you always

21 Mr. Nichols for identification?

22 A. First time when he checked in, yeah.

February, 23 Q. After that, the first time that he checked in in

him? 24 1994 -- or March, 1994, on subsequent trips did you ask

the 25 A. I don't remember. I don't think so. Once we know

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Mesbah Chowdhury - Direct

1 customer, then we usually don't ask second time and
third time.

2 Q. Did Mr. Nichols ever tell you that he wanted to
stay at the

3 Sunset, but that he wanted to use a different name for
himself

4 at the Sunset?

5 A. No.

6 Q. Did Mr. Nichols ever fill out a registration name
--

7 registration card in a name other than his own?

8 A. One time I think he rented room for his friend.

9 Q. Okay. And who was working at the desk at that
time?

10 A. Me.

11 Q. You were?

12 A. Right.

13 Q. Okay. Will you please tell the ladies and
gentlemen of the

14 jury about that time that Mr. Nichols filled out a
registration

15 card for a friend.

16 A. Yes. Yeah, he did.

17 Q. Okay. Tell us about that time. What do you
remember about

18 that?

19 A. I don't remember the exact time, but he rented a
room for

20 his friend.

21 Q. What did he say to you?

22 A. He say his friend is coming to stay so he needs a
room, so

23 he -- I think he sign his name plus paid for it, paid
for the

24 room.

25 Q. He signed his friend's name?

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Mesbah Chowdhury - Direct

1 A. Right.

2 Q. Do you remember -- you said Mr. Nichols paid for
the room?

3 A. Yeah.

4 Q. Do you remember if Mr. Nichols took the key to the
room?

5 A. Yes.

6 Q. And do you remember if this friend of Mr. Nichols
ever came

7 into the office of the Sunset?

8 A. I didn't see him.

9 Q. Do you remember seeing this friend anywhere at the
motel?

10 A. No.

11 Q. Okay. Do you know what the exact date was, Mr.
Chowdhury,

12 from your own memory?

13 A. No.

14 Q. I want you to take a look at Government's 1757.

15 Tell me if you recognize that as a
registration from

16 the Sunset Motel?

17 A. Yeah, that is Sunset Motel registration card.

18 Q. Whose handwriting is that down at the bottom?

19 A. That's mine.

20 Q. And did you recognize the handwriting on the rest
of the

21 registration card?

22 A. No.

23 MR. GOELMAN: Your Honor, the parties have
reached a

24 stipulation on handwriting that the customer
information on

25 this card is the handwriting of Mr. Terry Lynn Nichols.

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Mesbah Chowdhury – Direct

1 MR. WOODS: Yes, your Honor, that is our
stipulation.

2 THE COURT: All right. Then that is accepted
as

3 agreed fact.

4 BY MR. GOELMAN:

5 Q. Mr. Chowdhury, what date did Mr. Nichols check in
under a
6 name that was not his own?

7 A. I don't see his name here.

8 Q. Right. What date is this registration card?

9 A. Oh. That registration is 11-5, 1994.

10 Q. And do you know anyone named Joe Kyle?

11 A. No, sir.

12 Q. Do you know if that's even a real person?

13 A. No.

14 Q. Do you know whether or not there is a road in Lum,
15 Michigan, called Decker?

16 A. No.

17 Q. Now, after you gave Mr. Nichols the room key and he
paid
18 for the room for his friend?

19 A. Right, that's what he told me.

20 Q. Did Mr. Nichols tell you where he was planning on
meeting
21 this friend?

22 A. No.

23 Q. Do you know where Terry Nichols himself stayed on
the night
24 that he reserved a room for his friend?

25 A. I have no idea.

9479

Mesbah Chowdhury – Direct

1 Q. Before coming to court, have you reviewed your
registration

2 cards from the night of November 5, 1994?

3 A. Right.

4 Q. And did you find any registration card in the name
of Terry

5 Nichols himself that night?

6 A. No.

7 Q. Did you also look to find any registration card in
the name

8 of Ted Parker?

9 A. I tried, but there is no name.

10 Q. Did you also look for the names "Terry Havens,"
"Joe

11 Havens," "Mike Havens," and "Daryl Bridges"?

12 A. No.

13 Q. Did you look for these names?

14 A. Yeah, I did.

15 Q. And did you find them?

16 A. No.

17 Q. And you said you don't remember what time Mr.
Nichols asked

18 to check in for a friend?

19 A. No.

20 Q. Do you know how long it takes to drive from Royal,
21 Arkansas, to Junction City, Kansas?

22 A. I don't know.

23 Q. I have one final exhibit that I want to show,
24 Mr. Chowdhury. It's Government Exhibit 1764. It's not
yet in
1764 and
25 evidence. Now, have you reviewed Government Exhibit

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Mesbah Chowdhury - Direct

1 compared the information contained on it with the
information

2 from the registration cards from the Sunset Motel?

3 A. Uh-huh.

4 Q. And does the information in Government Exhibit 1764
5 accurately reflect the information contained in all
your
6 different business records?

7 A. This is for what? Westloop? That's in Kansas?

8 Q. Mr. Chowdhury, did you compare the information on
the
9 registration cards with the information on this chart?

10 A. Yes, I did.

11 Q. And is it the same information?

12 A. Right.

13 MR. GOELMAN: Move to admit Government 1764,

your

14 Honor.

15 MR. TIGAR: For demonstrative purposes, no
objection,

16 your Honor.

17 THE COURT: I take it --

18 MR. GOELMAN: Yes, that's what it's offered
for, your

19 Honor.

20 THE COURT: All right. It's received for the
limited

21 purpose stated.

22 BY MR. GOELMAN:

23 Q. Okay. Mr. Chowdhury, when Terry Nichols stayed at
the

24 Sunset back in March 1994, what name did he register
under?

25 A. Terry Nichols.

9481

Mesbah Chowdhury - Direct

1 Q. And when he stayed at the Sunset those four times
in 1995,

2 February, March, 1995, what name did he use?

3 A. Same name, Terry Nichols.

4 Q. And on November 5, 1994 --

5 MR. TIGAR: Objection, your Honor, asked and
answered.

6 THE COURT: Overruled. This is demonstrative.

7 BY MR. GOELMAN:

8 Q. On November 5, 1994, what name did Terry Nichols
put down
9 on the registration card that he filled out?

10 A. About his friend's name?

11 Q. Right.

12 A. Yeah, that's a different name.

13 Q. What name is it?

14 A. I don't see it here. Joe Kyle.

15 MR. GOELMAN: Thank you. I have nothing
further, your

16 Honor.

17 THE COURT: All right.

18 Any questions?

19 CROSS-EXAMINATION

20 BY MR. TIGAR:

21 Q. Good morning, Mr. Chowdhury.

22 A. Good morning.

23 Q. My name is Michael Tigar. I'm one of the lawyers
that's
24 been appointed to help out Terry Nichols here.

25 Can you help me, sir, with a little bit how
you keep

1 your records at the motel. Do you have a time stamp
for the

2 time that people arrive?

3 A. No, sir.

4 Q. Okay. And when you -- we saw that sheet that's
your daily

5 sheet?

6 A. Right.

7 Q. And you list there room by room; is that correct?

8 A. Yeah, that we make the following day, like
everybody checks

9 in the motel, who stay for that day. We write down
everybody's

10 name for 24 hours.

11 Q. Oh. So you take all the cards from the previous
day?

12 A. Especially the people check out, we don't put their
name

13 there. Only the people that's going to stay next or is
staying

14 by the week, you'll see those name there.

15 Q. I see. And do you remember what time Mr. Nichols
came in

16 on the 5th of November?

17 A. I don't remember exact time.

18 Q. Okay. Do you remember whether it was daylight or
dark or

19 anything?

20 Not at all. You see a lot of people, don't
you?

entire

21 A. He's been long time. It's hard to keep track.
22 Q. Okay. You mentioned that the -- you manage the
23 motel; is that right?
24 A. Yeah.
25 Q. And you also manage the maid service; correct?

9483

Mesbah Chowdhury - Cross

1 A. Right.
2 Q. Now, when -- the rooms are cleaned each day?
3 A. Yes. Well, not the weekly people. The weekly
people we
4 give them like twice-a-week service. Most of the daily
people,
5 they get service every day.
6 Q. When the person in the motel -- when the maid
that's
7 cleaning the room is cleaning it, do you instruct her
to -- or
8 him -- to wipe down all of the surfaces and dust
thoroughly and
9 so on, to make the room presentable for the next guest?
10 A. Yeah, that's their duty, yeah.
11 Q. And in your experience, is that something that's
standard
12 in well-run motels like yours; that is, that the person
is

those 13 supposed to get the room clean and wipe off all of
14 surfaces so that you get a clean room for the next
person 15 that's there?

16 A. Right.

Honor. 17 MR. GOELMAN: Objection, foundation, your

18 THE COURT: Overruled.

19 BY MR. TIGAR:

20 Q. You can answer. Is that your experience?

21 A. Can you repeat that question again, please.

that 22 Q. Yeah. Is it your experience in the motel industry

23 that's the right thing to do --

24 A. Right.

it for 25 Q. -- that is, to wipe down those surfaces and clean

9484

Mesbah Chowdhury - Cross

1 the next guest?

2 A. Right.

3 Q. Now, you were shown some telephone records. Do you
4 remember looking at those five telephone calls?

5 A. Uh-huh.

those calls 6 Q. Did you happen to notice whether or not any of

7 were completed? That is, how long the people talked,
did you

8 happen to notice that on the exhibit?

9 A. Usually our phone, we don't keep it. It's call
stuff.
10 computerized. The computer give you the time and

11 Q. I'm talking about -- remember you were shown a
little while

12 ago a list of telephone calls -- I'm sorry?

13 A. I didn't pay attention to the time.

14 MR. TIGAR: Thank you very much, sir, I
appreciate

15 your help.

16 THE COURT: Anything else of this witness?

17 MR. GOELMAN: No, your Honor.

18 THE COURT: All right. May he be excused,
then,

19 agreed?

20 MR. GOELMAN: Yes, your Honor.

21 MR. TIGAR: Yes, your Honor.

22 THE COURT: You may step down. You're
excused.

23 THE WITNESS: Thank you.

24 THE COURT: Next, please.

25 MR. MACKEY: Yes, your Honor. We'll call FBI
Agent

Mesbah Chowdhury – Cross

1 Gary Witt.

2 THE COURT: All right.

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

4 (Gary Witt affirmed.)

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

6 Would you state your full name for the record
and

7 spell your last name.

8 THE WITNESS: It's Gary C. Witt, W-I-T-T.

9 THE COURTROOM DEPUTY: Thank you.

10 THE COURT: Mr. Ryan.

11 MR. RYAN: Thank you, your Honor.

12 DIRECT EXAMINATION

13 BY MR. RYAN:

14 Q. Mr. Witt, you're an agent with the FBI?

15 A. Yes, I am.

16 Q. Are you married?

17 A. Yes, I am.

18 Q. Children?

19 A. Two.

20 Q. How long have you been with the Federal Bureau of
21 Investigation?

22 A. 27 years.

23 Q. And what office are you currently assigned?

24 A. To the Kansas City division in Kansas City,
Missouri.

25 Q. What do your duties at this time include?

9486

Gary Witt - Direct

1 A. At this time I'm working domestic terrorism cases
along

2 with some civil rights matters.

3 Q. Now, did you at some point in time in the year 1994
--

4 excuse me, 1995 or thereafter participate in certain
roles in

5 connection with the Oklahoma City bombing
investigation?

6 A. I did.

7 Q. And did one of those roles take you to Royal,
Arkansas?

8 A. It did.

9 Q. Were you asked to go to the residence of Roger
Moore?

10 A. Yes, I was.

11 Q. Where is that located?

12 A. Approximately 6, 7 miles west of Hot Springs,
Arkansas, on

13 State Highway 270.

14 Q. And were you also asked to go to a location that
was

15 provided to you where his van was reportedly stashed
following
16 a reported armed robbery?
17 A. Yes, I was.
18 Q. And generally speaking, where was that location in
19 connection to either Mr. Moore's residence or to Royal,
20 Arkansas?
21 A. It was in a very secluded area off a narrow
graveled
22 roadway. It was a side road. It was tree-choked,
brush-lined
23 area.
24 Q. Now, are you familiar with the Sunset Motel in
Junction
25 City, Kansas, or Grandview Plaza?

9487

Gary Witt - Direct

1 A. I am.
2 Q. And tell us your familiarity with that motel.
3 A. It's on a road, a frontage road to I -- Interstate
70.
4 It's Flint Hills Boulevard. It would be an area of
probably 2
5 to 3 miles west of Junction City proper in this small
township
6 of Grandview Plaza.
7 Q. Now, let me show you what has been received in
evidence as

8 Exhibit 1757.

9 You see that?

10 A. Yes, I do.

11 Q. You see the date of this registration?

12 A. I'd have to get my glasses here.

13 Yes, I do.

14 Q. What is that?

15 A. 11-5-94.

16 Q. And did that date correspond with the date you had
been provided for the reported armed robbery of Roger Moore?

18 A. It does.

19 Q. And did you have occasion to -- or were you asked
by the FBI to determine the distance, both mileage and driving
time, between the place in which the Roger Moore's van was
reportedly stashed and the Sunset Motel?

23 A. Yes.

24 Q. And did you do that?

25 A. Yes.

9488

Gary Witt - Direct

1 Q. And when did you do that?

2 A. On September 6, 1997.

3 Q. And tell us about how you went about that task.

4 A. Well, I started from the point of where the van was
5 recovered, then followed the roadways to 270 west. Do
you wish
6 me to trace the route I followed?

7 Q. If we're going to do that, let me show you what is
not in
8 evidence as Exhibit 1899 and ask you if you can
identify that.

9 A. Yes.

10 Q. What is that?

11 A. It's a map depicting parts of the states of
Arkansas,
12 Oklahoma, and Kansas, which also includes the cities of
Royal,
13 Arkansas, and Junction City, Arkansas (sic).

14 MR. RYAN: Your Honor, United States would
offer
15 Exhibit 1899.

16 THE COURT: Did you mean Junction City,
Arkansas?

17 THE WITNESS: Excuse me. I do not. I mean
Junction
18 City, Kansas.

19 MR. TIGAR: May I inquire, your Honor?

20 THE COURT: Yes, you may.

21 VOIR DIRE EXAMINATION

22 BY MR. TIGAR:

the 23 Q. Agent Witt, my name is Michael Tigar. I'm one of
24 lawyers appointed to help Mr. Nichols.

25 In addition to this map, there are some
numbers over

9489

Gary Witt - Voir Dire

1 on the side. Do you see that, sir? The total
distance, total

2 time?

3 A. Yes.

4 Q. All right. And you're prepared to tell us today
how that

5 distance and time was computed?

6 A. Yes.

7 Q. Is that one of the things you're expected to do?

8 A. That's my understanding.

9 MR. TIGAR: On that understanding, your Honor,
no

10 objection.

11 THE COURT: All right. 17 --

12 THE COURTROOM DEPUTY: 18.

13 MR. TIGAR: 1899.

14 THE COURT: 1899 -- thank you -- is received.

15 MR. RYAN: Thank you, your Honor.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. RYAN:

18 Q. Agent Witt, if you would, the map is a little
bright, so if

19 you would take the pen that's on your desk there. Do
you see

20 the black pen?

21 A. Yes.

22 Q. Place it under your desk and directly on the
screen. Place

23 the marker where you began, approximately where you
began near

24 Royal, Arkansas.

25 A. Yes.

9490

Gary Witt - Direct

1 THE COURTROOM DEPUTY: I'll change the color.

2 BY MR. RYAN:

3 Q. And could you show us how you drove from the
distance where

4 the van was to the Sunset Motel in Grandview Plaza.

5 A. Okay. I proceeded west on Arkansas Highway 270 to
the

6 junction of Arkansas Highway 71 and followed that north
towards

7 Ft. Smith. Upon approaching Ft. Smith, there was a
bypass,

8 Interstate 540. I took that northbound to I-40,
followed I-40

9 west through -- into Oklahoma to the Muskogee Turnpike,
10 followed that turnpike to Tulsa, through Tulsa, and
proceeded
11 westbound to the Cimarron Turnpike, at that point to
177 where
12 I -- through Ponca City, Oklahoma, and then northbound.
That
13 became Highway 77, Arkansas City, continued northbound
on 77,
14 El Dorado, Marion, Herington, past Geary Lake, to I-70,
15 proceeded east on 70 to the Sunset Motel, which was
Exit 300, a
16 short distance on 70, and then hit the frontage road
and went
17 back westbound to the Sunset Motel on Flint Hills
Boulevard.

18 Q. Why did you select this particular route that you
described
19 to the jury?

20 A. I -- according to -- I consulted a Rand McNally,
and it
21 appeared to be the most direct route.

22 Q. And how long did it take you to drive the -- from
this
23 location in Royal, Arkansas, to Grandview Plaza, Sunset
Motel?

24 A. Approximately 9 1/2 hours. 9 hours and 36 minutes
to be
25 exact.

Gary Witt - Direct

1 Q. And how many stops did you make along the way?

2 A. Three.

3 Q. And how much -- what was the mileage between Royal,
4 Arkansas, and the Sunset Motel?

5 A. 518 miles, approximately.

6 Q. If a person were to leave Royal, Arkansas, at 11:00
a.m. on
7 (sic) the morning, would they have sufficient time,
according
8 to your calculation, to reach the Sunset Motel the same
day?

9 A. Absolutely.

10 Q. Now, are you familiar with the location of Kent,
Ohio?

11 A. Yes, I am.

12 MR. RYAN: We're finished with this exhibit,
thank
13 you.

14 BY MR. RYAN:

15 Q. And where is it located, generally?

16 A. It's just outside of Akron, north and east of
Akron, which
17 is in northeast Ohio.

18 Q. And were you also asked by the FBI to consult a
mileage
19 map, a Rand McNally map, and determine what the
distance would
20 be from Royal, Arkansas, to Kent, Ohio?

21 A. Yes.

22 Q. And what did you determine that to be?

23 MR. TIGAR: Excuse me, your Honor. Object to
him
24 telling us on a map that's not in evidence.

25 MR. RYAN: I think he's free under 803(17).

9492

Gary Witt - Direct

1 THE COURT: You can calculate, but is this
distance

2 calculated according to a map?

