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

Lincoln

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

15 * * * * *

16 PROCEEDINGS

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

18 THE COURT: Be seated, please.

19 Counsel?

20 (At the bench:)

21 (Bench Conference 118B1 is not herein transcribed
by court
22 order. It is transcribed as a separate sealed
transcript.)

23

24

25

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1 (In open court:)

2 (Jury in at 8:59 a.m.)

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

4 Another one of those days where it takes a little extra
effort,

5 and we certainly all appreciate your doing that, giving
us that

6 extra effort and getting here timely so that we can
move
7 forward in the case.

8 Now, before taking the testimony of the next
witness,

9 I want to instruct you with respect to a matter of
evidence in

10 this case. You'll recall that on November the 26th,
Theodore

11 Udell testified about his company's manufacture of
Smurfit

12 plastic drums. Among other things, he said that his
company

13 used a resin purchased from Nova Chemicals and an
additive

14 package purchased from Allied Chemical in what he
called a

15 proprietary formulation.

16 Mr. Udell also said that he thought the
formulation

17 for the natural-colored drums was unique to his
company. When

18 asked about this statement on cross-examination and
again on

19 redirect examination, Mr. Udell referred to telephone
20 conversations that he had with persons employed at
other

21 companies producing competitive products. He referred
to his

22 making those calls in cooperation with the FBI and to
notes

23 that he had made.

FBI in 24 Because those notes and the involvement of the
defense 25 these telephone calls was not previously known to

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defense 1 counsel, Mr. Udell was called back as a witness after
Udell's notes 2 counsel had on December 2 received copies of Mr.
Jeff Hayes 3 and obtained additional information. Special Agent
4 of the FBI was also called as a witness.

referred to 5 You may also recall that Exhibit 2055 was
just this 6 on November the 26th and again in the testimony taken
identified as 7 Monday from Mr. Udell and Agent Hayes. That was
evidence 8 a summary prepared by Mr. Udell from these telephone
9 conversations. Exhibit No. 2055 was not received in
10 because it was based on hearsay and could not be
considered to 11 be reliable information about the chemical composition
of the 12 competitor's product.

both on 13 Similarly, the testimony given by Mr. Udell
14 November the 26th and Monday, December the 8th, about

these

15 telephone calls constitutes hearsay which should not be
16 considered as a part of the evidence in this case.

17 Accordingly, in your consideration of the
evidence in

18 this case, you must now disregard the testimony of Mr.
Udell

19 and Agent Hayes about any information provided to them
in the

20 course of the telephone calls which they testified they
made.

21 Now, with that, we're ready for the next
witness.

22 MR. TIGAR: Mary Kay Sandels.

23 THE COURT: Thank you.

24 THE COURTROOM DEPUTY: Would you raise your
right

25 hand, please.

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1 (Mary Kay Sandels affirmed.)

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

3 Would you state your full name for the record
and

4 spell your last name.

5 THE WITNESS: Mary Kay Sandels, S-A-N-D-E-L-S.

6 THE COURTROOM DEPUTY: Thank you.

7

DIRECT EXAMINATION

8 BY MR. NEUREITER:

9 Q. Hello, Ms. Sandels. How are you?

10 A. Fine.

11 Q. Tell the jury where you're from.

12 A. Herington, Kansas.

13 Q. And how long have you lived in Herington?

14 A. 49 years.

15 Q. And how old are you?

16 A. 49.

17 Q. Are you married?

18 A. No.

19 Q. What do you do for a living presently?

20 A. At the present time, my main job is as a tour
escort

21 coordinator for S & S Tours of Salina, Kansas.

22 Q. Do you take people on bus rides?

23 A. Yes, I do.

24 Q. And where do you go on these bus rides?

25 A. Okay. We do trips to Branson, South Dakota,
Cripple Creek,

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Mary Kay Sandels - Direct

1 did one to Oklahoma recently, to Grove, Oklahoma. A
lot of my

Kansas 2 trips are day trips to gambling casinos in Kansas or
3 City, Missouri. I also do dinner theater trips, etc.

4 Q. Okay. What were you doing in April of 1995 for
work?

5 A. Okay. At that time, I actually had four jobs. One
of them

6 was with S & S Tours but not like I do now. I was
working as a

7 volunteer in the Future Mart store. I was doing
bookkeeping

8 for a plumber. And I also had a sideline job with
Intele

9 Travel International, which makes airline reservations
and

10 Amtrak reservations and that type of thing.

11 Q. You were a busy lady?

12 A. Yes.

13 Q. You mentioned one job at the Future Mart store.
Tell us a

14 little bit more about that. You said you were a
volunteer at

15 the Future Mart store, but that's -- you're really an
employee

16 of sorts. Tell the jury what that was exactly.

17 A. Okay. Future Mart is a network-marketing-concept
place.

18 The only way you get any money out of Future Mart is if
you

19 sign people up under you and you get commissions.
Network

of 20 marketing, think of Amway, and Future Mart is that type
the 21 thing except we have stores. So anyone that worked in
hourly wage. 22 store was actually a volunteer. We didn't get an

sign 23 Q. And if folks came in, would the volunteers try and
24 them up to be participants in the Future Mart?

your 25 A. Okay. If they were interested in buying something,

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Mary Kay Sandels – Direct

had to 1 first purchase made you a member of Future Mart, so you
form, 2 fill out a form, and we put down what you bought on the
3 like that.

receive 4 Q. And would the volunteer who signed the person up
those new 5 some sort of compensation for future purchases from
6 signees?

them into 7 A. The volunteer would unless someone else had sent
customer. But 8 the store, and then they would be that person's

would 9 if no one had actually sent them into the store, they
10 then be whoever was working as a volunteer, their

customer.

11 Q. Okay. And you would get a commission on each of
their

12 subsequent sales?

13 A. Yes.

14 Q. And then those people, in theory, would sign other
people

15 up and everybody would get wealthy?

16 A. Right. Hopefully.

17 Q. Did it work?

18 A. Well, I'm not wealthy.

19 Q. Okay. I'm going to put on the ELM0 what has not
been

20 previously admitted as D1778 and zoom in. Do you
recognize

21 that as a photograph of Future Mart?

22 A. Yes. That's where it was back in '95.

23 Q. Okay. Did the -- does the Future Mart still exist?

24 A. Yes.

25 Q. And back in 1995, where was this location?

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Mary Kay Sandels - Direct

1 A. 2 South Broadway in Herington.

2 Q. So right on the main street -- I guess there's a
main

3 street and Broadway -- there's a main street in
Herington --

at that 4 A. Broadway and Walnut are the two main streets there
5 corner.

6 Q. This is right smack-dab in the middle of town?

7 A. Yes.

8 MR. NEUREITER: We offer D1778, your Honor.

9 MR. ORENSTEIN: No objection.

10 THE COURT: Received.

11 BY MR. NEUREITER:

-- a 12 Q. Who -- you said you were a volunteer. Was there a
13 manager or somebody who ran the store?

14 A. Alice Thompson was the main manager, yes.

volunteers 15 Q. Were there other folks that you knew who were
16 and worked in the store, as well?

the 17 A. Yes. The main one -- myself and Diane Walters were
18 main two people that worked in there.

19 Q. So Diane Walters, yourself and Alice Thompson?

20 A. We were the main ones, yes.

come in 21 Q. And would you all talk about customers who would
22 and discuss their purchases?

23 A. Yes.

Terry 24 Q. Okay. Do you know Terry Nichols? Have you met

25 Nichols might be a better question.

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Mary Kay Sandels - Direct

1 A. Yes.

2 Q. Do you see him here in the courtroom?

3 A. Yes.

4 Q. Is he the gentleman sitting in between the two
defense
5 counsel over here?

6 A. Yes.

7 Q. When did you first meet Mr. Nichols?

8 A. Okay. The first time I saw Mr. Nichols was
approximately

9 one week before the bombing. When he came to the store
--

10 Q. That's -- that's the time -- that's the best you
can

11 recollect in terms of dates? If the bombing was April
19 --

12 A. Okay. I -- as far as I can remember, it was like
the

13 Thursday before.

14 Q. Thursday before. That would have been the 13th?

15 A. Which the bombing was the 19th. The next day would
have
16 been the 20th, so the Thursday before would have been
the 13th.

17 Q. Okay. Do you have a way to estimate to the best of
your

18 recollection the time that you saw Mr. Nichols?

19 A. That day, it was shortly before noon.

20 Q. Was -- and where did you see him? Tell the jury
about how

21 that came about.

22 A. He came into the store to make a purchase. Diane
was

23 there. Diane waited on him. I was -- I had been there
and I

24 was just getting ready to leave and Diane was taking
over, and

25 she was waiting on him.

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Mary Kay Sandels - Direct

1 Q. How -- how can you pinpoint the time as well as you
can

2 with two-and-a-half years after the fact?

3 A. Because I had something else I was going to be
doing that

4 day around noon. Something I had to do.

5 Q. Was Mr. Nichols alone?

6 A. He had his little girl with him.

7 Q. And what was the purchase that Mr. Nichols made, if
you

8 know from your own observation?

9 A. Okay. The reason I know is because I processed the
orders

office, 10 later because the office in -- Future Mart office, home
purchase 11 is in New Braunfels, Texas; and after someone made a
would have 12 in our store, we would process all the orders and we
processing of 13 to send those to Texas. And I usually did the
process 14 all the orders, so I saw the order when I was ready to
made 15 it so I know what he bought; plus I -- I know that he
private 16 another purchase that was out of Alice Thompson's
around 17 inventory or whatever you want to call it.
there? 18 Q. Okay. Did you see Mr. Nichols' little girl running
19 the store carrying anything that day when you were
20 A. She wanted him to buy her a doll.
21 Q. Okay. I now put on the ELMO what has not yet been
recognize that. 22 previously admitted, D1471, and ask you if you
23 A. Yes. That's one of our order forms.
Do you 24 Q. And do you see the name up there? Don't read it.
25 see it?

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Mary Kay Sandels - Direct

1 A. Uh-huh.

2 Q. And do you see the date up here?

3 A. Yes.

4 Q. And is this the type of document that would have
been kept
5 in the ordinary course of the Future Mart's business?

6 A. Yes.

7 Q. Is this the document that would have been sent off
to New
8 Braunfels and maintained there in their files to keep
track of
9 who was -- who was a member?

