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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)

11747

1 APPEARANCES
2 PATRICK RYAN, United States Attorney for the
Western
3 District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma
4 City, Oklahoma, 73102, appearing for the plaintiff.
5 LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,
GEOFFREY
6 MEARNS, JAMIE ORENSTEIN, and AITAN GOELMAN, Special
Attorneys
7 to the U.S. Attorney General, 1961 Stout Street, Suite
1200,
8 Denver, Colorado, 80294, appearing for the plaintiff.
9 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,
REID
10 NEUREITER, Attorneys at Law, 1120 Lincoln Street, Suite
1308,
11 Denver, Colorado, 80203, appearing for Defendant
Nichols.

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PROCEEDINGS

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

THE COURT: Please be seated.

MR. TIGAR: May we approach, your Honor?

(At the bench:)

(Bench Conference 101B1 is not herein transcribed

by court

order. It is transcribed as a separate sealed transcript.)

11752

1 (In open court:)

2 THE COURT: Bring in the jury.

3 (Jury in at 9:49 a.m.)

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

5 JURORS: Good morning.

6 THE COURT: We're ready to resume with the

next

7 witness.

would 8 MR. MACKEY: Yes, your Honor. United States
9 call Matthew Cooper.

10 THE COURT: All right.

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

12 (Matthew Cooper affirmed.)

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

14 Would you state your full name for the record
and
15 spell your last name.

16 THE WITNESS: My name is Matthew Henry Cooper,
last
17 name C-0-0-P-E-R.

18 THE COURTROOM DEPUTY: Thank you.

19 THE COURT: Mr. Ryan.

20 MR. RYAN: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MR. RYAN:

23 Q. Mr. Cooper, are you in the Marine Corps?

24 A. Yes, I am.

25 Q. What is your rank?

11753

Matthew Cooper - Direct

1 A. My rank is captain, sir.

2 Q. Where do you live right now?

3 A. Currently live in Encinitas, California.

4 Q. Are you assigned there?

5 A. I'm assigned to Marine Corps base, Camp Pendleton.

6 Q. What are your current duties?

7 A. I currently serve as the fire support coordinator
for the
8 11th Marine Expeditionary Unit.

9 Q. Would you tell us where you were born and raised.

10 A. I was born in Little Rock, Arkansas, and I grew up
in
11 Conway, Arkansas.

12 Q. And about your education?

13 A. I graduated from Conway High School in 1986. Upon
my
14 graduation, I received an appointment to the United
States
15 Naval Academy and graduated from Annapolis in 1990.

16 Q. What was your degree in?

17 A. I have a bachelor's of science in economics.

18 Q. And are you married?

19 A. I am married.

20 Q. Would you briefly describe your Marine Corps career
21 following your graduation from Annapolis.

22 A. Upon graduation from Annapolis, I was commissioned
in the
23 Marine Corps as a second lieutenant. I spent the next

six

24 months in Quantico, Virginia, at Marine Corps basic
school.

25 From there I went to Fort Sill, Oklahoma, for five
months at

11754

Matthew Cooper - Direct

1 artillery training. Spent the next two-and-a-half
years in the

2 fleet Marine force in California. From there I was
assigned to

3 Recruiting Station, Oklahoma City. I spent two-and-a-
half

4 years there, then another year in Quantico, and now
back to

5 California.

6 Q. And when were you assigned to Oklahoma City at the
Marine

7 Corps Recruiting Station?

8 A. I received orders to Oklahoma City in December of
'93, and

9 I reported to Oklahoma City in January of 1994.

10 Q. So prior to April, 19, 1995, approximately how long
had you

11 been assigned to the Murrah Building in Oklahoma City?

12 A. A year and three months.

13 Q. Now, I'm going to show you what has been previously

14 admitted in evidence as Exhibit 952. It should be on
your

15 screen there.

16 A. Yes.

17 Q. Do you recognize that?

18 A. I do recognize that.

19 Q. What is that?

Federal
20 A. This is the sixth floor of the Alfred P. Murrah

City
21 Building, which was the headquarters for the Oklahoma

22 Recruiting Station.

23 Q. And Marine Corps space is designated by the yellow
24 coloring?

25 A. Yes, sir.

11755

Matthew Cooper – Direct

third or
1 Q. Now, it appears that the Marine Corps space is a

2 40 percent or so of that sixth floor space.

3 A. Yes, sir.

4 Q. What occupied the remainder of the floor?

City, the
5 A. During the first year I was assigned to Oklahoma

Business
6 remainder of the floor was occupied by the Small

probably
7 Administration, the SBA. They moved out, I think

not 8 November or December of 1994. So on April 19, it was

9 occupied by anybody other than us.

10 Q. And how many men and women worked in the Marine
Corps space

11 there on the sixth floor --

12 A. We had --

13 Q. -- in April of '95?

14 A. We had 14 people assigned to the headquarters in
the

15 federal building: 13 Marines, and one civilian.

16 Q. Now, if you would, can you use the pen there that's
on your

17 desk and show us where the elevator doors are that
people would

18 arrive to the sixth floor in.

19 A. Okay, sir. When you came up the elevator, you
would -- the

20 doors right here, and you would come out and you would
enter

21 our office through this route right here, and you would
come

22 into our office through this hatch right there.

23 Q. Now, if you would, tell the jury about the people
that

24 worked in the building, where they officed; and if you
would

25 just start with the front door and take us around the
office

11756

Matthew Cooper - Direct

1 space, if you would.

2 A. Okay. When you came through the main hatch, you
could take

3 either a left or a right into our office. If you took
a left,

4 this was our -- the foyer of our office, the main part
of the

5 office. This first office right here was Sergeant
Major Philly

6 Lowa's office. He worked out of it.

7 We had two administrators who worked in the
lobby

8 right here, Staff Sergeant Anthony Elder and Sergeant
Max

9 Monty.

10 This office right here was Captain Randy
Guzman's

11 office, our executive officer.

12 This was our commanding officer's office,
Major Don

13 Geffing.

14 We had two recruiter instructors in this
office, Pat

15 Waters and Walter Atwood, a gunnery sergeant and a
master

16 sergeant.

17 And like I said, if you entered the building,
you

18 could also come to your right, into this area. This

was my

19 office. This portion here was our operations section.
My desk

20 was about right here.

21 I had another Marine who worked with me,
Gunnery

22 Sergeant Maureen Kyle whose desk was right next to
mine.

23 My operations clerk, Sergeant Ben Davis,
worked in

24 this part of the office.

25 We had Gunnery Sergeant Paul Cooper, who had a
desk in

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Matthew Cooper - Direct

1 this corner.

2 Our civilian, Barb Hedrick, worked out of this
office

3 right here. She was our computer programmer.

4 And then if you went through to the back, this
was our

5 supply section back here; and we had a supply chief,
Gunnery

6 Sergeant Earl Bussel, and the supply clerk, Sergeant
Ted

7 Snedicker, who worked back here.

8 Q. And if you would, please erase the marks on the
floor plan.

9 If you would, leave the plan on the screen.

10 A. Do I erase that from here?

11 Q. Just, on the side of your pen there is a little
mark that

12 if you keep pressing, it will --

13 A. Okay.

14 Q. Okay. Now, let's talk about the morning of April
19, 1995.

15 If you would, tell us about your morning, when you got
up and

16 what you did.

17 A. Okay, sir. I was the operations officer for the
Recruiting

18 Station. As such, I was normally the first person into
the

19 office. I would come in between 6 and 6:30 in the
morning. I

20 would unlock the doors and open the office. The other
members

21 of the office that I just showed you would trickle in,
and

22 normally everybody would arrive by about 8:00. On that
23 particular morning, some of the individuals that I just
marked,

24 that I just designated, were not in the office.

25 Q. All right. Who were those who was not there that
day and

11758

Matthew Cooper - Direct

1 why were they not there?

2 A. The individuals who were not in the office that
day,

3 Sergeant Major Lowa was down in Durant, Oklahoma, with
a

4 recruiter, doing some one-on-one instruction. Major
Geffing

5 was in Independence, Kansas, conducting one-on-one
instruction

6 with a Marine in Kansas. We had our two instructors,
Master

7 Sergeant Pat Waters and Gunnery Sergeant Walter Atwood,
as well

8 as my ops chief, Gunnery Sergeant Maureen Kyle, three
of them

9 were in New Orleans for a conference. That should be
it as far

10 as the people that were out of the office that morning.

11 Two more, Anthony Elder and Max Monty, were
not in the

12 office; however, they were on the road, they were en
route to

13 the office at the time of the bombing.

14 Q. All right. If you would, start with about 8:00 and
take us

15 through what you did that morning, your work and your
duties

16 and who you saw.

17 A. Okay, sir. My duties required me -- I processed
all

18 applicants, all Marine applicants, to boot camp. The
early

19 part of the morning is the busiest part of the day for
us,
20 because I receive numbers, recruiting numbers and
recruiting
21 data, from recruiters on the street, and that covered
all of
22 Oklahoma and the southern one-third of Kansas, and so
-- and
23 about 8:00 that morning, I was taking phone calls from
our
24 street recruiters as well coordinating with a couple of
25 applicants that we were trying to get to the airport to
send to

11759

Matthew Cooper - Direct

1 recruit training at that time.
2 At about 8:30, a Marine, a recruiter from
Oklahoma
3 City, Staff Sergeant Jack Hoxing, came into the office
and
4 asked to speak to me privately. He had some personal
matters
5 he wanted to discuss. So about 8:30 I went into a side
office
6 that I keep to interview applicants, and I was talking
to Staff
7 Sergeant Jack Hoxing.
8 Q. And is that where you were at the time of
explosion?
9 A. Yes, sir, I was.

large X 10 Q. If you would take your light pen and place a fairly
11 where your office was normally; not where you were, but
12 your office was.

13 A. My office was normally right here, sir. That's
14 desk was. And that's where I worked. And that's where
15 my operations people worked.

16 Q. Now, if you would, place a smaller X where you had
17 moved to talk to Sergeant Hoxing.

18 A. Okay, sir. This side office right here is where I
19 moved to talk to Sergeant Hoxing. As I said, it was an office I
20 kept to interview applicants.

21 Q. Tell us what happened at 9:02.

22 A. At 9:02, as I said, sir, I was in the office with
23 Staff Sergeant Hoxing, and he and I were talking. And
24 suddenly we just heard a huge explosion and an earth-shattering
25 noise that lasted 30 to 45 seconds. There was an explosion and
enormous

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Matthew Cooper – Direct

falling 1 concussion followed by just the sounds of the building
-- there 2 down around us. And it was an ongoing -- there was no
It went 3 was no split in the noise or two separate explosions.
building 4 from the concussion of the blast to the noise of the
5 coming down and the floors falling around us.

6 Q. What happened to you?

7 A. I was in this office right here, sir, and it lasted
--
8 everything lasted about 45 seconds with the walls
falling down,
9 the ceiling tiles, the light fixtures. Everything was
coming
10 down on top of us. And when the noise and the
explosion
11 finally stopped, I was able -- I was able to dig myself
out
12 from under the rubble that had fallen down on top of
me.

13 Q. What did you do next?

14 A. I stood up and I looked around. First thing I
noticed was
15 an enormous amount of black smoke was pouring into the
16 building. I thought the building was on fire. Alarms
were
17 going off. And I noticed Barb Hedrick, our computer
18 programmer. She had been in her office right here, and
she was

I was 19 standing somewhere in this area, right here, as soon as
20 able to dig myself out.

21 Q. What was her condition?

22 A. She was screaming and crying very loudly. She
appeared to 23 be disoriented and didn't know where she was. She had
24 her head apparently had her back to the window right here, and
25 was covered in blood and her face was covered in blood.
And

11761

Matthew Cooper – Direct

1 she couldn't see, and she was crying, trying to get out
of the 2 building.

3 Q. Did you assist her?

4 A. Yes, sir, I did. I was able to make my way through
the 5 rubble, and I led her to the stairs. She was able to
walk even 6 though she was injured. And I led her to the fire
escape and 7 sent her down the fire escape.

8 Q. What did you do after that?

9 A. After I got Barb to the fire escape, I returned to
the 10 office; and on my way back to the office, I passed two
Marines.

11 Randy Norfleet was a captain, our officer -- selection
officer,
12 who normally worked out of Stillwater, Oklahoma, but he
had
13 come down to pick up some supplies; and as I was going
back
14 into the office, I passed him, and I passed Gunnery
Sergeant
15 Earl Bussel. Both of them were injured severely,
injured about
16 the head. Randy had a bandage up to his eye, and he
couldn't
17 see very well. Bussel was injured about the head and
face,
18 also, covered in blood; but they were both able to move
on
19 their own. I passed them.
20 I went back to where I'd been with Hoxing.
About the
21 time I got back to that area, Sergeant Ted Snedicker,
who was
22 our supply clerk, had made his way over to Hoxing and
he was
23 pulling the rubble off Hoxing. Hoxing was not able to
free
24 himself. So the two of us got him out from under the
rubble.
25 Q. What did you do after that?

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Matthew Cooper - Direct

1 A. Hoxing was injured severely. He was cut about the
face.
2 His upper lip was almost severed entirely from his
face. He
3 had a gash on his arm that apparently had severed a
tendon. He
4 couldn't bend his arm, and his leg was severely cut.
So I put
5 him over my shoulder and carried him over to the ladder
and
6 took him down about three floors. When I got down to
about the
7 third deck, there was some other people making their
way out of
8 the building; and they took Hoxing out, and I went back
up to
9 the sixth floor.

10 Q. Once you arrived back up to the sixth floor after
taking
11 Hoxing down to the third, what did you do then?

12 A. When I got back up to the building, everybody was
out
13 except for one last person, who was Gunnery Sergeant
Paul
14 Cooper. His desk was right here. And he was buried
under more
15 rubble and heavy rubble than anybody else. He had a
lot of
16 concrete that had fallen down on his desk.
Fortunately, he was
17 able to shelter himself somewhat with his desk. But it
took

18 minutes to get

19 edge; right

20 were in

21 dig Paul

18 Snedicker and myself about, I would say, 5 or 10

19 the concrete off of him. And we were right at the

20 at the lip of the collapsed part of the building, so we

21 a precarious position, so we had to take our time to

22 Cooper free.

23 Q. And were you able to free him?

24 injuries were

24 A. Yes, sir, we were able to free him. And his

25 got out

25 probably the most severe of any of the people that we

11763

Matthew Cooper – Direct

1 leg had an

2 cut

3 back. He

4 morning?

5 eight

6 colleague,

1 or at least from what I could tell on the spot. His

2 open cut that was cut almost to the bone. His face was

3 severely. Part of his scalp appeared to be pulled

4 couldn't see very well or walk.

5 Q. How many Marines were in the duty station that

6 A. There were a total of nine people in the building,

7 Marines and Barbara Hedrick.

8 Q. Now, at this point, after you freed your last

9 how many people had you accounted for in your space?

10 A. We'd accounted for seven, sir.

11 Q. So how many were missing?

12 A. Two were missing.

13 Q. And who were they?

14 A. Captain Randy Guzman and Sergeant Ben Davis.

15 Q. What did you do to try to locate them?

16 A. We knew that Captain Guzman and Captain (sic) Davis
had
After
the
the sixth
the
of the
it
the third
if they
went

17 been in my portion of the office when it was destroyed.

18 I got Paul Cooper down to the street, I went back up to

19 sixth floor. Sergeant Snedicker was still searching

20 floor in hopes that they might have been blown clear of

21 collapsed part of the building. I looked over the edge

22 collapsed part of the building and I looked down, and

23 appeared to me that a lot of the rubble had landed on

24 floor or about the third floor. So I thought perhaps

25 had fallen, that they might be in that vicinity. So I

Matthew Cooper – Direct

1 down to the third floor to continue searching down
there.

2 Q. And to what avail?

3 A. To no avail. There were two civilians, two
females,

4 trapped on the third floor when I got down there. But
of

5 course Captain Guzman and Sergeant Davis were not
there.

6 Q. Were you eventually ordered out of the building
that

7 morning?

8 A. Yes, sir, I was eventually ordered out of the
building.

9 Q. Now, if you would erase your marks here on the
floor plan.

10 Keep hitting the side of the pen.

11 A. Does everybody have trouble with this, or is this
just

12 Marine-proof?

13 Q. No, it's everybody.

14 Thank you.

15 If you would, Captain Cooper, would you draw a
line

16 that approximates the best of your ability where the
building

17 had blown away on your space?

18 A. Based on what we could tell at that time, sir, it
appeared

19 that the collapsed part of the building started about

right

all the 20 here in this corner of Barb Hedrick's office, went up,
area 21 way through our operations section, and off into this
office 22 where it was unoccupied, so all of this part of our
23 collapsed.

24 Q. And that included your office?

25 A. Yes, sir, that included my work space.

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Matthew Cooper – Direct

Davis 1 Q. Now, where -- you say Captain Guzman and Sergeant
2 were located where now, again?

right here, 3 A. Captain Guzman was sitting at my desk, which is

right 4 sir. Sergeant Davis was at his desk, which was located
5 here.

marked as 6 Q. Thank you. Now, let me show you what has been

and show 7 Exhibit 2101. And if you would, take your light pen

and where 8 the jury where the Marine Corps Recruiting Office was
9 your office was located.

sixth 10 A. This was the Marine Corps Recruiting Office, the

11 floor; right here. And our office was right here;
right here

12 behind this pen mark.

13 Q. Now, we have -- you've looked at two photographs of
Captain
14 Guzman and Sergeant Davis before coming here to court
today?

15 A. Yes, sir.

16 MR. RYAN: With the marshal's assistance, if I
could
17 display those photographs at this time, your Honor?

18 THE COURT: All right.

19 What's the exhibit number?

20 MR. RYAN: 1168, your Honor.

21 THE COURT: All right.

22 Your position with respect to the exhibit is a
23 continuing one.

24 MR. TIGAR: Yes, your Honor.

25 THE COURT: 1168 is received.

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Matthew Cooper - Direct

1 MR. RYAN: Thank you, your Honor.

2 BY MR. RYAN:

3 Q. Captain Cooper, if you would, just state each
person's

4 name, their rank, and how long they'd been with the

Marine

Corps. 5 Corps and their official position with the Marine

was a 6 A. Sir, on the left is Sergeant Benjamin Davis. He

time of 7 Marine sergeant who had been in the Marine Corps at the

8 the bombing approximately eight years.

into the 9 To his right is Captain Randy Guzman, came

the 10 Marine Corps in 1989, so he spent almost six years in

11 Marine Corps at the time of the bombing, sir.

12 Q. And each of these men died on duty?

13 A. That's correct, sir.

14 Q. April 19, 1995?

15 A. That's correct.

briefly what 16 Q. My final question is would you tell the jury

had on 17 effect this explosion and the loss of these two Marines

18 operations in the Marine Corps Recruiting Station.

accomplish our 19 A. It had a tremendous impact on our ability to

on a 20 mission, sir. The Marine Corps recruiting -- we work

bombing, 21 monthly -- monthly mission. At the time of the

records being 22 besides the physical damage of all our files and

23 lost, the impact of losing these two Marines had a

tremendous

24 morale impact on the entire Recruiting Station. And we
did not

25 meet mission the month of April, and we missed mission
several

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Matthew Cooper - Direct

1 months after that.