3 MR. RYAN: Yes, your Honor.

4 THE COURT: We ought to know what map.

5 BY MR. RYAN:

6 Q. What map did you consult?

7 A. 1997 Rand McNally Road Atlas.

8 Q. Mr. Witt, what was the mileage, according to the
1997 Rand

9 McNally Road Map from Royal, Arkansas, to Kent, Ohio?

10 A. Royal, Arkansas, to Kent, Ohio, just over 900
miles, 909,

11 910. 909 is what I came up with.

12 MR. RYAN: Now, your Honor, we would ask at
this time

13 that stipulation with respect to, that's dated October
18,

14 1997, with respect to Mr. McVeigh in a gun show in the
15 nights --

16 THE COURT: What number is that?

I don't
17 MR. RYAN: I can hand it to you -- your Honor,
18 have a number on it.

19 THE COURT: Well, I have them by number.

20 MR. RYAN: Excuse me, 21.

21 THE COURT: Okay. It's been stipulated,
agreed, and
22 therefore we accept that "Timothy J. McVeigh was at the
Niles
23 Gun Show outside Akron, Ohio, on Saturday, November 5,
1994.
24 Akron, Ohio, is approximately 235 miles from Lockport,
New
25 York.

9493

Gary Witt - Direct

weekend
1 "Timothy McVeigh was a registered guest that
2 at the Knight's Inn Motel in Kent, Ohio, a nearby city
to
3 Akron."

4 That was agreed.

Honor.
5 MR. WOODS: Yes, that is our stipulation, your

6 THE COURT: All right.

7 MR. RYAN: Thank you, your Honor.

8 BY MR. RYAN:

9 Q. At some point, Mr. Witt, were you also asked to go
to the
10 storage shed at Industrial Park in Herington, Kansas?

11 A. I was.

12 Q. And when were you asked to do that?

13 A. October 22, 1997.

14 Q. And which storage shed were you asked to look at?

15 A. Storage Space No. 2 at the Mini Storage Shed
Partnership in
16 Herington, Kansas.

17 Q. And how did you gain access to that storage shed?

18 A. I first consulted the bookkeeper, Helen Mitchell,
to
19 identify the current renter of that space; and then we
in turn
20 got in touch with that renter, and she gave us access
to that
21 space, voluntarily.

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

23 A. The renter, Marilyn McMillan, unlocked the space,
and I
24 inspected the interior of that space.

25 Q. And what did you observe on the floor?

Gary Witt – Direct

1 A. Observed these three semicircle patterns, rust-
colored,
2 that were in direct line with each other across the
width of
3 that space.

4 Q. I'm going to show you what's been admitted into
evidence as
5 Exhibit 2054.

6 Can you see that?

7 A. Yes.

8 Q. Can you tell us what we're looking at there on the
floor or
9 what you observed.

10 A. That replicates exactly what I observed. These
patterns
11 were partially obliterated, but at least half of them
were
12 apparent. The outline was slightly irregular, but it
was a
13 rust-colored demarcation in those three places.

14 Q. What did you do with respect to these three
semicircles
15 that you saw on the floor of the shed?

16 A. I measured dimensions of each of them.

17 Q. And tell us about how you went about measuring
these
18 semicircles.

19 A. Used just a contractor's grade tape, and I came up
with

20 dimension of 22 1/2 inches for -- which was identical
for each
21 of them. But it was difficult getting a precise
measurement
22 because the lines were not precise. They were -- they
just
23 were irregular, but that was approximate.
24 Q. Now, following the measurements at the Herington
shed, were
25 you asked to go to VP Racing Fuels?

9495

Gary Witt - Direct

1 A. Yes.
2 Q. What were you asked to do there?
3 A. At the VP Racing Fuel in Manhattan, I measured a
standard
4 barrel that was labeled blue barrel nitromethane racing
fuel.
5 Q. Let me show you what's been marked as Exhibit 2097.
It's
6 been admitted into evidence. Do you see that?
7 A. Yes.
8 Q. How does that compare with what you viewed at VP
Racing
9 Fuels?
10 A. It's exactly the same.
11 Q. What did you do with respect to this barrel of
nitromethane

12 at VP Racing Fuels?
13 A. I measured the outside and inside dimensions of the
barrel
14 to determine the diameter, as well as the height of
that barrel
15 from rim top to bottom rim.
16 Q. And what did your measurements reveal?
17 A. With respect to the outside measurements, on the
diameter,
18 I came up with 23 inches. The inside measurements were
22 3/8
19 inches, and the height of that barrel was 34 3/8
inches.

20 MR. RYAN: Thank you, Mr. Witt.

21 THE COURT: Mr. Tigar.

22 MR. TIGAR: Is he done?

23 CROSS-EXAMINATION

24 BY MR. TIGAR:

25 Q. Hello, again, Agent.

9496

Gary Witt - Cross

1 A. Hello.
2 Q. When were you assigned to calculate the mileage
from this
3 place in Royal, Arkansas, to Junction City?
4 A. I accomplished it on September 6. I probably had
the

5 assignment a few days before that, maybe a week.

6 Q. And when you went to Royal, Arkansas, did someone
show you

7 the place where you were to start your journey?

8 A. Yes.

9 Q. Who showed you?

10 A. An FBI agent from the Hot Springs resident agency
of the

11 FBI.

12 Q. And what was that person's name?

13 A. Mark Jessie.

14 Q. And did you meet with Mr. Moore?

15 A. No, I did not.

16 Q. Did you meet with Ms. Anderson?

17 A. I did not.

18 Q. Did you meet Mrs. Moore?

19 A. No, I did not.

20 Q. Did Mr. Jessie describe for you the individual that
Roger

21 Moore said he had confronted on the morning of November
the

22 5th, 1994?

23 A. He did not.

24 Q. Did you review the 302's to determine what the
description

25 of that person was?

Gary Witt - Cross

1 A. I did not.

2 Q. Did you know from any source that the person Mr.
Moore had
3 described was 6 feet tall, 185 pounds, bearded and
smelly?

4 A. I did not know that.

5 Q. Did you have any of those details?

6 A. No, I did not.

7 Q. Now, you testified that the -- you also made a
calculation
8 of the distance from that location there to someplace
in Ohio;
9 correct?

10 A. Yes.

11 Q. And you were able to do that by using a Rand
McNally map;
12 is that correct?

13 A. Yes, the mileage charts on the Rand McNally map.

14 Q. Now, are you also familiar with a CD-ROM that you
can buy
15 for 29.95 that will tell you the mileage from anyplace
in
16 America to any other place in America?

17 A. I understand there's one available. I'm not that
familiar
18 with it.

19 Q. Why is it that the FBI decided to take two days of
your

20 time to have you drive the distance to calculate, as
opposed to

21 buying the 29.95 CD-ROM?

22 MR. RYAN: Objection, your Honor.

23 THE COURT: Yes, you're talking about two
different

24 things.

25 BY MR. TIGAR:

9498

Gary Witt - Cross

1 Q. Agent Witt, are you aware that -- from your
knowledge that

2 it's possible to buy a map, a CD-ROM map that would
permit you

3 to calculate the distance from Royal, Arkansas, to
Junction

4 City?

5 A. I understand there's such an item available.

6 Q. All right. And can you -- do you have any
understanding as

7 to why the FBI asked you to drive the distance rather
than use

8 the CD-ROM?

9 A. I do not know that.

10 Q. What kind of a vehicle did you drive it in?

11 A. A 1997 Mercury Grand Marquis.

12 Q. And do you have any -- did you have any information

that

13 Mr. Nichols ever owned a Mercury Marquis?

14 A. No, I did not.

15 Q. Now, you stated that you took the -- a couple of
turnpikes;

16 is that right?

17 A. Correct.

18 Q. The Muskogee and the Cherokee?

19 A. Cimarron.

20 Q. Cimarron. And are those toll roads?

21 A. Yes.

22 Q. Are there tollbooths along there?

23 A. Yes.

24 Q. Are those tollbooths manned by people?

25 A. Yes.

9499

Gary Witt - Cross

1 Q. Did you stop, try to ask whether or not they kept
any

2 records of the vehicles of any kind -- of the vehicles
passing

3 through their tollbooths?

4 A. No, I did not.

5 Q. Do you know if anyone else from the FBI attempted
to obtain

6 any records as to who had passed through those

tollbooths?

7 A. I'm not aware of that.

8 Q. Do you know of any kind of security cameras or
other

9 security systems that exist, if they do, on any of the
toll
10 roads?

11 A. I'm not personally aware of that.

12 Q. Now, you say that the drive took you about 9 hours
and 36

13 minutes; is that correct?

14 A. Correct, yes.

15 Q. And you started at about what time in the morning?

16 A. Close to 10:30. 10:20 something. Close to 10:30.

17 Q. And why did you select that time?

18 A. I understood that it approximated the time of maybe
19 departure from that area by the robbery suspect.

20 Q. And other than being shown a location by Agent
Jessie and

21 asking to start at a particular time, did you review
any other

22 records concerning this episode?

23 A. I did not.

24 Q. Now, you also stated that you had gone to the
storage shed

25 in Herington, Kansas; correct?

Gary Witt - Cross

1 A. Yes, sir.

2 Q. And that is a storage shed rented -- do you
understand had

3 been rented in the name of Shawn Rivers?

4 A. I understood that.

5 Q. And did you know who Shawn Rivers was?

6 A. I had a belief who he was.

7 Q. Well, you've looked -- you know from the
handwriting on the

8 storage agreement and from other investigation --

9 A. Right.

10 Q. -- that that's Tim McVeigh; right?

11 A. Yes.

12 Q. Now, you stated that you had measured the circles
that are

13 on the floor of the shed; correct?

14 A. Yes.

15 Q. And you stated that the -- that they were somewhat
16 irregular; is that right?

17 A. The border, the out -- the borders, yes, they were
--

18 Q. Now, when you say "irregular," do you mean that the
--

19 there was not a rust pattern for the full diameter of
whatever

20 it is that had rested there?

21 A. There was a --

22 Q. Is that what you mean by "irregular"?
23 A. No. I mean just like the border area, the rim area
of that
24 particular semicircular pattern, which was at least
half of
25 that circle, was intact, was apparent. But I'm just
talking

9501

Gary Witt - Cross

1 about the edges of that outline. The edges is what I'm
talking

2 about that was -- that were not precise, it was not --

3 Q. How wide a mark did this rust pattern leave on the
floor?

4 A. How wide? Approximately, probably 5/8 of an inch.

5 Q. 5/8 of an inch in width?

6 A. The rim, the so-called rim area.

7 Q. Uh-huh. And you said that the -- that what you
measured

8 was 22 1/2 inches; is that correct?

9 A. That's correct.

10 Q. Now, did you --

11 A. Approximate.

12 Q. Now, did you measure center to center or edge to
edge?

13 A. Edge to edge, inside measurements.

14 Q. The inside measurements?

15 A. Correct.

16 Q. And from the inside measurement of 22 1/2 to the
outside

17 was 5/8 of an inch?

18 A. Yes. Approximately.

19 Q. Now, what is --

20 A. Approximately.

21 Q. What is 2 1/2 plus 5/8?

22 A. That would be 23 1/8.

23 Q. And the outer edge of the barrels that you saw was
23; is

24 that correct?

25 A. Yes.

9502

Gary Witt - Cross

1 Q. So you're testifying that the outer edge of the
mark that

2 you saw was 23 1/8?

3 A. Approximately. Again because the borders were not
that

4 precise.

5 Q. Now, when you went to do these measurements, did
you happen

6 also to take the measurements of the shed itself?

7 A. I did the length, the length of that shed. The
width, I

8 can't recall if I did the width.

9 Q. Well --

10 A. 'Cause I understood it had been done before, so I
did not
11 make detailed measurements of the interior.

12 Q. How far from the door of the shed was the closest
edge of
13 the rust mark that you saw?

14 A. 3 feet 6 1/2 inches.

15 Q. All right. And how far from the edge of the circle
that's
16 farthest away from the door was the rear chipboard wall
of the
17 shed?

18 A. 4 feet 7 1/2 inches is what I recall.

19 Q. And you took those measurements, yourself; right?

20 A. Yes, I did.

21 Q. So those -- and you took those with the same
carpenter's
22 tape that you used to measure the circles themselves;
right?

23 A. Yes.

24 Q. Now, in relationship to the door of the shed --

25 A. Yes.

9503

Gary Witt - Cross

1 Q. -- you say that these were 3-foot --

3 feet 6 2 A. -- 6 1/2. It varied. It graduated each barrel --
3 1/2 to 3 feet 7 1/2.

4 Q. Now, if I were to stand in the door of that shed
and look 5 and if I were to walk directly towards the rear wall --
6 A. Yes.

7 Q. -- would I encounter one of those rust marks?
8 A. Yes, you would.

9 Q. That's because the barrels are offset; that is to
say, 10 there seemed to be two of them over close to what would
be the 11 left-hand side as you go and one over towards the
right-hand 12 side; is that what you observed?
13 A. Yes.

14 Q. Now, when you went to VP Racing Fuels to measure
these 15 barrels, did you meet with Mr. Tipton?
16 A. Yes, I did.

17 Q. And in your discussion with Mr. Tipton, did you
talk 18 about -- with him -- the way in which rust develops on
the rims 19 of their barrels?
20 A. I did not.

21 Q. Did you discuss with him what use -- how often VP
Racing

22 Fuels uses their barrels before they discard them?

23 A. Yes, I did.

24 Q. And did you find out from him -- this was before
you made

25 your -- was it before you made your measurements or
afterwards?

9504

Gary Witt - Cross

1 A. It was after. After.

2 Q. And did you observe some barrels at VP Racing Fuels
that

3 had rusted areas on the top?

4 A. I did not.

5 Q. Did you discuss with Mr. Tipton whether or not VP
Racing

6 Fuel barrels that are in actual use have the -- a rust
7 formation on either their top or bottom surface?

8 A. I did not have that discussion with him.

9 Q. Did you examine the VP Racing Fuel warehouse?

10 A. No. I did not.

11 Q. Did you see anyplace where barrels were being
stored there?

12 A. I did not.

13 Q. So you did not have an opportunity to observe
whether or

14 not VP Racing barrels are stored, in their facility, in
a place

15 where they would make marks on the ground; is that fair
to say?

16 A. That's fair to say.

17 Q. And did Mr. Tipton then also tell you what VP
Racing Fuel

18 does with barrels when they have reached the end of
their

19 useful life so far as VP Racing Fuel is concerned?

20 A. He did.

21 Q. Pardon?

22 A. He did.

23 Q. And he told you they sent them out to a place where
they're

24 sold to the public; correct?

25 A. No, in totality. He has other avenues that he
follows.

9505

Gary Witt - Cross

1 Q. One of the avenues that he has is that he releases
these

2 things out to a place that sells them to the public;
right?

3 A. When they're badly damaged, caved in and no longer
have any

4 functional use; correct.

5 MR. TIGAR: Thank you very much. I have no
further

6 questions.

7 MR. RYAN: One further question, your Honor.

8 THE COURT: All right. Witness excused?

9 MR. RYAN: One further question, your Honor.

10 THE COURT: Okay.

11 REDIRECT EXAMINATION

12 BY MR. RYAN:

13 Q. Are these metal barrels at VP Racing Fuels?

14 A. Absolutely.

15 MR. RYAN: That's all I have.

16 MR. WOODS: I'm sorry, your Honor. We were
talking
17 and we didn't hear the question.

18 THE COURT: Were they metal barrels for the
racing
19 fuel, and the answer was yes.

20 MR. TIGAR: Thank you, your Honor.

21 RECROSS-EXAMINATION

22 BY MR. TIGAR:

23 Q. Did you conduct any tests at the location in
Herington,

24 Kansas, to determine when those marks were put on
there?

25 A. I did not.

9506

Gary Witt - Recross

1 Q. And are you aware of any tests that were conducted?

2 A. I'm not aware of any.

3 MR. TIGAR: No further questions.

4 MR. RYAN: No further questions.

5 THE COURT: Is the agent excused, or is he
going to be

6 back?

7 MR. RYAN: He is excused.

8 MR. TIGAR: Excused.

9 THE COURT: You may step down. You're
excused.

10 Next witness, please.

11 MR. MACKEY: We call Cheryl Smith.

12 THE COURTROOM DEPUTY: Would you raise your
right

13 hand, please.

14 (Cheryl Smith affirmed.)

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

16 Would you state your full name for the record
and

17 spell your last name.

18 THE WITNESS: Cheryl K. Smith, S-M-I-T-H.

19 THE COURTROOM DEPUTY: Thank you.

20 THE COURT: Mr. Ryan.

21 MR. RYAN: Thank you, your Honor.

22 DIRECT EXAMINATION

23 BY MR. RYAN:

24 Q. Good morning.

25 A. Good morning.

9507

Cheryl Smith - Direct

1 Q. How are you?

2 A. Okay.

3 Q. Miss Smith, where do you live?

4 A. Manhattan, Kansas.

5 Q. What do you do there?

6 A. I own and operate a Mail Boxes Etcff store.

7 Q. Are you married?

8 A. Yes.

9 Q. Children?

10 A. Two.

11 Q. Now, tell the members of the jury what Mail Boxes
Etcff is.

12 A. It's a franchise where we package and ship things
UPS,

13 through the post office, through freight. We also have
private

14 mailboxes for citizens to come in and rent to get their
mail or

15 receive packages there. We do faxing. Several
different types

16 of services like that, copies.

17 Q. And when did you begin your business, Mail Boxes
Etcff, in

18 Manhattan, Kansas?

19 A. In December 1993.

20 Q. And is Mail Boxes Etcff located in a mall?

21 A. It's in a shopping center.

22 Q. And what do you call -- how is that shopping center
23 referred to?

24 A. Westloop Shopping Center.

25 Q. Did there come a time, point in time that you
rented a

9508

Cheryl Smith - Direct

1 mailbox to Terry Nichols?

2 A. Yes.

3 Q. Describe for the jury what happened with respect to
the

4 renting of that mailbox.

5 A. He just came in one morning and filled out two
different

6 forms, one for us and one that's required by the post
office;

7 and he showed us two forms of identification, driver's
license

8 and a passport, with his name and his signature on
them, and we

9 rented him a box.