10 A. Right. We always made a copy and kept one copy at
the
11 office and sent one in to Texas.

12 MR. NEUREITER: We offer it, your Honor.

13 MR. ORENSTEIN: May I ask one question from
here?

14 THE COURT: Yes.

15 VOIR DIRE EXAMINATION

16 BY MR. ORENSTEIN:

17 Q. Ma'am, my name is Jamie Orenstein. We spoke very
briefly
18 last night; correct?

19 A. Okay.

20 Q. Beneath the date --

21 MR. ORENSTEIN: And, Counsel, this is up on
the ELMO.

22 That's fine.

23 BY MR. ORENSTEIN:

24 Q. Beneath the date, there are two lines of writing.

25 A. Uh-huh.

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Mary Kay Sandels - Voir Dire

1 Q. The second line beneath the date is your
handwriting;

2 correct?

3 A. Correct.

4 Q. And that was when Mr. -- a second occasion when Mr.
Nichols

5 came into the store, you wrote that down?

6 A. I wrote that at the time that I was processing the
order.

7 MR. ORENSTEIN: No objection, your Honor.

8 THE COURT: Received. What's the number on
that?

9 MR. NEUREITER: D1471, your Honor.

10 THE COURT: Thank you. Received.

11 MR. NEUREITER: And we move to publish.

12 THE COURT: Yes. You may.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. NEUREITER:

15 Q. If you could just -- well, we were -- you were
talking

16 about how when somebody makes a first-time purchase,

they not

17 only are buying something, but they are also joining?
Is that

18 what you said before?

19 A. Becoming a member, yeah.

20 Q. Okay. And does this document reflect both the
membership

21 joining and the -- the purchase that was made on that
day?

22 A. Yes. This is the form that we would fill out when
the

23 person made the first purchase.

24 Q. And if you could read the date. If you can't see
it on

25 there, I can zoom in.

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Mary Kay Sandels - Direct

1 A. Yeah. I can see it.

2 Q. All right. Could you read the date out loud?

3 A. 13th of April, '95.

4 Q. And could you read the name of the purchaser and
the

5 address, please.

6 A. Terry Nichols, 109 South 2nd, Herington, Kansas.

7 Q. Okay. And what did Mr. Nichols buy that day?

8 A. The doll set for his little girl.

9 Q. Now, you also said you knew that Mr. Nichols bought

some --

10 something else from Alice Thompson?

11 A. Yes.

12 Q. Now, did you see that purchase happen?

13 A. No, I did not.

14 Q. Well, tell the jury, if you could, the second time
you met

15 Mr. Nichols, if you did meet him again.

16 A. Yes. I met him the morning of the bombing, which
would

17 have been April the 19th.

18 Q. And can you give any precision with respect to the
time

19 that you met Mr. Nichols on that date.

20 A. As I remember, it was around 10:30 in the morning.

21 Q. And how can you tell us that it was at that
particular

22 time?

23 A. Okay. Each day, we opened the store at 10, and I
know he

24 didn't come right in after I opened the store. So it
was a

25 little later than when I opened the store; and on
Wednesdays --

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Mary Kay Sandels - Direct

1 this happened to be a Wednesday -- someone usually
always

after. 2 brought me a chicken dinner at 11:00 or right shortly

have 3 Q. Is there a special place in Herington where they

4 chicken dinners on Wednesdays?

5 A. Yes. It was at the Sale Barn.

that 6 Q. And you were looking forward to your chicken lunch

7 day?

time I 8 A. Right. And so Terry was there sometime between the

that's 9 opened the store and the time my dinner came, and so

or so in 10 why, as I can recall it, it was probably around 10:30

11 the morning.

12 Q. Certainly before noon?

13 A. Before I had my dinner, yes.

when this 14 Q. And is there some other way that you can recall

came in or 15 happened? Were you doing anything when Mr. Nichols

16 around the time that Mr. Nichols came in?

time. 17 A. Okay. Not necessarily doing something right at the

was 18 I had a call from a customer that lives in Abilene who

called, 19 calling to order some products from Future Mart; and he

20 I believe, right around the time Terry was leaving.

of items 21 Q. Okay. By the way, we didn't talk about the types
you told 22 you sell at Future Mart. Mr. Nichols bought a doll,
Mart? 23 us. What other kinds of things are sold at Future
24 A. Okay. We have many things, all the way from
synthetic oil
25 for your cars to health food products, to food
products, to the

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Mary Kay Sandels - Direct

1 toys. Just a lot of different items.
2 Q. Okay. And Alice Thompson was the manager?
3 A. Yes.
4 Q. Did she have some items of her own that weren't
part of the
5 Future Mart sales process that she kept in the store
available
6 for sale?
7 A. Occasionally.
8 Q. Occasionally. Did that include water magnets?
9 A. Yes, it did.
10 Q. Could you tell the jury what a water magnet is.
11 A. A water magnet is a magnet that you attach to your
water
12 line to get the impurities, the -- the mineral junk out
of the

13 water lines that's not supposed to be good for your
health.

14 And it's supposed to attach to the magnet area where
you attach

15 it to your line and make your water healthier for you.

16 MR. NEUREITER: If I may approach, your Honor.

17 THE COURT: Yes.

18 MR. NEUREITER: I'm going to put in front of
the

19 witness what has been previously admitted through Mr.
Killam as

20 D794A and D794B.

21 MR. ORENSTEIN: May I take a brief look?

22 THE COURT: Yes. You may approach.

23 BY MR. NEUREITER:

24 Q. Have you ever seen items like those before?

25 A. Yes.

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Mary Kay Sandels - Direct

Thompson 1 Q. Are those the kinds of water magnets that Alice

2 would sell in the Future Mart store?

3 A. Those are the kind that she had from a previous
network

4 marketing business she was in. They are not actual
Future Mart

5 water magnets.

6 Q. All right. But she had them in the store to sell
to people
7 who might come in?
8 A. Right.
9 Q. And you wouldn't get a commission on those --
10 A. No.
11 Q. -- water magnets if you sold them to a Future Mart
person?
12 A. No.
13 Q. What's it say on the top of those two exhibits?
14 A. "Softron Magnetic Water Conditioning."
15 Q. If you could just hold it up for the jury and --
are there
16 two pieces in each one of those magnets?
17 A. Yeah.
18 Q. And --
19 A. I really don't know that much about these.
20 Q. From what you do know, is it your understanding
that they
21 fit around the pipe?
22 A. Right.
23 Q. And the impurities would stick to the magnet?
24 A. Right. The Future Mart ones went around the pipes.
And
25 since these were her own private stock, I had no reason
to even

Mary Kay Sandels – Direct

I did. 1 see one of these being used. But the Future Mart ones,
there in 2 Q. You didn't see them being used, but you saw them
3 the store?
4 A. Yes.
5 Q. Okay. So Mr. Nichols comes in on April the 19th?
6 A. Uh-huh.
7 Q. And how many people were in the store at that time?
8 A. Just myself.
9 Q. And how many -- was Mr. Nichols accompanied by
anyone?
10 A. No.
11 Q. He was alone?
12 A. Yes.
13 Q. And tell the jury about your conversation on that
day.
14 A. Okay. He came in, because when he had purchased
this --
15 the week before when he had bought the doll set for his
16 daughter, he thought there should be some instructions
with
17 this. So he came back in to check on the instructions
for it.
18 And since I didn't actually sell it to him and I was
not
19 involved with the Softron Company, I did not know the
answers

20 to his questions.

21 Q. Okay.

22 A. And so I told him he would have to speak with Alice

23 Thompson.

24 Q. All right. What was his demeanor that morning
within a

25 couple hours after the bombing in Oklahoma City?

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Mary Kay Sandels - Direct

1 A. He acted very normal.

2 Q. Had you heard about the bombing by that time?

3 A. At that point, I had heard that there was a
bombing. I did

4 not know how bad it was. Someone had called and just
said,

5 "Have you heard about the bombing," because Alice
Thompson's

6 daughter lived in Oklahoma City.

7 And I said no, I hadn't.

8 And she said, "Yeah, there's been one down
there."

9 But I had -- that's the only contact I knew about it.

10 Q. Did Mr. Nichols say anything about Oklahoma City
that

11 morning?

12 A. No. We just discussed the water magnet.

13 Q. Describe his demeanor.

14 A. He acted perfectly normal.

15 Q. Was he cordial?

16 A. Yes.

17 Q. Belligerent in any way?

18 A. No.

19 Q. Was this someone coming in, demanding his
instructions?

20 MR. ORENSTEIN: Objection to leading.

21 THE COURT: Sustained.

22 BY MR. NEUREITER:

23 Q. This was a pleasant conversation?

24 MR. ORENSTEIN: Objection to leading.

25 MR. NEUREITER: I apologize.

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Mary Kay Sandels – Direct

1 BY MR. NEUREITER:

2 Q. Was this a pleasant conversation?

3 A. Yes.

4 Q. Did you, in the course of your conversation, take
some

5 notes?

6 A. The note I took was his phone number, because since
I told

7 him he had to talk to Alice Thompson -- she was out of
town on

and I 8 Wednesday and Thursday of that week for the two days,
that she 9 told him he would have to talk directly with her and
gave me 10 could probably call him back on Thursday. And so he
back to 11 his phone number and said to have her call when she got
afternoon, 12 the store, which she did get back on late Thursday
13 early Thursday evening area.

you had 14 Q. Let me stop you right there. Did -- did -- after
the note 15 the conversation about the water magnets and you took
the 19th? 16 and number, did Mr. Nichols -- what happened then on

a little 17 A. Nothing. Nothing really. I mean, other than just
this point. 18 bit of chit-chat that I have no idea what it was at

information 19 I mean, nothing unusual. This -- he was wanting
the 20 about the water magnet and -- and I was trying to get
21 information from him where Alice could call him and --

22 Q. Did he leave?

23 A. Yeah. After he gave me his number.

24 Q. All right. How long an interaction was this in the
25 morning, would you say?

Mary Kay Sandels - Direct

1 A. That he was there?

2 Q. Yeah. And you talked.

3 A. 15 minutes or less, probably.

4 Q. Okay. And then he left?

5 A. Uh-huh.

6 Q. Now, you had taken a note to give to Alice
Thompson?

7 A. Right.

8 Q. And did you subsequently see Alice on the next day,
on

9 Thursday, the 20th?

10 A. Yes. On Thursday nights, we usually had meetings
at the

11 Future Mart store; and they were usually at 7:30. And
we were

12 all getting there about that time to come to the
meeting, and

13 she showed up so I gave her her note and --

14 MR. ORENSTEIN: Object to conversation between
the

15 two.

16 THE COURT: Well, we haven't got any
conversation yet.

17 She just said she gave her the note.

18 MR. ORENSTEIN: Okay.

19 THE WITNESS: I gave her the note and she made
the

20 phone call.