2 MR. RYAN: Marshal, would you please take the
poster

3 down. Thank you.

4 BY MR. RYAN:

5 Q. Now, Captain Cooper, prior to coming here today,
did you

6 look at a floor plan that had the names of Captain
Guzman and

7 Sergeant Davis?

8 A. Yes, sir, I did.

9 Q. And were they correctly situated in terms of where
these

10 two officers -- these two Marines were at the time of
the

11 blast?

12 A. It is correct, sir.

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

14 MR. TIGAR: Subject to our discussion.

15 THE COURT: Yes. It's received.

16 MR. RYAN: Thank you, your Honor. No further
17 questions.

18 THE COURT: All right. Any cross-examination,
19 Mr. Tigar?

20 CROSS-EXAMINATION

21 BY MR. TIGAR:

22 Q. Good morning, Captain.

23 A. Good morning, sir.

24 Q. My name is Michael Tigar. I'm one of the lawyers
appointed
25 to help Terry Nichols.

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Matthew Cooper - Cross

1 A. Sir.

2 Q. In that situation there, your primary concern was
to care
3 for people who were injured and get them some help if
you

4 could; is that correct, sir?

5 A. That is correct.

6 Q. And that is a mission that you were trained,
starting at
7 the academy and then after that at Quantico and in your
8 service, to perform; is that right, sir?

9 A. Yes, that's correct, sir.

you -- 10 Q. Now, the injuries that you saw on the people that
11 were there, did some of those injuries appear to have
been 12 inflicted by shards or shrapnel-like material that was
blown at 13 these people by the force of the blast?

14 A. Yes, I would say some of their injuries were
consistent 15 with that, sir.

16 MR. TIGAR: Thank you. I have no further
questions.

17 MR. RYAN: He may be excused, your Honor.

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

19 THE WITNESS: Sir.

20 THE COURT: Mr. Mackey.

21 MR. MACKEY: Yes, your Honor, with the Court's
22 permission, at this time we would move to display to
the jury 23 the floor plans previously admitted to the jury, 952A
through 24 I.

25 THE COURT: They've been received, so you may
publish

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1 them to the jury.

2 All these have been mentioned at times in the
3 testimony of different witnesses who said they placed
these
4 names there. What we're doing now is just displaying
the
5 results of their work.

6 That's 950 --

7 MR. RYAN: Yes, your Honor, this is 952A,
which is the
8 first floor of the building.

9 THE COURT: All right.

10 MR. RYAN: 952B, which is the second floor of
the
11 building.

12 952C, which is the third floor of the Murrah
Building.

13 952D, which is the fourth floor of the Murrah
14 Building.

15 952E, which is the fifth floor of the Murrah
Building.

16 952F, the sixth floor of the Murrah Building.

17 952G, seventh floor of the Murrah Building.

18 952H, the eighth floor of the Murrah Building.

19 952I, the ninth floor of the Murrah Building.

20 THE COURT: All right. Each of these exhibits
has
21 been placed on an easel before the jury box, and the
jury has
22 viewed it -- each of them.

23 Mr. Mackey.
24 MR. MACKEY: The United States rests its case.
25 THE COURT: All right.

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1 Now, members of the jury, that means you've
heard from
2 the witnesses called by counsel for the Government in
the case;
3 and while it is still early in terms of our regular
recess
4 scheduling, we're going to take a recess now at this
time
5 because before we shift over to the defense case --
that is to
6 say, to call for witnesses called by the defense --
there are
7 some things that I must take up with the lawyers in the
case so
8 that we're sort of shifting over. And this will take a
few
9 minutes. I can't tell you exactly how long, but it is
a
10 necessary interruption before we start with the
additional
11 witnesses. So I'm going to excuse you from the
courtroom now
12 for this recess.
13 And of course as I mentioned to you when we
recessed

14 yesterday afternoon, the fact that the Government has
rested
15 the case and has identified to us that these are the
witnesses
16 called by the Government and the evidence that is
offered by
17 the Government, the case is far from over. There will
be
18 witnesses and exhibits received in evidence offered by
the
19 defense; and then of course even beyond that, there are
other
20 parts of the trial that go beyond the taking of the
testimony
21 and the introduction of exhibits, and that is the
arguments of
22 counsel and the instructions that I'll give you about
the law.

23 So we've yet a ways to go. And accordingly,
this
24 recess is not different from all other recesses that
we've had
25 in the course of the trial, and that is to say that
you're

11771

1 subject to the same cautionary instructions that I have
2 routinely given to you every time we've excused you
from the
3 courtroom: Do not discuss the case among yourselves or

with

about

that

will

you

you

what it

going to

ahead of

you an

be.

you.

4 anyone else, of course, and continue to be careful

5 anything that you read, see, and hear to avoid anything

6 could influence your decision on the issues that you

7 decide. And of course keep open minds, recognize that

8 haven't heard it all. And until you've heard it all,

9 should not even in your own minds begin to come to any

10 conclusions about what it is that you have heard and

11 means.

12 So at this time, members of the jury, I'm

13 excuse you; and we'll let you know about five minutes

14 when we're going to bring you back in. So I can't give

15 estimate as to exactly how much time this recess will

16 You're now excused from the courtroom.

17 (Jury out at 9:19 a.m.)

18 THE COURT: Mr. Tigar.

19 MR. TIGAR: Mr. Thurschwell will argue.

20 THE COURT: All right, Mr. Thurschwell. Thank

21 DEFENDANT'S RULE 29 MOTION

22 DEFENDANT'S ARGUMENT

23 MR. THURSCHELL: Thank you, your Honor.
24 May it please the Court, Terry Lynn Nichols
moves for
25 judgments of acquittal on all of the counts of the
indictment

11772

1 on the grounds that the Government has failed to
provide
2 sufficient proof of one of the particularly crucial
elements in
3 this particular case, and that is the intent elements.
4 The indictment charges four distinct crimes in
11
5 counts, each of which incorporates an intent element
that
6 amounts to a specific intent to bring about some
prohibited
7 result. In addition to that, as charged, the
indictment
8 requires proof that Mr. Nichols knowingly,
intentionally,
9 willfully, and maliciously brought about the prohibited
result.
10 The murder -- the first-degree murder counts
require
11 proof of a specific intent to kill, and not just a
specific
12 intent to kill but a premeditated intent to kill. We
have

13 taken the position, as the Court is aware, that the
other
14 counts also incorporate a specific intent-to-kill
requirement,
15 and we understand that the Court has taken a somewhat
different
16 view of the statutes involved.

17 But even under the Court's reading, there is a
18 specific intent with respect to each of the first three
counts,
19 a specific intent in essence to use a truck bomb
against both
20 the Murrah Building and the people within it. And the
21 Government has simply failed to provide sufficient
evidence to
22 establish that specific intent with respect to each of
the 11
23 counts.

24 I will not address the evidence in any detail.
The
25 Court is familiar with it, and I need not go into it
now except

11773

1 to characterize it generally, which I will do. But I
wanted to
2 talk about some of the general principles of proof and
3 inference that seem particularly applicable in this
case.

4 Mr. Nichols has been charged as a pure
accessory,
5 accomplice -- that is, to use terminology that is still
used in
6 some of the state statutes -- pure accessory before the
fact.

7 And the Federal Code, as the Court is aware, has
abolished the
8 old distinctions within accessorial liability, but I
think they
9 are quite useful for these purposes in talking about
the kinds
10 of proof that are required and the inferences that are
11 permissible with respect to different conduct that
amounts to
12 accessorial liability.

13 Before I do that, though, there is -- we
acknowledge
14 there is one category of proof that, so to speak, cuts
across
15 all these lines; and that would certainly be good proof
or
16 legitimate -- legitimate proof of intent regardless of
the
17 particular role in the offense. That would be, of
course,
18 statements by the defendant of his intentions.

19 For example, if Mr. Fortier is to be credited
at all,
20 Mr. McVeigh told him on numerous occasions that he
intended to
21 blow up the Murrah Building and was happy to be killing

and

22 intended to kill the people within it. That is
certainly
23 legitimate -- there is a legitimate inference from that
24 evidence that Mr. McVeigh had the specific intents
required by
25 the -- by all of the counts.

11774

1 But there is no such evidence in this case as
to
2 Mr. Nichols. So when we're looking at proof of Mr.
Nichols'
3 intent, all we have is the conduct that is proved or
not proved
4 by the Government. And with that in mind, I want to
turn to
5 these different distinctions within the roles in the
offense
6 that are recognized by the common law that I think are
7 illustrative here.

8 The first -- the highest level of involvement,
of
9 course, is the principal, the person that actually goes
to the
10 scene of the crime and performs the crime itself. And
in the
11 case of an individual who is proved to have committed
the

12 crime, we have the corollary principle that one is --
one can
13 be assumed to intend the natural and probable
consequences of
14 one's actions. A person who puts a gun to the head of
another
15 person and pulls the trigger can be assumed to intend
that the
16 other person be killed. A person who drives a truck
bomb to
17 the front of a building during a weekday morning and
lights a
18 fuse may be permissibly inferred to have the intention
--
19 specific intention to kill the people within the
building.

20 That, of course, also does not apply to Mr.
Nichols in
21 this case. Mr. Nichols is charged simply as a pure
accessory
22 before the fact.

23 There is another category, of course -- and
I'll just
24 mention briefly -- a principal in the second degree at
common
25 law was an individual who accompanied the principal to
the

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1 scene of the crime and provided aid and assistance at
or near

2 the scene of the crime. And for example, an individual
who
3 accompanies -- who drives another person to a house and
waits
4 outside in the car while that other person goes inside,
takes a
5 gun, and shoots and robs the individuals within, there
is a
6 much stronger inference of intent than in the case of
accessory
7 before the fact because of a proximity to the acts that
clearly
8 constitute the crime.

9 Of course, as the Supreme Court has warned in
Enmund
10 vs. Tison, (sic) even in that case, the requirements of
proof
11 are quite different from that of a principal, and there
is no
12 automatic inference of intent to kill in the particular
13 situation I described there. But once again, Mr.
Nichols was
14 not charged as a principal in the second degree, he did
not
15 accompany Mr. McVeigh, and the Government does not so
contend.

16 Once you get to the category that -- in which
17 Mr. Nichols allegedly falls, accessory before the fact,
18 inferences of intent are far more difficult to make.
By way of
19 example, an individual who the defendant -- call him
the

gun, 20 defendant -- who loans another person, the principal, a
21 whereupon the principal takes the gun, leaves, and
22 premeditatedly kills and intentionally kills another
person --
23 it's not clear at all from those facts what the level
of
24 culpability is of the person of the defendant. The
defendant
25 may be completely innocent because he had no reason to
think

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1 that what the defendant -- the principal intended was a
2 first-degree, premeditated murder.
3 He may be -- have the culpability required for
4 involuntary manslaughter because he knew or had reason
to know
5 based on other statements of the principal, perhaps, or
other
6 information that there was a substantial risk that the
-- that
7 the principal upon getting his gun would go and shoot
the
8 victim. He may be guilty of second-degree murder if
he, beyond
9 being aware of a substantial risk, was certain or near
certain
10 that what the principal intended was a first-degree

murder. He
being 11 himself not intending and premeditating the murder but
was going 12 callously indifferent that the use that the principal
he has 13 to put his gun, I think there would be a argument that
14 the culpability required for second-degree murder.

15 And finally, there is an argument if certainly
the 16 defendant was in on the plan and premeditated the
murder along 17 with the principal that he might be -- have the
culpability 18 required for first-degree murder.

19 But what is clear is that as the proof -- as
the level 20 of culpability ascends, so to speak, the requirements
of proof 21 become more difficult and the inferences become more
difficult.

22 What we have here is a situation like the proof of the
fact 23 that the defendant in the hypothetical I just gave
loaned the 24 gun to the principal. Mr. Nichols is allegedly in the
position 25 of the individual who loaned the gun; and the
inferences of

is the
the
specific
and the

1 intent, whatever they may legitimately be, our position
2 evidence adduced to date does not rise to the level of
3 specific, either the specific intent to kill or the
4 intent to use a truck bomb against the Murrah Building
5 people in it.

allude to
quite
is
the
sufficient or
evidence of

6 I -- there simply is not -- and I would just
7 the cases that we cited in our brief, which I think are
8 illustrative of the fact that the evidence in this case
9 strikingly weak for a first-degree murder case. I mean
10 evidence in the cases that we cite that was found
11 insufficient for a second-degree murder had more
12 intent than has been adduced here.

conduct
basis for
do not
what they

13 That's on the assumption, of course, that the
14 Government has even proved the specific episodes of
15 that they have proved. There is no -- there is no
16 inferring that highest degree of specific intent. We
17 concede that the Government has successfully proved

18 allege to be these episodes that Mr. Nichols was
supposedly
19 involved in, and that adds an extra layer of inference,
of
20 weak, and we think unsupported, inference to the
inference to
21 be then drawn from these episodes to the intent to
kill, the
22 intent to use the truck bomb.

23 And the weakness of the evidence, I will not
go into
24 in detail; but suffice it to say that I think it's fair
to say
25 the more incriminating the alleged episode in which Mr.
Nichols

11778

1 was involved, the weaker the proof. And we could go
through
2 that, but I will not tax the Court with that analysis.
You're
3 familiar with the -- the Court is familiar with the
evidence.
4 The Supreme Court has warned in the context of
proof
5 or conviction of conspiracy that courts should be on
guard
6 against convicting an individual by -- quote, "by
piling
7 inference on inference," in Direct Sales Co. vs. United
States.

8 That is precisely what we have here: inferences that
are weak
9 and unsupported to prove the specific episodes of
conduct and
10 then further weak and unsupported inferences to this
highest
11 level of intent. And given that chain of inferences
required,
12 our contention is that the Government has failed to
prove that
13 a rational verdict of guilty could be returned by a
jury.

14 With the Court -- we do -- if the Court
disagrees, we
15 have an alternative request for relief, which I want to
address
16 briefly.

17 We have contended since the outset of this
case that
18 the alleged episode involving Roger Moore and Mr.
Nichols (1)
19 not only did not happen but -- or at least did not
happen the
20 way Mr. Moore testified it did but that even if it did
happen
21 or there was sufficient proof that there was a robbery
of the
22 type that Mr. Moore described, there is no rational
basis for
23 connecting that episode to the actual charges leveled
in the
24 indictment; i.e., the conspiracy to use a truck bomb
against

the 25 the Murrah Building and the people in it. And I think

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1 proof has borne that out very, very clearly.

connects 2 There is one brief sentence that allegedly

bomb, and 3 the Moore robbery to the conspiracy to use the truck

of the 4 that occurs in Michael Fortier's testimony at page 8315

the 5 transcript. He says that it -- that is the robbery,

McVeigh's -- way 6 alleged robbery -- was Mr. -- his, that is Mr.

7 of contributing to their upkeep.

its face 8 Now, that statement is not only ambiguous on

other proof 9 and taken alone, but I think in the context of the

innocent 10 in which Mr. Nichols' association with Mr. McVeigh for

resources 11 purposes -- i.e., the gun show business and sharing

there is 12 and time and traveling together to go to gun shows --

upkeep 13 simply no basis for inferring his contributing to their

illegal 14 means contributing to their upkeep for purposes of the

15 conspiracy. And there again is a principle, well-
established
16 principle, of inference and sufficiency of the evidence
that if
17 two inferences are equally well supported, that
inference will
18 not, cannot be deemed to suffice to prove beyond a
reasonable
19 doubt that the individual was guilty of the crime.
20 What we have here, I think, is a situation
that goes
21 beyond that. The stronger inference is that Mr. --
their --
22 quote, "their upkeep" refers to the legal business of
gun
23 shows, not to the illegal conspiracy. There is no
rational
24 basis for connecting the Moore episode to the illegal
25 conspiracy; and therefore in the alternative, we
request that

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1 the allegations and the evidence relating to this
alleged Moore

2 robbery be stricken.

3 THE COURT: All right. Thank you.

4 RULING

5 THE COURT: I am not going to require the
Government

denied; 6 to answer the argument. The motion under Rule 29(a) is
of the 7 and of course, at this time the Court must accept all
its 8 evidence submitted by the Government without evaluating
and 9 credibility or making any findings with respect to it
truth of 10 simply address the question of whether, assuming the
basis for 11 all that has been submitted in evidence, there is a
necessary 12 the jury to rationally make the inferences that are
each of the 13 with respect to a finding of all of the elements of
include 14 offenses charged in the indictment, which necessarily
intent. 15 the necessary findings with respect to scienter or

me to 16 It is my view -- and the rule does not require
that a 17 make particularized findings with respect to this --
the 18 jury could, viewing everything most favorably towards
the 19 Government's view of the case -- and that means towards
evidence. 20 indictment -- find the requisite elements from this

necessary 21 And in this regard, I'm not particularizing the
22 intent here for this purpose excepting that there has

to be a

23 showing of an intention to participate in the
conspiracy -- in

24 the formation of the conspiracy and participate -- and
to aid

25 and assist Timothy McVeigh in carrying out the
objectives,

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1 which include the delivery of a bomb to this building
and the
2 explosion and the consequences of it.

3 And of course, this requires that the jury
find that

4 Mr. Nichols had full knowledge of what was to take
place. And

5 my view of the case is that the jury could make such a
finding.

6 With respect to the alternative motion to
strike the

7 evidence relating to this robbery, I'm also denying
that motion

8 on the same basis; that there's -- a jury could find
and infer

9 that the objective there -- first that the robbery took
place;

10 and secondly, that the purpose of it was to support the

11 enterprise outlined in the conspiracy. So the motions,
both

12 motions, are denied.

13 Now, before we proceed with the defense case,
counsel
14 for the defense have informed me that two of their
witnesses
15 are here and that lawyers are here saying that they are
16 representing them. One of these witnesses is Eldon
Elliott.

17 Is there a lawyer here representing Eldon
Elliott?

18 MR. NEUREITER: They were asked to leave, your
Honor.
19 Mr. Manspeaker met them outside.

20 THE COURT: Well, I didn't ask them to leave
the
21 courtroom. All I asked them to do was leave the well
of the
22 court.

23 THE COURTROOM DEPUTY: I'll get them.

24 THE COURT: Get them.

25 I'm asking first for -- Defense Counsel have
advised

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1 me that witnesses Eldon Elliott and Vicki Beemer are
here
2 pursuant to subpoena and that they've been informed
that
3 counsel has appeared for these witnesses, for Eldon
Elliott,

4 are you --

Robison. I'm 5 MR. ROBISON: Yes, your Honor. I'm Reid

6 here for the witness Eldon Elliott.