10 Q. Did you handle that transaction, yourself?

11 A. Yes, I did.

12 Q. Let me show you what's been marked for
identification as

13 Exhibit 1920. Do you see this document?

14 A. Yes.

15 Q. Is this a business record of yours?

16 A. Yes, it is.

17 Q. What is this document?

18 A. That's the Mail Boxes service agreement with us
personally,

19 basically stating that they have to pay their box rent
in

20 advance and pay for COD things and what they can and
can't use

21 the mailbox for.

22 Q. This agreement is between you and which customer?

23 A. Terry Nichols.

24 MR. RYAN: Your Honor, we would offer Exhibit
1920.

25 MR. TIGAR: No objection, your Honor.

9509

Cheryl Smith - Direct

1 THE COURT: 1920 received.

2 BY MR. RYAN:

3 Q. Now, explain -- I don't know how easy it is for the
jury to

4 see this document, but can you take that pen that's on

your

circle -- 5 desk there and circle the name of the customer, or

6 A. There we go.

7 Q. And the name placed there on the form is what?

8 A. Terry Nichols.

9 Q. What address is given, Miss Smith?

10 A. It's hard to read it on here.

11 THE COURT: Perhaps the document itself would
be

12 easier.

13 MR. RYAN: Yes, your Honor.

14 THE WITNESS: Okay. It's 3616 North Van Dyke
Road, in

15 Decker, Michigan.

16 BY MR. RYAN:

17 Q. We'll make it easier on you. I'll give you some
documents

18 here.

19 A. Okay.

20 Q. Does that make it a little easier for you to read?

21 A. Yes.

22 Q. Again, what is the address provided?

23 A. It's 3616 North Van Dyke Road in Decker, Michigan.

24 Q. Now, were you provided with a home phone number?

25 A. No.

Cheryl Smith - Direct

1 Q. Or work phone number?

2 A. No.

3 Q. Now, what essentially is the purpose of this
document?

4 What's its function?

5 A. It just basically states the rules for use of the
mailbox,

6 things like CODs have to be paid in advance. The
payment for

7 the use of the box has to be paid in advance.

8 Q. Which box was Mr. Nichols assigned?

9 A. 197.

10 Q. Had that -- how long had you been in existence at
the time

11 of this document?

12 THE COURT: Has she been in existence?

13 BY MR. RYAN:

14 Q. How old are you, Miss Smith?

15 A. 36.

16 Q. What year did you tell us your business began?

17 A. In 1993.

18 Q. And what is the date of this agreement?

19 A. October 24, 1994.

20 Q. So approximately how long had Mail Boxes Etcff in
Manhattan

Nichols? 21 been in existence prior to this agreement with Mr.

22 A. Not quite a year.

23 Q. Had Box 197, the box you assigned to Mr. Nichols,
been

24 previously assigned to a customer?

25 A. No.

9511

Cheryl Smith – Direct

1 Q. Now, let me show you what's been marked for
identification

2 purposes as Exhibit 2033. And you might look through
that

3 folder on your desk there for perhaps a more legible
copy.

4 2033. It's the postal agreement.

5 A. Okay.

6 Q. Now, can you tell us what Exhibit 2033 is?

7 A. It's PS Form 1583, which is an application for
delivery of

8 mail through an agent. So we're the agent.

9 Q. And with whom is this agreement entered?

10 A. It's with Terry Nichols.

11 Q. And is this a business record of Mail Boxes Etcff?

12 A. Yes, it is.

13 MR. RYAN: Your Honor, we would offer Exhibit
2033.

no 14 MR. TIGAR: Subject to our earlier discussion,
15 objection, your Honor.

16 THE COURT: All right. 2033 is received.

17 BY MR. RYAN:

respect 18 Q. Miss Smith, did you have a custom and practice with
19 to what you told customers when they appeared to open a
mailbox 20 at Mail Boxes Etcff?

21 A. Yes.

22 Q. What was your custom and practice?

23 A. We usually, the first thing we usually do is ask
them if 24 they want to use it for business reasons or personal
reasons.

25 Because on the form, there are several boxes that you
do not

9512

Cheryl Smith - Direct

1 need to fill out that are asking for the name of a
business or

2 a name of a corporation that do not need to be filled
out if

3 you're just using it for personal reasons.

4 Q. And do you do that for every customer?

5 A. Yes.

6 Q. And did you do that for Terry Nichols?

7 A. Yes.

8 Q. This mailbox agreement: Is it dated the same date
as the
9 initial agreement between you and Mr. Nichols?

10 A. Yes.

11 Q. And that date again is October 24, 1994.

12 Now, do we have more zoomed version of this
document,
13 for the jury?

14 Okay. Could you tell us what information --
again, I
15 know this is hard to read, so feel free to use the
original
16 document there -- but tell us what information was
supplied by
17 Mr. Nichols on this document.

18 A. His name and his address is the part that he filled
in.

19 And then we actually look at the two forms of
identification
20 that they're required to show us.

21 Q. According to this document, was this mailbox opened
for
22 personal reasons, or for business reasons?

23 A. It looks like it's for personal reasons.

24 Q. And how do you know that?

25 A. Because he put -- when he filled out -- for the
name of a

Cheryl Smith - Direct

1 firm or corporation or the business address, he put not
2 applicable, or "NA."

3 MR. RYAN: Your Honor, the parties have
reached a
4 stipulation with respect to both Exhibit 1920 and 2033
that
5 these are in fact the handwriting of Terry Nichols.

6 MR. WOODS: Yes, your Honor. That is our
stipulation.

7 THE COURT: All right. We accept that
agreement.

8 BY MR. RYAN:

9 Q. Now, what is the -- looking at this document here,
we see
10 some information with respect to a -- what is that -- a
11 Michigan driver's license?

12 A. Yes.

13 Q. And what is the other form of identification?

14 A. U.S. passport.

15 Q. What was provided by Mr. Nichols on this date for
you to
16 verify this information?

17 A. He actually had to show me his driver's license and
his
18 passport.

19 Q. And did he do that?

20 A. Yes, he did.

21 Q. Now, let me show you what's been marked for
22 identification -- excuse me. This is actually in
evidence,

23 Exhibit 1818. Can you -- I know it's a little
difficult, but

24 can you read the numbers of the driver's license?

25 A. It's 2427 -- it's hard to see actually on the
driver's

9514

Cheryl Smith - Direct

1 license; but on the form here, I wrote 9. 56, and the
next

2 number's difficult to read, but I wrote 4, 258.

3 Q. Does it appear that the number that's provided on
this

4 driver's license is the same number provided on your
mailbox

5 form?

6 A. Yes. Yes.

7 Q. Now, you see in this photograph of Mr. Nichols he
is

8 wearing glasses and has a beard. Do you see that?

9 A. Yes.

10 Q. Now, were you also, in addition to this driver's
license,

11 provided with a passport?

12 A. Yes, I was.

13 Q. Now, let me show you what has not been admitted but
what
14 has been marked as Exhibit 2029 for identification
purposes.

15 Do you see that?

16 A. Yes, I do.

17 Q. Can you read the identification number off of this
18 passport? Don't do it, but can you?

19 A. Yes, I can.

20 MR. RYAN: Your Honor, we would offer the
picture page
21 of Mr. Nichols' passport as Exhibit 2029.

22 MR. TIGAR: No objection, your Honor.

23 THE COURT: All right. 2029 is received, may
be
24 shown.

25 BY MR. RYAN:

9515

Cheryl Smith - Direct

1 Q. Now, if you would, Miss Smith, would you compare
the number

2 on Mr. Nichols' passport photograph to the number that
was
3 provided to you with respect to the postal form.

4 A. It's the same.

5 Q. And you see in this photograph Mr. Nichols has no
glasses

6 and no beard.

7 A. Correct.

8 Q. Now, do you recall on October 24, 1994, which -- or
how

9 Mr. Nichols appeared at that time?

10 A. I couldn't be for sure.

11 Q. Did he have glasses?

12 A. I couldn't be for sure.

13 Q. Did he have a beard?

14 A. I couldn't be for sure.

15 Q. Okay. When did you next see or talk to Mr. Terry
Nichols?

16 A. It was just a few days later.

17 Q. And tell us what that was about.

18 A. He came in and asked if he could pay for an
additional

19 three months and get the one month free, because we
have a

20 policy that if you rent for three months at a time, you
don't

21 get any extra months; but if you rent for six months,
you get

22 the seventh month free. And if you rent for a year,
you get

23 three months after that year is up for free. You don't
have to

24 pay for those months. And he came in and asked if he
could get

25 the month free if he went ahead and paid for the extra
three

Cheryl Smith - Direct

1 months that would require the six months in advance.

2 Q. What did you tell Mr. Nichols?

3 A. We said that would be fine.

4 Q. Any further conversation take place that day?

5 A. He asked if he could -- if we would forward mail to
him

6 because he wasn't permanently in Manhattan at that
time.

7 Q. The only address you'd received from him was the
Michigan

8 address?

9 A. Correct.

10 Q. All right. What did you tell him about that?

11 A. We just asked him, you know, if he was -- if he had
planned

12 on being in our area, and he said he had planned on
being in

13 that area. But he didn't have a permanent place to
live yet.

14 Q. Did he provide with you an address for you to
forward mail

15 at that time?

16 A. No.

17 Q. When did you --

18 A. He took our business card at that time and left a

\$20

19 deposit to forward the mail, because according to the
20 agreement, at the top it says that any mail that comes
to our
21 business cannot be forwarded by filling a typical form
at the
22 post office, just to forward your personal mail from
your house
23 to another house if you move. So he would have to --
we would
24 have to put in a new envelope, put new postage on it,
and
25 readdress it to the forwarding place.

9517

Cheryl Smith - Direct

Nichols? 1 Q. Did there come another time that you spoke to Mr.

2 A. Yes.

3 Q. Would you tell us about that.

4 A. He called us on the phone. He called me -- I was
the

5 person that answered the phone -- and asked if we would
go

6 ahead and forward his mail that day. And that was in
November.

7 Q. Did he provide you with an address?

8 A. Yes, he did.

9 Q. I'm going to show you now what's been marked for

10 identification as Exhibit 1887. It's not in evidence.

11 A. Okay.

12 Q. Can you identify this document?

13 A. Yes, I can.

14 Q. What is this document?

15 A. It's my handwriting that the -- the note that I
took while

16 I was on the phone with him. I wrote down his name,
the

17 address where he wanted us to forward it to.

18 MR. RYAN: Your Honor, Government would offer
Exhibit

19 1887.

20 MR. TIGAR: No objection, your Honor.

21 THE COURT: 1887 received, may be shown.

22 BY MR. RYAN:

23 Q. And again, Miss Smith, would you tell the jury what
this

24 document reflects.

25 A. It reflects the address where I forwarded his mail
to and

9518

Cheryl Smith - Direct

I 1 that it does show that he did have a \$20 deposit. And

2 subtracted the \$2.90 that priority mail was at that
time to

3 forward his mail with.

Nichols
4 Q. Now, did there come a point in time when Mr.
5 advised you and your people in your business that he
6 wanted to use Box 197 there at Mail Boxes Etcff for another name
7 besides his own?

8 A. He didn't advise us that he was using it for
9 another name besides his own, but he said it was okay for another
10 person to receive mail there.

11 Q. I'm sorry. Say again what he said.

12 A. That it was okay -- we asked him if it -- we got
13 mail from someone for that address, the 1228 Westloop, No. 197,
14 with another name besides his on that piece of mail. And we
15 held it back and put a note in his box; and when he got the
16 note, he came up and asked us for the package. Our little notes
17 that we put in there says, "You received an oversize package."
18 So if a package doesn't fit in the box, you have to come up to
19 the counter for us -- to ask to actually hand you the box.
20 Well, it was just an envelope, but because it didn't have his
name on

the
person to
mail for

21 it, we put a note in the box. He brought the note to
22 counter, and we asked him if it was okay for that
23 receive mail in his box.
24 Q. Now, was this the only instance that you received
25 Mr. Nichols' box, 197, in a name other than his own?

9519

Cheryl Smith - Direct

1 A. No.
2 Q. Do you recall how many times that occurred?
3 A. I don't recall.
4 Q. Now, let me show you what's been marked as Exhibit
1957.
5 Can you see this document?
6 A. Yes.
7 Q. Can you identify that for us?
8 A. It's one of the pieces of mail that came to our
address
it.
9 with his box number on it that did not have his name on
10 MR. RYAN: Your Honor, we'd offer Exhibit
1957.
11 MR. TIGAR: Subject to our discussion, no
objection.
12 THE COURT: 1957 is received.
13 BY MR. RYAN:

Miss 14 Q. Would you give us what -- or read for us, please,

15 Smith, what the address label on this document shows.

Westloop, 16 A. It's addressed to the name of Joe Rivers, 1228

17 No. 197, Manhattan, Kansas.

you were 18 Q. And is this the name that was on the package that

19 telling us about earlier?

20 A. Yes, it is.

21 THE COURT: Well, you said, "package."

22 Didn't you say, "envelope"?

packages, 23 THE WITNESS: I don't remember receiving any

24 but it was an envelope.

25 MR. RYAN: All right. Thank you, your Honor.

9520

Cheryl Smith - Direct

1 THE WITNESS: Several envelopes.

2 MR. RYAN: Thank you, your Honor.

3 BY MR. RYAN:

has 4 Q. Now, let me show you what has not been admitted but

5 been marked as Exhibit 1892.

6 And can you identify this photograph for us?

7 A. Yes. That is our store.

Exhibit 8 MR. RYAN: Your Honor, Government would offer

9 1892.

10 MR. TIGAR: No objection, your Honor.

11 THE COURT: Received. May be shown.

12 BY MR. RYAN:

13 Q. This is your business in Manhattan, Kansas?

14 A. Yes, it is.

15 Q. As it appeared in 1994?

16 A. Yes.

17 Q. Now, let me also show you what's been marked for
18 identification as Exhibit 1891. And what are we
looking at in

19 this photograph?

20 A. It's the Waters True Value Hardware store.

21 Q. Can you identify that?

22 A. Yes.

1994?
23 Q. Is this how Waters True Value Hardware appeared in

24 A. Yes.

Exhibit 25 MR. RYAN: Your Honor, Government would offer

9521

Cheryl Smith - Direct

1 1891.

2 MR. TIGAR: No objection.

3 THE COURT: Received, 1891.

4 BY MR. RYAN:

5 Q. Can you see a pay phone in this photograph?

6 A. Yes, I can.

7 Q. Would you take your marker and circle it for the
jury,
8 please.

9 Approximately what is the distance from this
Waters
10 True Value Hardware to your place of business,
Mailboxes Etcff?

11 A. Well, it's directly across the parking lot, which
is
12 probably about 200 yards.

13 Q. Now, let me show you what's been marked as Exhibit
1893.

14 If you'd click on the side of that pen, it will erase
that
15 mark. And can you identify this photograph?

16 A. Yes.

17 Q. What is it?

18 A. It's a view from -- it's taken right outside of
Little

19 Caesar's Pizza, which is right next to us. And there's
a

20 driveway between us, of our store and all the way
across the

21 parking lot. You can sort of see behind the trees
Waters True

22 Value.

Exhibit

23 MR. RYAN: Your Honor, Government would offer

24 1893.

25 MR. TIGAR: No objection, your Honor.

9522

Cheryl Smith - Direct

1 THE COURT: Received.

2 BY MR. RYAN:

take the

3 Q. All right. Now, if you would, would you place --

4 pen there and place an X where Waters True Value is.

the left

5 We can see a little white sign there, just to

6 of your X. Can you make that out?

7 A. I can see "W-A-T."

say

8 Q. Okay. And if we could see the rest of it, it would

9 what?

10 A. "Waters True Value Hardware."

marked but

11 Q. Now, let me show you what's been marked -- not

calls

12 received in evidence as Exhibit 1888, a series of phone

13 for November 6 and 7.

14 Now, can you see that?

15 A. Yes.

True 16 Q. Now, do you see any calls there with a name "Waters
17 Value"?
18 A. Yes, I do.
19 Q. And would you circle those for us.
20 And you see one more there on the right-hand
side,
21 bottom?
22 A. Oh.
23 Q. All right, now, if we could turn to November 7, the
24 following day -- you can erase those marks. You see
any calls
25 involving Waters True Value on this day?

9523

Cheryl Smith - Direct

1 A. Yes.
2 Q. Would you circle those for us.
3 A. Whoops.
4 Q. Now, again, how far did you tell us the Waters True
Value
5 was from your store, ma'am, at Mail Boxes Etcff?
6 A. It's just about 200 yards straight across the
parking lot.
7 MR. RYAN: Thank you. No further questions,
your
8 Honor.

9 THE COURT: Mr. Tigar.

10 CROSS-EXAMINATION

11 BY MR. TIGAR:

12 Q. Good morning, Mrs. Smith.

13 A. Good morning.

14 Q. My name is Michael Tigar. I'm one of the lawyers
appointed
15 to help Terry Nichols in this case.

16 Are you nervous?

17 A. Yes.

18 Q. Well, this -- I just want to ask you a few
questions about

19 your business there and about your dealings with Mr.
Nichols,
20 and it won't take long.

21 Now, you rented this box to Mr. Nichols in
October of

22 '94; is that correct?

23 A. That's correct.

24 Q. And then along about the 15th of November, you got
a phone

25 call from him; right?

9524

Cheryl Smith - Cross

1 A. Correct.

2 Q. And did he say where he was calling from?

3 A. No, he did not.

Nordic
4 Q. Okay. And -- but you wrote down that address on
mail
5 Lights in Las Vegas, Nevada, and he said forward his
6 there; right?

7 A. Correct.

a little
8 Q. Now, how long a time -- and that -- let me go back
9 bit.

office
10 Your business: It has advantages over a post
11 box that one would have at the Postal Service; correct?

12 A. Correct.

having a
13 Q. And what are the advantages that you could have by
14 post office box with you instead of the Postal Service?

Express.
15 A. Well, we accept packages from UPS and Federal
16 Q. And they don't, do they?
17 A. They don't.

18 Q. Okay. What else?
19 A. You can call in to have your mail checked. We will
go look
20 in your box to see if you have anything, so you don't
have to
21 come in and check.