21 BY MR. NEUREITER:

22 Q. Did you describe what the note was about and where
you had
23 gotten the number on that note?

24 A. I mean, the note said, "Please call Terry Nichols
about the
25 water magnet," and his phone number.

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Mary Kay Sandels - Direct

1 Q. And it had the phone number on it that Mr. Nichols
had
2 given you the day before?

3 A. Right.

4 Q. Did you see Mrs. Thompson -- is it Missus, or Miss?

5 A. Missus.

6 Q. -- Mrs. Thompson pick up a phone and dial that
number?

7 A. Yes, I did.

8 Q. And did you overhear in form or substance
conversation

9 about water magnets about the person from -- from
10 Ms. Thompson's end? Did you hear her talking about
water
11 magnets after she dialed that number?

12 MR. ORENSTEIN: Object to relevance and
hearsay.

13 THE COURT: Well, it isn't for the truth of
it. It's

14 for a conversation that was being held.

15 MR. NEUREITER: That's correct, your Honor.

16 THE COURT: All right.

17 THE WITNESS: I saw her dial the phone.
Someone

18 answered at the other end, and she discussed water
magnets with

19 them.

20 MR. NEUREITER: Okay. One moment, your Honor.

21 THE COURT: Yes.

22 MR. NEUREITER: I think that's all I have; and
if

23 counsel is not going to use the water magnets, I can
retrieve

24 them now.

25 MR. ORENSTEIN: Sure.

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Mary Kay Sandels - Cross

1 CROSS-EXAMINATION

2 BY MR. ORENSTEIN:

3 Q. Good morning again, ma'am.

4 A. Good morning.

5 Q. Ma'am, you told us that Mr. Nichols came to your
store the

right? 6 first time that you saw him on April 13th; is that

7 A. Yes.

by the 8 Q. And you're able to fix the date, among other ways,

once 9 fact, if I may use the display -- and just showing you

ways that 10 again Exhibit -- Defense Exhibit D1471. One of the

you 11 you can fix the date is through this -- this form which

12 helped process; correct?

13 A. Uh-huh.

14 Q. Which is dated April 13, 1995.

15 A. Right.

and you 16 Q. And that's the day that the doll set was purchased,

were 17 also know that that's the same date that these magnets

18 purchased.

19 A. Right.

asking you 20 Q. And now you filled out -- and this is what I was

You 21 about before -- the entry under Social Security number.

22 wrote "none"?

23 A. Okay. Occasionally --

24 MR. NEUREITER: Objection, relevance.

that. 25 THE COURT: The question was did you write

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Mary Kay Sandels - Cross

1 THE WITNESS: Yes, I did.

2 BY MR. ORENSTEIN:

3 Q. Okay. And that's based on information that you
received
4 about Mr. Nichols?

5 A. Yes.

6 Q. And now, who wrote the other portions of this top
part,
7 from the signature on up?

8 A. Okay. Since I did not see it being filled out, all
I can
9 do is assume the customer did, because that's who we
would
10 request to do it.

11 Q. All right.

12 MR. NEUREITER: Objection to what she assumes,
if she
13 doesn't have personal knowledge.

14 THE COURT: Well, that was the normal business
15 practice?

16 THE WITNESS: Yes.

17 THE COURT: All right.

18 THE WITNESS: The customer was supposed to
fill it
19 out.

about: 20 THE COURT: So that's what you're testifying

21 That's the routine.

22 THE WITNESS: Yes.

23 THE COURT: All right.

24 BY MR. ORENSTEIN:

signature 25 Q. And just focussing in on this signature, the

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Mary Kay Sandels - Cross

1 obviously is going to be by the customer; correct?

2 A. Supposed to be.

in the 3 Q. Right. Obviously, Ms. Thompson isn't going to put

4 signature of herself.

5 A. No.

prejudice, 6 Q. The phrase right above the signature, "without

7 UCC 1-207": Is that anything to do with your business?

8 A. No.

9 Q. Do you know what that's there for?

10 A. No.

store 11 Q. Now, this first time when Mr. Nichols came into the

direct 12 that you were there on the 13th, you mentioned on

Thursday 13 examination that there are membership meetings on
14 night?
15 A. Yes.
16 Q. Were you --
17 A. There were back then.
18 Q. Back at that time. Yes. That's for all the
members,
19 weekly meetings?
20 A. If they wanted to come.
21 Q. Right. And were you still there -- I know you left
the
22 store at some point that morning while Mr. Nichols was
still
23 there. Were you still there when Ms. Walters was
telling
24 Mr. Nichols about these meetings?
25 A. Not that I remember anything about.

13647

Mary Kay Sandels - Cross

1 Q. Okay.
2 A. Because the order had not been written up or
anything at
3 that point when I left that day.
4 Q. Okay. So you just don't know?
5 A. No.
6 Q. That's fine.

7 Now, Mr. Nichols bought some of these magnets
that

8 day?

9 A. The day of the doll-set purchase?

10 Q. Right.

11 A. Yes.

12 Q. And then six days later, on April 19, he came back
and

13 said, "Wait a minute, there are no instructions for
this";

14 right?

15 A. Right.

16 Q. Do you know of any reason why he -- he didn't come
back in

17 the intervening days to talk about the lack of
instructions?

18 A. I have no idea.

19 Q. You don't know what he was doing that kept him from
coming

20 in?

21 A. No, I don't.

22 Q. Now, this is a fairly simple device. You put it
around

23 your pipe. One side goes on one -- on one side of the
pipe,

24 the other side goes on the other side of the pipe, and
you just

25 stick them together; right?

13648

Mary Kay Sandels - Cross

1 A. Right.

2 Q. Now, the only two times you saw him are the two
times that

3 you've testified about this morning, April 13th,
sometime

4 around noon, and April 19th, that morning, sometime
between

5 10:30 and noon; correct? I don't want to pin you down
to

6 particular times.

7 A. Not that late.

8 Q. Certainly before noon?

9 A. Right.

10 Q. And -- but the morning of the 19th and the morning
of the

11 13th are the only two times; is that right?

12 A. Right.

13 Q. And each time, he was -- he was in your presence
for no

14 more than 15 minutes?

15 A. The first time, definitely not, because I was on my
way

16 out. And the last time, no.

17 Q. Okay. So other than those two brief periods on the
13th

18 and the 19th, do you have any idea where Mr. Nichols
was at any

19 point, who he was with, or what he was doing?

20 A. No, I do not.

nothing 21 MR. ORENSTEIN: Thank you, ma'am. I have

22 further, your Honor.

23 THE COURT: Any follow-up questions?

24 MR. NEUREITER: Yes, your Honor.

25 If I may approach the witness, your Honor.

13649

Mary Kay Sandels - Cross

1 THE COURT: Yes.

what 2 MR. NEUREITER: I'm placing before the witness

3 has been marked as D979B. I believe it's admitted into

been 4 evidence. And inside of that is D979A, which has also

5 admitted into evidence.

6 REDIRECT EXAMINATION

7 BY MR. NEUREITER:

that 8 Q. Do you recognize that exhibit -- or those exhibits

9 have been placed in front of you there?

10 A. Not if it came out of this box, no.

of that 11 Q. Okay. Do you -- does it say "Softron" on the top

12 box?

13 A. Yes, it does.

14 Q. You don't recognize that as the kind of water
magnet sold

15 at Future Mart? If the answer is no, it's no. That's
fine.

16 A. No. Not really.

17 Q. Okay. Go ahead and look in that box and see if
there is an

18 instruction packet. It might be that pink sheet that
you first

19 grabbed. What does it say on --

20 A. "Product Installation Guidelines."

21 Q. Okay. And that's a Softron box for Softron water
magnets?

22 A. Right.

23 Q. Okay. And Mr. Nichols, when he came in, was
curious as to

24 why there weren't instructions with the ones he had
purchased,

25 to your recollection?

13650

Mary Kay Sandels - Redirect

1 A. Yes. When he came in on the 19th.

2 Q. Okay. Now, the prosecutor had showed this
document, D1479,

3 and asked you about "none" in the Social-Security-
number box.

4 On your trips to the -- the gambling areas in Topeka --
is that

5 where they are?

6 A. That's where the Kansas ones are, yes. North of
Topeka.

7 Q. Do you have a certain responsibility with respect
to your

8 job in filling out forms for the gamblers who take your
tours?

9 A. Yes.

10 Q. And are those given to the casinos, or what are
those forms

11 for?

12 MR. ORENSTEIN: Objection to relevance.

13 THE COURT: Sustained.

14 BY MR. NEUREITER:

15 Q. Do you have occasion to ask people on your trips
for their

16 Social Security number?

17 MR. ORENSTEIN: Objection to relevance.

18 THE COURT: Sustained.

19 MR. NEUREITER: One moment, your Honor?

20 THE COURT: Yes.

21 MR. NEUREITER: No further questions, your
Honor.

22 THE COURT: All right.

23 MR. ORENSTEIN: Nothing further.

24 THE COURT: You -- is the witness excused?

25 MR. NEUREITER: Yes, your Honor. If we could
just

13651

1 make a proffer when the witness is out of the room.

2 THE COURT: That will come at a later time.

3 You may step down. You're excused.

4 Next witness.

5 MR. NEUREITER: If I could retrieve the
exhibit, your

6 Honor.

7 THE COURT: Yes.

8 MR. TIGAR: Charles Farley.

9 THE COURTROOM DEPUTY: Would you raise your
right

10 hand, please.

11 (Charles Farley affirmed.)

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

13 Would you state your full name for the record
and

14 spell your last name.

15 THE WITNESS: Charles William Farley. F-A-R-
L-E-Y.

16 THE COURTROOM DEPUTY: Thank you.

17 DIRECT EXAMINATION

18 BY MR. THURSCHELL:

19 Q. Pardon me. Good morning, Mr. Farley.

20 A. Good morning.

21 Q. Mr. Farley, where do you live?

22 A. At the present time, I live in Wakefield, Kansas.

23 Q. Wakefield, Kansas. And can you tell the jury where
that is

24 in relationship to Junction City, Kansas.

25 A. Wakefield is about 22 miles north of Junction City.

13652

Charles Farley - Direct

1 Q. Are you married?

2 A. Yes, sir.

3 Q. Have children?

4 A. One.

5 Q. Okay. Are you currently employed?

6 Are you currently employed?

7 A. Yes, I am.

8 Q. And what is your employment?

9 A. My employment is Stag Hill Golf Course.

10 Q. I'm sorry?

11 A. Stag Hill Golf Course.

12 Q. Stag Hills Golf Course?

13 A. Yes.

14 Q. And what do you do there?

15 A. I'm a mechanic.

16 Q. What -- what are your -- very briefly, what sort of
17 vehicles do you service there?

18 A. I take care of all the motors in the golf carts.

19 Q. Okay. Now, I'm going to take you back to April of
1995.

20 A. Okay.

21 Q. Were you working at that time?

22 A. Yes, sir.

23 Q. And where were you working?

24 A. I was working for the Outdoor Recreation Center at
Fort

25 Riley.

13653

Charles Farley - Direct

Riley? 1 Q. And what is the Outdoor Recreation Center at Fort

military 2 A. Outdoor Recreation Center offers items for rent to

National 3 personnel, whether they are active duty, retired,

any 4 Guard, whatever. We have things like boats, campers,

5 number of items that they can come in and rent.