7 THE COURT: All right, Mr. Robison.

8 And for Vicki Beemer?

9 MR. MORRIS: John Morris, your Honor.

10 THE COURT: And counsel for the defendants --
defense

11 has also advised me that you gentlemen have been
retained by

12 Ryder Truck Rental and not by these witnesses. Just
tell me,

13 please, what the situation is.

14 MR. ROBISON: Well, your Honor, we are paid --
our

15 fees are paid by Ryder, but we've been retained by the

16 individuals, as we've told defense counsel, so I'm not
sure

17 where that information originated.

18 THE COURT: Well, they've also advised me that
these

19 witnesses have refused to speak with them or their

20 representatives pursuant to advice given. That's what
I'm

21 informed.

22 MR. MORRIS: Your Honor, that is not correct.
From

23 the very beginning -- I've been representing Mrs.
Beemer, since

chosen, 24 the grand jury in August of 1995; and Mrs. Beemer has
herself, not 25 not upon recommendation of counsel, but simply by

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was 1 to talk to the media, not to talk to defense. And that
and was 2 true in the McVeigh case, in which I represented her
have 3 present in the courtroom, and that's true today; so I
That 4 never recommended that she not talk to defense counsel.
5 has been her choice. Her choice.

Honor. We 6 MR. ROBISON: Same with Mr. Elliott, your
done on 7 have not given him any advice on that. Whatever he has
8 that count has been his own choice.

gentlemen 9 MR. WOODS: Well, your Honor, the two
allow 10 represented to me at quarter to 9 that they would not
11 their clients to talk with me.

12 MR. ROBISON: No, your Honor, that's not true.

13 THE COURT: Just one at a time, please.

reflects 14 MR. WOODS: And the grand jury transcript

Robison 15 that Vicki Beemer related to the grand jury that Reid
16 was her lawyer at that time.

17 MR. ROBISON: Your Honor, I told counsel this
morning 18 that our clients didn't want to talk to them. He came
over to 19 us as we came in and said -- I had not even met the man
at that 20 time -- said, "Your clients won't talk to us. Is that
right?"

21 MR. WOODS: The question was, "You're not
going to 22 allow us to talk to your clients, is that's correct?"

23 And their answer was, "Yes, that's correct."

24 MR. ROBISON: No, that's not what I said. I
said, "It 25 is their choice, Counsel."

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1 MR. WOODS: You didn't say that, sir.

2 THE COURT: Well, you know, it should be their
choice,
3 obviously. And that's why I've called -- taken the
strange and
4 unusual step of calling on counsel to ask them directly
both,
5 you know, who retained them and, secondly, what their

6 instructions are. I don't mean to interfere with the
7 attorney/client privilege, but at the same time it's
important
8 to find out here that there's -- what the situation is.
And
9 you've both represented to me that your respective
clients are
10 taking this position after conferring with you but
making their
11 own decision.

12 Is that the situation?

13 MR. ROBISON: Yes, sir.

14 MR. MORRIS: That is correct, your Honor.

15 THE COURT: All right. You may be present in
the
16 courtroom when they are called.

17 MR. ROBISON: Thank you, sir.

18 THE COURT: I'm not precluding you from that.
The
19 reason that I moved you -- and I didn't mean to move
you clear
20 out of the courtroom -- was that counsel were
objecting, for
21 the defense, to your being with those who are in the
well of
22 the courtroom representing the defendant. That was the
reason
23 why I rather abruptly instructed that you be moved.
24 MR. MORRIS: Yes, your Honor. When we were
here for
25 the McVeigh trial, I sat on both sides, inside the

well,

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1 including the defense, when Mrs. Beemer was called for
2 Mr. Jones. We didn't realize that we were doing
anything to
3 infringe on the defense.

4 THE COURT: Okay.

5 MR. TIGAR: Your Honor, please, with respect
to the

6 record here, counsel have represented that they were
retained

7 by the respective witnesses. That still doesn't answer
the

8 question by whom were they contacted, what is the
arrangement,

9 how is the money paid, do the clients review the bills,
if

10 there is reimbursement situation; that is to say, is
this truly

11 a lawyer/client relationship between the witnesses and
these

12 lawyers or is this in fact counsel selected by Ryder
and

13 directed as to what they do by Ryder.

14 THE COURT: Well, counsel said they're paid by
Ryder.

15 Correct?

16 MR. ROBISON: Correct, your Honor.

17 MR. MORRIS: Correct.

18 THE COURT: And I simply -- I don't have to go
through
19 all of these individual questions suggested by Mr.
Tigar.

20 Of what bar are you gentlemen members?

21 MR. ROBISON: Actually, your Honor, I'm a
member of
22 the bar of both this state and the state of Oklahoma.

23 MR. MORRIS: The state of Oklahoma and several
federal
24 bars, including the Supreme Court.

25 THE COURT: Well, the Rules of Professional

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1 Responsibility are relatively the same for both
Oklahoma and
2 Colorado and the Federal District Court in the Western
District
3 of Oklahoma and in this district, and I simply ask
directly of
4 each of you if your fidelity under the rule is with
respect to
5 the clients who are witnesses in this case.

6 MR. MORRIS: Absolutely, your Honor.

7 MR. ROBISON: Yes, sir.

8 THE COURT: All right. Well, I'm satisfied
with your

So, as 9 statement there. I'm not going to inquire beyond it.
upon 10 members of the bar, as identified, I'm entitled to rely
11 your conclusory representations.

proceeding 12 MR. ROBISON: But as relatively new in this
regard 13 this morning, your Honor, where does that leave us with
14 to where we can sit when the proceedings resume?

15 THE COURT: Find a place.

16 MR. ROBISON: All right.

17 MR. MORRIS: Thank you.

18 THE COURT: All right.

19 MR. MORRIS: Thank you, your Honor.

place for 20 THE COURT: Now, perhaps we can arrange a
21 you here. Mr. Manspeaker will help you with that.

22 MR. ROBISON: Thank you, Judge.

are 23 THE COURT: I don't know when these witnesses
24 going to be called.

25 MR. ROBISON: We were told very soon.

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The 1 MR. WOODS: They'll be very soon, your Honor.

2 first witness is Lea McGown -- excuse, second
witnesses, after

3 Mr. Burmeister.

4 THE COURT: Yes.

5 MR. WOODS: Lea McGown and then David Ferris,
David

6 D'Albini, Vicki Beemer, Eldon Elliott.

7 THE COURT: Does that sound like it's going to
be this
8 morning?

9 MR. WOODS: Yes, your Honor. These are very
short
10 witnesses.

11 THE COURT: We'll work out the seating
arrangement
12 during the recess which we're about to take.

13 MR. ROBISON: Thank you, your Honor.

14 THE COURT: Well, I think we'll take -- we
probably
15 should take about 20 minutes.

16 MR. TIGAR: Your Honor, so that our record is
17 protected -- and I'm not attempting to insult these
gentlemen.

18 It's my duty to protect the record here -- we would ask
for an
19 evidentiary hearing with respect to the circumstances
of
20 retention, your Honor.

21 THE COURT: All right. Well, that request is
denied.

22 We'll take a 20-minute recess.

23 (Recess at 9:45 a.m.)

24 (Reconvened at 10:04 a.m.)

25 THE COURT: Be seated, please.

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Honor? 1 MR. TIGAR: May we approach the bench, your

2 THE COURT: Yes, Mr. Tigar.

3 (AT the bench:)

by court 4 (Bench Conference 101B2 is not herein transcribed

transcript.) 5 order. It is transcribed as a separate sealed

6

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1 (In open court:)

2 (Jury in at 10:57 a.m.)

We're 3 THE COURT: All right, members of the jury.
4 ready to proceed.

5 MR. TIGAR: Call Steven Burmeister.

6 THE COURT: All right.

the stand 7 Agent Burmeister, you're being re-called to
8 under the oath earlier taken.

9 Mr. Tigar.

10 (Steven Burmeister was re-called.)

11 DIRECT EXAMINATION

12 BY MR. TIGAR:

13 Q. Mr. Burmeister, you have training as an arson
investigator?

14 A. Yes, I do.

15 Q. And you described your qualifications on direct
examination

16 by the Government. Do you recall that, sir?

17 A. Yes, I do.

18 Q. And in how many bombing crime-scene investigations
have you

19 participated in your career as an FBI agent?

20 A. Are you referring to scenes in which I've gone out
and

21 collected physical evidence?

22 Q. How many bombing crime-scene investigations have
you

23 participated in any way in your career as an FBI agent?

24 A. Is that -- you're referring to ones which I've
traveled out

25 to from the field office?

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Steven Burmeister - Direct

1 Q. Well, let's start with that. How many have you
traveled

2 out to?

3 A. Right at this point, I'm coming up with
approximately

4 seven.

5 Q. And how many bombing crime-scene evidence analyses
have you 6 participated in in addition to the seven?

7 A. Evidence that I've received in the office, several
hundred 8 actual cases.

9 Q. Do you believe yourself qualified, sir, by your
knowledge,
10 skill, experience, training, or education to give an
opinion to
11 a reasonable scientific certainty as to what was in the
device
12 that exploded in front of the Murrah Building on April
19?

13 A. My expertise would be able to say based on the
chemical
14 findings what chemicals may have been present within
that
15 particular device.

16 Q. All right. And what chemicals -- you say "may have
been
17 present." I asked you whether you could give an
opinion to a
18 reasonable scientific certainty what was in the device.
Would
19 you be able to do that?

20 A. Based on the chemical findings, yes.

21 Q. What chemicals did you find present there?

22 MS. WILKINSON: Objection, your Honor. May I
voir
23 dire the expert before he's qualified to give his

opinion?

24 THE COURT: Yes.

25 VOIR DIRE EXAMINATION

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Steven Burmeister – Voir Dire

1 BY MS. WILKINSON:

2 Q. Agent Burmeister, in the FBI Laboratory are you
given

3 guidance on your area of expertise to which you may
testify?

4 A. We understand the areas and our limitations as to
what we

5 can testify to, yes.

6 Q. And can you tell us what you're qualified to
testify about.

7 A. The chemical findings, the chemical-residue
analysis of

8 particular items and materials that are submitted for
9 explosives analysis.

10 Q. Is it beyond your area of expertise to tell the
jury what

11 the bomb was constructed of?

12 A. Absolutely.

13 Q. Is it beyond your area of expertise to tell them
the type

14 of damage and whether that's consistent with a certain
type of

15 explosive?

16 A. Yes.

17 Q. And are there others that are qualified to do that
for the

18 FBI Laboratory?

19 A. Yes.

20 Q. And is that how the work is divided up at the FBI

21 Laboratory?

22 A. Yes.

23 Q. Are your qualifications and the division of labor
in the

24 FBI Laboratory different from those in DERA where Ms.
Jones is

25 employed?

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Steven Burmeister – Voir Dire

1 A. Yes.

2 MS. WILKINSON: Your Honor, we would object to
using

3 Mr. Burmeister for this purpose.

4 THE COURT: Mr. Tigar?

5 DIRECT EXAMINATION CONTINUED

6 BY MR. TIGAR:

7 Q. Mr. Burmeister, when you say "division of
responsibility,"

8 you mean the courtroom testimony policy, don't you,
sir?

9 A. No, it's within the FBI Laboratory and those
personnel in
10 the FBI Laboratory.

11 Q. So there are regulations that say when you're
called out to
12 testify on behalf of the Government: These are the
areas in
13 which the Government can offer your testimony.
Correct?

14 A. The regulations are guided by the individual's
expertise
15 and how far that individual can testify based on that
person's
16 background and training.

17 Q. Okay. Do you possess knowledge concerning the
components
18 of improvised explosive devices?

19 A. I'm aware of components that can go into those
devices.

20 Q. You know how to build them, don't you?

21 A. Yes.

22 Q. You've read books on it; correct?

23 A. Some texts, yes.

24 Q. Do you possess skill with respect to the
construction of
25 improvised explosive devices?

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Steven Burmeister - Direct

1 A. I don't know what you mean by a "skill."
2 Q. Could you build one that would work?
3 A. I could certainly build something that would work,
yes.
4 Q. Have you built one that would work, an improvised
explosive
5 device?
6 A. I have been present during the construction of
devices,
7 some of which I haven't placed all of the pieces
together, only
8 parts of the pieces together.
9 Q. Have you been present at and assisted in the
construction
10 of any improvised explosive device that you blew up?
11 A. Yes.
12 Q. So you have experience in the construction and
detonation
13 of improvised explosive devices; correct?
14 A. I would say that the experience is present but not
15 extensive.
16 Q. In order to be able to construct the explosive
device, you
17 had training; correct?
18 A. I have -- I have had no official training in the
actual
19 construction of devices.
20 Q. You worked with more senior FBI agents than
yourself in the
21 construction of the improvised explosive devices that

you made;

22 correct?

23 A. These are individuals in another unit of the FBI
Laboratory

24 which I associate with during the course of
investigations.

25 Q. And you have read publications concerning the
components of

11797

Steven Burmeister - Direct

1 improvised explosive devices; correct?

2 A. I've read texts on that, yes.

3 Q. Have you attended conferences where that was
discussed?

4 A. I have attended some conferences in which some
devices were

5 presented as interesting devices but not specifically
on the

6 design and manufacture or creation of particular
devices.

7 MR. TIGAR: Your Honor, I'd like to ask him
his

8 opinion.

9 THE COURT: Well, with respect to what
exactly?

10 MR. TIGAR: Whether or not he's able to say
what this

11 was made of, this device.

12 THE COURT: All right. And are you objecting

to that?

13 MS. WILKINSON: I am. I don't believe he's
qualified.

14 THE COURT: Well, your objection is overruled.

15 MS. WILKINSON: Okay.

16 THE COURT: Now, let me make it clear to you
you're

17 not here under some FBI directive about what you can or
can't

18 say. You're here as a scientist. Understand?

19 THE WITNESS: I do.

20 THE COURT: So the question is being asked of
you as a

21 scientist whether you have an opinion.

22 Correct?

23 MR. TIGAR: That's right.

24 BY MR. TIGAR:

25 Q. And I want to give you -- I'm going to ask you the

11798

Steven Burmeister - Direct

1 question: Is it possible as a scientist to say what
were the

2 components of the device that destroyed the Murrah
Building?

3 Can you say it?

4 A. Now you're outside of where I would view myself as
an

the -- 5 expert. I can only give the chemical side, and that's
When 6 that's the scope of which I want to keep myself within.
an area 7 you start talking components, you're getting out into
8 which is broadened beyond my scope.
What 9 Q. Elements, then. You tell me what -- tell the jury:
to know. 10 are you able to tell us about it? That's what we want
science? 11 What are you able to tell us based on your best
direction as 12 A. What would you like me -- can you give me some
13 to what area you would like me --
device? 14 Q. Do you think ammonium nitrate was present in the
15 A. Yes.
16 Q. And you base that on Q507; correct?
my 17 A. Based on the findings on Q507, the device -- it's
18 opinion that it contained ammonium nitrate.
that 19 Q. Are you able -- are you able to make a conclusion
20 Tovex was present?
21 A. That's the part of --
based on 22 Q. As a scientist. I'm just talking as a scientist,
to tell 23 the analyses that you've done and seen. Are you able

24 us that Tovex was present?

25 A. Based on the chemical findings, one would have to
go back

11799

Steven Burmeister - Direct

1 and basically -- there is ammonium nitrate present on
the

2 particular sample. Back-stepping and trying to decide
what

3 type of explosive that could have originated from --
first of

4 all, you would say whether nitroglycerin was present.
There

5 was none present on Q507.

6 Q. Uh-huh.

7 A. So in essence, it's consistent that dynamite could
be ruled

8 out.

9 If we look at the area of Tovex --

10 Q. Dynamite can be ruled out based on Q507. Correct?

11 A. If we're looking at the ammonium nitrate on Q507,
yes.

12 Q. Now, did you -- when you tell us dynamite can be
ruled out,

13 did you take into account the finding of a dynamite
wrapper in

14 the building?

15 A. I'm not qualified to say that the wrapper was, in
fact,

16 dynamite wrapper.

17 Q. Did you look at -- You look at the work of other
agents --

18 correct -- when you do your work?

19 A. Only the agents that are within my particular
section.

20 Q. And were you ever asked to examine something that
was

21 thought to be a dynamite wrapper?

22 A. Yes.

23 Q. And when you tell us that you can rule dynamite
out, you

24 rule that out because you didn't find any nitroglycerin

25 anywhere -- right -- at the crime scene?

11800

Steven Burmeister - Direct

1 A. The evidence that I reviewed, I did not find
dynamite -- or

2 I did not find nitroglycerin present.

3 Q. Anywhere at the crime scene.

4 A. At the crime scene, yes.

5 Q. Now, the question we started was: Did you find
chemical

6 evidence that would indicate that Tovex was present?

7 A. Again, we'll fall back on the ammonium nitrate that
was

8 found on Q507. Based on my past experience with

residues of

9 Tovex, I would find other chemicals substances that
would be

10 present on that; for example, metallic particles of
aluminum.

11 This is being the shiny particles that are just like
aluminum.

12 Typically, I would find that. None was found in this
13 particular situation.

14 Q. Okay. And are you able based on your science to
say that

15 Primadet was or wasn't used?

16 A. I can't make any determination on that.

17 Q. Are you able based on your science to say that any
18 particular type of blasting cap was used?

19 A. I can't talk about that, either.

20 Q. Are you able based on your science to say that a
timing

21 device was or wasn't used?

22 A. I can't talk about that area.

23 MR. TIGAR: Thank you.

24 THE COURT: When you say you can't talk about
it,

25 you're talking about your own qualifications and
testing?

11801

Steven Burmeister - Direct

1 THE WITNESS: Yes.

2 BY MR. TIGAR:

3 Q. Based on what you feel qualified to talk about.
And you

4 understand, sir, that other -- other experts have
looked at

5 this and indeed other experts have testified in this
case;

6 right?

7 A. I'm aware of that, yes.

8 MR. TIGAR: All I'm asking you is to just do
your

9 best.

10 Thank you. I have no further questions.

11 THE COURT: All right. Is there any

12 cross-examination?

13 MS. WILKINSON: Just a few questions, your
Honor.

14 CROSS-EXAMINATION

15 BY MS. WILKINSON:

16 Q. Mr. Burmeister, you were asked about a wrapper that
you

17 examined. Is that correct?

18 A. Yes.

19 Q. And do you recall what color that wrapper was?

20 A. It was a brown -- slightly brown-paper-type
material.

21 Q. You tested that for high-explosives residue?

22 A. Yes.

23 Q. Did you find any?

24 A. No.

25 Q. And if it had been a dynamite wrapper, would you expect to

11802

Steven Burmeister - Cross

1 find certain explosives residue?