22 Q. And you're nice -- and you do that very nicely;
right?
23 A. Yes.

24 Q. You don't go "postal" when people ask for that?

25 A. No.

9525

Cheryl Smith - Cross

we do 1 Q. No. Okay. So you can do that. Now, what else can

2 that I couldn't do at the post office?

on 3 A. We forward the mail for someone. If they were like

as long 4 vacation or went somewhere, we would forward it to them

5 as they paid in advance.

and you 6 Q. So, in other words, they call and you take it out

do they? 7 send it to them; and the Post Office doesn't do that,

8 A. No.

9 Q. Okay.

Office 10 A. We also hold mail for more than 30 days. The Post

11 will only hold your mail for 30 days.

services that 12 Q. So Mr. Nichols was using that -- one of the

Vegas; 13 you mentioned. He said, Would you forward this to Las

14 correct?

15 A. Correct.

his mail 16 Q. And during what period of time were you forwarding

17 out there to Las Vegas, Nevada?

18 A. That was the only time we forwarded his mail at
all.

19 Q. And the rest of the time, you just held it;
correct?

20 A. Correct.

21 Q. He said, "Whatever's in my box, send it to Las
Vegas"?

22 A. Correct.

23 Q. Are you the only provider of mail service there in
the

24 Manhattan area, of your mailbox-type service, or are
there

25 other franchises there?

9526

Cheryl Smith – Cross

1 A. We're pretty much the only one.

2 Q. And how many mailboxes do you have at your facility
there,

3 or did you in 1994 in the fall?

4 A. Approximately 250.

5 Q. Okay. Now, you recognize Mr. Nichols; correct?

6 A. Yes.

7 Q. And he's sitting -- well, could you point him out?

8 A. Yes, he's sitting at the table.

9 Q. There he is with us.

10 A. Uh-huh.

11 Q. And that's the same Terry Nichols you remember
renting the

12 box to in 1994; correct?

13 A. Correct.

14 Q. Okay. And the same Terry Nichols that you then saw
at

15 various times; right?

16 A. Correct.

17 Q. And you had conversations with him. Remember one
time he

18 got a big box but it was kind of light for its weight
(sic)?

19 A. Well, the only box I remember him -- I don't really

20 remember him getting a box. It was a priority
envelope, which

21 is a flat envelope. And it had something thick in it,
and it

22 was soft.

23 Q. Okay. Yeah. And you said -- well, what --

24 A. I said, "Somebody sent you a Nerf ball."

25 Q. And what did he do?

9527

Cheryl Smith - Cross

1 A. He smiled and left with the package.

2 Q. Now, you have an employee, or did at that time,

named Matt?

3 A. Correct.

4 Q. And I have a note here, but I can't pronounce --
How do you

5 pronounce his name?

6 A. Splichal.

7 Q. How do you spell that?

8 A. S-P-L-I-C-H-A-L.

9 Q. Now, there came a time, didn't there, when there
was an

10 extraordinary amount of interest in that mailbox? You
remember

11 that?

12 A. Yes.

13 Q. When the FBI came?

14 A. Yes.

15 Q. And you provided them, because they had a piece of
paper

16 that authorized it, with the mail that had been
collected in

17 the box. Do you remember that?

18 A. That was pretty much in the middle of the summer.

19 Q. Oh, okay. And do you remember that as being
sometime

20 around April of 1995, when they came?

21 A. Well, they didn't come and collect it at that time.

22 Q. Oh, okay.

23 A. They came in and asked about him at that time,
asked if I

24 could identify him.

25 Q. Okay. And you could; right?

9528

Cheryl Smith - Cross

1 A. No.

2 Q. Oh. You couldn't?

3 A. Well, sort of. I just kept -- I told him that he
looked
agent.

4 like -- there was an FBI agent that Friday and a CID
5 Q. Uh-huh.

6 A. And I told him that he looked like the CID agent,
only
7 shorter.

8 Q. Okay. So you said he resembled the CID agent that
came in
9 to see you?

10 A. Uh-huh.

11 Q. Now, they also showed you some pictures?

12 A. Not at that time.

13 Q. Remember they showed you some sketches?

14 A. Not at that point.

15 Q. At some time, did they come back and show you some
16 sketches?

17 A. Yes.

being
18 Q. And you said you didn't remember either of those
19 Mr. Nichols. Do you remember that?
20 A. They didn't show me a sketch of him.
wasn't
21 Q. I understand that. They showed you sketches and it
22 him?
23 A. Yeah, it was supposed to be John Doe No. 2.
24 Q. But that wasn't him; right?
25 A. No.

9529

Cheryl Smith - Cross

that they
1 Q. In addition to -- do you remember what day it was
2 showed you a sketch that was supposed to be John Doe
No. 2 and
3 you said it wasn't him?
4 A. No.
5 Q. Were you also visited by a lawyer from the
Department of
6 Justice, person identified themselves as that? If you
7 remember.
8 A. I was visited almost daily.
9 Q. Okay. So you were visited by the FBI; right?
10 A. Yes.
11 Q. The CID?

12 A. Yes.

13 Q. The Army?

14 A. Yes.

15 Q. And I'm just asking: Do you remember being visited
by a

16 Department of Justice lawyer? If you don't, it's okay.

17 A. I remember some attorneys. Two or three attorneys
came up

18 with FBI agents from Oklahoma City at various times.

19 Q. Okay.

20 A. That's all I can -- I couldn't tell you who they
were.

21 MR. TIGAR: Thank you very much, Miss Smith.
I have

22 no further questions. I appreciate it.

23 THE WITNESS: Thank you.

24 THE COURT: Mr. Ryan.

25 REDIRECT EXAMINATION

9530

Cheryl Smith - Redirect

1 BY MR. RYAN:

2 Q. One thing I forgot to ask you before: The Waters
True

3 Value Hardware store we were looking at in the
photographs --

4 A. Uh-huh.

5 Q. Is there any other Waters True Value store in

Manhattan?

6 A. No, there's not.

7 Q. That's the only one?

8 A. That's the only one.

9 Q. And you're the only Mail Boxes Etcff?

10 A. Yes.

11 Q. And when the FBI did come in and collect the mail
out of

12 Mr. Nichols' box, that was mail in there that was not
addressed

13 to Terry Nichols?

14 A. Yes.

15 Q. You inspected that?

16 A. Yes.

17 MR. RYAN: No further questions, your Honor.

18 MR. TIGAR: No questions, your Honor.

19 THE COURT: All right. Can Miss Smith be
excused?

20 MR. RYAN: Yes, your Honor.

21 THE COURT: Agreed?

22 MR. TIGAR: Yes.

23 THE COURT: You may step down. You are
excused.

24 THE WITNESS: Just leave this here?

25 THE COURT: Yes.

1 MR. MACKEY: Call Mr. Andy Bhakta.

2 THE COURT: All right.

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

4 (Andy Bhakta affirmed.)

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

6 Would you state your full name for the record
and

7 spell your last name.

8 THE WITNESS: Last name is Bhakta, B-H-A-K-T-
A.

9 THE COURTROOM DEPUTY: What is your first
name?

10 THE WITNESS: Andy. A-N-D-Y.

11 DIRECT EXAMINATION

12 BY MR. GOELMAN:

13 Q. Good morning, Mr. Bhakta.

14 A. Good morning.

15 Q. Where do you live?

16 A. Manhattan, Kansas.

17 Q. Where are you from originally?

18 A. India.

19 Q. What do you do in Manhattan, Kansas?

20 A. Business. Lodging business.

21 Q. Lodging business? Do you run a particular motel?

- 22 A. Uh-huh.
- 23 Q. What's it called?
- 24 A. Travelers Motel.
- 25 Q. And how long have you run the Travelers Motel?

9532

Andy Bhakta - Direct

- 1 A. 12 to 14 years.
- 2 Q. Where is the motel located?
- 3 A. 8811 East Highway 24.
- 4 Q. Also Manhattan?
- 5 A. Yes.
- 6 Q. Do you own the motel?
- 7 A. Yes.
- 8 Q. As well as operate it?
- 9 A. Yes.
- 10 Q. And who worked at the Travelers back in November
1994?
- 11 A. Just me.
- 12 Q. Just you?
- 13 A. Uh-huh.
- 14 Q. What were your responsibilities?
- 15 A. Rent the room and maintenance and everything.
- 16 Q. I'm sorry. Can you say that again?
- 17 A. Renting the room, maintenance, and everything.

18 Q. So basically everything in the motel?

19 A. Uh-huh.

20 Q. Did your wife help you out there at the Travelers?

21 A. Yes.

22 Q. And if a guest wanted to get a room at the
Travelers Motel,

23 what would he or she have to do?

24 A. They have to fill out the registration card.

25 Q. Why don't you take a look at Government Exhibit
1765. It

9533

Andy Bhakta - Direct

1 should be coming up on your screen. Do you see it?

2 A. Yes.

3 Q. Do you recognize that?

4 A. Yes.

5 Q. What is that?

6 A. Travelers Motel.

7 Q. It's a registration card from the motel?

8 A. Right.

9 Q. And is it a business record that you make and keep
in the

10 regular course of the motel's business?

11 A. Yes.

12 MR. GOELMAN: Move to admit Government's 1765,
your

13 Honor.

14 MR. TIGAR: No objection.

15 THE COURT: Received, 1765.

16 BY MR. GOELMAN:

17 Q. Mr. Bhakta, which portion of this card would the
guest fill

18 out?

19 A. The name, street address, and make of car, license
number,

20 and state.

21 Q. Okay. So the top portion?

22 A. Yes, sir.

23 Q. And what about -- what line would the motel worker
fill

24 out?

25 A. Date and amount paid.

9534

Andy Bhakta - Direct

1 Q. So just that bottom line?

2 A. Yes, sir.

3 Q. Does this card reflect the name of Ted Parker of
Lum,

4 Michigan?

5 A. Yes, sir.

6 Q. Do you remember this particular guest?

7 A. No, sir.

8 Q. Do you know who Ted Parker is?

9 A. No.

10 Q. Do you know whether or not Ted Parker is even a
real

11 person?

12 A. I don't know.

13 Q. And who fills out the name and -- I mean who fills
out the

14 make and license plate number of the vehicle?

15 A. Customer.

16 Q. Does this card reflect a pickup truck with a
Michigan

17 license plate of VX1640?

18 A. Yes, sir.

19 Q. Now, when customers fill that portion of the
registration

20 card out, do you take the card and go outside and
physically

21 compare the information on the card with the license
plate on a

22 vehicle?

23 A. No.

24 Q. Do you check it out in any way?

25 A. No.

9535

Andy Bhakta - Direct

out
number?
1 Q. Okay. So do you know if the person who filled this
2 really was driving a vehicle with that license plate

3 Do you have any personal knowledge of that?

4 A. No.

reached a
is the
5 MR. GOELMAN: Your Honor, the parties have
6 stipulation that the customer information on this card
7 handwriting of Mr. Terry Lynn Nichols.

8 MR. WOODS: Yes, your Honor. That is our
stipulation.

9 THE COURT: All right. We except that
agreement.

10 BY MR. GOELMAN:

Parker
11 Q. Now, does this card indicate the date that Mr.
12 registered?

13 A. Yes, sir.

14 Q. What is the date?

15 A. 11-7-94.

line?
16 Q. And you recognize that writing down on the bottom

17 A. Right.

18 Q. Whose writing is that?

19 A. The bottom line?

20 Q. Yes.

21 A. That is mine.

read 22 MR. GOELMAN: Your Honor, I'd ask the Court to
23 now Factual Stipulation 16 between the parties.
24 THE COURT: 16 is October 12, dated?
25 MR. GOELMAN: Yes, your Honor.

9536

Andy Bhakta - Direct

1 THE COURT: It is agreed that Government
Exhibit No. 2 1889 is a scrap piece of paper seized by the FBI on
April 21, 3 1995, from the residence of William McVeigh and his
daughter, 4 Jennifer McVeigh, in Lockport, New York. On one side
of 5 Government Exhibit No. 1889 is the handwritten name
"Terry 6 Nicols," spelled N-I-C-O-L-S, and the phone number
"913- 7 539-9702." The handwriting is that of Jennifer
McVeigh.

8 Was that --

9 MR. WOODS: Yes, your Honor. That is our
stipulation.

10 THE COURT: All right.

11 MR. GOELMAN: Thank you, your Honor. We'll be
moving

12 1889 into evidence at another time.

13 THE COURT: All right.

14 BY MR. GOELMAN:

10. I 15 Q. Mr. Bhakta, I want to show you Exhibit 1888, page
kind of 16 want you to look at the numbers on the left side, the
17 middle column there.

18 A. Okay.

phone in 19 Q. Do you see the number for Waters True Value pay
20 Manhattan, Kansas?

21 A. Yeah, I see that.

22 Q. And is that number (913) 539-9702?

23 A. Right.

24 Q. I want to show you Government 1888, page 11, now.

True Value 25 And do you see that same number for Waters

9537

Andy Bhakta - Direct

first two 1 pay phone, this time on the right-hand column, the

2 entries on the right-hand column?

3 A. Yeah. Yes, sir.

fourth 4 Q. Now, I'm going to ask you to take a look at the

"called 5 entry on November 7. That's Call No. 204. And the

in 6 from," the left-hand column indicates "Travelers Motel"
7 Manhattan, Kansas, do you see that?
8 A. The fourth one?
9 Q. Yeah.
10 A. Yes, sir.
11 Q. Do you recognize the number there, (913) 776-4836?
12 A. Yes, sir.
13 Q. What is that number?
14 A. That's Travelers Motel.
15 Q. And was that the Travelers number back in November
1994?
16 A. Yes, sir.
17 Q. Does this Government exhibit reflect that there's a
call
18 made from the Travelers Motel to William McVeigh in
Pendleton,
19 New York, at 6:04 p.m.?
20 A. Yes.
21 Q. Now, go down the list and look at Call 212. It's
the
22 second-to-last one.
23 A. Second to last.
24 Q. Do you see that? 7:22 p.m.
25 A. Yes, sir.

Andy Bhakta – Direct

from the 1 Q. Okay. Now, was that call also to William McVeigh

2 Travelers Motel?

3 A. Yes, sir.

4 Q. From the same number?

5 A. Yeah.

Padilla 6 Q. And now look at the 10:45 call to Lana and Leonard

Motel? 7 in Las Vegas, Nevada. Was that also from the Travelers

8 A. Yes, sir.

Call 203 9 Q. And now, Mr. Bhakta, I want you to look back up at

10 and tell me if you can read where that was from.

11 A. 203, Mini Mart pay phone.

12 Q. Mini Mart pay phone in Manhattan, Kansas?

13 A. Yes, sir.

14 Q. And is that made at 5:59 p.m.?

15 A. Yes, sir.

210, and 16 Q. And is that also calls 205, 206, 207, 208, 209,

17 211 were made from. I mean made to.

18 A. Which numbers?

column: Does 19 Q. 205, all the way down to 211, the right-hand

Kansas? 20 that reflect the Mini Mart pay phone in Manhattan,

21 A. Yes.

few 22 Q. And do those calls begin with 205 at 6:12, just a

23 minutes after the call from the Mini Mart?

24 A. Yes, sir.

Kansas, 25 Q. Are you familiar with the Mini Mart in Manhattan,

9539

Andy Bhakta – Direct

1 near the Travelers Motel?

2 A. Yes, it is across the street from the motel.

3 Q. It's right across the street?

4 A. Uh-huh.

5 Q. I want to show you Government Exhibit 1896.

6 Do you recognize that?

7 A. Yes, sir.

8 Q. What's depicted in that picture?

9 A. Its right side is the motel and left side is the
Mini Mart.

10 Q. Is that a picture right across the street from your
motel,

11 what it looks like?

12 A. Right.

13 MR. GOELMAN: Move to admit Government 1896,
your

14 Honor.

15 MR. TIGAR: No objection.

16 THE COURT: Received.

17 BY MR. GOELMAN:

18 Q. Did you see the Travelers Motel on this picture?

19 A. Yes, sir.

20 Q. Could you pick up the pen that should be to your
left up

21 there and take it, press it right to the screen --
you've got

22 to go underneath the little window -- and draw a circle
around

23 the -- Mr. Bhakta, you have to take it and put it on
the screen

24 itself.

25 A. For the motel.

9540

Andy Bhakta - Direct

1 Q. Yeah, just circle the motel so we can know which
building

2 it is.

3 Great. And do you also see the Mini Mart?

4 A. Yes, sir.

5 Q. And can you circle that, please.

6 Mr. Bhakta, do you know from your own personal
7 knowledge whether or not there's a pay phone at that
Mini Mart

8 in Manhattan, Kansas?

9 A. Yes, there is a pay phone over there.

10 MR. GOELMAN: Nothing further, your Honor.

11 THE COURT: Mr. Tigar.

12 CROSS-EXAMINATION

13 BY MR. TIGAR:

14 Q. Hello, Mr. Bhakta.

15 A. Hello.

16 Q. My name is Michael Tigar. I'm one of the lawyers
appointed

17 to help Terry Nichols.

18 You have a telephone in each one of the rooms
in your

19 motel, do you not?

20 A. Yes, sir.

21 Q. And if a person staying in your motel wants to use
a

22 telephone credit card to make a call, how do they do
that?

23 A. They call, you know, office for information.

24 Q. I'm sorry, could you say that again?

25 A. Well, they cannot dial call directly. They call in
to the

9541

Andy Bhakta - Cross

1 office for direction.

2 Q. And then someone in the office then puts the call
through;

3 is that correct?

4 A. Yeah; right.

Mini 5 Q. And you were shown some telephone records from the

6 Mart. Do you remember being shown those records?

7 A. Yeah, uh-huh.

here, the 8 Q. And is that the first -- is today, when you came

9 first time that you had seen those records?

10 A. Yes, sir.

11 Q. Had you been shown them at -- by the Government
lawyers in

12 preparing to testify today?

13 A. What is that?

14 Q. Did they show you these same records so you could
be ready

15 to testify?

16 A. Yeah.

17 Q. I'm going to place up what has been received as
18 Government's 1888, I believe for demonstrative
purposes.

19 MR. TIGAR: Thank you.

20 BY MR. TIGAR:

11-7, 21 Q. And this is the list of calls that's dated Monday,

22 1994; correct?