6 Q. Okay. Largely related to outdoor recreation?

7 A. Yes. Sports.

8 Q. And what was your job there?

9 A. I was the mechanic there, also.

10 Q. Okay. Now, do you recall the evening of Tuesday,
April 18?

11 A. Yes, sir.

12 Q. Did you have occasion to travel to Geary State Lake
on that

13 evening?

14 A. Yes, sir, I did.

15 Q. And what -- what caused you to go there?

16 A. I had -- A couple of days before that, a fellow had
come in

17 to Outdoor Recreation and had asked me how the fishing
was down

18 at Geary State Fishing Lake. And I informed him that I
hadn't

19 been there that year, being early in the spring like
that, and

20 so I really couldn't help him out. That was another
one of my

21 duties there at the -- at the Outdoor Recreation
Center, was to

22 give out hunting and fishing information.

23 I'm an avid sportsman myself, and so they
usually came

24 to me for the -- for those type of questions. And so I
decided

25 that I should go down to Geary County State Lake the
evening of

13654

Charles Farley - Direct

1 the 18th. I had actually gone into town --

hours, 2 Q. Let me stop you there. Did you go during your work

3 or after work hours?

4 A. No, sir. After work hours.

your 5 Q. And was that -- did you go immediately -- when did

6 work end?

7 A. I got off at 5:00. 1700 hours.

8 Q. And when did you arrive at Geary State Lake?

store, 9 A. Well, it would have been probably 15 minutes to the

And then 10 probably spent another 15 or 20 minutes in the store.

at Geary 11 the drive 5 or 6 miles down to Geary. I was probably

12 10 to 6, 6:00. Right in that area.

13 Q. Okay. You ran an errand before you went to Geary?

14 A. Yes, sir.

trip to 15 Q. Now, are you certain that -- of the date of this

16 Geary Lake?

17 A. Yes, sir. Very much so.

18 Q. And how are you certain of the date?

had 19 A. I -- when I had stopped off at the store, the wife

planned 20 asked me to pick up some items for supper. And I had

21 on writing a check for it. When I got in there, I only

had

22 about \$5 in my pocket. When I got in the store, the
items only
23 came to 2 or \$3, so I just paid cash for it. And the
next
24 morning, I didn't -- when I got to work, I didn't have
enough
25 money for lunch. So I wrote a check out for cash where
I

13655

Charles Farley - Direct

1 worked there at the Outdoor Rec Center.

2 Q. Do you -- do you frequently write checks at work?

3 A. Yes, sir.

4 Q. You do?

5 A. At that time, we did, yes.

6 Q. Okay. Would you recognize that check if you saw an
image
7 of it?

8 A. Yes, sir. Probably made out to IMWRF.

9 Q. I'd like to show the witness what has not been
admitted and
10 marked as D1883.

11 A. Yes, sir. That's my check.

12 Q. Sir, you recognize this as the check that you
wrote?

13 A. Yes, sir. That's my signature. That's my check.

admission 14 MR. THURSCHELL: Your Honor, we'd move the

15 of D1883.

16 MR. GOELMAN: No objection.

17 THE COURT: Received.

jury . . . 18 MR. THURSCHELL: If we could show the

19 THE COURT: Yes.

20 BY MR. THURSCHELL:

21 Q. Now, this is your signature in the lower right?

22 A. Yes, sir.

23 Q. Okay. And who is the check made out to?

for 24 A. It's made out to IMWRF. I-M-W-R-F. That stands

25 Installation Morale Welfare Recreation Fund.

13656

Charles Farley - Direct

1 Q. Okay. And what was that organization at that time?

2 A. That's Outdoor Recreation.

3 Q. Okay. That was -- that was your employer?

4 A. Yes, sir.

see in 5 Q. All right. And finally, what is the date that you

6 the upper right-hand corner?

7 A. 4-19-95.

8 Q. Now, at some point during that visit to Geary State

Lake,

9 did you observe a Ryder truck?

10 A. Yes, sir.

11 Q. Before we get there, let me -- let me try to get
you there.

12 MR. THURSCHELL: I want to show the witness
what has

13 been admitted as Government Exhibit G1982A and ask the
witness

14 whether he recognizes this.

15 BY MR. THURSCHELL:

16 Q. Do you recognize this?

17 A. Yes, sir. That's Geary State Fishing Lake.

18 Q. And what is this road running along here?

19 A. That's Highway 77.

20 Q. Okay. Can you show the jury with the light pen on
the desk

21 in front of you -- it's the black pen with the wire
attached --

22 by touching the television screen beneath your desk how
you

23 entered the lake area that night.

24 A. Okay. I came -- I came south on 77 to this point
and came

25 in this direction.

13657

Charles Farley - Direct

1 Q. Okay. Now, is that the southernmost entrance to
the lake?

2 A. No, sir. There is one further south than that, but
it --

3 the road doesn't wind around the lake. It just goes
into a

4 small fishing area and a little boat dock area down
there.

5 Q. Okay. Can you point that out? That entrance?

6 A. Yes, sir. That would be this area right here. It
comes in

7 here. Comes up this way. There's a boat ramp down in
this

8 way. And it comes over this way. There's a little
picnic area

9 down in here.

10 Q. Okay. And that road does not connect with the road
that

11 you took?

12 A. No, sir, it does not.

13 Q. All right. Now, where -- if you could indicate
very

14 generally on this photograph where it is that you saw
the Ryder

15 truck and how you got there. And I'm going to show you
a

16 better map later, but just on this photograph where.

17 A. Okay. On this photograph, the Ryder truck would
have been

18 oh, probably right in this area right here.

19 Q. Okay. And how did you get to that area from the
entrance

20 that you pointed out?
21 A. By winding around the road. The road comes around
the lake
22 like this. It feeds in and around back like this,
comes out
23 this way. Up this way. It's probably a -- probably a
24 15-minute ride around the lake. Traveling that way.
It's
25 pretty slow going up in there. It's all gravel.

13658

Charles Farley - Direct

1 Q. Now, make things a little easier. Let me show you
what's
2 been marked as page 2.

3 MR. THURSCHELL: Well, your Honor, may I
approach the
4 witness?

5 THE COURT: Yes.

6 MR. THURSCHELL: And I'm going to show him a
two-page
7 exhibit marked for identification as D1882.

8 BY MR. THURSCHELL:

9 Q. Can I ask what you see there and if you recognize
it.

10 A. Oh.

11 Q. Page 1 -- what's on page 1?

12 A. It's "Enclosure No. 2."

13 Q. Title. Anything else on that page?

14 A. "Nichols' Exhibit D1882."

15 Q. What do you see on the second page?

16 A. This is a map of Geary State Fishing Lake, an
overhead
17 topographical map by the looks of it.

18 Q. Okay. Have you seen this map before?

19 A. I've seen maps like this before.

20 Q. Do you see your signature anywhere on that map?

21 A. Yes, sir. Yes, sir.

22 Q. Okay. There's a date underneath it?

23 A. Yes, sir. 12-9-96.

24 Q. Was that the date that you first were shown this
map?

25 A. Yes, sir.

13659

Charles Farley - Direct

1 Q. Okay.

2 MR. THURSCHELL: Your Honor, we move the
admission of

3 D1882.

4 MR. GOELMAN: No objection.

5 THE COURT: All right. Received. D1882.

6 BY MR. THURSCHELL:

7 Q. Show the jury -- first, zooming out, Mr. Farley,

this --

8 now you've identified this as a topographical map of
Geary

9 State Lake; is that correct?

10 A. Yes, sir.

11 Q. Can you just show the jury on this map where the
point

12 where you entered the -- the lake area from Highway 77?

13 A. Yes, sir. Entered at this point right here.

14 Q. Okay. And where on this map did you observe the
Ryder

15 truck?

16 A. The Ryder truck would have been located about right
there.

17 Q. Okay. And do you see a road connecting that point
to

18 Highway 77?

19 A. Yes, sir.

20 Q. Is that, in fact, a road?

21 A. That's a blacktop road.

22 Q. Okay. What kind of road is the road that runs
along the

23 lake there that you've identified?

24 A. This road here is a gravel road. Okay? Now, this
road at

25 the gate -- there is a gate here. It's blacktop from
here down

Charles Farley - Direct

it's a 1 to Highway 77. And from here back up this way, again,
2 gravel road.

time in 3 Q. Okay. Now, can you -- did there come a point in
out of 4 your trip when you actually got out of your -- you got
5 your vehicle?

6 A. Yes, sir.

7 Q. What were you driving that night, by the way?

8 A. I had a Lincoln. An '88 Lincoln Town Car.

pen along 9 Q. Okay. Can you just show the jury by running the
got out 10 the road the route you took up to the point where you
11 of your -- your vehicle.

direction. I 12 A. Yes, sir. I -- again, I came in from this

through here, 13 followed the road around like this, came back up

point, 14 came out, came out this gate, and turned around at this
15 went back in the gate.

did you 16 Q. Now, let me stop you right there. At that time,
17 observe any Ryder truck or other vehicles?

that time, 18 A. No, sir. There were no vehicles at the lake at

19 that I could see anyway.

20 Q. Okay. Where did you go from there?

21 A. Okay. At that time, I came back around this curve,
and

22 there's a parking area located right here. Okay. I
backed the

23 car into that point. I got out of the car and walked
about

24 halfway down to the lake.

25 Q. What was your purpose in --

13661

Charles Farley - Direct

1 A. Again, the customer had been into Outdoor Rec and
asked me

2 about the fishing areas up there and what it looked
like, and I

3 walked down to that point to kind of take a look at the
lake to

4 see where the water level was. I fished Geary County a
number

5 of times, and you can generally tell by the water level
where

6 the fishing is going to be good at so --

7 Q. Did there come another -- a point in time when you
returned

8 to that north gate that you identified?

9 A. Yes, sir.

10 Q. Okay. And about how long a period of time was it
between

11 the time that you stopped and the time that you got
back to the

12 north gate?

13 A. It shouldn't have been any longer than probably 10
to 15

14 minutes.

15 Q. Okay. Now, I'm going to zoom in on that north gate
area.

16 A. Okay.

17 Q. And ask, first, do you see some markings made along
the

18 road there?