2 A. Yes.

3 Q. What residues would you have expected to find?

4 A. Typically nitroglycerin would be the leading explosive.

5 There could also be EGDN, ethylene glycol dinitrate, as well as

6 any inorganic material such as sodium nitrate or ammonium

7 nitrate.

8 Q. Now, nitroglycerin as well as EGDN are both vaporous high

9 explosives; right?

10 A. Yes.

11 Q. If this had been a dynamite wrapper, would you expect those

12 residues to have seeped into the brown paper?

13 A. Yes.

14 Q. And you didn't find any of those?

15 A. No.

16 MR. TIGAR: Object to leading.

17 MS. WILKINSON: I believe it's cross.

18 THE COURT: This is cross-examination.

19 MR. TIGAR: I would like him declared an
adverse

20 witness, your Honor. He's employed by the adversary.

21 THE COURT: Objection is overruled.

22 MS. WILKINSON: No further questions.

23 REDIRECT EXAMINATION

24 BY MR. TIGAR:

25 Q. Did you test all of the items that came into your

11803

Steven Burmeister - Redirect

1 laboratory from the crime scene for nitroglycerin?

2 A. I would say 90 percent of the items that came in
were

3 tested for nitroglycerin.

4 Q. Is nitroglycerin -- are polyethylene bags permeable
for

5 nitroglycerin?

6 A. Yes, they would be.

7 MR. TIGAR: No further questions.

8 MS. WILKINSON: No further questions.

9 THE COURT: Now is he excused?

10 MR. TIGAR: He is excused, your Honor.

11 THE COURT: Now you are excused.

12 Next witness, please.

13 MR. WOODS: Lea McGown.

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

15 (Lea McGown affirmed.)

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

17 Would you state your full name for the record
and

18 spell your last name.

19 THE WITNESS: Lea McGown. M-C-G-O-W-N.

20 THE COURTROOM DEPUTY: Thank you.

21 THE COURT: Mr. Woods.

22 DIRECT EXAMINATION

23 BY MR. WOODS:

24 Q. Good morning, Ms. McGown.

25 A. Good morning.

11804

Lea McGown - Direct

1 Q. Would you tell the jury where you live, please.

2 A. I live in Junction City, Kansas.

3 Q. Will you speak into that microphone a little louder
so that

4 everyone can hear you.

5 How long have you lived in Junction City?

6 A. Since 1981.

7 Q. Do you own and operate a business in Junction City?

8 A. Yes, I do.

9 Q. And what is the name of the business?

10 A. Dreamland Motel.

11 Q. Where is it located?

12 A. On Flint Hills Boulevard, 520, on Exit 300, I-70.

13 Q. And how long have you owned that business?

14 A. Since 1988.

15 Q. If you will look on the envelope in front of you
there, the

16 first exhibit in the front of it. Do you recognize the

17 exhibit, and is it accurate?

18 A. Yes, I do. Yes, it is correct.

19 Q. Have you seen it before?

20 A. Yes, sir.

21 Q. Is that a map of the Junction City area?

22 A. Yes, it is.

23 MR. WOODS: Your Honor, we would offer into
evidence

24 Defense Exhibit 1697 identified by the witness as a map
of the

25 area.

1 THE COURT: Is it D1657?
2 MR. WOODS: 1697, your Honor.
3 THE COURT: Excuse me. All right. Any
objection?
4 MR. MACKEY: None, your Honor.
5 THE COURT: Received.
6 MR. WOODS: May I publish it to the jury?
7 THE COURT: Sure.
8 MR. WOODS: Thank you.
9 BY MR. WOODS:
10 Q. Now, Ms. McGown, do you see the map that's in front
of you
11 there?
12 A. Yes, I do.
13 Q. We'll move it up a little bit.
14 Does that show the location where the
Dreamland Motel
15 is?
16 A. Yes, sir.
17 Q. Would you point out for the jury -- there is a pen
there,
18 and you can operate it by going under the top and onto
the
19 screen directly. And if you'll hold your pen straight
up as
20 much as you can. Point out for the jury where the
Dreamland
21 Motel is.

22 A. Right here on Exit 300.
23 Q. And what is the main highway that goes by the
Dreamland
24 Motel?
25 A. 57.

11806

Lea McGown - Direct

1 Q. All right. And is there an interstate that goes
by?
2 A. Right above is I-70.
3 Q. All right. Is that the interstate that goes east
and west?
4 A. That's correct.
5 Q. Okay. Now, there are other businesses marked on
this map
6 provided by the Government. And I'll ask you to look
at --
7 down in the bottom, there is an indication of a
location for a
8 McDonald's restaurant.
9 A. Yes, sir.
10 Q. Would you point that out for the jury, please.
11 And is that restaurant -- what street is that
on?
12 A. It's on Madison.
13 Q. Is it near the intersection of the highway?
14 A. Yes. It's right on Exit 296, right off the ramp.

15 Q. And is -- where is Washington Street on that map?
16 A. Washington Street is the extension of Madison.
17 Q. So is the restaurant -- McDonald's restaurant
located on
18 Washington, or Madison?
19 A. It's actually Madison.
20 Q. And Washington is the extension of it?
21 A. Yes. It fills into it.
22 Q. Have you been to that restaurant before?
23 A. Yes, sir.
24 Q. And was it in operation in April of '95?
25 A. Yes, sir.

11807

Lea McGown - Direct

map
jury
Shop
1 Q. All right. And there is also an indication on the
2 there of Elliott's Body Shop. Would you mark for the
3 where that is.
4 I'll move it up a little bit for you.
5 And have you done business at Elliott's Body
6 during your stay in Junction City?
7 A. Yes, sir.
8 Q. So you're familiar with the location?
9 A. Yes, sir.

the
10 Q. Can you give us an estimation how far it is from
11 McDonald's restaurant to Elliott's Body Shop --
12 A. 4, 5 minutes.
13 Q. -- in time? Can you --
14 A. Driving, 1 mile.
15 Q. Approximately 1 mile?
16 A. 1 mile.
of a
17 Q. Okay. Now, there is also an indication on the map
18 Firestone store. Do you see that?
19 A. Yes, sir.
Firestone store
20 Q. Have you visited and done business at that
21 during your stay in Junction City?
22 A. Yes, sir.
23 Q. And would you point that out for the jury, please.
24 Now, there is one other location on the map,
Hunam
25 Palace, Chinese restaurant. Would you point that out
for the

11808

Lea McGown - Direct

motel?
1 jury, please. Approximately how far is that from your
2 A. 10, 15 minutes.

Riley is
between
acres
five
have
I would
identified as
admitted into
McGown?

3 Q. Now, would you point out for the jury where Fort
4 in relation to Junction City and your business?
5 A. It would be in the upper right-hand corner, in
6 Grand Avenue and Grandview Plaza.
7 Q. Is Fort Riley a large area that encompasses several
8 around Junction City?
9 A. Yes, it does.
10 Q. Or several square miles, shall I say?
11 A. Several square miles.
12 Q. Is this marked on the map accurately?
13 A. Yes. It's correct.
14 Q. Now, how long have you owned the Dreamland Motel?
15 A. Since August, '88.
16 Q. And if you will, inside that envelope, the next
17 exhibits are a series of photographs. And two of them
18 already been admitted into evidence as G283 and G287.
19 ask you to look at three photographs that are
20 D1700, 1701, and 1702.
21 A. Yes, sir.
22 Q. Those three that begin with D have not been
23 evidence yet. Have you seen those photos before, Ms.

24 A. Yes, sir.

25 Q. And do they accurately depict the scene that is

11809

Lea McGown - Direct

1 photographed therein?

2 A. Yes, sir.

3 Q. And have you seen that scene before?

4 A. Yes, sir.

5 Q. Is that a scene of your motel?

6 A. That's correct.

7 MR. WOODS: Your Honor, we would offer into
evidence

8 those three photos that haven't been admitted yet,
D1700, 1701

9 and 1702.

10 MR. MACKEY: No objection.

11 THE COURT: They are received.

12 MR. WOODS: And we would like to publish those
three

13 along with the two that have not been published yet.

14 THE COURT: Those being 283 and 287?

15 MR. WOODS: Yes, your Honor.

16 THE COURT: All right. You may do so.

17 MR. WOODS: Thank you.

18 BY MR. WOODS:

19 Q. If you'll click the pen --

20 MR. WOODS: Well, she's already done it.

21 THE COURT: Yes, she did.

22 BY MR. WOODS:

23 Q. Ms. McGown, I'm going to show you first what is --
this has

24 been admitted into evidence as Government's Exhibit
283, which

25 is an aerial view. And can you describe for the jury
the

11810

Lea McGown - Direct

1 layout of your motel?

2 A. On the beginning is 57, which is on construction
with the

3 bridge to your left side. Then the round drive going
into the

4 motel parking lot, the motel itself, and the back area
and is a

5 driveway on the right-hand side, is going into the
church area.

6 Q. Let me take it out of the plastic envelope. It may
be

7 clearer.

8 Now, how many rooms do you have in your motel,
the

9 Dreamland?

10 A. 24.

motel? 11 Q. And where is your office located there at the

12 A. In the middle right across the grass area.

13 Q. Would you point out for the jury with that pen
where your

14 office is.

15 All right. And do you live at the motel, Mrs.
McGown?

16 A. Yes, I do.

17 Q. Would you point out for the jury where you live.

18 Okay. Do you have children?

19 A. Yes, I do.

20 Q. How many?

21 A. Two.

22 Q. And what are their names and ages?

23 A. Kathleen McGown is 17. Eric McGown, 19.

24 Q. During April, 1995, were your two children living
with you

25 there at the motel?

11811

Lea McGown - Direct

1 A. That's correct.

2 Q. Was there another person that was staying there
with one of

3 your children?

4 A. Renda Truong, a girlfriend of my daughter.

5 Q. Would you say that slowly for the jury, please.

6 A. Renda Truong.

7 Q. How do you spell the last name?

8 A. T-R-U-O-N-G.

9 Q. She was living with your daughter?

10 A. That's correct.

11 Q. Would you point out for the jury where Room 25 is.

12 office? And is that the first room next to your

13 A. That's correct.

14 from Q. How are your rooms numbered across both sides there

15 your office?

16 through A. To the west wing, 25 through 34. The east wing, 24

17 10.

18 west Q. Would you point out for the jury which one is the

19 wing.

20 And those numbers are 25 through what?

21 A. 34.

22 Q. All right. And then the east wing?

23 A. 24 through 10.

24 parking Q. And do all the rooms have doors that open up on the

25 area?

11812

Lea McGown - Direct

1 A. Yes, sir.

2 Q. And again if you point out for the jury where the
parking

3 area is for a car that comes to an individual room.

4 All right. Let me show you the other exhibit
that

5 previously has been admitted, Government's 287. And if
you

6 would click the pen so that those marks go off.

7 Would you point out again where your office is
and

8 where Room 25 is. All right.

9 And you have a large sign there in front. Is
that

10 correct?

11 A. Yes, sir.

12 Q. And is there a parking area near that sign?

13 A. Yes, sir.

14 Q. Let me show you also Defense Exhibit 1701. If you
would

15 click the pen again. This photo shows a new bridge
there. In

16 April of 1995, was that bridge there at the time?

17 A. No, sir.

18 Q. Was it under construction?

19 A. Yes, sir.

20 construction

Q. Do you remember approximately what date the

21 started?

22 A. 14th of April.

point

23 Q. And I'll show you Defense Exhibit 1700. Would you

at that

24 out for the jury where the bridge was being constructed

25 time.

11813

Lea McGown - Direct

your

1 All right. Now, where -- how did one get to

2 motel from the interstate, I-70?

more or

3 A. You take the Exit Ramp 300, and this ramp will lead

4 less straight into the motel.

5 Q. All right. And this frontage road in front of your

6 motel -- what's the name of it again?

7 A. K-57.

what's

8 Q. Okay. Now, within your office -- I'll show you

all

9 marked as 1702. Is your office all windows surrounding

10 sides?

11 A. Three sides of my office have windows.

relation to

12 Q. And where is your apartment or home located in

13 your office?
14 A. To the north.
15 Q. Is it right behind your office?
16 A. That's correct.
17 Q. Is there a door that enters from your home into the
office?
18 A. Two doors. Three doors. I'm sorry. Three doors.
19 Q. All right. And this one photo that shows the
windows:
20 Approximately what level do they start from the floor
up?
21 A. At chair-high level.
22 Q. Do the windows then open up to view the whole front
of your
23 motel, both the east wing and the west wing and the
front?
24 A. That's correct.
25 Q. Okay. Now, if you would click that pen again.

11814

Lea McGown - Direct

1 I want to call your attention to the period of
April,
2 1995. Do you recall the day of the bombing in Oklahoma
City,
3 April 19?
4 A. Yes, sir.
5 Q. Okay. Had you seen any news broadcasts or heard

anything

6 about the news concerning the Oklahoma City bombing on
that

7 day, April 19?

8 A. I don't recall.

9 Q. Did you receive a visit the following day, on
Thursday,

10 April 20, from any law enforcement officials?

11 A. Yes, sir.

12 Q. Okay. Do you recall who they were, what agency
they were

13 with?

14 A. Mr. Burgess from the local police, and later I was
told

15 Mark Bouton from the FBI.

16 Q. So there were two individuals that visited with
you?

17 A. Yes, sir.

18 Q. Did they show you any objects at that time?

19 A. Yes, sir.

20 Q. What did they show you?

21 A. Two composite drawings.

22 Q. Composite drawings?

23 A. Two drawings of --

24 Q. And were the drawings of males, or females?

25 A. Two male.

11815

Lea McGown - Direct

1 Q. Would you look at the envelope that's in front of
you. And

2 there is an exhibit marked D1706 and an exhibit marked
D1699.

3 I'm sorry. It should be marked 1731 and 1699.
Do you

4 see those two exhibits?

5 A. Yes, sir.

6 Q. Have you seen those exhibits before?

7 A. Yes, sir.

8 Q. Were those the two composite drawings that were
shown you

9 by the law enforcement authorities on Thursday, April
20?

10 A. Yes, sir.

11 MR. WOODS: Your Honor, we would move into
evidence

12 the composite drawing of Un. Sub. No. 1, which is
D1699, and

13 composite drawing of Un. Sub. No. 2, which is D1731.

14 MR. MACKEY: No objection.

15 THE COURT: All right. They're received. I'm
a

16 little confused, though. On my list I had D1698 as the
--

17 MR. WOODS: Yes, your Honor. That was a
composite

18 drawing of John Doe No. 2 that was drawn later.

19 THE COURT: Oh.
20 MR. WOODS: We've substituted with the first
drawing.
21 THE COURT: The identified exhibits are
received.
22 MR. WOODS: Thank you. May I publish, your
Honor?
23 THE COURT: Yes.
24 BY MR. WOODS:
25 Q. Ms. McGown, I'm showing you now that's been marked
and

11816

Lea McGown - Direct

1 admitted as D1699. Was this one of the drawings that
was shown
2 to you by the law enforcement officials on Thursday,
the day
3 after the bombing?
4 A. Yes, sir.
5 Q. Had you seen that sketch on the news, on
television, or in
6 the newspaper that day at all?
7 A. No, sir.
8 Q. That was the first time you saw it?
9 A. Yes, sir.
10 Q. And I'll show you also what's been marked as D1731.
Is
11 that the composite -- the second composite that was

shown to

12 you?

13 A. Yes, sir.

14 Q. Had you seen an individual with the likeness of
John Doe

15 No. 1 as of that date on April 20?

16 A. Yes, sir.

17 Q. And did you advise the law enforcement officials of
that?

18 A. Yes, sir.

19 Q. Did you provide them a copy of a registration form
from

20 your business records there at the Dreamland Motel?

21 A. Yes, sir.

22 MR. WOODS: Okay. Your Honor, Exhibit --
Government's

23 Exhibit 294A, the clean copy, has previously been
admitted into

24 evidence, and we would like to publish that to the
jury.

25 THE COURT: You may.

11817

Lea McGown - Direct

1 MR. WOODS: And if we could pull that up on
the

2 screen.

3 BY MR. WOODS:

clearly 4 Q. Now, Ms. McGown, I don't know if you can read that

5 on the screen there.

6 There. It's blown up a little bit.

7 Do you recognize that form?

8 A. Yes, sir.

9 Q. That is a form that you've designed yourself?

10 A. Yes, sir.

11 Q. And is that the form that you provided to the law
12 enforcement officials on Thursday?

13 A. Yes, sir.

14 Q. And would you read into the record who the
individual was

15 that registered there at that time?

16 A. Tim McVeigh.

17 Q. And did he give an address?

18 A. "3616 North Van Decker -- Van Dyke, Decker,
Michigan; car

19 license LCC034, Arizona; make, Mercury; number of
people, 1;

20 pets, none."

21 Q. Now, the writing on the top half before that line:
Is that

22 done by you from what the individual gives you, or is
that done

23 by the individual that's registering there at your
motel?

24 A. The individual writes the address and all the
information.

in? 25 Q. Okay. Now, below that line: Who fills that part

11818

Lea McGown - Direct

1 A. I do.

did the 2 Q. Okay. Now, what time did -- excuse me. What date

in 3 individual register at your motel, the Dreamland Motel

4 Junction City?

5 A. Friday, April 14.

it was? 6 Q. All right. Do you recall the time of the day that

7 A. Late afternoon around 4 p.m.

you 8 Q. All right. Now, do you recall and at that time did

9 recall specifically this individual, Timothy McVeigh?

10 A. Yes, sir.

what 11 Q. And did you advise the law enforcement officials of

12 you recalled at that time?

13 A. Yes, sir.

when you 14 Q. Okay. Now, will you tell the jury what you recall

conversation 15 first saw Mr. McVeigh on the 14th of April. What

him? 16 did you have with him and when did you first notice

17 A. He came into the office and I asked what I can do
for you;
18 and he said, "I would like to have a room for one
person." And
19 then he stated he wants to stay several days, if he
would get a
20 discount, because I quoted the regular rate.
21 Q. What was your regular rate at that time?
22 A. 24.
23 Q. And did you negotiate a discount with him after
discussing
24 a discount?
25 A. Yes, we did.

11819

Lea McGown - Direct

1 Q. How many days did he want to stay?
2 A. Four nights.
3 Q. And what negotiated rate did you arrive at?
4 A. \$20.
5 Q. What was his appearance?
6 A. Very neat and clean.
7 MR. WOODS: Okay. Your Honor, we would ask
that we
8 publish the photograph of Mr. McVeigh, which has
previously
9 been admitted into evidence as Government's Exhibit
318.