23 A. Yes, sir.

24 Q. Now, is that -- the thing that's across the street

from

25 your motel, that's the Mini Mart?

9542

Andy Bhakta – Cross

1 A. Yes, sir.

there's

2 Q. All right. And reading down here, do you see that

for 16

3 a call from the Mini Mart for 16 -- from the Mini Mart

4 seconds; do you see that, sir?

5 A. Yes, sir.

a

6 Q. And then there's a call from the Travelers Motel to

7 number in New York; correct?

8 A. Yes, sir.

9 Q. Now the Travelers Motel, that's your number; right?

10 A. Yes, sir.

and

11 Q. And then there's a call to the Mini Mart pay phone,

12 it's 6 seconds in length; right?

13 A. Yes, sir.

minute

14 Q. Then there's another call a little more than a

15 later, and that's a zero; correct?

16 A. Yes, sir.

17 Q. And then the next call is also a zero; correct?

18 A. Yes, sir.

19 Q. And the call is a zero; correct?

20 A. Yes, sir.

21 Q. And the next call is for 13 seconds; is that what
that
22 says?

23 A. Yes, sir.

24 Q. And then the next call is a zero; correct?

25 A. Yes.

9543

Andy Bhakta – Cross

1 Q. Then the next call is a zero; right?

2 A. Yes, sir, yes.

3 Q. Now, then that next call, that is from the
Travelers Motel

4 to this New York number; correct?

5 A. Yes, sir.

6 Q. And then there's a call to Lana and Leonard
Padilla, and

7 that's 33 minutes and 19 seconds; correct?

8 A. Yes, sir.

9 Q. Now, when a customer at your motel makes one of
those

10 telephone calls through the office, do you keep an
independent

11 record of the time that it takes? Do you have phone
records

12 that show how long those calls are?

13 A. Well, yes, we got a thing that when they hung up,
it's been

14 dialed.

15 Q. And on your printout, does it sometimes happen that
one

16 call shows up as two calls?

17 A. Yes, sir.

18 Q. Now, on that printout that you get, do you then
charge the

19 customer who wants to make a credit card call, or is
that

20 included in the price of the room?

21 A. Including the price of the room.

22 MR. TIGAR: Thank you very much, sir. I have
no

23 further questions. I appreciate it.

24 MR. GOELMAN: No questions, your Honor. He
may be

25 excused.

9544

1 THE COURT: Agreed, all right.

2 You may step down. You're excused.

3 We'll take our midmorning recess at this time,
members

4 of the jury, during which again, please continue to be

cautious

relating 5 of keeping open minds, avoiding discussion of anything

evidence that 6 to the case, and avoiding anything outside of our

7 could influence you in any way.

8 You're excused now, 20 minutes.

9 (Jury out at 10:20 a.m.)

10 THE COURT: All right. 10:40.

11 (Recess at 10:21 a.m.)

12 (Reconvened at 10:40 a.m.)

13 THE COURT: Be seated, please.

14 (Jury in at 10:40 a.m.)

15 THE COURT: Mr. Mackey?

call Lana 16 MR. MACKEY: Your Honor, at this time, we'd

17 Padilla.

18 THE COURT: All right.

19 (Lana Padilla affirmed.)

please. 20 THE COURTROOM DEPUTY: Would you have a seat,

and 21 Would you state your full name for the record

22 spell your last name.

23 THE WITNESS: Lana Padilla, P-A-D-I-L-L-A.

24 THE COURTROOM DEPUTY: Thank you.

25 THE COURT: Mr. Mackey.

1 MR. MACKEY: Thank you, your Honor.

2 DIRECT EXAMINATION

3 BY MR. MACKEY:

4 Q. Good morning.

5 A. Good morning.

6 Q. Let me take just a few minutes, Ms. Padilla, and
get you
left
those?
7 acquainted with the witness stand. You'll see to your
8 there is an accordion folder with some exhibits. See

9 A. Yes.

10 Q. All right. We may be referring to those in the
course of
11 your examination. There is water for you if you need
it; and
12 immediately below your desk, you'll see a computer
screen.

13 Okay? All right.

14 What I want to do this morning, Ms. Padilla,
is ask
15 you a few questions about your background, then a
couple of
16 events in 1994 and 1995. Can you answer those
questions?

17 A. Yes.

18 Q. All right. Let's start, please, Ms. Padilla, and

tell the

- 19 members of the jury where you grew up.
20 A. I was born and raised in Ubly, Michigan.
21 Q. How do you smell that?
22 A. U-B-L-Y.
23 Q. And where is Ubly, Michigan?
24 A. It's in the Thumb of Michigan, north of Detroit.
25 Q. This is Michigan --

9546

Lana Padilla - Direct

- 1 A. Yeah, I'm in the Thumb.
2 Q. Here's Saginaw Bay.
3 A. Correct.
4 Q. Ubly is over here in the Thumb. How far east of
Saginaw
5 Bay is Ubly?
6 A. About 60 miles.
7 Q. And you grew up on a farm there?
8 A. Dairy farm.
9 Q. When did you finish high school?
10 A. 1968.
11 Q. And what did you do after that?
12 A. I went to Eastern Michigan University for a period
--
13 Q. How long?

14 A. Till 1969, '70.
15 Q. Did you come back home then at that time?
16 A. I came back home. My brother was killed, and I
came back
17 home to work on the farm.
18 Q. Shortly thereafter, were you married?
19 A. Yes.
20 Q. What year?
21 A. 1970.
22 Q. And to whom?
23 A. Larry Osentoski.
24 Q. And did you and Mr. Osentoski have children
together?
25 A. We have two sons.

9547

Lana Padilla – Direct

1 Q. Would you tell the jury their names and dates of
birth.
2 A. Barry Osentoski is born 10-21-71, and Troy
Osentoski is
3 born April 16, 1974.
4 Q. So it makes them about 26 and 23 years of age
currently?
5 A. Yes.
6 Q. Where do Barry and Troy currently reside?
7 A. They reside in Las Vegas, Nevada, currently with

me.

8 Q. How long have you lived in Las Vegas, Nevada?

9 A. Since October, 1989.

10 Q. And all the time prior to that was in the state of
11 Michigan?

12 A. Yes.

13 Q. Let's turn to your employment history, if you don't
mind,

14 Ms. Padilla, and give the jury an overview of what
you've done

15 for a living. What is it that you're now doing?

16 A. I currently am a licensed real estate broker and a
licensed

17 insurance agent.

18 Q. In the state of Nevada?

19 A. In the state of Nevada.

20 Q. And how long?

21 A. I moved there in '89, and it took a time period --
there

22 was a lapse where I had to take my exams, and I got
licensed in

23 1990 for real estate and in -- I think 1991 or '2 for
24 insurance.

25 Q. So you have been licensed in both those fields for
a number

9548

Lana Padilla - Direct

1 of years?

2 A. Right. I've been in real estate since 1978 and
insurance

3 since 1984.

4 Q. In those field then even before you moved to Las
Vegas?

5 A. Correct.

6 Q. Do you currently own or operate a business in Las
Vegas?

7 A. Yes.

8 Q. And what's the name of that business?

9 A. It's called Vegas Starlight Realty.

10 Q. How big a business is that?

11 A. Small. It's me and three other licensees.

12 Q. And how long have you worked with Vegas Starlight?

13 A. I established that company in January of 1996.

14 Q. And prior to the current business, did you have any
other

15 real estate business operation in the state of Nevada
and

16 specifically Las Vegas?

17 A. I had a company called Esquire Realty.

18 Q. Tell the jury about Esquire Realty.

19 A. I was the owner/broker, one of the owners and the
broker;

20 and it was a larger company. And I had that
established in

21 1993 until December of 1995.

by 22 Q. At its peak, how large was Esquire Realty measured
23 agents and employees?
24 A. We had approximately 40 licensees.
of work 25 Q. And over the years, Ms. Padilla, what other lines

9549

Lana Padilla – Direct

1 have you been involved in?
2 A. I took a job temporarily while I was getting
licensed at
3 Lady Luck Hotel and Casino as a food and beverage
hostess while
4 I was getting licensed in Las Vegas, and that was in
1990.
5 Q. Safe to say, then, you have been actively employed
your
6 adult life?
7 A. Correct.
8 Q. Ms. Padilla, do you have children other than Barry
and
9 Troy?
10 A. Yes. I have a son, Joshua.
11 Q. And what is Joshua's last name?
12 A. Nichols.
13 Q. And is Joshua a son of you and Terry Nichols?
14 A. Yes.

15 Q. Tell the members of the jury when you and Mr.
Nichols were

16 married.

17 A. We got married in January, 1981.

18 Q. And were you later divorced?

19 A. Yes.

20 Q. And what year?

21 A. 1989.

22 Q. And was there any period of separation prior to the
final

23 divorce?

24 A. Yes.

25 Q. Would you tell the jury when Josh Nichols was born
and his

9550

Lana Padilla - Direct

1 current age, please.

2 A. He was born August 11, 1982. And he's 15.

3 Q. Okay.

4 A. Yes.

5 Q. There is water, if you need it.

6 A. Yeah.

7 Q. And we'll take our time.

8 A. Okay.

9 Q. Does Josh live with you?

10 A. Yes, Josh lives with me.

11 Q. And how long has Josh been residing with you?

12 A. Since 1993.

13 Q. Between the time of your separation in 1988 and
1993, where

14 predominantly did Josh Nichols reside?

15 A. He was with his father, and he was in -- in 1988,
he was in

16 Fort Riley, Kansas. And then he was back in Decker,
Michigan,

17 after Terry left the Army. And then in 1991, there was
a short

18 time where they lived in Las Vegas.

19 Q. Over the years since your divorce, Ms. Padilla,
have you

20 had occasion to stay in contact with Terry Nichols?

21 A. Yes, I have.

22 Q. Is that largely as a result of Josh?

23 A. Yes.

24 Q. Ms. Padilla, now let me turn to Tim McVeigh and ask
you if

25 you know Tim McVeigh?

9551

Lana Padilla - Direct

1 A. Only by telephone conversations.

2 Q. Could you tell the jury when you first heard the
name "Tim

3 McVeigh," when and from whom?

4 A. I recall hearing it when Terry was in the military.

5 Q. And when was that?

6 A. In 1988.

7 Q. How long was Terry Nichols in the military?

8 A. Approximately a year.

9 Q. And during that time period, is that when you first
heard

10 the name "Tim McVeigh"?

11 A. I recall hearing about several people, and Tim
McVeigh was

12 one of them.

13 Q. And what first information did you learn from Mr.
Nichols

14 about Tim McVeigh?

15 A. I don't really -- I don't really remember, other
than they

16 were in the Army together.

17 Q. Over the years since that time, have you personally
talked

18 to Tim McVeigh?

19 A. On the telephone.

20 Q. And how many different such occasions?

21 A. Normally it was a conversation, short, calling into
my

22 house to talk to either Josh or Terry. Maybe 15, 20
times.

23 Q. And would --

24 A. Over the period of years.

25 Q. With that experience, have you come to recognize
his voice?

9552

Lana Padilla - Direct

1 A. Yes.

2 Q. You know him when he calls?

3 A. Yes.

4 Q. Does he identify himself to you when he does?

5 A. Yes. It's normal procedure when I answer the phone
to ask

6 who is calling. Because of the type of business, I
always try

7 to get a name.

8 Q. Let's turn our attention now, Ms. Padilla, to 1994,
and

9 specifically January and February of that year, the
early

10 months of that year. Do you know where Mr. Nichols was
11 residing at that time?

12 A. January, February of 1994?

13 Q. Yes, ma'am.

14 A. He was in Las Vegas, or Henderson, Nevada.

15 Q. That is a suburb of Las Vegas?

16 A. Yes.

17 Q. You would know that as a real estate agent?

18 A. Yes.

Las 19 Q. Who was Mr. Nichols residing with in early 1994 in

20 Vegas?

21 A. His wife and his daughter.

22 Q. And what is Mr. Nichols' wife's name?

23 A. Marife and Nicole.

Nichols 24 Q. In February of 1994, did you come to know that Mrs.

25 left the country?

9553

Lana Padilla – Direct

came 1 A. I recall her leaving the country, because when she

terminal in 2 back we helped her get from one terminal to another

3 '94.

parties 4 MR. MACKEY: Your Honor, it's agreed among the

5 that Mrs. Nichols departed the United States for the

6 Philippines on February 15, 1994.

agreement. 7 MR. WOODS: Yes, your Honor. That is our

8 THE COURT: All right. Thank you.

9 BY MR. MACKEY:

his 10 Q. In February of 1994, where did Mr. Nichols go after

11 wife left for the Philippines?

Kingman 12 A. My recollection was he was headed from Henderson to

13 to Marion, Kansas.

14 Q. Was his first stop, then, in Kingman, Arizona?

15 A. He had given me an address there.

he left 16 Q. Did you have a conversation with Mr. Nichols before

you 17 the Las Vegas area in February of 1994 in which he told

18 where he was going?

things, and 19 A. We talked because he was having like a sale and

in 20 we talked about where he was going, but, you know, just

21 passing.

information 22 Q. At that time, did Mr. Nichols provide you any

23 by which you could reach him if you needed to?

24 A. He had given me an address.

your 25 Q. Take a look, Ms. Padilla, in your exhibit folder to

9554

Lana Padilla - Direct

1 left for No. 1849.

2 Do you find it there?

3 A. Yes.

4 Q. And do you recognize it?

5 A. It's from my Daytimer.

6 Q. And is the entry on a date in February of 1994 in
your
7 handwriting?

8 A. Yes.

9 Q. And is that the information that Mr. Nichols
provided you
10 in February of 1994?

11 A. Yes.

12 MR. MACKEY: Your Honor, I'd move to admit
13 Government's Exhibit 1849.

14 MR. WOODS: No objection, your Honor.

15 THE COURT: 1849 is received.

16 BY MR. MACKEY:

17 Q. Ms. Nichols -- excuse me -- Ms. Padilla, we're
going to
18 show the exhibit to the jury at this time and focus on
a
19 section entitled, "Tim Tuttle." Do you see that in
your --

20 A. On the screen.

21 Q. -- in the exhibit itself?

22 A. Uh-huh.

23 Q. Would you read that into the record, the
information that

24 starts with the name "Tim Tuttle."

25 A. "Tim Tuttle, address 1711 Stockton Hill Road, No.
206,

Lana Padilla - Direct

1 Kingman, Arizona, 86401."

2 Q. And again, where did you get the information you
wrote down

3 in your daytimer on this date in February of 1994?

4 A. I would have gotten it from Terry.

5 Q. Did you know in February of 1994 a person by the
name of

6 "Tim Tuttle"?

7 A. No. I didn't equate "Tim Tuttle" with Timothy
McVeigh, no.

8 Q. At any later time, did you come to know "Tim
Tuttle" to be

9 a named used by Tim McVeigh?

10 A. Yes.

11 Q. Was that through Mr. Nichols?

12 A. No. No. I don't remember us discussing the
difference in

13 the name.

14 Q. All right. The information that's recorded in this
15 exhibit: Is that the address Mr. Nichols gave you as a
means

16 to reach him after he left Las Vegas in February of
1994?

17 A. Yes.

18 Q. Do you know, based on conversations with Mr.
Nichols after

19 his departure from Las Vegas, how long he stayed in
Kingman,

20 Arizona?

21 A. No.

22 Q. When was the next place that you know that Mr.
Nichols went

23 to based on your conversations with him at that time?

24 A. He had given me -- he had given me an address -- or
excuse

25 me -- like a hotel number, phone number and a unit
number,

9556

Lana Padilla - Direct

1 like -- and that was in Kansas; and he was there
looking for a

2 home.

3 Q. And did you record the motel rooms that Mr. Nichols
gave

4 you as a means to reach you -- have you reach him?

5 A. Yes.

6 Q. And do you recall those room numbers?

7 A. It's in my Daytimer. I think -- no, 58 and 30-
something,

8 but I'd have to look.

9 Q. We won't bother you to do that at this point.

10 Do you remember, then, in the spring of 1994
Mr. Terry

11 Nichols' residing in the state of Kansas?

Donahue 12 A. Oh, in the spring of '94, yes. He went to the
I was 13 farm. Right. And I just said something that I realize
14 in the wrong year. I'm sorry.

Kansas, 15 Yeah, the spring of '94, he was in Marion,
16 working on a farm.

Donahue 17 Q. All right. And did you talk to Mr. Nichols at the
1994? 18 Ranch over the course of the next several months in

and we had 19 A. Yes. I'm sure we've talked because Josh visited
20 to make travel arrangements.

to the 21 Q. I want to move forward now in time, Mrs. Nichols,
with 22 fall, September of 1994. Do you recall a conversation
the 23 Mr. Nichols in which you learned that he was leaving
24 Donahue Ranch?

25 A. In -- yes. In September.

9557

Lana Padilla - Direct

1 Q. Can you describe what you recall of that
conversation to

2 the members of the jury?

3 A. It was a very -- it was a surprise to me because I
hadn't
4 heard that he was going to leave the farm. And it was
a very
5 brief conversation, just saying that he was going to be
doing
6 gun shows with Timothy McVeigh.

7 Q. Did he tell you why he was quitting his job?

8 A. Yeah. He said he was putting long days, long
hours, and he
9 could make more money, be better for him financially to
do gun
10 shows.

11 Q. Did he tell you where Mrs. Nichols and their
daughter would
12 be in the fall of 1994?

13 A. I recall him saying they went back to the
Philippines.

14 Q. Shortly after that conversation in which you
learned of
15 Mr. Nichols' plan to leave the Donahue employment, did
you
16 personally see Terry Nichols in Las Vegas?

17 A. I recall him stopping by a couple times.

18 Q. In the month of October of 1994, how many visits do
you
19 recall Mr. Nichols' making to your residence in Las
Vegas?

20 A. I recall, I think, two times he was there.

21 Q. Do you recall a period of time that separated those
two

22 visits in the month of October of 1994?

23 A. It seemed like he was there the first weekend when
he left
24 the farm and then again later in the month, so there
was a time
25 period -- I don't know where he was -- I don't know
what he

9558

Lana Padilla - Direct

1 did. I just knew that he said he was doing gun shows.