19 A. Yes, sir.

20 Q. Circles? Were those markings that you made at a
previous

21 time?

22 A. Yes, sir.

23 Q. Okay. Without regard to those now, I want to ask
you about

24 what you saw when you arrived back at the north gate.

25 A. At the gate itself?

13662

Charles Farley - Direct

1 Q. Yes.

2 A. Initially, as I came up the road here, as I came
along this

3 road, when I got about to this point, I could see the
Ryder

car that 4 truck, which was in this area right here, and a brown
5 was setting in this area.

6 Q. Okay.

farm 7 A. And setting in this area was a -- probably a 2-ton
8 truck.

farm 9 Q. All right. And did you see anything ahead of the
10 truck?

11 A. After I got past the farm truck, I did, yes, sir.

you saw, 12 Q. Okay. Now, let me go back. The Ryder truck that
13 can you estimate its size?

larger 14 A. Probably not in feet. It was a -- one of the
15 trucks. It wasn't a small one.

called granny 16 Q. Okay. And did you notice whether it had a so-
17 attic or an overhang over the cab?

18 A. I didn't notice.

where you 19 Q. All right. Now, could you just make a little X
20 saw that Ryder truck.

of it? 21 And then you saw another vehicle just in front

22 A. Just --

the Ryder 23 Q. Let me back up. I'm sorry. Which direction was

24 truck pointing?

25 A. Which was it pointing?

13663

Charles Farley - Direct

1 Q. Yes.

2 A. It was pointing to the east.

3 Q. And was it -- which side of the road was it --
which
4 direction is east on this map?

5 A. East is this way.

6 Q. Okay. And -- and which side of the road was it
parked on?

7 A. It was parked on the south side of the road.

8 Q. South side of the road. Now, you said there was
another
9 vehicle parked directly in front of it?

10 A. Yes, sir.

11 Q. Okay. And what was that vehicle?

12 A. It was a brown -- an older car. A heavy car.
Maybe a

13 Buick deuce and a quarter. The old 225 Buick or a big
14 Oldsmobile of some kind. Maybe a 98, something like
that.

15 Kind of a brownish color.

16 Q. Are you familiar with cars, automobiles, trucks and
their

17 different models and years?

18 A. Pretty much, sir. I owned a body shop.
19 Q. Now, both of those vehicles, I take it from the map
-- I'm
20 sorry. Could you put a little spot or X where you saw
that
21 other brown vehicle?
22 A. Brown vehicle would have been right there.
23 Q. And do you recall about how far away from the Ryder
truck
24 that was parked?
25 A. It was fairly close to the Ryder truck.

13664

Charles Farley - Direct

1 Q. Okay.
2 A. Probably 10 feet between them.
3 Q. Okay. Now, those were both, I take it, to the west
of the
4 gate area where you exited?
5 A. Yes, sir.
6 Q. All right. Now, you mentioned one or two other
vehicles, I
7 think you said, were parked to the east.
8 A. Yes, sir.
9 Q. Were those -- how many vehicles did you see when
you got to
10 the gate?

11 A. Two.

12 Q. All right. And what --

13 A. To the right. To the east.

14 Q. To the -- okay. What side of the road were they
parked on?

15 A. Again on the south side.

16 Q. Okay. On the south side of the road. And moving
east,

17 what was the first vehicle that you observed?

18 A. The first vehicle that I observed was the farm
truck, and

19 it was -- the rear end of the farm truck was almost
even with

20 the road coming out of the park, itself.

21 Q. With the -- with the eastern end of the gate area?

22 A. Yes, sir.

23 Q. That end of the park?

24 A. Right.

25 Q. Okay. Now, can you describe that what you're
calling a

13665

Charles Farley - Direct

1 farm truck to the jury?

2 A. 2-ton, stake bed.

3 Q. What do you mean by -- what do you mean by stake
bed?

4 A. It had a flatbed on the back with stakes on the

side, a

5 wooden fence on the side, wooden rails. Loaded,
completely

6 loaded. White bags sticking up even above the -- the
fence,

7 the rails. It looked like it was completely weighted
down.

8 That was my initial thought was that it had -- that it
had

9 broken down and it was just bottomed out on the spring,
and I

10 thought the thing had been broken and hence the Ryder
truck and

11 they were just going to unload the thing and --

12 Q. Okay. What -- was the vehicle then proceeding
east, parked

13 in front of it?

14 A. Okay.

15 Q. Let me back -- what -- were all these vehicles
parked in

16 the same -- pointing in the same direction?

17 A. Yes, sir.

18 Q. And what -- what direction was that?

19 A. That was east.

20 Q. They were all pointing east?

21 A. All pointing east.

22 Q. Proceeding east from the gate, what was the next
vehicle

23 that you saw?

24 A. Okay. This vehicle right here -- and again, it was

parked

'75 25 directly in front of the farm truck -- was a '73 to a

13666

Charles Farley - Direct

1 Chevrolet or GMC 3/4-ton pickup.

2 Q. Okay. Now, do you recall the color of that?

3 A. Green and white, sir.

4 Q. Green and white?

5 A. Kind of a light green and white.

6 Q. Okay.

7 A. Very rusty on the -- on the bed.

got up 8 Q. Did you see any individuals at that time when you
9 there to the gate?

was one 10 A. Yes, sir. Initially, when I got to the gate, there
11 individual standing at the back of the farm truck, at
the back 12 left corner of the farm truck.

13 Q. Okay.

know if 14 A. I had to kind of inch my way out because I didn't
15 there was traffic coming from the other way. That's
how close 16 that farm truck was parked to the gate. And as I
inched my way

17 out, you know, kind of looking to my right to see if
there were
18 vehicles coming, I looked to the left, also, to make
sure there
19 wasn't anything coming that way. I seen three
individuals
20 standing down between the Ryder truck and the brown
car, one of
21 them standing in the -- in the road just a little bit,
one of
22 them leaning against the front of the Ryder truck and
the other
23 one just kind of standing between them.
24 Q. Now, do you -- could you describe any of those
three
25 individuals?

13667

Charles Farley - Direct

1 A. No, sir. I just -- I glanced down that way. I
seen them
2 standing there and turned my head away. I have no idea
what
3 they were --
4 Q. You couldn't provide any description at all?
5 A. No, sir.
6 Q. How about -- now, did you see any other individuals
apart
7 from those four?
8 A. Yes, sir.

9 Q. Okay.

10 A. One other individual. As I rounded the truck, the
farm
11 truck, coming out, I also turned to the east. When I
come out
12 the gate here, I turned and came this direction. As
soon as I
13 was out, I seen an individual walking alongside of the
farm
14 truck. He was probably at the cab when I first seen
him. And
15 I was really going slow. I mean, I was just creeping.
And I
16 was going to roll the window down and ask him if he
needed some
17 help. And -- give me kind of a dirty look and I
decided, well,
18 if you're going to be that way, me too, and I'm just
going to
19 leave; so I just drove away.

20 Q. Okay. Did you get a clear look at that individual?

21 A. Yes, sir, I did.

22 Q. It was still light out enough for you to --

23 A. Yes.

24 Q. -- view him. Let me come back to the stake-bed
truck. You
25 said it was heavily loaded down with white bags?

Charles Farley – Direct

1 A. Yes, sir.

those
2 Q. Did you -- from prior experience, did you recognize
3 bags?

4 A. I believe so, sir.

5 Q. What did you think at the time when you saw them?

6 A. I thought it was ammonium nitrate fertilizer.

7 Q. Okay. And what did you base that on?

used to
8 A. Well, as a kid, I grew up in Iowa on a farm, and we
9 use them -- use ammonium nitrate fertilizer to make
stock ponds
10 with.

11 Q. To make stock ponds with?

12 A. Stock ponds.

13 Q. What -- what do you mean by that?

pigs,
14 A. Water ponds. To feed -- you know, to water cattle,
15 what have you.

to make
16 Q. And how did you -- how did you use ammonium nitrate
17 stock ponds?

a
18 A. Back then, you know, the average farmer didn't have
19 bulldozer.

answer and
20 MR. GOELMAN: I'm going to object to this
21 question as irrelevant.

22 THE COURT: Overruled. Go ahead.

23 THE WITNESS: Back then, you know, the farmer
didn't
24 have a bulldozer or bucket loader or skid loader or any
of
25 that. He just used what he had. And ammonium nitrate

13669

Charles Farley – Direct

1 fertilizer was an excellent explosive. Mix a little
bit of
2 used motor oil with a couple of bags of it, you know,
put a
3 blasting cap in it, and you could blow a pretty good-
sized
4 stock pond, you know. Fill it up with water, and you
had water
5 for your cattle.

6 BY MR. THURSCHELL:

7 Q. Had you -- had you used ammonium nitrate to do
that?

8 A. My father had, yes, sir.

9 Q. Okay.

10 A. I had been around it.

11 Q. And so -- and -- did these bags that you observed
in the
12 truck resemble the bags of ammonium nitrate that you
recalled
13 from that experience?

14 A. Yes, sir.

15 Q. All right. Now, let me come back to the individual
-- the
16 last individual you mentioned. I think you said he
gave you a
17 dirty look?

18 A. Yes, sir.

19 Q. Well, let me ask this: Did there come a time when
you
20 reported this -- these events to the FBI?

21 A. Yes, sir.

22 Q. And was there some event that caused you to decide
to go
23 ahead and make that phone call?

24 A. Yes, sir.

25 Q. All right. And without telling the jury what you
heard,

13670

Charles Farley - Direct

1 can you tell them what you saw that caused you
something to
2 make you decide to go ahead and call the FBI.

3 A. I had -- I hadn't really placed the fact that --
you know,
4 that it had taken place at Geary County or what I'd
seen. I
5 didn't realize, you know, what it was, probably like
everybody

6 else. And when they came out on the news and said that
the

7 bomb had possibly been mixed at Geary County State
Fishing

8 Lake, I started putting two and two together
immediately. And

9 that same day, we were watching -- and I can't remember
what

10 channel it was. It was a channel out of Topeka. We
had cable

11 at the time. I seen the individual again on TV.

12 Q. Okay. Now, if you saw a photograph of that
individual,

13 would you recognize him?

14 A. Yes, sir.

15 MR. THURSCHELL: I would like to show the
witness

16 what has not been admitted but marked as Defense
Exhibit D1884.

17 This has not been previously admitted. Sorry. I
didn't

18 realize --

19 BY MR. THURSCHELL:

20 Q. Mr. Farley, do you -- do you recognize the
individual

21 depicted in this picture?

22 A. Yes, sir.

23 Q. And who is that individual?

24 A. That was the individual that was standing at the
door of

25 the truck, the individual that gave me a dirty look.