10 THE COURT: You may.

11 BY MR. WOODS:

12 Q. Now, Mrs. McGown, do you recognize the individual
that's
13 depicted in that photograph?

14 A. Yes, sir.

15 Q. Is that the Timothy McVeigh that registered on that
day,
16 April 14?

17 A. Yes, sir.

18 Q. Okay. Thank you. We can turn that off now.

19 Was there further discussion other than
arriving at a
20 discount rate for four days?

21 A. No. We have all the time exchange of words. He
wanted to
22 know if he can park a van, if it would matter if he
brings two
23 cars and he would bring a van in to where Gracie's
Beauty Shop
24 is.

25 Q. When he said "a van," did he describe it in any
way?

11820

Lea McGown - Direct

1 A. No.

2 Q. Is it usual, or unusual that people bring a van to
your

3 motel?

4 A. No, sir.

5 Q. "No, sir," is it usual, or unusual?

6 A. It's usual that somebody brings a van.

7 Q. And why is that?

8 A. We have Fort Riley next door, which means many
people move

9 in and out. They most of the time have a moving van.

10 Q. And sometimes they stay at your motel; is that
correct?

11 A. Quite often.

12 Q. And he asked you where Gracie's was? Is that
correct?

13 A. Yes, sir.

14 Q. And what is Gracie's?

15 A. A beauty shop.

16 Q. Is that a place where men get haircuts?

17 A. Sometimes.

18 Q. All right. Any further discussion that you had
with

19 Mr. McVeigh at that time?

20 A. I noticed the discrepancy between the two states,
Michigan

21 and Arizona, and I asked him --

22 Q. When you say "discrepancies," what are you speaking
of

23 between the two states?

24 A. Most people do have the same state and the same

number on

25 the license plate as home address, if they're not
military,

11821

Lea McGown - Direct

1 except then. So I ask him how come he has two
different

2 states.

3 Q. And you're speaking of he gave an address of
Michigan but

4 he had an automobile with an Arizona tag; is that
correct?

5 A. That's correct.

6 Q. What explanation did he give?

7 A. He says he travels quite a bit in the last one-and-
a-half,

8 two years, and he said that's a friend's address.

9 Q. He said that's a friend's address?

10 A. Yes.

11 Q. Okay. Did you notice the automobile that he was
driving?

12 A. Yes, sir.

13 Q. And can you describe that automobile for us?

14 A. It was an older, yellowish-grayish --

15 yellowish-beigish-looking Mercury, and it has had some
spots

16 where you fix it with some plaster.

17
Government's

MR. WOODS: Your Honor, we would ask that

18
evidence,

Exhibit 414, which has previously been admitted into

19 be published again.

20 THE COURT: All right.

21 BY MR. WOODS:

is in

22 Q. Ms. McGown, will you look at this photograph which

that

23 evidence as Government's Exhibit 414. Do you recognize

24 car?

25 A. Yes, sir.

11822

Lea McGown - Direct

1 Q. And where have you seen that car previously?

2 A. On the parking lot at Dreamland Motel.

driving?

3 Q. Was that the automobile that Mr. McVeigh was

4 A. Yes, sir.

5 Q. Okay. Did you ever see the license plate of that

6 automobile while he was there during those four days?

7 A. Yes, sir.

8 Q. What day did you first notice it, if you recall?

afternoon or the

9 A. I don't recall exactly if it was the first

10 second. I recall he's driving out of the driveway and

the

with one 11 license plate was hanging sideways, was only secured
12 bolt.

sides and 13 Q. So normally license plates -- is fastened on both
14 you're saying it was only fastened on one side?

15 A. Yeah. It was hanging sideways.

16 Q. Could you see the number of it?

note 17 A. Yes. I saw the numbers, and I made myself a mental

will be 18 because I looked on the registration slip. The numbers

him to 19 kind of turned around, not quite correct; and I wanted

20 come in and correct it in his handwriting.

your 21 Q. So you saw the number clearly and then looked at

22 registration receipt?

23 A. Yes.

24 Q. Could you tell if it was an Arizona?

25 A. I don't recall.

11823

Lea McGown - Direct

1 Q. You were just looking at the letters and numbers?

2 A. That's correct.

3 Q. And was it totally wrong, or was it close, or do

you

4 recall?

5 A. It was very close. It was, as I recall, the
numbers turned

6 around.

7 Q. And you made a mental note to yourself?

8 A. Yes, sir.

9 Q. Did you ever talk to Mr. McVeigh after that time
about the

10 license number and the correct number?

11 A. No, sir.

12 Q. And what day is it that you recall that happened?

13 A. Friday or Saturday afternoon.

14 Q. All right. Now, based on Mr. McVeigh's appearance
and

15 based on the appearance of the automobile -- and we can
turn

16 that off now -- did you make any decision as to which
room to

17 assign him to?

18 A. Yes, sir.

19 Q. And which room did you assign him to?

20 A. No. 25, next to the office.

21 Q. And why was that?

22 A. Because there was a difference between his
appearance and

23 the appearance of his car.

24 Q. All right. And why would you assign him a room
close to

25 the office?

11824

Lea McGown - Direct

1 A. To keep an eye on the person.

2 Q. Why would you want to keep an eye on the person?

3 A. He was very neat, the car was very raggedy; so I
thought in

4 case he's not a good client, I can ask him to leave.

5 Q. And you try to judge your clients that way when
they check

6 in?

7 A. I -- yes, I do.

8 Q. And do you have clients that are there full-time
pretty

9 much?

10 A. Yes, sir.

11 Q. You have 24 rooms; is that correct?

12 A. Yes, sir.

13 Q. Approximately how many people are living there on a
14 full-time basis?

15 A. Four.

16 Q. So you assigned Mr. McVeigh Room 25, which is
closest to

17 the office. Is that correct?

18 A. Yes, sir.

19 Q. Is that the first one to the west?
20 A. First one on the west wing.
21 Q. Now, did you -- what further discussion did you
have with
checked
22 Mr. McVeigh before he left the office that day when he
23 in?
24 A. I don't recall any.
25 Q. Did you collect any money from him or a credit card
or a

11825

Lea McGown - Direct

1 check?
2 A. I collected money, all the payment for four days in
3 advance.
4 Q. And how much was that?
5 A. \$88.95.
6 Q. Now, on your registration receipt, you circled
several
7 dates. Is that correct?
8 A. That's correct.
9 Q. Is that a form that you designed?
10 A. Yes, sir.
11 Q. And you also had the dates April 14 through April
what
12 marked down?

13 A. I wrote down 14, 15, 16, 17.

14 Q. All right. And what time -- what date was he to
check out?

15 A. On the 18th morning.

16 Q. And this is information that he provided to you?

17 A. Correct.

18 Q. Did you -- since his room was right next to the
office, did

19 you observe Mr. McVeigh unload his car when he checked
in?

20 A. Yes, sir.

21 Q. What, if anything, did you see him taking into his
room?

22 A. I only noticed how the trunk opened, and he grabbed
23 something and hold it with both arms. That's all I
observed.

24 Q. And did you ever go into his room during those four
days

25 that he stayed there?

11826

Lea McGown - Direct

1 A. No, sir.

2 Q. Did you have a conversation at all with Mr. McVeigh
further

3 on that day, Friday, April 14?

4 A. No, sir.

5 Q. Did you see him the next day on Saturday, the 15th?

6 A. I don't recall.

7 Q. Okay. Did you see his automobile present there at
the
8 motel on Saturday, April 15?

9 A. I don't recall specific times.

10 Q. All right. On the following day, April 16, did you
see
11 Mr. McVeigh, which is Easter Sunday?

12 A. Yes, sir.

13 Q. What time did you first see Mr. McVeigh on Sunday,
14 April 16?

15 A. Shortly before 11 a.m.

16 Q. And how are you able to recall the time?

17 A. It's Easter Sunday. We were getting ready to go to
church.

18 Q. And who was going to church with you?

19 A. My daughter and I.

20 Q. And your son, Eric: Was he present at the motel at
that
21 time?

22 A. Yes. He stayed to watch the place.

23 Q. And when you saw Mr. McVeigh -- with your daughter,
24 Kathleen -- where was he?

25 A. He was at his car.

1 Q. And where was his car?

2 A. Next to our car. We were parked in front of the
side door.

3 Q. Was his car parked in front of Room 25?

4 A. That's correct.

5 Q. Did Mr. McVeigh say anything?

6 A. He said hi to my daughter. I turned, looked at
him, and

7 opened the door for my daughter to get in the car.

8 Q. All right. And did you say anything to Mr.
McVeigh?

9 A. No, sir.

10 Q. And did the two of you then go to church?

11 A. Yes, sir.

12 Q. After church, did you return back to the motel?

13 A. That's correct.

14 Q. Did you notice whether or not Mr. McVeigh's
automobile was

15 there at that time?

16 A. I don't recall.

17 Q. Okay. After returning home from church, what did
you next

18 do?

19 A. We got ready to go out to go to Carlos O'Kelly.

20 Q. What is Carlos O'Kelly?

21 A. A Mexican restaurant in Manhattan.

22 Q. Who went with you?

23 A. Eric, Renda, Kathleen, myself.

24 Q. Renda is the girl living with your daughter?

25 A. Yes, sir.

11828

Lea McGown - Direct

1 Q. Was anyone left in the motel to run the office?

2 A. No, sir.

3 Q. Do you have any employees, Mrs. McGown, that help
you run
4 the office other than the maid service?

5 A. No, sir.

6 Q. You do that pretty much by yourself?

7 A. Yes, sir.

8 Q. So did you lock up the motel at that time?

9 A. Yes, sir.

10 Q. And you went to Carlos O'Kelly's; is that correct?

11 A. That's correct.

12 Q. Now, did you provide to the law enforcement
officers a
13 receipt showing that day that you had been to Carlos
O'Kelly's
14 and the time?

15 A. Yes, sir.

16 Q. If you would look in that envelope to the next
exhibit, do
17 you see a receipt in there?

18 A. Yes, sir.

19 Q. And what's the D number on that?

20 A. 1704.

21 Q. I'm sorry?

22 A. 1704.

23 Q. Okay. And is that the receipt that you provided to
the law
24 enforcement officers?

25 A. Yes, sir.

11829

Lea McGown - Direct

1 Q. Did you do that on Thursday when they were there
for the
2 first visit?

3 A. No, sir.

4 Q. What day do you recall doing that?

5 A. It was later on. I do not recall the date.

6 Q. Did those two law enforcement officers and/or
others come
7 back and interview you on a number of occasions?

8 A. Yes, sir.

9 MR. WOODS: Your Honor, we would offer into
evidence

10 D1704, the receipt that -- Carlos O'Kelly's that she's
11 identified.

12 MR. MACKEY: No objection.

13 THE COURT: Received, D1704.

14 MR. WOODS: And we'd like to publish it.

15 THE COURT: You may.

16 MR. WOODS: Thank you.

17 BY MR. WOODS:

18 Q. Now, Mrs. McGown, can you read that off of the
screen

19 that's in front of you?

20 A. Yes, sir.

21 Q. And does that give a date and time at which you
paid at

22 Carlos O'Kelly's?

23 A. Yes, sir.

24 Q. What date and time is reflected on the receipt?

25 A. Date, 04-16-95; time, 1434.

11830

Lea McGown - Direct

1 Q. And do you recognize what 1434 is?

2 A. 2:30 -- 2:34.

3 Q. Is that afternoon time?

4 A. Yes, sir.

5 Q. Okay. After having lunch there at Carlos
O'Kelly's, what

6 did you next do?

7 A. Returned home.

8 Q. And how long did that take?

9 A. Approximately half an hour.

10 Q. Did you notice anything in the parking lot when you
arrived

11 back to your motel that was out of the ordinary?

12 A. No, sir.

13 Q. Okay. Later on in that afternoon, did you notice a
Ryder

14 van in your parking lot or approaching your parking
lot?

15 A. I don't recall. I only recall whenever the truck
came in.

16 Q. You recall what?

17 A. I recall what -- as the Ryder truck came in, but I
do not

18 recall exact what date.

19 Q. Have you previously told the officers and grand
jury that

20 it was on April 16, Easter Sunday, after you returned
home?

21 A. Yes, sir.

22 Q. Okay. And what did you notice when the -- where
was the

23 Ryder truck when you first noticed it?

24 A. As I stepped out in the office, I seen a Ryder
truck with

25 the back backing down the driveway towards the office.

11831

Lea McGown - Direct

1 Q. Okay.

2 A. And it was in very short, jerky motions. And I
waited

3 until the Ryder truck turned around the swimming pool
towards

4 the west.

5 Q. Was it backing towards the swimming pool?

6 A. It was backing, yes, sir.

7 Q. Okay.

8 A. And as the Ryder truck backed around the curve, I
saw

9 Mr. McVeigh sitting in the truck; and I told my son,
"Please

10 tell Mr. McVeigh to park under the sign."

11 Q. Okay. Where was Mr. McVeigh trying to park the
Ryder

12 truck?

13 A. The end of the west building towards the end of the
14 swimming pool.

15 Q. And why did you not want him to park in that area?

16 A. For two reasons. On the end of this area is a high
ditch

17 of 50 feet dropoff, and the clientele who lives on that
wing

18 cannot get in and out if a big vehicle is parked there.

19 Q. And was there an individual back there who lives
there

20 full-time?

21 A. Yes, sir.

22 Q. And who was that?

23 A. Mr. Bigelow.

24 Q. And was the Ryder truck then moved to your
knowledge?

25 A. Yes, sir.

11832

Lea McGown - Direct

1 Q. Where was it moved to?

2 A. Right underneath the big display sign up front,
right

3 across the office.

4 Q. Now, on Monday, the following day, April 17, did
you notice

5 whether or not Mr. McVeigh's automobile or Ryder van
was

6 present?

7 A. I recall writing on the maid's list "gone" after I
seen the

8 truck early in the morning. I got up around 5, make
coffee. I

9 seen it very early; and later on, as I make the maid's
list,

10 the car and the truck wasn't there; so I write -- wrote
on the

11 maid's list "gone," which means the clientele will not
return

12 to the room.
13 Q. And does that mean that they're supposed to go
clean the
14 room?
15 A. That's correct.
16 Q. And who was that you instructed to clean the room?
17 A. Hilda Sostre.
18 Q. And did you have a conversation with her, then,
later that
19 day?
20 A. She came in later on and said somebody is in the
room.
21 Q. In Room 25?
22 A. Yes.
23 Q. So did you do anything concerning your records as
to
24 whether or not Mr. McVeigh was still present on Monday,
25 April 17?

11833

Lea McGown - Direct

1 A. No, I -- I just told the maid to take care of the
room.
2 Q. Okay. Did you see the Ryder truck, then, on Monday
coming
3 and going at any time, Monday, April 17?
4 A. Not that I recall.
5 Q. Do you recall telling the grand jury and also the

law

several 6 enforcement authorities that you saw the Ryder truck

wouldn't 7 times on Monday, April 17; would be there and then it

8 be there?

9 A. It's normal people come and go, so I didn't pay any
10 attention when he came, when he did go.

have an 11 Q. Now, Tuesday morning in the early hours, did you

12 occasion to see Mr. McVeigh in the Ryder truck?

13 A. Yes, sir.

14 Q. Okay. What time was that?

15 A. Around 4 in the morning.

at 4 in 16 Q. Okay. And what was the occasion that you were up

17 the morning?

doors 18 A. I heard doors getting opened and closed and car

office to 19 various times, so I got up and did go to the front

east 20 check what's going on. And the room right next on the

with a 21 wing, Room 24, David King was standing at the car door

able to 22 bunch of young people; and I rolled the shades up to be

underneath the 23 see everything, and I saw a Ryder truck sitting

24 sign.

25 Q. And did you see anybody in the Ryder truck?

11834

Lea McGown - Direct

1 A. Yes, sir.

2 Q. Who did you see?

3 A. Mr. McVeigh.

4 Q. How could you tell -- what was the lighting? How
could you
5 tell someone was there and how were you able to
identify them?

6 A. I have two flat lights. One on top of the building
shines
7 onto the parking lot, one on the sign itself on the
side who
8 (sic) shines onto the parking lot; and the door was
open on the
9 cabby and the dome light was on, so I could see the
person
10 sitting in there.

11 Q. What did he appear to be doing?

12 A. He looked at something on his lap, seemingly a map.
I
13 assumed a map.

14 Q. All right. Now, what did you do then after 4 a.m.?
Did
15 you go out and talk to Mr. King and his guests, or did
they
16 depart?

17 returned back

A. No, they did go in the car, and that's why I

alarm

18 into my house. And shortly after that, around 5:00, my

was no

19 normally rings. I got up and make coffee, and there

20 truck anymore.

habit to

21 Q. So at 5 a.m. your alarm goes off. And it's your

there?

22 make coffee for the guests and yourself in the office

23 A. Yes, sir.

whether

24 Q. And through the open windows, could you determine

25 or not the van was still there?

11835

Lea McGown - Direct

1 A. The van was gone.

or the

2 Q. And was that the last time that you saw Mr. McVeigh

3 moving van, at 5 a.m. on Tuesday morning, the 18th?

4 A. Yes, sir.

5 Q. Okay. Now -- what is your son's birthday?

6 A. April 14.

premises of

7 Q. Okay. Is it your habit to normally walk the

8 your motel at night?

9 A. Yes, sir.

10 Q. And what -- why do you do that?
11 A. To keep security and know if anything is going
wrong.
12 Q. And by "walk the premises," what do you mean by
that?
13 A. I walk the whole length of the building very close
to the
14 doors and windows so I can observe any problems within
the
15 room.
16 Q. And do you recall whether or not you walked the
premises on
17 Friday, the day of your son's birthday?
18 A. I did not.
19 Q. And why was that?
20 A. I have had family problems.
21 Q. Okay. Concerning an automobile?
22 A. Yes, sir.
23 Q. Okay. Did you walk the premises, then, on Saturday
and
24 Sunday?
25 A. I walked it one of the following nights.

11836

Lea McGown - Direct

Room 25? 1 Q. And do you recall walking by Mr. McVeigh's room,
2 A. Yes, sir.

3 Q. Do you recall approximately what time it was?

4 A. Around midnight.

5 Q. And do you recall which day it was?

6 A. Sunday night, which is after midnight.

7 Q. Are you sure as to that date?

8 A. No, sir.

9 Q. All right. Do you recall telling law enforcement
officials

10 it was on Saturday night?

11 A. I don't recall.

12 Q. Okay. At any rate, Saturday or Sunday night, you
heard a

13 conversation. Is that correct?

14 A. That's correct.

15 Q. Did you walk by rapidly, or did you stop, or did
you pause,

16 or what did you do?