2 Q. Do you know where he was immediately before coming
to Las
3 Vegas, Nevada, the first week of October of 1994?

4 A. No.

5 Q. And I take it, as you said, you don't know where he
was in
6 between the time of the two visits?

7 A. No, I don't.

8 Q. Could you tell the members of the jury
approximately how

9 long Mr. Nichols stayed to visit on those two trips in
October
10 of 1994.

11 A. He was there very briefly, because if I remember
correctly,
12 he picked up Josh and they went to Zion National Park;
and so
13 he wasn't really at my home very long. He was just

there

14 briefly.

15 Q. When you saw Mr. Nichols in the month of October of
'94,

16 what kind of vehicle do you recall he was driving?

17 A. A pickup.

18 Q. And do you remember anything about the pickup, its
color,

19 or any other features?

20 A. I think it was blue.

21 Q. Ms. Padilla, I want to turn your attention now to
22 Government's Exhibit 1888. It has a list of phone
numbers.

23 And I'm going to start with the date of October 6,
1994. This

24 may be easier for you look at on the screen.

25 A. I'm just reading, yeah.

9559

Lana Padilla - Direct

1 Q. Okay. With that before you, Ms. Padilla, do you
see two

2 phone calls made on Thursday, October 6, 1994, to your
3 residence?

4 A. Yes.

5 Q. And was your number in October of 1994 the same
number

6 that's reflected on that exhibit?

7 A. Yes.

two
8 Q. Could you tell the members of the jury where those
exhibit.
9 phone calls were placed from, just by reading the

10 A. It appears it was from Kingman, Arizona.

knew
11 Q. Ms. Padilla, in the course of the time that you
Daryl
12 Mr. Nichols, did you ever know him to use the name

13 Bridges?

14 A. I don't recall that name.

debit
15 Q. Did you know in the fall of 1994 whether he had a
16 calling card?

no. He
17 A. I wasn't familiar what a debit calling card was,
18 might have said it, but I didn't -- didn't think of it.

19 Q. Have you ever used a debit calling card?

20 A. No.

reflect
21 Q. If there are other entries on this exhibit that
debit card,
22 phone calls from or to your residence on a Bridges

23 did you make any of those calls?

24 A. No.

11 --
25 Q. Okay. Let's turn our attention, then, to October

9560

Lana Padilla - Direct

1 Tuesday, October 11, and describe for the jury what
they're

2 looking at there just based on the exhibit itself.

3 A. Calls from Michael Fortier's in Kingman, Arizona,
to my

4 residence.

5 Q. Did you know the name "Michael Fortier" in October
of 1994?

6 A. Only through -- only through Terry when he was in
the Army,

7 but --

8 Q. You've never met Michael Fortier?

9 A. No.

10 Q. Let's turn now to October 17, 1994. And do you see
a phone

11 call to your residence that day, Monday, October 17?

12 A. Yes.

13 Q. And where was that phone call placed from?

14 A. Herington, Kansas.

15 Q. To the best of your recollection, in mid October of
'94,

16 was Mr. Nichols not in the Las Vegas area?

17 A. I don't remember him being there the middle of the
month.

18 Q. Let's turn to Sunday, October 23, 1994. And the
third

19 entry, Ms. Padilla, do you see a phone call to your

residence?

20 A. Yes.

21 Q. And again, where is that placed from? What city
and state?

22 A. Junction City, Kansas.

23 Q. Have you ever been to Junction City, Kansas?

24 A. No.

25 Q. Let's turn as well to October 29, 1994. Do you see
the

9561

Lana Padilla - Direct

1 first entry?

2 A. It's a call from Michael Fortier's house to my
house, and

3 there is a call from a pay phone just around my corner
of my

4 house, Mighty Mart, to Michael Fortier's house.

5 Q. On the same day?

6 A. Yes.

7 Q. How far is the Mighty Mart from your residence, or
how far

8 was it in the fall of 1994?

9 A. About two long blocks.

10 Q. To your knowledge, is it the closest public pay
phone to

11 your residence?

12 A. Yes.

October, 13 Q. Let's turn our attention now, Ms. Padilla, to late
14 1994, after the time period you've already described to
this 15 jury. Do you remember a -- a problem developing in the
family 16 that precipitated the need on your part to contact Mr.
Nichols?

17 A. Yes.

18 Q. And I don't think we need to get into all the
details, but 19 did you after that moment attempt to reach Mr. Nichols?

20 A. I wrote him a note and mailed it to his post office
box, 21 telling him to call me.

22 Q. And why did you reach him in that fashion, or
attempt to 23 reach him in that fashion?

24 A. That was the only way I had to reach him.

25 Q. After you sent the note to Mr. Nichols' mailbox,
did you,

9562

Lana Padilla - Direct

Nichols? 1 in fact, have a conversation that you recall with Mr.

2 A. Yes. He called me.

3 Q. And approximately what date, if you do recall?

4 A. It was on a Sunday, first part of November.

5 Q. Let's turn our attention back to 1888 and the
entries for

6 Sunday, November 6, 1994. Do you see the third entry
on that

7 particular exhibit?

8 A. Uh-huh. Esquire Realty, Waters True Value pay
phone.

9 Q. Is that the phone number of Esquire Realty in
November of

10 1994?

11 A. That's a -- that's a cellular phone number that is
in the

12 name -- it was in the name of the company, and I had it

13 forwarded into my house.

14 Q. The phone call that you recall -- and I'll ask you
some

15 details about it -- was that received at your
residence?

16 A. Yes.

17 Q. And do you recall approximately how long the phone
call

18 lasted?

19 A. It was probably -- I thought it was about 20
minutes; but

20 according to this, it was a little bit longer.

21 Q. Does this record in terms of activity on November 6

22 correspond with your own memory as to when that phone
call took

23 place?

24 A. Yes.

25 Q. You'll see a second phone call, bottom -- or
second-from-

9563

Lana Padilla - Direct

1 the-bottom, I should say, also to your residence.

2 A. Yes.

3 Q. On that day, then, were there two phone calls of
4 approximately a half hour in length?

5 A. I don't really recall the second phone call. It
might have

6 been Josh got that call. I don't really recall that
phone

7 call.

8 Q. Let's talk about the content of the conversation,
please.

9 Ms. Padilla, can you tell the members of the jury in as
much

10 detail as you can now recall exactly what you said and
11 Mr. Nichols said during that phone call.

12 A. Well, the phone call was -- Terry called and we
discussed

13 Josh. And from discussing Josh, we discussed some
other

14 things; and it seemed like I wanted -- I didn't really
care

15 about the other things which Terry was elaborating on.
And

16 there was part of the conversation was regarding Waco,

and

17 another part of the conversation was regarding the
shooting at

18 the White House. And there was some discussion about
the civil

19 unrest and people killing off people. It was a really
20 different conversation.

21 Q. Tell the members of the jury why it is that you
recall this

22 conversation.

23 A. Well, because I'm -- I didn't really have the mind-
set or

24 the time to deal with any of those issues. I was one
thing

25 (sic), and one thing was to Josh; and when I hung up
the phone,

9564

Lana Padilla - Direct

1 I realized that it was a very odd conversation. And
I'm sorry

2 to say that Waco didn't enter my mind before the call
and Waco

3 didn't enter my mind after the call. It was just
something

4 that seemed to be on Terry's mind.

5 Q. Waco was what Mr. Nichols was talking to you about
on that

6 Sunday call?

7 A. Well, yeah. He elaborated on that a little bit.

and the 8 Q. Tell the jury what you recall him saying about Waco

9 events at Waco.

he felt 10 A. Very -- it's been a long time but briefly was that

incorrectly, 11 it was handled unjustly, the government did things

12 and there were innocent people killed.

Nichols use 13 Q. Earlier you used the word "injustice." Did Mr.

14 that word during that conversation on that Sunday?

15 A. I don't know if it was "unjust" or "injustice."

16 Q. How did he use that word?

17 A. That it was "unjust," "unjustified."

term. Did 18 Q. You mentioned earlier about "civil unrest," that

19 that come out of Mr. Nichols' mouth?

off 20 A. Yeah. He said there was going to be people killing

21 each other and that the country was in trouble.

correct 22 And I just said, "Terry, I don't have time to

really was -- 23 the problems of the world." You know, and I just

anything 24 I just really was not really wanting to talk about

my 25 that didn't pertain to -- I mean, I was very focused on

Lana Padilla - Direct

1 work; and I didn't have time to deal with any of these
other
2 things that seemed to be bothering him.

3 Q. When Mr. Nichols talked about civil unrest, did
that prompt
4 you to make any mention about the White House shooting?

5 A. Yeah. I kind of got smart-mouthed and said, "I
suppose you
6 thought that the shooting at the White House was okay";
and he
7 thought it was.

8 Q. That's what Mr. Nichols --

9 A. He thought the man had a right, a justified reason.

10 Q. To shoot at the White House?

11 A. Yeah.

12 Q. In the course of the conversation, did Mr. Nichols
predict
13 any reaction of the people in this country as a result
of Waco?

14 A. Would you repeat that.

15 Q. In the course of this conversation, did Mr. Nichols
predict
16 any reaction by the people in this country as a result
of Waco?

17 A. I recall him saying that people were going to start
killing
18 off each other; that there was going to be just civil
unrest.

after 19 Q. Do you recall when you next saw Mr. Terry Nichols

20 this Sunday phone call?

21 A. He came over -- came to Las Vegas.

22 Q. And when did he arrive?

came to 23 A. In the middle of that week, sometime that week he

24 Vegas.

between the 25 Q. How many days, if you can recollect, elapsed

9566

Lana Padilla - Direct

you saw 1 time of this phone call on Sunday, November 6, and when

2 Mr. Nichols in Las Vegas?

Saturday, so 3 A. Well, he was there for Josh's football game on

Thursday 4 I remember him coming either Wednesday -- Wednesday or

5 of that week.

stay 6 Q. So November 9 or 10, thereabouts. And where did he

November of 7 when he arrived in Las Vegas that first week in

8 1994?

house. 9 A. I suggested he stay with Josh, and he stayed at our

Padilla? 10 Q. Now, at that time, were you married to Leonard

11 A. Yes.

12 Q. And was this invitation a mutual invitation?

13 A. Yes.

14 Q. Of the Padilla family?

15 A. Uh-huh.

16 Q. Did Mr. Padilla set any conditions for Mr. Nichols'
staying
17 there at the residence with you?

18 A. Not so much the first part of the stay, but the
second part

19 of the stay, he kind of -- he just said, you know, "I
don't

20 mind Terry staying," because we were having problems
and I

21 wanted Terry to help me with Josh; and he just
mentioned that

22 he didn't want any guns around.

23 Q. And did you have a conversation with Mr. Nichols
about the

24 need that if he stayed at your home that he should not
have any

25 handguns?

9567

Lana Padilla - Direct

1 A. I told Terry that it was okay with Leonard if he
stayed,

2 and I also didn't realize he had a gun. And I just
said to

3 him, "As long as you don't bring any guns in the
house." And
4 he showed me a gun, and I just said, "Well, I don't
want any
5 problems, so . . ."
6 Q. And was this a conversation that took place in your
7 residence?
8 A. Yes.
9 Q. And you communicated the need to not have weapons
and he
10 had one on that day?
11 A. Right.
12 Q. Showed it to you?
13 A. Right.
14 Q. Is that correct?
15 Did you see Mr. Nichols in possession of a
video
16 camera in early November of 1994?
17 A. He brought a video camera for Josh's football game.
18 Q. What do you remember about that episode?
19 A. I brought one, too, from a girlfriend. We both had
one,
20 and neither one of us knew how to use them; but he
didn't -- he
21 said he got his at a -- I don't know where he said he
got his,
22 but he didn't know how to use it, either.
23 Q. Did you ask him about whether he had instructions
or

24 anything of the like?

25 A. No.

9568

Lana Padilla - Direct

not 1 Q. Do you know why it was that the video camera was

2 working, the one that Mr. Nichols had?

and I 3 A. No, I don't recall. He could have had everything

4 still wouldn't know how to use it. I --

the 5 Q. Later in November of 1994, did Mr. Nichols leave

6 country?

7 A. He left November 22. I took him to the airport.

8 Q. Do you know where he was going?

9 A. The Philippines, to visit his family.

Tim 10 Q. On that date, November 22, 1994, did you speak to

11 McVeigh?

call that 12 A. Early -- early in the morning, there was a phone

13 came in the house; and I gave the phone to Terry.

14 Q. And who was the caller?

15 A. Tim McVeigh.

residence for 16 Q. And you recall that Mr. McVeigh called your

17 Mr. Nichols?

18 A. Yes.

19 Q. On the same day that Mr. Nichols later left for the

20 Philippines?

21 A. Yes.

22 Q. Do you know where Mr. McVeigh was calling from?

23 A. No.

24 Q. Let me show you Government's Exhibit 1888 one more
time.

25 November 22. See a phone call to your residence on
that date

9569

Lana Padilla - Direct

1 from a pay phone in Pendleton, New York?

2 A. Uh-huh.

3 Q. And do you see an approximate length of that phone
call?

4 A. Uh-huh.

5 Q. A little less than 4 minutes?

6 A. Yes.

7 Q. Does that correspond with your own memory of how
long that

8 phone call was that morning?

9 A. The time corresponds. The length wouldn't, because
what I

10 usually did is gave Terry the phone, and I walked back
and got

11 ready for work and he was in the kitchen. So I don't
know what
12 the length of time, but the time the phone call came in
13 according to our time zone would seem correct.

14 Q. Do you remember anybody else calling for Mr. Terry
Nichols
15 on Tuesday, November 22, 1994?

16 A. No.

17 Q. Describe, then, Ms. Padilla, the events of November
22,
18 1994.

19 A. I have gave him the telephone, and I went back to
get ready
20 for work. And our agreement was that I would pick him
up later
21 that day and take him to the airport.

22 Q. Where were you to pick Mr. Nichols up?

23 A. At the -- he was going to leave his vehicle at a
storage
24 place in Las Vegas.

25 Q. And later that same day, the 22d, did you, in fact,
go to

9570

Lana Padilla - Direct

1 the storage site?

2 A. Yes.

3 Q. Describe what happened there.

Josh, 4 A. It was late in the afternoon. Terry had picked up
storage 5 and I met them -- I left my office and met them at the
6 place in Las Vegas.

as far as 7 And he proceeded to do whatever he had to do
threw his 8 parking his vehicle, and I just waited; and then he
9 things in the trunk, and I took him to the airport.

the 10 Q. In the course of the drive from the storage shed to
11 airport, did you and Mr. Nichols have conversation?

12 A. Yes.

13 Q. Describe that.

there at the 14 A. I don't recall just if he told me when we were
airport, but 15 storage place, or if he told me when we got to the

to 16 he told me that he had a package for me and that I was

back by 17 please keep it until he came back and if he didn't come
18 the date, that I was to open it up.

package? 19 Q. And did Mr. Nichols, in fact, deliver to you a

20 A. Yes.

21 Q. Was that done in the vehicle?

22 A. It was in the vehicle.

23 Q. Did he deliver anything other than the package to

you or in

24 addition to that package?

25 A. He gave me a set of keys for his pickup truck and
an

9571

Lana Padilla - Direct

1 instruction sheet written out for Tim.

2 Q. "Tim" being Tim McVeigh?

3 A. It just said "Tim" on the sheet.

4 Q. Did you have conversation with Mr. Nichols about
the

5 prospect that Mr. McVeigh may be borrowing his truck?

6 A. Yes.

7 Q. Describe that.

8 A. He said that Tim might be borrowing the truck and
if he did

9 to give him the keys and give him the list of
instructions

10 because it needed brakes and the oil changed and things
like

11 that.

12 Q. Was there anything that you noticed about Mr.
Nichols

13 during the drive from the storage shed to the airport
that

14 afternoon?

15 A. Anything I noticed?

16 Nichols about

Q. Do you remember having conversation with Mr.
17 a smell?

18 A. Oh, yeah.

19 Q. Describe that.

20 A. Yeah. I said something about -- something about
the smell;

21 and he said something about some new deodorant or
something.

22 It was -- I felt bad that I said it because later on, I
just --

23 there were so many emotions and I remember saying about
a

24 smell.

25 Q. That's an observation you made in this drive to the
airport

9572

Lana Padilla - Direct

1 that afternoon?

2 A. Yes.

3 Q. Can you describe the package that Mr. Nichols
handed to you

4 in that car ride?

5 A. It was a brown package wrapped with tape, brown --
like

6 brown -- he asked me earlier that day for a grocery
bag. It

7 was a brown grocery bag.

8 Q. Early that morning?

9 A. Yes.

10 Q. Describe what had happened that morning --

11 A. Oh, that morning --

12 Q. -- as it relates to the bag?

13 A. Oh, well I just -- he was sitting in the kitchen
doing

14 whatever, and he was sitting at the table. He was
writing, and

15 he asked me if had I a grocery bag, and I gave him the
grocery

16 bag.

17 Q. And was the grocery bag you gave him that morning
of

18 similar like as the bag that you got delivered from Mr.
Nichols

19 later that same day?

20 A. Yes.

21 Q. Did you notice Mr. Nichols that morning in the
kitchen

22 taking any efforts to conceal his writing as he sat
there?

23 A. Terry typically was very private, but he did sit
and he had

24 his tablet and he had something else over it, yes.

25 Q. And as you walked by, what did he do?

1 A. I didn't really walk by him. I just -- I just
observed it
2 because the counter around the table, you know -- I
didn't
3 really walk by him. He didn't discuss it or talk to me
about
4 what he was writing.

5 Q. During the car ride, then, you got a grocery bag,
piece of
6 paper addressed to Tim and a set of keys. Is that
correct?

7 A. Yes.

8 Q. Take a look, Ms. Padilla, at Exhibit 231 in your
folder.

9 Do you recognize that?

10 A. Yes.

11 Q. And what is that?

12 A. This was the instructions that were given to me to
give to
13 Tim if he came to pick up the pickup truck.

14 Q. And do you recognize the handwriting that appears
in

15 Government's Exhibit 231?

16 A. Yes.

17 Q. As whose?

18 A. It looks to be Terry's.

19 MR. MACKEY: Your Honor, I would move to admit
20 Government's Exhibit 231.

21 MR. WOODS: No objection.

22 THE COURT: 231 received.

23 BY MR. MACKEY:

24 Q. Ms. Padilla, are those the instructions concerning
the GMC
25 pickup truck?

9574

Lana Padilla - Direct

1 A. Yes.

2 Q. Do you know whether at that time in November of
1994 --
3 whether Tim McVeigh had his own car?

4 A. I can't say that I do in November of '94. I never
-- I
5 never asked Terry if Tim had his own vehicle, no.

6 Q. Let's return our attention now to the conversation
about
7 the bag in the car, Ms. Padilla. Do you recall
anything being
8 said about how long you expected Mr. Nichols to be
gone?