13671

Charles Farley - Direct

one that 1 Q. Okay. And do you recognize this individual as the
2 you saw on television?

3 A. Yes, sir.

D1884. 4 MR. THURSCHELL: We move the admission of

5 MR. GOELMAN: No objection.

6 THE COURT: Received. It may be shown.

7 BY MR. THURSCHELL:

8 Q. Mr. Farley, what did you do to contact the FBI?

me -- 9 A. Initially, I called the 1-800 number that -- excuse
10 that appeared on the television at that time and really
got no 11 response from them. I was a little nervous at the
time, a 12 little upset.

13 Q. And why was that?

stuff 14 A. Well, I was -- you know, if you get people that do
15 like that, what's one or two more people, the way I
looked at 16 it. Kind of putting my family in jeopardy.

17 Q. Why were you putting your family in jeopardy?

18 A. Well, if I can recognize someone, you know --
19 Q. Was there a specific concern that you had at that
time
20 based on --
21 A. Not specific. I just, you know -- I was really
close to
22 this guy, you know. We were closer than myself to the
young
23 lady setting here. I'm sure if I can recognize him, he
can
24 sure recognize me.
25 Q. Okay.

13672

Charles Farley - Direct

1 A. Okay.
2 Q. All right. Go ahead. You contacted the FBI. You
called
3 the FBI?
4 A. Called the FBI and really got no response from --
from the
5 1-800 number that I felt -- they told me to contact the
local
6 FBI. They had set up -- FBI had set up a command post
there on
7 Fort Riley, and we had no telephone numbers to contact
them
8 with. I called the post MPs, the post CID, Criminal
9 Investigation Division. They couldn't give me a number
to

up at my 10 them. And about two weeks later, an FBI agent showed
11 workplace, which was Outdoor Recreation.

12 Q. And -- and did that agent immediately approach you
to speak 13 to you about the phone call you had made?

14 MR. GOELMAN: Objection, your Honor.

15 THE COURT: Overruled.

16 THE WITNESS: Yes, sir, he came in. I assumed
that he 17 was there to talk to me. I was on my way out the door.

I was 18 going downtown to pick up some parts. And he came in
and --

19 and approached the young lady that was at the counter
and 20 identified himself as an FBI agent. I immediately
turned

21 around and said, "Sir, I believe I'm the one that you
want to 22 talk to." And at that time, I took him back to the
back of the

23 Outdoor Recreation building to my office in the
maintenance bay

24 and proceeded to tell him my -- my story.

25 MR. THURSCHELL: Nothing further, your Honor.

1 THE COURT: All right. Mr. Goelman.

2 CROSS-EXAMINATION

3 BY MR. GOELMAN:

4 Q. Good morning, Mr. Farley.

5 A. Good morning.

6 Q. Where did you live at the time of the Oklahoma City
7 bombing?

8 A. I lived in Milford.

9 Q. Milford, Kansas?

10 A. Yes.

11 Q. About how far is that from Junction City?

12 A. Probably 12 miles north of Junction City on the
same
13 highway there.

14 Q. And after the bombing in Oklahoma City, did you --
did you
15 hear about it?

16 A. Yes, sir. Immediately. You know, we see the TV.
I guess

17 it was probably -- oh, it was probably noon or later
before we
18 actually, you know, turned the TV on there at work and
got
19 pictures.

20 Q. Did you hear about it when investigators traced the
bomb
21 truck to Junction City?

22 A. Well, I -- I kind of assumed that was all in one --
you

time, 23 know, I seen it on one newscast; and then at the same
City 24 they said, yeah, the truck had been rented in Junction
State 25 and -- and the bomb had been mixed at Geary County

13674

Charles Farley - Cross

-- 1 Fishing Lake, or they assumed it had been. They were

had 2 Q. Did you learn after the bombing that investigators
bomb? 3 suspected that there was ammonium nitrate used in the

4 A. I don't know. I can't say. I don't know.

first 5 Q. About how long after the bombing was it when you
6 heard about it?

7 A. About a week.

8 Q. And did you work during that week?

9 A. Yes, sir.

days 10 Q. Okay. You didn't hear about it at all in the seven
11 after the bombing, though?

all we 12 A. You know, the TV at work, we don't have cable. And
So 13 get is the Fort Riley channel that's piped in there.

14 whatever come over the Fort Riley channel at work is
what we
15 got.
16 Q. And the Fort Riley channel never had anything about
the
17 bombing for the week afterwards?
18 A. Not very much. Very little.
19 Q. You -- I'm sorry.
20 A. Very little.
21 Q. Very little, but maybe something?
22 A. Possibly. Possibly. You know, the investigation
is
23 ongoing and -- something to that effect. Now, again, I
did
24 watch at night when I got home.
25 Q. You did?

13675

Charles Farley - Cross

1 A. Sure.
2 Q. But during the week after the bombing, you never
saw
3 anything about the bombing?
4 A. Not until that time.
5 Q. You did have cable at home in April of 1995, didn't
you,
6 sir?
7 A. Yes, sir.

familiar 8 Q. And you stated on direct examination that you were
right? 9 with ammonium nitrate from your childhood; is that

10 A. Yes, sir.

ammonium 11 Q. Familiar with the explosive capabilities of
12 nitrate?

13 A. Yes, sir.

the 14 Q. And you recognized those white bags that you saw in
didn't 15 back of the farm truck on April 18 as ammonium nitrate,

16 you?

17 A. I assumed they were, yes, sir.

could be 18 Q. And you at that time knew that ammonium nitrate
19 used to build a bomb?

20 A. Yes, sir. But it's also a fertilizer.

capabilities? 21 Q. Sure. But you did know about its explosive

22 A. Oh, yeah. Sure.

recognized that 23 Q. And until you saw that newscast where you

you'd 24 individual, you never called the FBI and told them that

25 seen a --

Charles Farley - Cross

1 A. No, sir.

2 Q. -- you'd seen a truck --

3 A. I had no cause to --

4 Q. Excuse me -- seen a truck with bags of ammonium
nitrate,

5 did you, sir?

6 A. No, sir.

7 Q. And you never called them and said you'd seen that
truck

8 right near a Ryder rental truck, did you, sir?

9 A. No, sir.

10 Q. Now, your job at the time of the bombing was
mechanic; is

11 that right?

12 A. Yes, sir.

13 Q. No one asked you to go out to Geary Lake
specifically to

14 scout out the fishing, did they, sir?

15 A. No. They didn't ask me to do that.

16 Q. You took it upon your --

17 A. I wasn't instructed to do that. No. Yes, sir, I
did it on

18 my own. I did it on my own.

19 THE COURT: We've got to do -- we've got to do
this

20 question and answer --

21 THE WITNESS: Yes, sir.

22 THE COURT: -- so the court reporter can get
it down.

23 So let's wait for the question and you wait for the
answer.

24 Proceed.

25 BY MR. GOELMAN:

13677

Charles Farley - Cross

1 Q. Going out there on April 18 was not part of your
official
2 duties at the Outdoor Recreation area, was it, sir?

3 A. No, sir.

4 MR. GOELMAN: Court's indulgence.

5 BY MR. GOELMAN:

6 Q. Showing you Government Exhibit 1982A. You've
indicated on

7 direct, sir, that the route you took, you came -- were
you
8 going south or north on 77?

9 A. I was coming south on 77.

10 Q. Coming south on 77. You turned to this road right
here?

11 A. Yes, sir.

12 Q. And then followed it down there?

13 A. Yes, sir.

14 Q. Now, you fished at Geary Lake before?

15 A. Yes, sir.

16 Q. So you know that there's a fishing pier down here;
right?

17 A. There's a little dock down there, yes.

18 Q. And that's where people fish off?

19 A. They fish down there. There's a boat ramp down in
that

20 area, also.

21 Q. There's a boat ramp and -- and a little pier?

22 A. A little picnic area, yes, sir.

23 Q. Now, you didn't go down there on April 18, 1995,
did you,

24 sir?

25 A. No, sir.

13678

Charles Farley - Cross

1 Q. And your purpose in going to Geary Lake was to
check out

2 and see how the fishing was?

3 A. To see how -- what the water level was. By looking
at the

4 water level in that lake, you can generally determine
how the

5 fishing is going to be at that time of year. Croppie
is -- you

6 know, in April, croppie are available.

7 Q. Mr. Farley, you went out to Geary Lake in order to
see how

that? 8 the fishing was so you could inform customers about

9 A. Yes, sir.

up to 10 Q. And there's no way to get from this road down here

on 77, is 11 where you saw the Ryder truck here without going back

12 there, sir?

13 A. Not that I'm aware of.

14 Q. I mean, there's no kind of shortcut back here?

15 A. You have to go across -- cross country, so to
speak.

16 Q. Now, at the time that you went out to Geary Lake on

your 17 April 18, 1995, Mr. Farley, you didn't think any of

18 observations were particularly significant at the time,
did

19 you?

20 A. I didn't go out there on the 19th, sir.

21 Q. The 18th. You didn't think any of your
observations were

22 particularly significant, did you, sir?

23 A. No, sir, I didn't.

24 Q. And how long did you spend at that intersection
where the

25 gravel road meets the blacktop road?

Charles Farley – Cross

1 A. Total, probably a minute.

2 Q. You sat at that intersection for a minute?

3 A. By the time I worked my way out -- I slowed down.

Like I

4 told you, I was going to talk to the individual, ask

him if he

5 needed help. The whole thing probably lasted a minute.

6 Q. Did you actually stop your car at any point?

7 A. Yes, sir.

8 Q. Did you put it into park?

9 A. No, sir.

10 Q. How long did you stop your car for?

11 A. I stopped, you know, pulling out because I was

afraid there

12 were vehicles coming or traffic coming from where I

couldn't

13 see it around the farm truck. And slowly inched my way

14 forward.

15 Q. Did any vehicles pass you on the blacktop road

while you

16 were sitting there? You said that --

17 A. As I turned out onto the blacktop road?

18 Q. You said you were waiting to see if traffic was

going to go

19 by; right?

20 A. There was no traffic.

21 Q. No traffic. But you still stayed at that

intersection for

22 a minute?
23 A. Not right at the intersection, sir. From the time
I
24 entered or got to the intersection until the time I
pulled away
25 from that front truck was probably a minute's time.