17 A. On my way from the office to 34, I walked normal
pace. And

18 as I walked by, I heard several voices in 25. And I
thought

19 about it walking to the end of the building; and it's
supposed

20 to be one voice, but it could be a TV in there going.
So on my

21 way back I decided to walk very slow by the door and
the window

22 to hear better. And I could hear several voices in the
room

could 23 because the seating is right next to the window, and I
answering 24 hear the voice on the window side talking and the
your left 25 voice right across where the bed is, and the TV is to

11837

Lea McGown - Direct

1 side against the bathroom wall.
determine 2 Q. Okay. From listening to the voices, could you
3 how many people were talking?
three. 4 A. I know by (sic) sure it was two people and possible
5 Q. And did you recognize Mr. McVeigh's voice?
6 A. I do believe the voice on the window was Mr.
McVeigh's.
7 Q. All right. Did you recognize the other voice or
voices?
8 A. Not clearly.
9 Q. How would you describe the other voice?
10 A. Kind of velvety deep voice.
11 Q. And that's the description you gave the law
enforcement
12 authorities; is that correct?
13 A. Yes, sir.
14 Q. Had you heard the voice before, the velvety deep
voice?

15 A. I don't recall.

16 Q. Do you recall whether or not you told the law
enforcement
17 authorities that this voice sounded like the one that
had
18 called Mr. McVeigh two or three times previously while
he was
19 staying there?

20 A. It could be the same voice.

21 Q. Now, when a -- one of your tenants in the room
receives a
22 phone call, does the call come in to you there in the
office
23 and then you move it over or dispatch it over to the
room?

24 A. That's correct.

25 Q. So if an individual is receiving a phone call, you
answer

11838

Lea McGown - Direct

1 it first?

2 A. Yes, sir.

3 Q. And did Mr. McVeigh receive several phone calls?

4 A. Yes, sir.

5 Q. Do you recall how many?

6 A. No. It was a few phone calls.

7 Q. Okay. And did you describe this voice as someone
that had

8 called him on two or three occasions earlier?

9 A. It could be the same voice.

10 Q. Okay. Now, why did you provide the law enforcement
11 officials your receipt for Sunday, April -- Sunday --
Easter

12 Sunday, the Carlos O'Kelly's receipt?

13 A. Later on, I do not recall the exact date.

14 Q. No. Why did you give it to them?

15 A. Because I was asked what time I returned from
O'Kelly's.

16 To check with myself, I pulled the receipt out of my
file.

17 Q. Have you earlier described to law enforcement
authorities

18 that you saw Mr. McVeigh in the Ryder van shortly after
19 returning from that Easter lunch?

20 A. I tied it to the activity of my son getting ready
to work

21 on the pool.

22 Q. And when your son came back from the Easter Sunday,
did he

23 change clothes to work on the pool?

24 A. That's correct.

25 Q. Now, have you ever seen Terry Nichols before, Mrs.
McGown?

1 A. No, sir.

2 Q. Didn't see him there present with Mr. McVeigh at
any time

3 that he was there?

4 A. No, sir.

5 Q. In April, '95?

6 A. No, sir.

7 MR. WOODS: Thank you very much, Mrs. McGown.

8 THE COURT: Mr. Mackey.

9 MR. MACKEY: Your Honor, may I approach the
witness?

10 THE COURT: Yes.

11 CROSS-EXAMINATION

12 BY MR. MACKEY:

13 Q. Good morning, Ms. McGown.

14 A. Good morning, Mr. Mackey.

15 Q. You and I have met before?

16 A. Yes, sir.

17 Q. And I'm going to ask a question that might reveal
the

18 obvious. Were you born in Germany?

19 A. Yes, sir.

20 Q. Fell in love with a U.S. soldier?

21 A. Yes, sir.

22 Q. And came to Kansas in 1976?

23 A. That's correct.

24 Q. Divorced in 1981?

25 A. Correct.

11840

Lea McGown – Cross

1 Q. And been raising your two kids ever since?

2 A. Yes, sir.

August, 3 Q. Have owned and operated the Dreamland Motel since

4 1988?

5 A. That's correct.

6 Q. Place of business and your home?

7 A. Yes, sir.

8 Q. Throughout that time?

9 A. Yes, sir.

Government's 10 Q. I have some other pictures that I'd like for you to
11 identify, Ms. McGown. Take a look, please, at

12 Exhibit -- we'll start with 288.

13 THE COURT: I'm sorry. I missed the number.

14 MR. MACKEY: 288.

15 THE COURT: Thank you.

16 BY MR. MACKEY:

17 Q. Do you find that, Ms. McGown?

18 A. Yes, sir.

19 Q. Is that another photograph of the front of the

Dreamland

20 Motel?

21 A. That's correct.

office 22 Q. Concentrating on two doors immediately west of the

23 area?

24 A. That's correct.

25 MR. MACKEY: Your Honor, we'd move to admit

11841

Lea McGown – Cross

1 Government's Exhibit 288.

2 MR. WOODS: No objection.

3 THE COURT: Received, may be shown.

4 BY MR. MACKEY:

orient the 5 Q. Ms. McGown, with the pen, just take a moment and

6 jury as to where the office area is as shown in this
7 photograph.

8 And moving west, do we see a white door?

9 A. Yes, sir.

10 Q. All right. Circle that, please.

11 A. Not quite.

12 Q. We got the idea.

13 And immediately to the left of that on the
14 photograph -- that would be again moving west -- what

is that

15 room?

16 A. 25.

17 Q. Now, the white door, Ms. McGown, leads where?

18 A. Into the laundry room.

19 Q. And that is not a guest room?

20 A. No. And into my house.

21 Q. Do you use that door on repeated occasions?

22 A. This is our in-and-out door.

23 Q. It's like your front door?

24 A. Yes.

25 Q. You can get into your home and to your office from
that

11842

Lea McGown – Cross

1 door?

2 A. Yes, sir.

3 Q. Do you use that door in fact more often than the
front door

4 to the office area itself?

5 A. We don't use the front office door. We use the
side door.

6 Q. So is the closest motel door as shown in this
photograph to

7 the door that you use most often Room 25?

8 A. Yes, sir.

9 Q. And circle that, please, for the jury as well.
10 Let's turn now, Ms. McGown, to Government's
Exhibits 11 290 and 289. They should be together there. A couple
more 12 photographs.

13 Do you have those as well? And also 292. Do
you find 14 that as well?

15 You have all three of those?

16 A. Yes, sir.

17 Q. Do each of those photographs show views from inside
the 18 office area looking out into various parts of the
parking lot 19 of the Dreamland?

20 A. Yes, sir.

21 MR. MACKEY: Your Honor, I'd move to admit
22 Government's Exhibits 289, 290, and 292.

23 MR. WOODS: No objection.

24 THE COURT: They are received.

25 BY MR. MACKEY:

11843

Lea McGown – Cross

1 Q. Let's start with 280 -- excuse me -- 292, please.
See that

2 in front of us?

3 A. Yes, sir.

4 Q. The door that appears in the far right-hand corner
of that
and go?

5 photograph: Is that the door through which guests come

6 A. Yes, sir.

7 Q. And mark on the photograph where the registration
counter
photograph?

8 is. That would be the far right-hand part of this

9 A. Yes, sir.

10 Q. So if I were a guest coming into your motel, I'd
walk

11 through the door, turn to my left?

12 A. Yes, sir.

13 Q. Would I find a registration counter running
perpendicular

14 then to the wall of windows we see?

15 A. Yes, sir.

16 Q. What do we see in the foreground of this
photograph?

17 What's there?

18 A. The windows and the seating.

19 Q. And is that provided for your guests?

20 A. Yes, sir.

21 Q. What sorts of things do you keep in that area?

22 A. The coffee machine, candy machine, and the ice
machine.

23 Q. And how large an area is that, the waiting area?

24 A. It's a small area.

25 Q. And can you gain access to your home through that
same

11844

Lea McGown – Cross

1 area?

2 A. There is a door leading into the lobby from my
living room.

3 Q. Let's take a look now, Ms. McGown, at Government's
Exhibit

4 290. And tell us the view that we are showing the jury
at this

5 time. Where are we standing to see this view?

6 A. Looking out to the west wing from 25 through 34.

7 Q. So if I were at your registration counter behind
the

8 counter as if I were you, if I were turning around, I'd
see

9 this view; is that correct?

10 A. Yes, sir.

11 Q. Which direction are we looking?

12 A. West.

13 Q. In this photograph?

14 A. West, towards the bridge and towards --

15 Q. Would this be your view as you stood behind the

16 registration counter looking towards Room 25?

17 A. Yes, sir.

18 Q. Now, in this particular photograph, there is a car
down
19 there, looks to be yellow, beige in color. Do you
recognize
20 that vehicle?

21 A. Yes, sir.

22 Q. And in April of 1995, including the time period
that
23 Mr. McVeigh was there, was that particular vehicle
parked on a
24 daily basis at various places throughout the Dreamland
area?

25 A. Yes, sir.

11845

Lea McGown – Cross

1 Q. Let's take a look now at 289. And we shift our
line of
2 sight just a little bit in this photograph?

3 A. Yes, sir.

4 Q. And now what are we seeing?

5 A. You look out to the south and partially to the west
towards
6 the interstate and towards the bridge and 57.

7 Q. So we're still looking west?

8 A. Yes, sir.

9 Q. But we've shifted our view just a little bit left

from

10 your --

11 A. Southwest.

this

12 Q. There is a driveway, is there not, that appears in

13 exhibit, 289?

14 A. Yes. That's the west driveway.

truck

15 Q. That is the driveway that you observed the Ryder

16 jerk, jerk, jerk, backing down the driveway?

17 A. Yes, sir.

level of

18 Q. What sort of grade, if any, is there between the

19 the Dreamland Motel and the Flint Hills Boulevard?

20 A. Several feet, 7 or 8.

21 Q. Thank you, Ms. McGown.

some areas

22 Mr. Woods asked you to look at a diagram of

you

23 inside Junction City, including some businesses. Do

24 remember that photograph?

25 A. Yes, sir.

11846

Lea McGown - Cross

1 Q. The diagram? And there was a couple sites for the

2 Firestone store and the J & K Bus Depot. Do you
remember that?

3 A. Yes, sir.

4 Q. You've been to both those places?

5 A. Yes, sir.

6 Q. If you stand at the Firestone store in downtown
Junction

7 City, can you see the bus depot?

8 A. If I go to the alley on the back of the building at
the

9 parking, where they park the cars.

10 Q. And if you stand at that location at the Firestone
in

11 downtown Junction City, can you see the pay phone at
the bus

12 depot?

13 A. Yes, sir.

14 Q. You recall April 14, 1995, for a number of reasons.
15 Correct?

16 A. Yes, sir.

17 Q. It's your son's birthday?

18 A. Yes, sir.

19 Q. And they put up the barricades at the bridge that
would

20 lead to your place of business; correct?

21 A. Yes, sir.

22 Q. How long were the barricades up before they
actually tore

23 down the bridge?

24 A. Close to two weeks.

Sunset 25 Q. Incidentally, Ms. McGown, do you know where the

11847

Lea McGown – Cross

1 Motel is?

2 A. Yes, sir.

3 Q. And where?

ditch on 4 A. West of me right over the bridge, right over the

5 the other side. It's visible from my place.

the first 6 Q. As you're heading back into Junction City, is it

7 motel you come to as you cross that bridge?

8 A. Yes, sir.

at the 9 Q. You were asked some questions about your clientele

10 Dreamland. Do you recall those questions?

11 A. Yes, sir.

You've been 12 Q. And you know about business in Junction City.

correct? 13 on the Board of Tourism and the Chamber of Commerce;

Health. 14 A. Board of Tourism, Preservation Board and Public

large part 15 Q. And it is a community, we'd agree -- depends in

16 upon business derived from Fort Riley?

17 A. Yes, sir.

18 Q. A lot of military traffic?

19 A. Yes, sir.

20 Q. And that's business that comes your way, is it not,
with

21 military personnel coming in and out of the Dreamland
Motel?

22 A. Yes, sir.

23 Q. And with those ins and outs, those individuals
bring in

24 large moving vehicles, do they not?

25 A. Yes, sir.

11848

Lea McGown – Cross

1 Q. And have you estimated before that on 20 to 60
occasions

2 every year you'll have a guest who will bring in a
large moving

3 vehicle?

4 A. Yes, sir.

5 Q. Is that a correct estimate?

6 A. Yeah.

7 Q. When Mr. McVeigh checked in on Friday, April 14,
1995, did

8 you ask him whether he was in the Army?

9 A. No, sir.

10 Q. But you do recall part of the conversation included

his

11 intent to bring in a moving truck and moving van?

12 A. Correct.

13 Q. Do you remember any instructions you gave to Mr.
McVeigh at

14 that moment in time about what he should do with that
vehicle?

15 A. Yes. I told him to park it under the sign and
pointed at

16 the sign and showed him where.

17 Q. Ms. McGown, as part of your cooperation with law
18 enforcement, did you provide a listing from your motel
records

19 of all phone call activity recorded by your computer
on-site?

20 A. Yes, sir.

21 Q. And let me show you Government's Exhibit 295, if I
can.

22 Is that the list of telephone activity at the
23 Dreamland Motel for the time period including that of
the stay

24 of Mr. McVeigh?

25 A. Yes, sir.

11849

Lea McGown – Cross

1 Q. And at the Dreamland, is every outgoing phone call
recorded

2 by your computer?

3 A. Yes, sir.

4 Q. Does it record information about incoming phone
calls?

5 A. No, sir.

6 Q. Have you reviewed Government's Exhibit 295 before
coming to
7 court today?

8 A. Yes, sir.

9 Q. And does it contain or include entries concerning
phone
10 activity from Room 25?

11 A. Yes, sir.

12 Q. During the time period of Mr. McVeigh's stay?

13 A. Yes, sir.

14 MR. MACKEY: Your Honor, I'd move to admit
15 Government's Exhibit 295.

16 MR. WOODS: No objection.

17 THE COURT: Received, 295; may be shown.

18 BY MR. MACKEY:

19 Q. You'd agree, Ms. McGown, this detail is a little
bit too
20 small to really show the jury; correct?

21 Can you read it?

22 A. Yes, sir.

23 Q. Feel free to pull out of Government's Exhibit 295,
from the
24 plastic, the document itself and turn to Saturday,
April 15,

25 1995.

11850

Lea McGown – Cross

members 1 Do you see in front of you highlighted for the

call -- 2 of the jury from your records two entries for a phone

238-8888? 3 two phone calls I should say from Room 25 to No.
Do

4 you see those?

5 A. Yes, sir.

is 6 Q. Would you circle on the screen, Ms. McGown, what it

from Room 7 about the record that tells you those calls were made

8 25?

9 A. The No. 25 indicating it.

10 Q. Do you recognize the phone number 238-8888?

11 A. No.

restaurant, 12 It's a Hunam express phone number to

13 delivery restaurant.

Junction 14 Q. Is that the Hunam Palace Chinese restaurant in

15 City?

16 A. That's correct.

17 Q. In April of '95, did you at your desk -- or in the

waiting

18 area have brochures of various restaurants?

19 A. Yes, sir.

20 Q. Including the Hunam Palace?

21 A. Yes, sir.

made to 22 Q. According to this record, were the two phone calls

sometime, 23 that Hunam Palace restaurant on Saturday evening

24 early in the evening?

25 A. Yes, sir.

11851

Lea McGown – Cross

calls. 1 Q. Circle for the jury the time of those two phone

that's 2 Ms. McGown, do you know whether the time

was 3 printed or was printed on your record by your computer

4 precisely accurate on April 15, 1995?

5 A. No. It's quite often half hour to an hour off.

to 6 Q. Do you recall after the bombing doing a test call

fast? 7 determine that your clock was approximately 15 minutes

8 A. That's correct.

for 9 Q. I want to direct your attention to another entry

the 10 Saturday, April 15. Do you see that highlighted before

11 jury?

12 A. Yes, sir.

13 Q. Tell us, please, what's shown there.

Room 14 A. April 15, 9:50, (800) 793-3377, station to station,

15 25, 36 seconds, no payment.

1-800 16 Q. If a guest is in a room and makes a phone call to a

by your 17 number, is that information -- or was it then recorded

18 computer?

19 A. Yes, it is; correct.

records, that 20 Q. Is that all the information that the computer

21 which is shown on this piece of paper?

22 A. That's correct.

from Room 23 Q. Can you tell what time of morning the phone call

24 25 was made to that particular number?

25 A. Printer shows 10 minutes before 10.

11852

Lea McGown - Cross

or 1 Q. With the adjustment, it would be approximately 9:35

2 thereabouts?

3 A. Yes.

1888 for 4 Q. Let me show you an entry from Government's Exhibit

5 Saturday, April 15, 1995. Can you read that?

6 A. Yes, sir.

originated 7 Q. This shows, does it not, that that phone call

Nichols at 8 from the Dreamland Motel to the residence of Terry

9 or about 9:36 that morning; correct?

10 A. That's correct.

11 Q. You see the phone number under the Dreamland Motel?

12 A. Yes, sir.

13 Q. And was that your phone number on April 15, 1995?

14 A. That is our phone number, one of the lines.

records to 15 Q. Let's return our attention again with the phone

your 16 Monday, April 17, 1995. I'll show you a record from

17 record, 295. Do you see what's highlighted there?

18 A. Yes, sir.

Room 25 19 Q. Can you tell from this record that the guest in

about? 20 dialed the same 800 number that you previously told us

21 A. Yes, sir.

22 Q. On Monday, April 17?

23 A. Yes, sir.

About 24 Q. Again, about 9:35 -- excuse me. Earlier than that.
25 9:25 that morning?

11853

Lea McGown - Cross

1888 for 1 A. 9:40, yes.
2 Q. Let me show you a page from Government's Exhibit
3 the same day. You see the first entry for Monday,
April 17?

4 A. Yes, sir.
5 Q. The phone call at 9:25 a.m. lasting 57 seconds
placed from 6 your motel to the residence of Terry Nichols?

7 A. That's correct.
8 Q. See that?
9 A. Yes, sir.
10 Q. Ms. McGown, on April 20, 1995, do you recall being
visited 11 by two law enforcement officers, as Mr. Woods has
elicited?

12 A. Yes, sir.
13 Q. They asked you some questions about whether a man
by the 14 name of Kling had been a registered guest at your
motel?

15 A. Yes, sir.
16 Q. Did you check your records and determine that

nobody by

17 that name had registered at the Dreamland Motel?

18 A. Nobody was registered with that name.

19 Q. Do you recall them asking you some questions about
whether

20 any guests had recently been at your motel driving a
Ryder

21 truck? Do you recall them asking that question?

22 A. No, sir.

23 Q. Do you remember them asking you whether you had a
guest who

24 you had seen driving a Ryder truck at any point in
time?

25 A. Yes, sir.

11854

Lea McGown – Cross

1 Q. And did Mr. McVeigh's name come to your mind at
that time?

2 A. Yes, sir.

3 Q. And at that point in time, Ms. McGown, did you
reach into

4 your records and find the registration card that we've
shown to

5 this jury previously?