9 A. We talked. He said that in case he wasn't back,
you know,
10 he instructed me to keep the package.

11 In my mind, I said, you know, well, I'm not a
12 traveler, so I'm not sure how long a visa or passport
is good
13 for; but, you know, I thought it was kind of odd,
because it

14 seems like you'd be back in 60 days. But he didn't
assure me

15 that he would be back.

16 Q. Did you ask him how long is your visa or how long
are you

17 going to be gone?

18 A. I don't remember. In my mind, I was saying it; but
I don't

19 remember if I said it to him.

20 Q. In the conversation, did Mr. Nichols give you
further

21 instructions as to where you should take that bag?

22 A. Yeah. He thought I should keep -- because I have
other

23 sons and people coming and going in my house, he
thought --

24 suggested I take it to my office.

25 Q. And this is a suggestion he made in this
conversation in

9575

Lana Padilla - Direct

1 the car?

2 A. Yes.

3 Q. Describe to the jury, then, Ms. Padilla, what
happened when

4 all of you arrived at the airport that afternoon?

5 A. We got to the airport. It was, I think, around
fourish.

his
going
away,
6 Took Terry to the airport. He got out of the car, took
7 luggage, left the package and said good-bye. And I was
8 to pick him up when he returned; but he started to walk
9 and Josh ran after him and --

10 Q. I'm sorry. Go ahead.

really
11 A. -- gave him a big hug. And then Josh is just
12 affectionate.

Philippines?
13 Q. And is that when Mr. Nichols then left for the

14 A. He left, yeah.

what you
15 Q. Ms. Padilla, tell the members of the jury, then,
16 did with the paper bag that he had left behind in your
17 possession.

took the
my
18 A. I drove home, and Josh and I went home; and then I
19 package in the house. And the next day, I took it to
20 office.

the
21 Q. Did you know whether Mr. Nichols had traveled to
22 Philippines on occasions prior to November of 1994?

23 A. Yes.

you aware
24 Q. And how many such occasions do you recall or are
25 of?

9576

Lana Padilla – Direct

1 A. He, himself?

2 Q. Yes.

I

3 A. I thought it was quite a few. I was estimating 10.

4 really wasn't sure.

5 Q. But a number of times that you recall?

6 A. A number of times, yes.

left with

7 Q. On any of those prior occasions, had Mr. Nichols

8 you instruction sheets, paper bags, valuables with the

9 instructions that you've described here?

10 A. No.

the

11 Q. Let's turn, then, to November 23; and if you'd tell

office

12 jury, then, what exactly you did with the bag in your

13 that day.

is off

14 A. On November 23, which is a Wednesday -- my partner

privately

15 on Wednesdays, so I took the package into my office

16 and I opened it.

instructions not

17 Q. Now, this is a bag that had markings about

18 to open; is that correct?

19 A. "Do not open." Yeah. "If I don't return by such a
date,"

20 yeah.

21 Q. Do you recall the date?

22 A. I thought it said "January 25."

23 Q. Of what year, then?

24 A. 1995.

25 Q. All right. And that corresponded with the oral

9577

Lana Padilla - Direct

1 instructions you had gotten from Mr. Nichols; is that
correct?

2 A. Yes.

3 Q. All right. Would you tell the jury, then, why it
is

4 despite those instructions, you opened the bag.

5 A. Because of my son's reaction when Terry left.
Terry had

6 made several trips, and I've never received a package;
and Josh

7 has never said to me, "I'll never see my father again."
He was

8 in the car crying; and I said, "Josh, your dad goes to
the

9 Philippines all the time. This is just another trip."

10 And I was concerned. My antennas went out and
I -- I

11 was concerned.

open 12 Q. Those were the circumstances, then, that led you to

13 the bag?

14 A. Yes.

15 Q. Tell the members of the jury what you found inside.

insurance policy 16 A. I opened the package, and there was a life

myself 17 with a beneficiary change. There were letters, one to

attorney to 18 and one to Jennifer McVeigh. There was stock power of
19 attorneys that I was to -- had given me power of

were to. 20 sell stocks. There was keys. I didn't know what they

21 Q. Did you see any precious metals?

metals. It 22 A. There was some small ounces of some precious

23 made the package heavier. I remember it being heavier.

you've 24 Q. In addition to the two envelopes addressed as

bag? 25 described, was there another piece of paper inside the

9578

Lana Padilla - Direct

1 A. Yes. There was a list of emergency numbers.

beneficiary 2 Q. Did the life insurance policy and the change of

3 catch your eye?

4 A. Yes.

5 Q. Why?

6 A. Because -- because I'm an insurance agent, No. 1,
and also

7 I realized that -- that the date on the beneficiary
change was

8 just so recent, November 7, and I was -- I was -- that
just

9 concerned me.

10 Q. Can you describe for the jury again the envelopes
in more

11 detail? What other condition did you find the
envelopes in?

12 A. Just letter-size envelopes. One was -- had my name
on it,

13 and the other one was stamped and addressed and sealed
to

14 Jennifer McVeigh.

15 Q. And the return address on the envelope that was
stamped and

16 addressed to Jennifer McVeigh: Did you recognize that
address?

17 A. It was my address.

18 Q. And what other writing, if any, was on the face of
the

19 envelope addressed to you?

20 A. I don't remember.

21 Q. Did you know Jennifer McVeigh in November of 1994?

22 A. No.

23 Q. Ms. Padilla, did you read -- open and read the
contents of
24 those two envelopes?
25 A. Yes.

9579

Lana Padilla - Direct

1 Q. When did you do so?
2 A. That morning, the 23d.
3 Q. And what was your reaction?
4 A. It was -- I was very concerned, real concerned. I
cared
5 about Terry, and I was concerned that there was
something
6 awful; that he was not coming back.
7 Q. Was there anything about the content of the letters
that
8 you read on that day that led you to copy them?
9 A. Yes, because of the way they were written, I did
copy them.
10 I put everything back in the package, and I did make
copies of
11 them, yes.
12 Q. And --
13 A. I was concerned if anything happened to him that I
would
14 have them -- I didn't know. I just made copies because
I kept
15 reading them and rereading them.

1995, 16 Q. And after the bombing in Oklahoma City on April 19,

described, to 17 did you turn over your copies, the ones you've

18 the FBI?

19 A. Yes.

for 20 Q. Ms. Padilla, take a look, please, in your folder

21 Government's Exhibits 1856, 1857 and 1858.

22 A. 18 what?

1858. 23 Q. 1856 and then the two right behind that, 1857 and

24 Do you have each of those in front of you now?

25 A. Yes.

9580

Lana Padilla - Direct

Judge 1 Q. Let's start with 1856; and tell the jury and the

2 whether you can recognize that document.

that 3 A. This is one of the letters. This was of the letter

4 was in an envelope to me.

5 Q. Is that a copy, or the original?

6 A. This is a copy.

Exhibit 1856. 7 MR. MACKEY: Move to admit Government's

8 MR. WOODS: No objection, your Honor.

9 THE COURT: Received.

10 BY MR. MACKEY:

11 Q. Ms. Padilla, do you recognize the handwriting that
appears
12 on that letter?

13 A. Yes.

14 Q. As whose?

15 A. Terry's.

16 Q. Take a look now at 1857. Do you have it in front
of you?

17 A. Yes.

18 Q. What is it, please.

19 A. It's a letter to Tim.

20 Q. Is that the copy you made after opening the
envelope
21 addressed to Jennifer McVeigh on November 23, 1994?

22 A. It's a copy.

23 Q. Yes.

24 MR. MACKEY: Move to admit Government's
Exhibit 1857.

25 MR. WOODS: No objection.

9581

Lana Padilla - Direct

1 THE COURT: Received.

2 BY MR. MACKEY:

jury

3 Q. Ms. Padilla take a look now at 1858 and tell the
4 whether you recognize that.

5 A. Yeah.

6 Q. What is that?

7 A. It's emergency numbers.

bag?

8 Q. Same document you described as being inside the

9 A. Yeah.

10 MR. MACKEY: Move to admit Government's
Exhibit 1858.

11 MR. WOODS: No objection.

12 THE COURT: Received.

13 BY MR. MACKEY:

that of

14 Q. Is the handwriting again Ms. Padilla on 1858 like
15 the other exhibits you've just identified?

16 A. Yes.

17 Q. As whose?

18 A. Terry's.

in the

19 Q. Ms. Padilla, do you recall which of the two letters
20 envelopes you read first on November 23, 1994?

21 A. I read the one to me, the -- the one to me.

22 Q. And how long is that letter?

23 A. Two pages.

be

24 Q. If I asked you to read that to the jury, would you

25 willing to do so?

9582

Lana Padilla – Direct

1 A. If you ask me to.

2 Q. All right. Let me publish at this time
Government's

3 Exhibit 1856.

4 At the top of Government's Exhibit 1856 is the
title

5 "Read and do immediately." Is that correct?

6 A. Yes.

7 Q. And then tell the jury what the first paragraph
contains.

8 A. It contains "other storage," and the address is
AAAABCO

9 Mini Storage on Boulder Highway in Las Vegas, Nevada.

10 Q. Now, AAAABCO is spelled A-A-A-A-B-C-0?

11 A. Correct.

12 Q. If you were in the storage business, would that
assure

13 you'd be first in your Yellow Pages listing?

14 A. Yes.

15 Q. Do you know where that mini storage is located?

16 A. Yes. That's where I picked Terry up.

17 Q. What appears in the left-hand column?

18 A. It was "rented on the 16th of November, 1994; paid
for

number, 19 three months, to the 16th of February, 1995; the space
20 Q106; size, 5'x5'; combination 39-21-35."
21 Q. In parentheses right behind that?
22 A. "Right, left, right."
document 23 Q. And then immediately below that, what does the
24 say?
25 A. It says, "All items in storage are for Joshua."

9583

Lana Padilla - Direct

1 Q. I'm sorry. Let's go back to the access code.
2 A. I'm sorry. "Access code to enter storage at gates
-- press 3 star button," and then it has the star button, "press
code 4 button," and push the code "190455, press the pound
button."
5 Q. All right. You know that to be a means by which
renters at 6 that particular storage unit can gain access to the
storage 7 units?
8 A. Yes.
9 Q. Now let's go to the paragraph immediately below
that 10 starting "All items."

11 A. "All items in storage are for Joshua -- the round
items are
12 when he turns age 21, all else now. Pickup can be
sold, but
13 money from pickup put away for Josh to buy his own
vehicle.
14 "Other storage -- located in kitchen behind
utensil
15 drawer --" behind "-- between dishwasher and stove.
Remove the
16 drawer. There are 2 small levers -- one on each side
of drawer
17 on rail -- pull drawer out till it stops then flip
levers down
18 and pull drawer completely out. Then look all the way
back
19 inside. Take and push hard against the back panel.
Both sides
20 and bottom are glued, top is not. After it's broke
free,
21 remove wood panel, then remove plastic bag. All items
in
22 plastic bag are to be sent to Marife for Nicole if for
any
23 reason my life insurance doesn't pay Marife, otherwise
1/2 goes
24 to Marife and half goes to Joshua."
25 Q. And was more writing on the back side of that same

1 document? Correct?

2 A. Yes.

3 Q. Could you read that into the record, please, then,
second
4 page.

5 A. "Marife will know what is at storage in home.

6 "As of now, only Marife, you, & myself know
what there

7 is and where it is. I hope --" "I hope you will do as
I've

8 stated. Josh is just a few years before he's capable
of being

9 on his own and Marife and Nicole have many more years
of

10 support needed. There is no need to tell anyone about
the

11 items in storage & at home. Again only the three of us
will

12 know. I have the most trust in you here in the U.S. to
do as

13 I've written."

14 Q. Ms. Padilla, can I help out?

15 A. "It would probably be best . . ."

16 Q. Okay. The last line in that first full paragraph,
second

17 page: Does it read: "It would probably be best to
wire the

18 items to Marife, 3M at a time --"?

19 A. "-- over 2-3 months." I can do it.

20 Q. All right. Thank you.

the 21 A. "You will have to contact Tim to get the title to
sister -- 22 pickup, he should know where it's at. Write to his
New York, 23 Jennifer McVeigh, 6289 Campbell Boulevard, Lockport,
24 14094.

the 25 "You can tell Josh after you finish with all

9585

Lana Padilla - Direct

1 details.
2 "There are two stock power of attys. in the
stock file 3 signed but not filled out. You should be able to take
care of 4 them w/the stock power attys."

23 of 5 Q. And this is the document that you read on November
6 '94?

7 A. Uh-huh.
8 Q. And some of the information in here is information
that

9 you -- prompted you to make copies. Is that correct?
10 A. Correct.

storage 11 Q. On the first page in the bottom paragraph refers to
exhibit? 12 in a kitchen. Do you remember that being part of this

13 A. Yes.

14 Q. Did you later follow the information set forth in
this

15 exhibit and search for that compartment?

16 A. Yes.

17 Q. When did you do that?

18 A. December 17. I did it a few weeks later, after
Josh left

19 for Christmas vacation, because during that time, I was
really

20 concerned. I didn't -- I didn't know what this was all
about,

21 but --

22 Q. But you elected to wait several weeks between
reading the

23 letter before going to the kitchen?

24 A. Yes.

25 Q. All right. Tell us what happened on December 17.

9586

Lana Padilla - Direct

1 A. It was a Saturday, and Josh was gone for Christmas
me. He's

2 vacation. And I -- my oldest son and I -- he helped

3 the one that opened the back of the drawer and pulled
the

4 package out.

5 It was a Wal-Mart package, and it had money in

it.

6 Q. And which son was it that assisted you?

7 A. Barry.

8 Q. And were the two of you there together?

9 A. Yes.

10 Q. And did you count the money that you found in the
plastic

11 bag together?

12 A. Yes.

13 Q. How much was there?

14 A. I believe it was \$20,000.

15 Q. Do you recall the denominations of the bills?

16 A. I remembered \$100 bills.

17 Q. Do you remember there being anything else in the
plastic

18 bag other than \$20,000 in cash?

19 A. No.

20 Q. Did you and Barry go anywhere else that same day,
21 December 17, 1994?

22 A. Well, after we saw the money, we decided we had
better take

23 it to my office and put it in some safekeeping; so we
proceeded

24 to go to my office at Esquire Realty and then got the
keys for

25 the pickup truck, and we went over to the storage
locker on

Lana Padilla - Direct

1 Boulder Highway.

2 Q. All right. On that day, Ms. Padilla, when you
discovered

3 the \$20,000 in cash in your kitchen drawer, what was
your

4 reaction to finding that amount of cash?

5 A. My first reaction was surprise, because I didn't
really

6 think -- I mean, Terry was in between employment. His
wife was

7 away. I didn't expect him to have any money.

8 Q. So the fact of -- or the amount of the money was a
surprise

9 to you?

10 A. Yes.

11 Q. All right. Tell us now what happened when you went
out to

12 the storage shed.

13 A. We were very nervous, and we -- it was daytime.
And we

14 went and located the storage locker, and we went in;
and we

15 weren't in there very long. It was a small locker.
There

16 wasn't much -- a whole lot of things in there.

17 I was more concerned with looking for
something that

18 would tell me what this letter meant, and I opened up

Terry's

19 briefcase and looked through that, looking for anything
that

20 might say why he might not come back.

21 Q. The storage locker that you entered: Was it the
same one

22 that was listed by unit number and combination number
in the

23 exhibits you've already told the jury about?

24 A. Yes.

25 Q. How long were you and Barry at the storage locker
that day?

9588

Lana Padilla - Direct

1 A. Well, we were in the storage locker -- I don't
think any

2 more than 10 minutes, and then we walked out to the
truck and

3 looked through the front part of the truck, not the
back.

4 Q. Ms. Padilla, see if you can find some photographs
in there

5 in your exhibits there, 1909, 1910.

6 A. What?

7 Q. 1910.

8 A. Oh, 1910.

9 Q. About six of them that I want you to look at.

10 A. All right. Shall I just pull --

1916. 11 Q. Just pull them out, yes. 1912, 1914, 1915, and

12 Do you recognize what's shown in each of those
13 photographs?

went 14 A. It appears to be the AAAABCO storage unit that we
15 into.

16 Q. On December 17, 1994?

17 A. Yes.

those 18 MR. MACKEY: Your Honor, we'd move to admit
19 exhibits, 1909, 1910, 1912, '14, '15, and '16.

20 MR. WOODS: No objection.

21 THE COURT: They are received.

22 BY MR. MACKEY:

to the 23 Q. Ms. Padilla, let's take just a moment to describe
24 jury since you've been there in those exhibits. 1909:

What 25 are we looking at? And you can look on your screen, if
you'd

9589

Lana Padilla - Direct

1 like.

2 A. Oh, thank you.

from 3 That's the street location. That's the front

4 Boulder Highway.

5 Q. That's the storage facility that you visited that
day?

6 A. Yes.

7 Q. Is that the same facility that you picked Mr.
Nichols up to

8 take him to the airport on November 22?

9 A. Yes.

10 Q. Let's take a look at the next picture. What do we
see

11 here?

12 A. That's the gate you go through, and then his -- the
13 truck -- is like vehicle storage back beyond that
wrought iron

14 gate.

15 Q. You need a key code in order to open the gate and
get

16 further. Is that correct?

17 A. Correct.

18 Q. And did you use that key code that you found on
this

19 exhibit that you identified to do so?

20 A. I don't remember if I did. It was daytime, so I
think it

21 might have been open.

22 Q. In any event, you had to go past the wire -- or
excuse me,

23 the metal bar gate that's shown in this photograph?

24 A. Right.

Vegas 25 Q. Incidentally, are nine out of ten billboards in Las

9590

Lana Padilla - Direct

1 ones that promote casinos?