13680

Charles Farley - Cross

1 Q. And during that period of time, you were able to
see a
2 brown car to your left; is that right?

3 A. Yes, sir.

4 Q. You agree that that car was about 40 to 50 yards
away?

5 A. No, sir. I'd say 20.

6 Q. Did you previously say 40 to 50 yards away?

7 A. Sir, it's been two years ago. I don't know.

8 Q. You don't remember saying that?

9 A. No, sir.

10 Q. Behind that brown car, you saw a Ryder truck, sir?

11 A. Yes, sir.

12 Q. And you noticed three individuals behind that Ryder
truck?

13 A. Three individuals in front of the Ryder truck: one
leaning

14 against the Ryder truck, one standing in the roadway,
and one

15 just standing between the truck and the car.
left, 16 Q. And that car that was a brown car that was on your
17 Mr. Farley; is that right?
18 A. Yes, sir.
19 Q. Had you seen that car previously that day?
20 A. Yes, sir.
21 Q. And tell us about that.
parked, 22 A. The area where I showed you on the map where I was
as I 23 where I had backed into the walk down toward the lake,
my door 24 came back up and got in my car, just before I -- I had
turned and 25 to my car open and I heard a vehicle coming and I

13681

Charles Farley - Cross

could have 1 looked, and that car was coming up the road. If we
2 the map again, I could show you --
3 Q. Sure thing. I'm showing you 1982A.
4 A. No. The -- the other map.
5 Q. The aerial?
okay, the 6 A. Yes. Okay. Again, as I was parked in this area,
7 brown car approached me for the first time. The first

time I

8 noticed it, it was probably right in this area. That's
about

9 when I heard it. And it came up this way and just
continued on

10 around this direction. I sat there for approximately a
minute.

11 I lit up a cigarette, rolled my window down, and then
pulled

12 out.

13 Q. The first time that you spotted that brown car, Mr.
Farley,

14 was it approximately 1 kilometer away from you?

15 A. Probably about that, yeah. About 1,000 meters.

16 Q. Okay. In the time that you were at that
intersection

17 between the gravel road and the blacktop road, sir, you
were

18 able to estimate the year of the farm truck that you
saw?

19 A. Yes, sir, I was.

20 Q. You estimated that as between 1950 and 1953?

21 A. Yes, sir.

22 Q. In fact, you were so sure about the particular year
of that

23 farm truck that when you were shown an FBI report of
your

24 initial interview, you corrected the model of that car
from

25 late 40's, early 50's, to 1950 to 1953; isn't that
right?

13682

Charles Farley - Cross

1 A. Yes, sir.

2 Q. And you were able to see that the stakes had been
removed

3 from the back of that particular truck?

4 A. Yes, sir.

5 Q. And able to see that there was -- what there were
-- there

6 were white bags of what you thought were ammonium
nitrate;

7 isn't that right?

8 A. Yes, sir.

9 Q. And that those bags were piled seven or eight bags
high?

10 A. Yes, sir.

11 Q. And that they were higher in the middle of the
truck than

12 they were on the sides of the truck; is that right?

13 A. Yes, sir.

14 Q. They were about 6 to 8 inches higher in the middle
of the

15 truck than they were the side of the truck, is that
fair?

16 A. That would be a fair assumption.

17 Q. You also saw two men to your right in addition to
the three

18 men to your left?

19 A. Yes, sir.
20 Q. And the man closest to you when you initially made
that
21 turn to your right, he was a younger man?
22 A. Younger than the individual that I could actually
identify,
23 yes, sir.
24 Q. About how old was he?
25 A. Under 30. Above 25. Under 30.

13683

Charles Farley - Cross

1 Q. He had long hair; is that right?
2 A. Yes, sir. Long, dark hair.
3 Q. Was wearing jeans?
4 A. Wearing blue jeans and a black T-shirt.
5 Q. Black T-shirt that had some writing on it; is that
right?
6 A. Yes, sir.
7 Q. And he was carrying on his hip, was he not, a
folding
8 knife?
9 A. Yes, sir. It was in a leather -- a leather case.
10 Q. And you were able to see that case that he was
carrying
11 this folding knife in was not Cordura; is that right?
12 A. No, sir. It was leather.

13 Q. You were able to tell that in the time that you
made that

14 turn?

15 A. Yes, sir.

16 Q. And this other individual whose picture you've
identified

17 today, he -- he had a beard; is that right?

18 A. Yes, sir.

19 Q. No mustache?

20 A. No, sir.

21 Q. What was he wearing?

22 A. He had on slacks and a sport shirt. Short-sleeved
sport

23 shirt.

24 Q. Short-sleeved sport shirt?

25 A. Yes, sir.

13684

Charles Farley - Cross

1 Q. You previously indicated that he was wearing a
long-sleeved

2 shirt?

3 A. Not that I'm aware of, I didn't, no.

4 Q. From that brief encounter that you had with this
man, did

5 you later become convinced that you could pick him out
of 200

6 people?

7 A. Yes, sir.

8 Q. And he gave you a mean look; is that right, sir?

9 A. Yes, sir, he did.

10 Q. Kind of glared at you?

11 A. Just kind of glared at me, kind of like, you know,
what are
12 you doing here and -- that was my opinion.

13 Q. Did he actually lean down and peek into your window
when he
14 glared at you?

15 A. He didn't have to, sir. He was directly in front
of my
16 windshield, to the right side of my windshield.

17 Q. You were looking at him through the windshield, not
through
18 the side window?

19 A. Yes, sir.

20 Q. And in front of that particular farm truck, you saw
another
21 truck; is that right?

22 A. Yes, sir.

23 Q. Pickup truck?

24 A. Yes, sir.

25 Q. With a green cab?

Charles Farley – Cross

1 A. The farm truck had a green cab.

2 Q. What color was the pickup truck?

3 A. The pickup truck was green and white.

4 Q. Green and white.

5 A. Yes, sir.

6 Q. And what model was it?

7 A. '70 -- I'm sorry. '73 to '75 Chevrolet or GMC.

8 Q. Could you tell me anything --

9 A. Three-quarter-ton.

10 Q. I'm sorry. What?

11 A. Three-quarter-ton.

12 Q. Three-quarter-ton. And could you tell how many lug
nuts

13 were on this particular truck?

14 A. There were six, sir.

15 Q. You counted six lug nuts?

16 A. You know, you do that at a glance. When you're
used to

17 working on those types vehicles -- which I had done
many times

18 in my body shop -- you know, it's not something you
count. You

19 just look at it and recognize it as such.

20 Q. Because of the number of lug nuts, is that what
made you

21 conclude that it was a three-quarter-ton truck?

22 A. Yes, sir.

half-ton 23 Q. And if it had five lug nuts, it would have been a
24 truck; is that right?
25 A. Half-ton, yes, sir.

13686

Charles Farley - Cross

eight lug 1 Q. Have you previously said that there were actually
2 nuts on that particular truck?

3 A. Not to my recall, sir.

other 4 Q. Do you remember talking to an FBI agent and two
5 people from the government back in September 1996?

6 A. Yes, sir.

you knew 7 Q. At that point, sir, you indicated that a -- that
8 it was a three-quarter-ton vehicle because a three-

quarter-ton 9 vehicle has eight lug nuts and a half-ton vehicle has
five; 10 isn't that right?

11 A. Not to my recall, I didn't say that.

the man 12 Q. Now, is it true that you couldn't see except for
13 who you identified here today -- you couldn't see the
other men 14 well enough to identify who they were?

15 A. No, sir.

16 Q. Couldn't see if -- well enough to identify if they
were any

17 of the people you later saw on television as suspects
in this

18 case?

19 A. No, sir. The first individual that I seen, the
fellow with

20 the blue jeans, the long hair, black T-shirt, kind of
stocky

21 fellow -- you know, he was -- I wouldn't call him fat,
but he

22 was pretty well -- pretty well put together.

23 Q. Did he say anything during the time it took you to
turn the

24 corner?

25 A. That individual did not, no.

13687

Charles Farley - Cross

1 Q. It was the individual with the beard who said
something?

2 A. Yes, sir.

3 Q. Again, what did he say?

4 A. His comment was something to the effect of "we've
got to

5 get this done," or "we've got to get going, we've got
to get

6 moving." Something like that.

7 Q. Sir, do you remember talking to a Mr. David
Fechheimer?

8 A. Yes, sir.

9 Q. He was an investigator for Tim McVeigh; is that
right?

10 A. Yes, sir.

11 Q. And that was on December 13, 1996; is that right?

12 A. I guess so.

13 Q. Did you tell him that it was actually the younger
man who
up,
14 yelled at the older man with the beard and said, "Hurry
we've got to get moving"?
15
16 A. No, sir, I did not tell him that.

17 Q. You did not tell Mr. Fechheimer that. Were you by
yourself
18 when you were at Geary Lake on April 18th?

19 A. No, sir, I was not.

20 Q. Who were you with?

21 A. My daughter was with me.

22 Q. And where was she riding?

23 A. She was in the passenger seat next to me.

24 Q. What's her name?

25 A. Her name is Beth.

13688

Charles Farley - Cross

1 Q. And how old was she at the time?

2 A. Probably 17.

3 Q. 17?

4 A. Yeah.

5 Q. Did you previously say that she was 19 at the time?

6 A. She's mentally handicapped, sir.

7 Q. Did you previously indicate that you were by
yourself, sir?

8 A. When I had -- the very first FBI agent I talked to,
yes,

9 sir, I told him that.

10 Q. Okay. Do you remember talking to H. C. Bodley, an
11 investigator for Mr. Nichols?

12 A. Yes.

13 Q. And that was on October 21, 1997; isn't that right?

14 A. Yes, sir.

15 Q. A month and a half ago?

16 A. Yes, sir.

17 Q. You told him that you were by yourself, didn't you,
sir?

18 A. He didn't ask me, sir.

19 Q. Did you tell him someone was with you?

20 A. He didn't ask me, sir.

21 Q. Did you tell him that someone was with you?

22 A. No, sir, I did not.

23 MR. GOELMAN: One moment, your Honor.

24 THE COURT: Yes.

25 MR. GOELMAN: That's all I have.

13689

Charles Farley - Cross

1 MR. THURSCHELL: One question, your Honor.

2 THE COURT: All right.

3 REDIRECT EXAMINATION

4 BY MR. THURSCHELL:

5 Q. Sir, why didn't you -- why did you not tell the FBI
about
6 the fact that your daughter was with you the very first
time
7 that you spoke to them?

8 A. I'm trying to protect my daughter.

9 Q. You're trying to protect your daughter?

10 A. Yes, sir. Like I said, she's mildly mentally
handicapped
11 and she doesn't need this.

12 MR. THURSCHELL: Nothing further, your Honor.
The
13 witness is excused.

14 MR. GOELMAN: Your Honor, I just have one more
15 question.

16 THE COURT: All right.

17 RECROSS-EXAMINATION

18 BY MR. GOELMAN:

work to 19 Q. Mr. Farley, earlier, you told us that you went from
right? 20 the store and then directly to Geary Lake; is that
21 A. Yes, sir.
22 Q. Was your daughter at work with you?
23 A. Yes, sir.
24 Q. The whole day?
25 A. No, sir. I picked her up after school.