6 A. Yes, sir.

7 Q. It was there on hand?

8 A. Yes.

9 Q. And at that time, did you give a copy or perhaps an
10 original, then, to the law enforcement officers?

11 A. I gave the original.

12 Q. And kept a copy for your own records?

13 A. Yes, sir.

14 Q. On that same occasion, Ms. McGown, they showed you
two
15 composites. Recall those questions by Mr. Woods?

16 A. Yes, sir.

17 Q. Artist's drawings of two male individuals?

18 A. Yes, sir.

19 Q. You looked at Un. Sub. No. 1 carefully?

20 A. Yes, sir.

21 Q. And you told the law enforcement officers, "That
picture
22 bears a real likeness to a man who had stayed in my
motel for
23 several days"?

24 A. I said, "This looks like very much like Mr. McVeigh
who
25 stayed in 25."

11855

Lea McGown - Cross

1 Q. And then you gave the same degree of attention, did
you
2 not, to the second photograph -- or excuse me, the
second

3 composite?

4 A. Yes, sir.

5 Q. And do you remember telling the law enforcement
officers,

6 "That's nobody I've seen"?

7 A. Yes, sir.

8 Q. Ms. McGown, you've been asked any number of
occasions

9 before your appearance here this morning about when it
was that

10 you first saw Tim McVeigh in a Ryder truck.

11 A. Yes, sir.

12 Q. And your testimony today is what date did you first
see

13 Mr. McVeigh in a Ryder truck?

14 A. Sunday or Monday.

15 Q. Do you recall being asked questions about what
event was

16 going on such that you fixed in time the sighting of

17 Mr. McVeigh in a Ryder truck on a Sunday?

18 A. Because my son changed clothes. We had been
working on the

19 pool for 14 days, and the only way to change clothes is
after

20 you have had different clothes on. That's what I tied
it to.

21 Q. On Easter Sunday, in fact, the family dressed up
and went

22 out to dinner in Manhattan?

23 A. That's correct.

pool? 24 Q. And when you came back, in fact, Eric worked on the

25 A. Yes, sir.

11856

Lea McGown – Cross

not? 1 Q. Now, the pool project took a number of days, did it

2 A. Yes, sir.

school, 3 Q. And the next day, on Monday, he would have been at

4 would he not?

5 A. Yes, sir.

he not? 6 Q. Would have gotten home sometime after 3 p.m., would

7 A. At 3:15, yes, sir.

change his 8 Q. Did Eric McGown on Monday afternoon, April 17,

9 clothes, his school clothes and go work on the pool?

10 A. Yes, sir.

involving you 11 Q. Ms. McGown, as you've reflected on the events

entries 12 and Tim McVeigh, you have relied, have you not, on the

the best 13 on that registration card that you made on April 14 as

motel; 14 evidence of when Tim McVeigh first checked in your

15 correct?

16 A. I remember because my son has had birthday and I
write the

17 dates down.

18 Q. And that was a record that you made on the day that
he

19 checked in?

20 A. Yes, sir.

21 Q. And that you had on hand several days later when
the law

22 enforcement officers came back to ask you?

23 A. Yes, sir.

24 Q. Have you ever seen any record of when it was that
Tim

25 McVeigh first rented a Ryder truck?

11857

Lea McGown – Cross

1 A. No, sir.

2 Q. Ms. McGown, you told us earlier that you live and
work at

3 the Dreamland Motel; correct?

4 A. Yes, sir.

5 Q. Which means you're there virtually every hour of
the day?

6 A. Yes, sir.

7 Q. In fact, it's very uncommon for you to be away from
the

8 Dreamland Motel?

9 A. I try not to.

10 Q. Given that, Ms. McGown, you have frequent
opportunity to

11 see the guests?

12 A. Yes, sir.

13 Q. And anybody who comes to see those guests at the
Dreamland;

14 correct?

15 A. Yes. I go in front some, in the front office, yes,
sir.

16 Q. It's part of your business interest to keep in mind
or keep

17 tabs on who it is that's using your business premises;
correct?

18 A. I step quite often in the front office if I hear
noise or

19 anything.

20 Q. And you told us earlier with the aid of the
photograph that

21 the door that you use when you come and go at the
Dreamland is

22 the one right next to Room 25; correct?

23 A. Correct.

24 Q. So if you need to run out to the grocery store,
you're

25 going in and out of that door; correct?

1 A. That's correct.

high
2 Q. If you need to run down and pick Kathleen at the
3 school up, that's the door you're going to use?

4 A. Yes, sir.

and pick
5 Q. If you're going to run down to the hardware store
6 you're going
7 up some lightbulbs for the motel, that's the door
8 to use?

8 A. Yes, sir.

and going
9 Q. On frequent occasions, you're going to be coming
10 within a few feet of Room 25; is that correct?

11 A. Yes, sir.

the
12 Q. Ms. McGown, let me direct your attention back to
13 composite -- I'll ask that it be displayed -- of Un.
Sub.

14 No. 2.

15 THE COURT: Is this D1731?

16 MR. MACKEY: Yes, it is, your Honor.

17 THE COURT: All right.

Defense
18 MR. MACKEY: It's been previously admitted as

19 Exhibit 1731.

20 BY MR. MACKEY:

21 Q. Ms. McGown, this is the composite that the law

enforcement

22 officer showed you Thursday afternoon, a few hours
after the

23 bombing in Oklahoma City, is it not?

24 A. Yes, sir.

25 Q. This is the composite that you looked at and
studied in

11859

Lea McGown – Cross

1 your waiting area on that afternoon. Is that correct?

2 A. Yes, sir.

3 Q. Now, thinking back on all of the opportunities you
had to

4 see and observe the people in and around Room 25 at the
5 Dreamland Motel, had you ever seen this person?

6 A. No, sir.

7 Q. Take a look, Ms. McGown, as well at Government's
Exhibit

8 1629. Do you have that up there in front of you?

9 A. Yes, sir.

10 Q. It's not yet in evidence, Ms. McGown, so I'm simply
going

11 to ask you to study the photograph -- excuse me -- the
12 composite. See that? Government's Exhibit 1629?

13 A. Yes, sir.

14 Q. And I'd ask you the very same questions about this

15 composite as the one I've just showed you. Had you
ever seen a
16 person of this likeness at the Dreamland Motel at any
point in
17 time during the stay of Tim McVeigh?

18 A. No, sir.

19 MR. WOODS: I'm sorry. Was that one shown to
the
20 jury?

21 MR. MACKEY: No. It's not yet admitted.

22 THE COURT: It's not in evidence. 1629 wasn't
23 displayed.

24 BY MR. MACKEY:

25 Q. Ms. McGown, as you reflect on the events that took
place at

11860

Lea McGown – Cross

1 your motel back in April, 1995, are you positive that
Tim
2 McVeigh checked in as a guest on Friday, April 14?

3 A. Yes, sir.

4 Q. And are you positive that you saw him leave in the
early
5 morning hours of Tuesday, April 18?

6 A. Yes, sir.

7 Q. Are you positive that when he drove in, it was in a
8 Mercury?

9 A. Yes, sir.

10 Q. And are you positive that you did not see that
Mercury at

11 any point in time after Easter Sunday, 1995.

12 A. Yes, sir.

13 Q. And are you positive, Ms. McGown, that the last
vehicle

14 that you saw Tim McVeigh in was a Ryder truck outside
your

15 window in the early morning hours of Tuesday, April 18?

16 A. Yes, sir.

17 MR. MACKEY: I have nothing else.

18 THE COURT: Mr. Woods, do you have any follow-
up?

19 MR. WOODS: Yes, your Honor.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. WOODS:

23 Q. Ms. McGown, Mr. Mackey asked you is it true that
you and he

24 have met a number of times. Is that correct?

25 A. Yes, sir.

11861

Lea McGown - Redirect

1 Q. And have you met a number of times?

2 A. Yes, sir.

with 3 Q. How many times would you estimate that you've met
4 Mr. Mackey?
5 A. 10 times.
6 Q. How many times did you meet with the FBI agents?
7 A. 30 times.
8 Q. Okay. And after the event occurred in April, '95,
did you 9 decline to be interviewed by representatives from the
defense 10 side?
11 A. Yes, sir.
12 Q. Okay. And until yesterday -- was the first time
that we 13 were able to talk; is that correct?
14 A. Yes, sir.
15 Q. Okay. Do you recall going to Oklahoma City in
August of 16 '95, shortly after the bombing, and testifying in front
of a 17 grand jury?
18 A. I recall going to Oklahoma.
19 Q. Okay. And do you recall the date being August 2 of
'95?
20 A. No, sir.
21 Q. Do you know which day it was?
22 A. No.
23 Q. Okay. Is August approximately the time that you
went to

24 Oklahoma City?

25 A. It was high summertime, yes.

11862

Lea McGown – Redirect

went in 1 Q. Did you meet with some prosecutors there before you

2 to testify to the grand jury?

3 A. I don't recall.

the grand 4 Q. Okay. Do you recall the people that were inside

you were 5 jury, the prosecutors that were questioning you when

6 inside the grand jury?

7 A. No, sir.

went 8 Q. Okay. Who do you recall questioning you when you

9 inside the grand jury?

10 A. I think it was a female that asked questions.

attorney 11 Q. Did she ever identify herself as an assistant U.S.

12 to you?

13 A. I don't recall.

going 14 Q. Okay. And had you met with that lady previously to

15 into the room there with the grand jury?

16 A. I don't recall.

FBI had 17 Q. Do you recall going over your statements that the
into the 18 taken from you refreshing your memory before you went
19 grand jury?

20 A. I don't recall those events.

grand -- 21 Q. Do you recall being asked the question there in
22 were you placed under oath? Do you recall that?

23 A. Yes, sir.

in front 24 Q. And you recall some individuals that were sitting
25 of you that were members of the grand jury?

11863

Lea McGown - Redirect

1 A. Yes, sir.

correct? 2 Q. And the lady was asking you questions; is that

3 A. That's correct.

Government? 4 Q. Do you know whether or not she worked for the

5 A. No, sir, I don't recall that.

asking you 6 Q. All right. Was there just one person that was
7 questions in front of the grand jury?

8 A. I do believe so.

"Did you 9 Q. Okay. Do you recall being asked the question:

Do you 10 see Mr. McVeigh that Easter Sunday when you got back?"

11 recall that question?

12 A. No, sir.

that 13 Q. Do you recall giving the answer: "Yes, later on

stepped in 14 afternoon, I seen a Ryder truck. My son and I -- we

something; and we 15 front office to -- I don't know -- to discuss

where the 16 stood there and we seen a Ryder truck with the back

away -- 17 door is coming down the driveway very jerky. And right

he 18 no, that's Mr. McVeigh. Why, I don't, because probably

19 asked me earlier"?

grand jury 20 Do you recall making that statement to the

21 that you saw McVeigh in the Ryder truck on Sunday?

22 A. Yes, sir.

August 23 Q. Okay. And was your memory fresher at that time in

24 of '95 than it is today?

25 A. I do believe so.

11864

Lea McGown - Redirect

1 Q. Pardon me?

2 A. I think so.

3 Q. Okay. And was your memory fresh when the FBI was
4 interviewing you on Thursday and Friday and Saturday,
April 20,
5 and -- Friday, the 21st, and Saturday, the 22d,
concerning
6 events of that week?

7 A. Yes, sir.

8 Q. Was that the time that your memory was the
freshest?

9 A. Yes, sir.

10 Q. Okay. And you mentioned that the agents was Mark
Bouton
11 with the FBI?

12 A. Yes, sir.

13 Q. And you came to know him fairly well because he
interviewed
14 you a number of times; is that correct?

15 A. Correct.

16 Q. Did you already know Detective Sergeant Gary
Burgess with
17 the police department there in Junction City?

18 A. Yes, sir.

19 Q. How long had you known him?

20 A. Several years.

21 Q. And do you recall on April 25, which would be the
following
22 Tuesday, telling Agent Mark Bouton that you first saw
the

Junction 23 yellow Ryder truck parked at the Dreamland Motel in
to the 24 City, Kansas, on Sunday, April 16, "when she came back
restaurant 25 Dreamland Motel after going to church and then to a

11865

Lea McGown – Redirect

her 1 in Manhattan, Kansas. She and her son, Eric McGown,
Truong, 2 daughter, Kathleen McGown, and Kathleen's friend, Renda
Manhattan, 3 all ate together at Carlos O'Kelly's restaurant in
4 Kansas"?

Tuesday, 5 Do you recall telling Agent Bouton that on
6 April 25?

7 A. No, sir.

Burgess 8 Q. And do you recall telling Detective Sergeant Gary
a.m. to 9 and Mark Bouton that "on Monday, April 17, at about 7

she 10 8 a.m., she noticed that neither the Ryder truck which
when he 11 associated with Tim McVeigh or the yellow car he drove
therefore, 12 arrived at the motel were parked at the motel lot;

'gone' on 13 she thought McVeigh had left a day early. She wrote
14 the maid's list to indicate that the maid should clean
15 room. She threw away this maid's list and no longer
16 has the list since the trash was picked up"?

17 And that -- do you recall telling the agents
18 that?

18 A. Yes, sir.

19 Q. And that again is Ms. Sostre?

20 A. Yes. Hilda Sostre.

21 Q. And she was the person who went to clean the room?

22 A. Yes, sir.

23 Q. Now, do you recall being asked in the grand jury
24 again back

24 in August, 1995 -- do you remember during the course of
25 that

25 day if you saw the truck again or another Ryder truck
and your

11866

Lea McGown - Redirect

1 answer, "On Monday?"

2 And the question: "Yes, on Monday."

3 MR. WOODS: And this is page 32 of her grand
4 jury

4 testimony.

5 BY MR. WOODS:

6 Q. And your answer was, "I saw it setting there, but
it came
7 and stood there. And, you know, he was like most
people who
8 bring moving trucks: They come and go to empty
buildings. I
9 figured he has an apartment somewhere and he's packing
up and
10 taking a break, coming back, taking a map, going back
out
11 there. That's what I figured."

12 "All right. But we're focusing now just on
Monday.
13 Would that be true of Monday?"

14 "Answer: Yes."

15 And the question was, "Was it your impression
that --"

16 And you answered that "He's packing up."

17 The question continued, "There was a truck
there and
18 he left and he came back?"

19 Your answer was, "He comes back in and he
brings the

20 truck, and then he leaves again and then he comes back
in."

21 Do you recall giving those answers to the
grand jury

22 back in August, '95?

23 A. Yes.

24 Q. Concerning Monday's activities?

25 A. Yes, sir.

11867

Lea McGown - Redirect

with 1 Q. Now, there is one other exhibit I wanted to go over
there 2 you that Mr. Mackey talked on. In that envelope there,
exhibit. 3 is a summary chart of the phone calls in the defense

4 It's a color chart showing the four phone calls.

5 Yes. And what's the defense number on that?

6 A. 1706.

through 7 Q. Okay. And did you help compile that chart by going
for Room 8 your computer records and singling out the four calls
9 25?

marking 10 A. I only recall providing the phone records and
25 so 11 it's easily visible.

12 Q. And that is an accurate summary that the Government
13 prepared showing the four calls?

14 A. Yes, sir.

evidence 15 MR. WOODS: Your Honor, we would move into

16 Defendant's Exhibit 170 -- what was that number?

17 THE WITNESS: 6.

18 MR. MACKEY: No objection.

1706. 19 THE COURT: All right. Received, may be used.

20 BY MR. WOODS:

21 Q. Now, this gives us a little bit better summary of
the four 22 calls. As Mr. Mackey pointed out, there was a call on
23 Saturday, the 15th, to an 800 number. And you recall
when you 24 look at that record that was on the screen, it showed a
25 duration of "00" for seconds, the duration of the call?

11868

Lea McGown - Redirect

1 A. I don't recall the duration.

2 Q. Okay. We'll come back to that in a second.

3 Then there were two calls to Hunam Palace; is
that 4 correct?

5 A. Yes, sir.

6 Q. And you have brochures in your room about that
restaurant 7 and the menu?

8 A. I have brochures in the front office.

9 Q. There is no restaurant connected with your motel;
is that 10 correct?

11 A. Yes, sir.

12 Q. So you have brochures in case anybody wants to
phone an
13 order out?
14 A. Yes, sir.
15 Q. And you recognize that number as being the Hunam
Palace?
16 A. Yes, sir.
17 Q. And you had earlier pointed out on the map where
that is;
18 is that correct?
19 A. Yes, sir.
20 Q. And then there is a last call on the 17th in the
morning,
21 9:40 in the morning, to an 800 number. Is that
correct?
22 A. Yes, sir.
23 Q. I'm going to put in front of you what is already in
24 evidence as Government's Exhibit 555.
25 THE COURT: 1888?

11869

Lea McGown - Redirect

1 THE COURTROOM DEPUTY: Oh, 1888.
2 MR. WOODS: We have it marked --
3 THE COURT: I think 1888 comes out of 555.
4 MR. WOODS: Thank you, your Honor.
5 BY MR. WOODS:

6 Q. Now I'm going to direct your attention there to
that call
7 Mr. Mackey asked you about, the call on the morning of
the
8 15th, which would have been Saturday. Is that correct?

9 A. Yes, sir.

10 Q. Okay. And he asked you about the first call there
in the
11 morning to the residence of Terry Nichols. Do the
records of

12 the Government's summary there reflect that the
duration of the
13 call was "00"?

14 A. It reflects on this record.

15 Q. Okay. And then on the 17th, the other call, Mr.
Mackey did
16 bring out the duration of that, and it was 57 seconds,
a call
17 to Terry Nichols' residence. Is that correct?

18 A. Yes, sir.

19 MR. WOODS: Thank you, Mrs. McGown.

20 No further questions, your Honor.

21 MR. MACKEY: Just three questions, your Honor.

22 THE COURT: Recross? All right.

23 RECCROSS-EXAMINATION

24 BY MR. MACKEY:

25 Q. Ms. McGown, in my oversight, we'll go back to that
phone

11870

Lea McGown – Recross

1 record, 1888, on Monday, April 17. And both myself and
2 Mr. Woods have asked you about that phone call from the
3 Dreamland to the residence of Terry Nichols, that first
entry;

4 correct?

5 A. Yes, sir.

6 Q. The second entry shows a phone call to the
Dreamland Motel

7 on that same day, does it not?

8 A. Yes, sir.

9 Q. At approximately 10:35 p.m.?

10 A. Yes, sir.

11 Q. And that has a duration as well of slightly less
than a
12 minute?

13 A. Yes, sir.

14 Q. All right. Ms. McGown, you have been asked before
to
15 describe the Ryder truck you saw Mr. McVeigh in while
he was at
16 the Dreamland?

17 A. Yes, sir.

18 Q. Have you previously described it as the second
largest --

19 that is, from the top down -- the second largest Ryder
truck

20 available?

21 A. That's correct.

22 Q. At any time while Mr. McVeigh was a guest at your
motel,

23 did you ever see his Mercury and a Ryder truck at the
same

24 time?