2 A. If not ten out of ten.

Building 3 Q. Okay. Let's take a look now at 1912. And is that

4 Q?

5 A. Yes.

6 Q. You see the Q letter on the side of the building?

7 A. Right.

What 8 Q. And the building that's depicted in the background:

9 is that, the tall building?

10 A. That's Boulder station.

December 17? 11 Q. And did you go inside Building Q with Barry on

12 A. Yes.

13 Q. Let's take a look at the next photo.

storage units 14 Does that accurately depict a series of

15 inside that building?

16 A. Yes.

17 Q. And the next photo.

18 Is that a picture of Unit Q106?

19 A. Yes.

20 Q. And that is the unit and you and Barry visited on
that day?

21 A. Yes.

22 Q. Is that the same unit that's listed in Mr. Nichols'
23 handwriting on the exhibit you read into the record?

24 A. Yes.

25 Q. And the next photo, please.

9591

Lana Padilla - Direct

1 Does that show the size and dimensions of Unit
Q106?

2 A. Yes.

3 Q. With those pictures in mind, Ms. Padilla, can you
describe
4 to the jury what you and Barry did in examining the
contents

5 found in that locker?

6 A. Well, we opened the -- I really didn't get into the
unit

7 too far. I was on the edge. We opened the door. I
set the

8 briefcase in the hallway and opened it up, and Barry
stepped in

9 the locker and was looking at various things.

10 Q. What did you see sitting inside the locker when you
first

11 opened the door?

12 A. That it wasn't real full. There were boxes.

13 Q. Do you recall how many?

14 A. No.

15 Q. Their dimension?

16 A. No. We -- I was eagerly looking in the briefcase.
Barry

17 was opening up the boxes and looking in there, and we
were

18 conversing back and forth.

19 Q. Can you tell the members of the jury from your
recollection

20 what kinds of things you saw inside Unit Q106 on that
visit.

21 A. Well, Barry had opened up and there were some
precious

22 metals, and it was gold and silver. And I really
didn't look

23 at it a whole lot. I mean, we were just -- I was just
in shock

24 because to see that first we found the money and then
we see

25 the gold and the silver, and I was very surprised.

9592

Lana Padilla - Direct

1 Q. Did you find any pieces of paper laying on the
coins or

2 near the coins?

3 A. There was a piece of paper.

4 Q. Describe what you remember.

5 A. It was in Terry's handwriting. It had "estimated
value."

6 Q. What dollar figure was on that piece of paper
laying on the

7 coins?

8 A. I thought it said 36-, 38,000.

9 Q. Do you recall seeing anything else inside that
storage

10 locker?

11 A. I went through the briefcase, and there was a bag
with

12 makeup, pantyhose, a ski mask and a wig.

13 Q. And where was it that you saw those items, the ski
mask,

14 the wig, the makeup and the pantyhose?

15 A. In the storage locker.

16 Q. Do you remember what container they were in?

17 A. I thought they were in a bag. It was just all so
fast. I

18 mean, I was looking, and I was just really looking for
anything

19 in writing that might explain Terry's state of mind.

20 Q. Were those four items, the ski mask and the wig and
the

21 makeup and the panty hose, together? Were they in the
same

22 bag?

23 A. Yes.

24 Q. Same container?

25 A. Yes.

9593

Lana Padilla - Direct

saw in 1 Q. Can you describe to the jury the ski mask that you

2 Unit Q106?

3 A. It was a black ski mask, full face.

4 Q. Did you notice whether it had openings of any kind?

5 A. I thought it did.

6 Q. What do you recall?

7 A. Pardon?

8 Q. What do you recall about those openings?

-- I 9 A. I recalled when I looked at the items that I said

looked 10 recall saying to Barry -- the reaction was shock, and I

doing? 11 at the mask and I thought that -- I said, "What is he

was my 12 You know, what is he doing? Robbing banks?" And that

13 reaction.

14 Q. Do you recall the color of the wig?

15 A. I thought it was black or dark.

16 Q. Do you recall the color of the panty hose?

17 A. No.

18 Q. In addition to the items you've listed, did you see
19 anything else in the storage shed that day?

20 A. I thought there was a tackle box, and I thought I
remember
21 his orange vest, I think a sleeping bag.

22 Q. In the course of the visit to the storage shed, was
your
23 attention drawn at any point to a cigar box?

24 A. Oh. Yeah. Barry had opened up a cigar box, and
there
25 was -- there was some green -- it looked like jade.

9594

Lana Padilla - Direct

1 Q. And did you look inside the cigar box?

2 A. I didn't handle the cigar box, but I did look
inside.

3 Q. Do you recall approximately how many pieces of jade
or --

4 A. No. The box was full.

5 Q. How was the box, inside the box? As you looked at
it,

6 describe what you saw.

7 A. There was some tissue, and he unwrapped it and
looked at

8 it.

9 Q. In the course of that visit, Ms. Padilla, do you
know

10 whether one or more pieces of jade were taken?

11 A. Barry took one piece. He said, "I'm going to take
a piece

12 and see what it is." And he took a piece.

13 Q. And later following the bombing, did you take
certain steps

14 to retrieve that piece of jade taken from the storage
shed that

15 day?

16 A. Yes.

17 Q. Would you describe what you did.

18 A. Barry had taken that, and I had forgotten about it.
And

19 then I recalled it, and I asked Barry what he did with
the

20 jade.

21 And he said he had given it to a girlfriend.
And I

22 proceeded to locate the girl and get the jade, and I
turned it

23 over to my attorney.

24 Q. And did you authorize, then, your attorney to
surrender it

25 to the FBI?

9595

Lana Padilla - Direct

1 A. To everyone, to notify everyone.

2 Q. Notify both the defense and the prosecution when

you did

3 so?

4 A. Right.

Exhibit

5 Q. Would you take a look, please, at Government's

6 1748. Do you see that there?

7 A. Yes.

8 Q. Do you recognize it?

9 A. It looks like what I saw.

10 MR. MACKEY: Your Honor, we'd move to admit

11 Government's Exhibit 1748.

12 MR. WOODS: No objection, your Honor.

13 THE COURT: 1748 now received.

14 BY MR. MACKEY:

day in

15 Q. Ms. Padilla, before you visited the shed on that

ever

16 December of 1994, do you know whether Terry Nichols had

17 collected jade artifacts?

years. When

18 A. Well, I hadn't lived with Terry in a number of

of jade.

19 we were married, I don't recall us collecting any kind

was

20 Q. In December of 1994, Ms. Padilla, when Mr. Nichols

his

21 abroad in the Philippines, did you have any items of

22 property in your home?

23 A. Yeah. He left -- he had privileges to use my

garage, so

24 there were things of his that were in my garage.

25 Q. And when you think back on the amount of material,
items,

9596

Lana Padilla - Direct

1 that were inside the storage shed, was there sufficient
room in

2 your garage at your residence to store that same
quantity?

3 A. Oh, there was room.

4 Q. Do you know why Mr. Nichols had a storage shed in
Las

5 Vegas, Nevada?

6 A. No. No. And I didn't even ask him or think about
it.

7 Q. Ms. Padilla, let's go back now to Government's
Exhibit 231.

8 Could you find that, please.

9 A. Is it one I already pulled out?

10 Q. Yes, ma'am. We'll just pull it up on the screen.
That

11 might be faster.

12 A. Okay.

13 Oh, okay. I have it.

14 Q. You have it there?

15 Do you recall this is the document that was
handed to

the 22d 16 you by Mr. Nichols during the drive to the airport on

17 of November?

18 A. Correct.

19 Here it is.

you see 20 Q. At the very bottom of Government's Exhibit 231, do

21 instructions about oil changes for that vehicle?

22 A. Yes.

a 23 Q. And at the very bottom or last two lines, is there

vehicle? 24 description of the size of the oil filter for that

25 A. Yes.

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Lana Padilla - Direct

1 Q. PH13 Fram oil filter?

2 A. Yes.

you have 3 Q. Before Mr. Nichols left in November of 1994, did

McVeigh 4 any conversation with him about why it is that Mr.

5 might need to borrow or use this particular vehicle?

it. 6 A. I don't recall asking him about why he would borrow

the record 7 Q. And Government's Exhibit 1856 that you read into

of the 8 earlier on page 2, there was a reference to the title
9 vehicle. Do you recall that?
10 A. Yes.
from 11 Q. Can you find that on the back page, third paragraph
12 the bottom?
13 A. Yes.
contact 14 Q. Do you know why it was that someone would have to
15 Tim in order to get the title to the vehicle?
from him, 16 A. I thought I remembered Terry saying he bought it
I don't 17 but I don't know if that's -- if that's just a memory.
18 know.
1994, did 19 Q. Among the papers that you found in November of
20 you find a title to a 1984 GMC truck?
21 A. No.
at any 22 Q. Ms. Padilla, do you recall talking to Tim McVeigh
23 point in time during the time that Mr. Nichols was
abroad? 24 A. On December 18.
25 Q. And why do you remember that day?

was --
ironic that
know, was
didn't

1 A. Because I had just gone in the storage locker and I
2 I was still an emotional wreck. And I remember how
3 he called and he was chatting. And he really, you
4 happy and -- and I was dying to ask him questions and
5 ask him anything.

two of
18.

6 Q. Well, tell the jury in more detail what it was the
7 you, Mr. McVeigh and yourself, talked about on December

call was
not if I

8 A. Well, the purpose -- it seemed the purpose of his
9 to ask me if I knew when Terry was coming home and if
10 had any information how to reach him.

11 Q. Did you provide that to him?

12 A. I told him I had an address in Cebu.

13 Q. Did you provide that address to him?

14 A. I don't remember.

talk
communicate with

15 Q. In the course of the conversation, did Mr. McVeigh
16 about the manner or means that he intended to

17 Mr. Nichols?

have to
people.

18 A. He said he was going to write him a letter and he'd
19 write in code because there were a lot of snoopy

20 Q. That was a comment made by Mr. McVeigh?

21 A. Yes.

22 Q. What was your response when he said he intended to
write

23 Mr. Nichols in code?

24 A. I just -- I didn't give any reaction. I didn't --
in my

25 mind I was wanting to ask him if Terry was okay. And I
was

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Lana Padilla - Direct

1 concerned about his -- you know -- I thought if this is
his

2 friend -- you know, I was more concerned in my mind
what was

3 going on with Terry, not what Tim cared -- what Tim was
doing.

4 Q. Let's return our attention now to Government's
Exhibit

5 1858. Can you find that? It's a document you
identified with

6 the title "Emergency Numbers." Do you have that in
front of

7 you?

8 A. Yes.

9 Q. On the top portion of the exhibit, can you simply
describe

10 without reading all of it in the record the kind of
information

11 that appears on the top half?

12 A. He's got emergency numbers and addresses, Terry
Nichols.

13 Then he's got Marife's address in Cebu, and
then he's

14 got emergency phone numbers and he has someone else in
15 California and then he has his mother, Joyce.

16 Q. Is that immediately below, the Palm Desert,
California

17 address?

18 A. Right. He has his mother's and his brother's phone
number.

19 Q. Let's turn over on the back of Government's Exhibit
1858.

20 Do you see other writings of Mr. Nichols?

21 A. Yes.

22 Q. Just read that into the record, if you wouldn't
mind.

23 A. He has listed items, emergency numbers and
addresses.

24 "Letter to Jennifer to be mailed on January -- or 28th
of

25 January, '95; letter to you to be opened after the 1st
of

9600

Lana Padilla - Direct

1 February, '95; two files on stocks, and keys."

2 Q. And does the list that appears on the back of that

exhibit,

3 the one under the title "Items," correspond with the
items that

4 you received from Mr. Nichols on November 22?

5 A. In the package.

6 Q. Now, there is a line there that says, "Letter to
Jennifer

7 to be mailed on January 28, 1995." Do you see that?

8 A. Uh-huh.

9 Q. Do you recall that instruction being anywhere else
among

10 the materials you saw?

11 A. No. I don't remember that.

12 Q. The next line says, "Letter to you to be opened
after

13 February 1, 1995." See that?

14 A. Yes.

15 Q. Was that instruction anywhere else among the
materials you

16 saw, if you recall?

17 A. No. I don't recall.

18 Q. Excuse me?

19 A. I don't recall.

20 Q. Do you know why there was a four-day time period
between

21 when you were to mail Jennifer's letter and when you
were to

22 open yours?

23 A. No.

24 Q. Did you find any explanation for that among the
materials
25 in the paper bag or elsewhere?

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Lana Padilla - Direct

1 A. No.

2 Q. Ms. Padilla, let's go now to Government's Exhibit
1857.

3 Pull that up, please.

4 And tell the members of the jury when you
first saw
5 this document.

6 A. After I opened the letter to me, then I opened the
letter
7 to Jennifer.

8 Q. This is an envelope addressed to Jennifer McVeigh
with a
9 stamp on as you described?

10 A. Right.

11 Q. When you first opened that envelope, what did you
find
12 inside?

13 A. An envelope to Tim. Another envelope with Tim's
name on
14 it.

15 Q. An envelope inside the envelope. All right. Did
you open

16 that second envelope addressed to Tim?

17 A. Yes.

18 Q. And what did you find?

19 A. A letter.

20 Q. And is it this letter, Government's Exhibit 1857?

21 A. Yes.

22 Q. Was there anything else in the envelope addressed
to
23 Jennifer?

24 A. Addressed to Jennifer? No.

25 Q. And was there anything else other than this letter
inside

9602

Lana Padilla - Direct

1 the envelope addressed to Tim?

2 A. There might have been my business card. I don't
recall it,
3 but --

4 Q. Let's turn our attention now to the top paragraph
of

5 Exhibit 1857, and I'd ask again if you wouldn't mind to
read

6 what's written there into the record.

7 A. "Tim: If, should you receive this letter then
clear

8 everything out of CG37 by February 1, '95, or pay to
keep it

9 longer, under Ted Parker of Decker. This letter has
been
10 written & sealed before I left (21st of November, '94)
& being
11 mailed by Lana as per my instructions to her in
writing. This
12 is all she knows. It would be a good idea to write or
call her
13 to verify things - (702) 897-6290 home, but best at
office
14 (702) 877-2501. Just ask for Lana (card enclosed).
Your (sic)
15 on your own. Go for it!! Terry.
16 "Also, liquidate 40.
17 "Have my mail forwarded to Lana but use my
name and
18 her address - 7160 Nordic Lights, Las Vegas, NV, 89119.
19 "Mail Boxes Etc.
20 "Chery (913) 537-6071. Box #197.
21 "The Parker deal was signed & dated the 7th of
22 November, '94, so you should have till 7th of February,
'95,
23 plus 5 days grace, if close or they disagree then
should pay
24 another term period.
25 "As far as heat - none that I know, this
letter would

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Lana Padilla - Direct

1 be for the purpose of my death."

2 Q. Ms. Padilla, this letter was found in the bag with
3 instructions that you should not open until after some
date in
4 January of 1995. Is that correct?

5 A. Correct.

6 Q. And your instructions were that if that date came
and went,
7 then you should mail it per the instructions; is that
correct?

8 A. Correct.

9 Q. At the top of this letter, it reads, "Tim: If,
should you
10 receive this letter then clear everything out of CG37
by
11 February 1, '95."

12 Did you know when you read this letter what
CG37
13 represented?

14 A. No.

15 Q. Had you ever heard of anybody named "Ted Parker" of
Decker?

16 A. No.

17 Q. It goes on to say, "also liquidate 40."

18 Did you know anything about a 40?

19 A. No.

20 Q. Ms. Padilla, tell the members of the jury what your
21 reaction was when you read this letter on November 23,
1994.

22 A. About what it is when I read that last line,
"purpose of my
23 death." Nothing else mattered. I just thought he was
not
24 going to come back.
25 Q. The words "this letter would be for the purpose of
my

9604

Lana Padilla – Direct

1 death" stuck with you when you first read it?
2 A. Yes.
3 Q. Ms. Padilla, I could ask you some questions about
your
4 understanding of the words here, but I take it your
answer
5 would all be the same: All you know is what you read?
6 A. Correct.
7 Q. As the letter says: This is all you know?
8 A. That's all I know.
9 THE COURT: Would this be a convenient place
to
10 interrupt?
11 MR. MACKEY: Yes, your Honor. Move to another
area,
12 yes.
13 THE COURT: All right. We're going to take
the recess

14 at this time, Ms. Padilla. You may step down now.

15 Members of the jury, as usual for our
schedule, we'll

16 recess till 1:30 now. You know, I emphasize the
importance of

17 not talking about the case or discussing any witnesses
that you

18 have heard. I know you have a curiosity sometimes
about what

19 this or that means or how people react to any of the
testimony.

20 You've got to withhold that natural impulse,
wait till

21 you've heard it all, because it is important that
everything be

22 considered in the context of the case as a whole. I'm
sure you

23 understand that.

24 So please continue to follow the cautions of
keeping

25 open minds and avoiding discussion with all other
persons,

9605

1 including other jurors, of anything connected with the
case, as

2 well as avoiding anything outside of our record.

3 You're excused now till 1:30.

4 (Jury out at 12:01 p.m.)

5 THE COURT: We'll be in recess, 1:30.

6 (Recess at 12:02 p.m.)

7 * * * * *

8

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6 PLAINTIFF'S EXHIBITS

Withdrawn 7 Exhibit Offered Received Refused Reserved

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10 231 9573 9573

11 1748 9595 9595

12 1756-1763 9466 9466

13 1764 9480 9480

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19	1887	9517	9517
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	1		PLAINTIFF'S EXHIBITS (continued)			
Withdrawn	2	Exhibit	Offered	Received	Refused	Reserved
	3	1903	9474	9474		
	4	1909-1910	9588	9588		
	5	1912	9588	9588		
	6	1914-1916	9588	9588		
	7	1920	9508	9509		
	8	1957	9519	9519		
	9	2029	9514	9514		
	10	2033	9511	9511		

11 * * * * *

12 REPORTERS' CERTIFICATE

13 We certify that the foregoing is a correct
transcript from

Dated

14 the record of proceedings in the above-entitled matter.

15 at Denver, Colorado, this 19th day of November, 1997.

16

17

18

Paul Zuckerman

19

20

Kara Spitler

21

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23

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