25 A. No, sir.

11871

1 MR. MACKEY: Nothing else.

2 MR. WOODS: Just one question.

3 THE COURT: All right.

4 MR. WOODS: It's not a tennis match, your
Honor.

5 REDIRECT EXAMINATION

6 BY MR. WOODS:

7 Q. Ms. McGown, you testified that you have no
employees; is

8 that correct?

9 A. That's correct.

10 Q. And you work every day of the year except two; is
that

11 correct?

12 A. Yes, sir.

13 Q. And that's Easter and Christmas?

14 A. Easter half day, Christmas half day.

Easter

15 Q. Is that how you're able to remember the events of

16 Sunday?

17 A. Yes, sir.

your

18 MR. WOODS: Thank you. No further questions,

19 Honor.

20 MR. MACKEY: Nothing else.

21 THE COURT: May she be excused?

22 MR. WOODS: Yes, your Honor.

23 THE COURT: Agreed?

24 MR. MACKEY: Yes, your Honor.

excused.

25 THE COURT: You may step down. You're now

11872

1 Next, please.

handle

2 MR. WOODS: Dave Ferris. Mr. Neureiter will

3 the questions.

4 THE COURT: Thank you. Mr. Ferris.

right

5 THE COURTROOM DEPUTY: Would you raise your

6 hand, please.

7 (David Ferris affirmed.)

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

9 Are you okay?

10 THE WITNESS: Yes.

11 THE COURT: Mr. Neureiter.

12 DIRECT EXAMINATION

13 BY MR. NEUREITER:

14 Q. Hello, Mr. Ferris.

15 A. Hi.

16 Q. If you could lean forward and speak into that
microphone.

17 It's important that everybody be able to hear you.

18 Are you a little nervous today?

19 A. Yes.

20 Q. There is no monopoly on nerves.

21 Do you drive a cab for a living, Mr. Ferris?

22 A. Yes, I do.

23 Q. Do you do that in Junction City, Kansas?

24 A. Yes, I do.

25 Q. For what company do you drive your cab?

11873

David Ferris - Direct

1 A. Bell Taxi.

2 Q. How long have you done that?

3 A. 30 years, 3 months.

admitted
4 Q. Let me show you a picture that's been previously
5 as Government's Exhibit 318. It should appear on that
screen
6 in front of you.

7 Do you recognize that individual, sir?

8 A. Yes, I do.

9 Q. How do you recognize that individual?

10 A. I picked him up in the cab on April 17, '95.

ride in
11 Q. There came a time when you gave this individual a
12 your cab?

13 A. Right.

individual's name
14 Q. Have you subsequently come to learn that

15 is Timothy McVeigh?

16 A. Right.

17 Q. Now, you say you gave him a ride in your cab?

18 A. Right.

him a
19 Q. What time or -- and what date, first, did you give
20 ride in the cab?

21 A. April 17, '95.

22 Q. At what time did you give Mr. McVeigh a ride?

23 A. At 3:29.

24 Q. Excuse me?

25 A. 3:29.

11874

David Ferris - Direct

1 Q. 3:29?

2 A. Uh-huh.

3 Q. Okay. Where did you pick Mr. McVeigh up?

4 A. Shop 'n Stop, Grandview Plaza.

5 Q. You're going to have to go a little slower.

6 A. Shop 'n Stop at Grandview Plaza.

7 Q. Shop 'n Stop --

8 A. Uh-huh.

9 Q. -- at Grandview Plaza.

10 A. Uh-huh.

11 Q. Is that what you said?

12 All right. Now, where did he ask to be
dropped off?

13 A. McDonald's South.

14 Q. How many Donald's are there in Junction City?

15 A. Two of them.

16 Q. And what are their names? What do you refer to
them as?

17 A. Well, I call them Mickey D's or McDonald's or 6th
Street

18 off Washington -- we call them.

19 Q. So there are two McDonald's, and there is one on
6th

20 Street?

21 A. We call it sometimes Mickey D's on I-70.
McDonald's or

22 whatever like that and got --

23 Q. Okay. Just to clarify, there are two McDonald's;
right?

24 A. Uh-huh.

25 Q. The first one is called McDonald's on 6th Street?

11875

David Ferris - Direct

1 A. Right.

2 Q. And there's another one called the McDonald's on
I-70?

3 A. That's south.

4 Q. And you also call that one McDonald's South?

5 A. Right.

6 Q. Okay. Let me show you a picture which has not
previously

7 been admitted, and tell me if you recognize this. It's
Defense

8 Exhibit D1733.

9 A. Yes, I do.

10 Q. And what do you recognize that as?

11 A. McDonald's South.

12 Q. Is that the one on I-70?

13 A. Right.

14 MR. NEUREITER: Move to admit.

15 MR. MACKEY: No objection.

16 THE COURT: D1733 received, may be shown.

17 BY MR. NEUREITER:

18 Q. Is that the McDonald's that Mr. McVeigh asked to be
dropped

19 off at?

20 A. Yes.

21 Q. And did you drop him off at that McDonald's?

22 A. Yes, I did.

23 Q. Do you remember what time you dropped him off?

24 A. A 10-minute drive.

25 Q. So you picked him up around 3:30 and it's a 10-
minute

11876

David Ferris - Direct

1 drive, so around 3:40, you think?

2 A. Right.

3 Q. Okay. How much did he pay you -- or did he pay
you?

4 A. Yes, he did.

5 Q. How much did he pay you?

6 A. 6 -- excuse me. 3.65.

7 Q. \$3.65?

8 A. Uh-huh.

9 Q. Do you remember how he paid you?

10 A. 5.

11 Q. Gave you a 5?

12 A. Right.

13 Q. Did he give you any tip?

14 A. No.

15 Q. You had to give him his change back?

16 A. Uh-huh.

17 Q. Okay. I want to show you another exhibit which has
been
18 marked and admitted as Defense Exhibit 1697. Have you
seen
19 this before?

20 A. Yes.

21 Q. And what is that?

22 A. That's the map to Grandview Plaza.

23 Q. Is that a map of Junction City, Kansas?

24 A. No, it's not. It's the Dreamland and --

25 Q. Let's go through this slowly. There are a number
of

11877

David Ferris - Direct

1 locations indicated on this map; is that right?

2 A. Yeah. There is Plaza, Junction City.

3 Q. All right. Let me ask the questions and you
answer. Okay?

4 There are a number of locations on this map. Right?

5 A. Uh-huh.

6 Q. And I'm indicating with this pen here a shaded gray
area --

7 or tan area, I guess. And there is a word there that
says

8 "Dreamland Motel."

9 A. Right.

10 Q. Do you know that the Dreamland Motel is located in
that

11 area on that map?

12 A. Yes, I do.

13 Q. And what do you call that shaded tan area? Is that
called

14 the Dream -- is that called the Grandview Plaza, that
whole

15 area?

16 A. Yes.

17 Q. And is that around the location where you picked up
18 Mr. McVeigh on that day?

19 A. Right.

20 Q. All right. Now, I'm indicating with the pen
another

21 location here. I'm trying to, anyway. And that says

22 "McDonald's restaurant."

23 A. Right.

24 Q. Now, you told us before that there are two
McDonald's in

is that 25 Junction City. Is that the 6th Street McDonald's, or

11878

David Ferris - Direct

1 the I-70 McDonald's?

2 A. The I-70 McDonald's.

3 Q. The one indicated by the pen is the I-70
McDonald's?

4 A. Right.

5 Q. And is that the McDonald's where you took Mr.
McVeigh?

6 A. Right.

7 Q. Okay. Now, do you have a way of keeping track of
your

8 fares in your job there at Bell Taxi?

9 A. We have a log sheet.

10 Q. Excuse me?

11 A. Use a log sheet.

12 Q. You use a log sheet?

13 A. Uh-huh.

14 Q. And do you -- is it your job to maintain that
accurately

15 and turn it in at the end of the day?

16 A. Right.

17 Q. What happens if you don't keep an accurate log?

18 A. You get chewed out.

19 Q. Okay. I'm going to show you an exhibit, D352,
which has
20 not previously been admitted.

21 Do you recognize that document?

22 A. Yes, I do.

23 Q. All right. Is that your handwriting at the top?

24 A. Yep.

25 Q. That is a log sheet for April 17, 1995?

11879

David Ferris - Direct

1 A. Yep.

2 Q. And did you prepare it?

3 A. Yes, I did.

4 Q. Did you prepare it in the ordinary course of your
business?

5 A. Uh-huh.

6 MR. NEUREITER: All right. Move to admit.

7 MR. MACKEY: No objection.

8 MR. NEUREITER: Ask to publish.

9 THE COURT: D352 is received, may be shown.

10 BY MR. NEUREITER:

11 Q. Actually, I'm going to start at the top. Mr.
Ferris, I've

12 got my pen up there. Can you tell me what the pen is

13 indicating?

14 A. The date.
15 Q. What was that date?
16 A. April 4 -- 17, '95.
17 Q. Is April the fourth month of 1995?
18 A. Right.
19 Q. So it says 4-17, 1995?
20 A. Uh-huh.
21 Q. And right here: What is that?
22 A. My name, Dave Ferris.
23 Q. Did you write that?
24 A. Yes, I did.
25 Q. That's your handwriting, isn't it?

11880

David Ferris - Direct

1 A. Uh-huh.
2 Q. And this entire log sheet was prepared on that day;
3 correct?
4 A. Right.
5 Q. All right. Let's go down to line No. 20. We'll
start on
6 the left. And column by column, if you could just
describe to
7 the jury what those various numbers mean; and as we get
to the
8 end, we'll move it over so that they can see the whole

that? 9 document. So start with the first column. What is

10 A. That's the Fare 1 -- Fare 20.

11 Q. So Fare 20?

12 A. Uh-huh.

write in 13 Q. And the first column that you wrote in, did you

14 "one passenger"?

15 A. Right.

that it 16 Q. All right. And if we look at the top here, we see

17 says "number of passengers"; correct?

18 A. Right.

some 19 Q. So then go down to the next one. What -- I see

20 numbers.

know. 21 A. 80 there, 60. That's where I add them up, you

22 Q. Is that your total?

23 A. That's my total.

the whole 24 Q. Total amount of money that you've accumulated for

25 day?

11881

David Ferris - Direct

1 A. That's what it is, yes.

2 Q. And then what's the next column say?

3 A. "Plaza."

"from" 4 Q. "Plaza." And if we look at the top, that's the

5 column?

6 A. Right.

in 7 Q. And right there it says "Plaza." Now, do you write

8 shorthand for the locations that you pick people up?

9 Is "Plaza" your word for Grandview Plaza?

why I 10 A. Used to be till I picked this McVeigh up. That's

11 write the address out now.

12 Q. So now you write out the whole address?

13 A. Uh-huh.

14 Q. So you know precisely where you picked somebody up?

15 A. Yes. That's the reason to.

you meant 16 Q. But on this occasion you wrote down "Plaza," and

17 Grandview Plaza when you wrote that down; right?

18 A. Yeah.

it says 19 Q. Okay. And the next column, if we look at the top,

20 "2." Is that right?

21 A. Right.

22 Q. And then if you look down on line 20, what do those

letters 23 indicate?

24 A. "MD," short for McDonald's. That's South.

"MD"? 25 Q. So there is a letter "S" after the two letters

11882

David Ferris - Direct

1 A. For South.

2 Q. And does that indicate the I-70 McDonald's?

3 A. Right.

4 Q. The one that you've previously identified the
picture of?

5 A. Right.

6 Q. And the last column is -- what is that?

7 A. It's 365.

8 Q. That's the fare that he paid you that day?

9 A. Right.

10 Q. Okay. Now, did there come a time after the bombing
in

11 Oklahoma City that you were contacted by the FBI?

12 A. Let's see. Let me see now. First time was --

13 Q. Just a yes or no is fine.

14 A. Yes.

15 Q. They came and talked to you?

16 A. Yes.

17 Q. And did they ask you about your fare -- your log
sheet,

18 April 17 from 1995?

19 A. Yes.

20 Q. Did they ask you about that line 20 on that log
sheet?

21 A. Yes, they did.

22 Q. And the first time that you talked with them, did
you --

23 did you admit to them that you had given Mr. McVeigh a
ride?

24 A. No, I didn't.

25 Q. Okay. And the first time that you talked with the
FBI, did

11883

David Ferris - Direct

1 you tell them that you drove to the Grandview Plaza --
that the

2 man you picked up at the Grandview Plaza was a black
gentleman

3 who worked on (sic) the McDonald's on 6th Street?

4 A. Uh-huh.

5 Q. Is that yes?

6 A. No.

7 Q. You didn't say that?

8 A. At the one -- down on I-70 south.

9 Q. You told them that you picked up a black gentleman?
The

10 first time that you talked to the FBI, is that what you
told

11 them?

12 A. I told them yes, and I was a little nervous, too.

13 Q. You were a little nervous?

14 A. Uh-huh.

15 Q. A little scared?

16 A. Yes.

17 Q. Didn't want to be involved in the bombing?

I 18 A. No, I didn't want to be involved. But they told me

they 19 hauled him -- two of them asked me down on May 10, and

20 told me I hauled him, but --

21 Q. They told you that you picked up Mr. McVeigh?

that. 22 A. Uh-huh. They had checked out the trip sheets like

about it, 23 And I picked him up -- one night after I was thinking

24 you know, I saw his picture, you know.

The 25 Q. Okay. Let me just ask a couple more questions.

11884

David Ferris - Direct

you 1 last -- the first time that you spoke with the FBI, did

McVeigh"? 2 sort of blurt out spontaneously, "I never picked up

3 A. I may have.

4 Q. Do you remember doing that?

5 A. I think so, yeah.

6 Q. Okay. And you did it because you were scared?

7 A. Uh-huh.

8 Q. And you were nervous and you didn't want to be
involved in

9 the bombing, but you knew you had given Tim McVeigh a
ride;

10 right?

11 A. Uh-huh.

12 MR. NEUREITER: Okay. No further questions.

13 THE COURT: Any questions, Mr. Mackey?

14 MR. MACKEY: Just a few.

15 CROSS-EXAMINATION

16 BY MR. MACKEY:

17 Q. Mr. Ferris, in all your years of being a taxi
driver, have

18 you ever had to come to court and talk about a
passenger? Is

19 this the first time?

20 A. First time.

21 Q. All right. I just have a few questions.

22 I want to show you, Mr. Ferris, a portion of
an

23 exhibit that's already been admitted, 553, and I'm
going to

24 direct your attention to one entry. And I'll just show
it to

25 you.

11885

David Ferris - Cross

1 Mr. Ferris, this is a record of phone activity
for
2 Monday, April 17. Do you see an entry here "Plaza stop
pay
3 phone"?
4 A. Uh-huh.
5 Q. Shows a 30-second phone call?
6 A. Uh-huh.
7 Q. It was placed at approximately 3:29, Monday
afternoon?
8 A. Right.
9 Q. Do you see over here a listing as to where that pay
10 phone -- or excuse me -- where that call was placed to?
11 A. Yes, I do.
12 Q. And is that the number that a person who needed a
ride
13 might call to catch a cab at Bell Taxi in April of '95?
14 A. Right.
15 Q. And would you get fares through your dispatcher in
April of
16 '95?
17 A. Yes.
18 Q. And is that how you picked up Mr. McVeigh on Monday
19 afternoon, April 17?

20 A. Yes.

21 Q. When you got to the Plaza Stop 'n Shop, Mr. Ferris,
do you

22 remember seeing Mr. McVeigh standing there?

23 A. Yes, I do.

24 Q. Was he with anybody?

25 A. By himself.

11886

David Ferris - Cross

1 Q. He got in the cab with you?

2 A. Right.

3 Q. By himself?

4 A. Right.

5 Q. You drove immediately down to the McDonald's South?

6 A. Right.

7 Q. Correct? Dropped him off?

8 A. Right.

9 Q. Did you see him join with anyone? Did you see him
meet

10 anyone when he got out of your cab at McDonald's?

11 A. No, I was just looking down at my log sheet,
writing my

12 call down, and -- down till the car ran out of the
other side

13 there and didn't see anybody in there, took off, left.

14 Q. So the answer is no?

15 A. No.

16 Q. The Plaza Stop 'n Shop is about how far, Mr.
Ferris, from

17 the Dreamland Motel?

18 A. It's about 3 miles.

19 Q. 3 miles?

20 A. I estimate that, yeah.

21 THE COURT: Maybe you didn't hear the
question.

22 THE WITNESS: What was the question?

23 BY MR. MACKEY:

24 Q. I added a new business in here. Let's talk about
the

25 Dreamland Motel. Do you know where that is?

11887

David Ferris – Cross

1 A. Yes, I do.

2 Q. All righty. That's out in Grandview Plaza; right?

3 A. Right.

4 Q. And if you're going east back into town from the
Dreamland,

5 you're going to cross the bridge; correct?

6 A. Right.

7 Q. And on your right-hand side, you'll see the Sunset
Motel;

8 correct?

9 A. Right.

10 Q. And just a few yards down the road from the Sunset Motel,
11 we'd find the Plaza Stop 'n Shop; right?

12 A. Right.

13 Q. Short walking distance, Mr. Ferris, from the Dreamland to
14 the Plaza Stop 'n Shop?

15 A. Yes.

16 MR. MACKEY: Thanks.

17 THE COURT: Mr. Neureiter, anything else?

18 MR. NEUREITER: No cross (sic), your Honor.

19 THE COURT: May he be excused?

20 MR. NEUREITER: Yes, sir.

21 MR. MACKEY: Yes.

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

23 We'll take our noon recess at this time, members of
24 the jury, during which once again please, of course, recognize
25 you're going to hear a lot more than you've heard so far, so

11888

1 please avoid discussion of the case among yourselves and with

of our 2 all others, keep open minds, and avoid anything outside
3 evidence.

4 You're excused now till about 1:32.

5 (Jury out at 12:02 p.m.)

6 THE COURT: All right. 1:32, recess.

7 (Recess at 12:03 p.m.)

8 * * * * *

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9 PLAINTIFF'S EXHIBITS

Withdrawn 10 Exhibit Offered Received Refused Reserved

11 288 11840 11841

12 289-290 11842 11842

13 292 11842 11842

14 295 11849 11849

15 952 11767 11767

16 1168 11765 11765

17 DEFENDANT'S EXHIBITS

Withdrawn

18 Exhibit Offered Received Refused Reserved

19 D1697 11804 11805

20 D1699 11815 11815

21 D1700-D1702 11809 11809

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1 DEFENDANT'S EXHIBITS (continued)

Withdrawn

2 Exhibit Offered Received Refused Reserved

3 D352 11879 11879

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5 REPORTERS' CERTIFICATE

transcript from

6 We certify that the foregoing is a correct

Dated

7 the record of proceedings in the above-entitled matter.

8 at Denver, Colorado, this 2d day of December, 1997.

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Paul Zuckerman

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Kara Spitler

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