13690

You're 1 MR. GOELMAN: Nothing further.
your 2 MR. THURSCHELL: Nothing further, your Honor.
3 THE COURT: Excusing the witness?
4 MR. THURSCHELL: Yes.
5 THE COURT: All right. You may step down.
6 excused.
7 MR. TIGAR: May I consult with Ms. Hasfjord,
8 Honor?
9 THE COURT: Yes.
10 MR. TIGAR: Call William Tobin, your Honor.
11 THE COURT: I'd like to take the morning
recess.
12 MR. TIGAR: I'm sorry, your Honor. That -- I
think

13 that would help us. I'm making a little change in the
order

14 here.

15 THE COURT: All right. Well, we'll take our
16 midmorning recess, members of the jury, again,
remembering that

17 we've still a ways to go and you still have an
obligation to

18 wait till we've heard it all before you talk about it
or think

19 about it. And accordingly, please withhold any
comments or

20 views about the case until it's given to you for
decision. You

21 need to avoid things outside the evidence that could
influence

22 you.

23 So you're now excused. 20 minutes.

24 (Jury out at 10:16 a.m.)

25 THE COURT: Okay. Recess.

13691

1 (Recess at 10:16 a.m.)

2 (Reconvened at 10:37 a.m.)

3 THE COURT: Be seated, please.

4 MR. THURSCHELL: Your Honor, may we approach?

5 THE COURT: Yes.

6 (At the bench:)

7 (Bench Conference 118B2 is not herein transcribed
by court

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

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1 (In open court:)

2 (Jury in at 10:41 a.m.),

3 THE COURT: Next witness, please.

4 MR. TIGAR: Call William Tobin.

5 THE COURT: All right.

6 THE COURTROOM DEPUTY: Would you raise your
right
7 hand, please.

8 (William Tobin affirmed.)

9 THE COURTROOM DEPUTY: Would you have a seat,
please.
10 Would you state your full name for the record
and
11 spell your last name.

12 THE WITNESS: William A. Tobin, T-O-B-I-N.

13 THE COURTROOM DEPUTY: Thank you.

14 DIRECT EXAMINATION

15 BY MR. TIGAR:

16 Q. Mr. Tobin, what do you do for a living?

17 A. I'm a special agent with the Federal Bureau of
18 Investigation.

19 Q. How long have you been a special agent of the FBI?

20 A. Approximately 26 1/2 years.

21 Q. Showing you now, sir, what has been marked for
22 identification but is not in evidence as Government's
23 Exhibit -- it's marked as Government's Exhibit 151C.

Do you

24 remember having seen that before?

25 A. May I open it?

13698

William Tobin - Direct

1 Q. Yes, sir.

2 A. Yes, I did.

3 Q. When did you first see it?

4 A. On or about June 2, 1995.

5 Q. Now, showing you now, sir, what has been received
in

6 evidence as Government's 151A, was 151C inside of 151A
when you

7 received it?

8 A. It was, yes.

9 Q. On June -- about June 2, 1995?

10 A. Yes, sir.

11 MR. TIGAR: Okay. With the Government's
consent, we

12 would offer 151C under the Government's exhibit number.

13 MR. MACKEY: No objection.

14 THE COURT: All right. Received.

15 BY MR. TIGAR:

16 Q. I'm going to show you now, sir, what has not been
received

17 but has been marked for identification as D1877, a
photograph.

18 Does that appear to you to be a photograph of that
Makita drill
19 box and the little bit box, the same one I just showed
you?
20 A. As much as I can see of it, it does appear to have
some of
21 the same contents.
22 MR. TIGAR: We offer D1877, your Honor.
23 MR. MACKEY: No objection.
24 THE COURT: Received.
25 BY MR. TIGAR:

13699

William Tobin - Direct

1 Q. Sir, I recognize you did not take this photograph.
2 Correct?
3 A. No.
4 Q. The date on here is April 29, 1995. Is that right,
sir?
5 A. Yes.
6 Q. When you received -- you're -- in June of 1995, you
were
7 employed in the FBI Laboratory. Correct, sir?
8 A. Yes.
9 Q. And you say that on or about June 2, 1995, you got
this
10 Exhibit 151A and C. Correct?
11 A. Yes, sir.

from it. 12 Q. Now, at the time you got -- I'm holding things up

manual 13 At the time you got 151A and C, were these -- was this

these 14 in this condition that I'm holding it up here with

15 markings on it?

inside, 16 A. There was a -- there were some similar documents

17 but they were not the focus of my attention.

18 Q. And was there water inside the box when you got it?

19 A. There was, yes.

20 Q. How much water was there?

my 21 A. I didn't measure the amount. I characterized it in

22 notes, I believe, as "prevalent."

observation was 23 Q. "Water was prevalent." Is that what your

24 at the time?

25 A. Yes.

13700

William Tobin - Direct

contents 1 Q. And in addition to that, sir, was the -- were the

2 "moldy and heavily moisture-laden"?

3 A. Yes.

4 Q. Were the steel items inside corroded?

5 A. There was -- there was some corrosion present, yes.

6 Q. My question is did you note at the time "steel
items inside

7 corroded"?

8 A. May I refer to my notes?

9 Q. I'll be happy -- do you have your notes with you,
sir?

10 A. Yes.

11 Q. Are they Bates' stamped?

12 A. No.

13 Q. Well, let me show you a page, sir, and we can --

14 A. Yes.

15 Q. So you did make a note at that time: "Steel inside
16 corroded." Is that correct?

17 A. Yes.

18 Q. Now, June 2, 1995: At that time, this material had
not yet

19 been sent to Agent Cadigan for his examination; is that
20 correct?

21 A. I'm not aware that it had, no.

22 Q. When you saw the box in this condition, did you
inquire of

23 your assistant, Derek Carver, as to what had happened
to it?

24 A. Yes, I did.

25 Q. What did you find out had happened to it while it
was in

13701

William Tobin - Direct

1 the FBI's custody?

2 A. I was told that there had been an accidental
exposure of

3 the items to a substantial amount of water.

4 Q. And where had the item been when it was exposed to
a

5 substantial amount of water while it was in the FBI's
custody?

6 A. In the custody of the Explosives Unit examiner.

7 Q. And did you find out what it was that had -- where
it was

8 exactly within the Explosive Unit that all this water
had

9 happened to it?

10 A. No.

11 Q. Did you understand how the water had gotten into
the box?

12 A. Not specifically. All I was told is that there was
some

13 accident or plumbing problem that occurred in the
vicinity.

14 Q. And in the box when you received it, was there a
quantity

15 of standing water?

16 A. I believe there was some minimal standing water in
the box,

17 yes.

18 Q. Now, you've completed -- there came a time when you
19 completed your examinations; correct, sir?

20 A. Some of the exams, yes.

21 Q. Yes. And then you sent -- when you were done with
it --
22 when were you finished with the box?

23 A. On or about July 11 of 1995.

24 Q. And did you then send it back to the Explosives
Unit?

25 A. I did, yes.

13702

William Tobin - Direct

1 MR. TIGAR: No further questions.

2 CROSS-EXAMINATION

3 BY MR. MACKEY:

4 Q. Mr. Tobin, very briefly, the reference you made in
your
5 note about steel items being corroded: Did you intend
to

6 represent that every steel item inside this blue box
bore some
7 evidence of rust or corrosion?

8 A. No. Not only did every steel item not exhibit
corrosion
9 but not all surfaces of the items that were corroded
were in
10 fact corroded.

Exhibit 11 Q. In your examination, you received Government's
12 151A, this large blue box with the prominent label
"Makita";
13 correct?
14 A. Yes, sir.
15 Q. You opened it up; correct?
16 A. Yes.
17 Q. And you found inside yet another case, a yellow
case marked
18 Government's Exhibit 151C; correct?
19 A. Yes, sir.
20 Q. You opened that up; correct?
21 A. Yes.
22 Q. And inside, did you find two quarter-inch drill
bits?
23 A. I did, yes.
24 Q. Did you notice on the tip, on the very top, the
very tip of
25 those two quarter-inch drill bits any corrosion?

13703

William Tobin - Cross

1 A. There was very little -- very little to no
corrosion on the
2 surface -- on those surfaces.
3 Q. On those two quarter-inch drill bits?
4 A. That's correct. On the tips.

5 Q. Excuse me?

6 A. On the tips.

7 Q. Yes. I understand.

8 MR. MACKEY: Thank you, your Honor. That's
all I
9 have.

10 REDIRECT EXAMINATION

11 BY MR. TIGAR:

12 Q. Sir, you were interested in the corrosion issue
enough to
13 take a picture and make a note. Correct?

14 A. Well, I routinely take as-received-condition
photographs,
15 so that did not drive my photo documentation.

16 Q. So it's part of your routine to take as-received-
condition
17 photos. Is that your testimony?

18 A. Yes, sir.

19 Q. How many as-received-condition photos did you take
on this
20 occasion?

21 A. I don't recall offhand.

22 Q. Let me just show you to refresh your recollection a
portion
23 of your notes. Would you look through there and see if
that's

24 all the as-received-condition photos that you took?

25 A. No, they are not -- they would not comprise all of
the

13704

William Tobin - Redirect

1 photographs in their entirety.

you 2 Q. Are those all the photographs that are in -- that
3 stapled into your notes and put a notation beside?

4 A. May I compare them to my own --

5 Q. Of course, sir.

6 A. -- records?

to my 7 Yes, these are the photographs that I attached
8 notes under that particular laboratory number.

today, 9 Q. Now, I notice that you brought some notes with you
your 10 sir. Is that anything other than the notes that to
11 knowledge have already been furnished to us --

12 A. The only --

witness 13 Q. -- the notes that you brought with you to the
14 stand?

page of 15 A. The only difference is my notes have an additional
16 the laboratory worksheet on the top and metallurgy --

look, your 17 MR. TIGAR: I'm sorry. May I approach and

18 Honor?

19 THE COURT: Yes, you may look.

20 BY MR. TIGAR:

21 Q. May I just see the notes that you brought, sir?
Thank you.

22 The notes that I'm now looking at plus what
you have

23 in your envelope: It's your understanding those have
all been

24 turned over to the defense. Correct, sir?

25 A. Yes.

13705

William Tobin - Redirect

1 Q. Now, coming back to your photograph, then, it is
your

2 recollection, sir, that you took 16 as-received
photographs.

3 Is that correct, sir?

4 A. No.

5 Q. How many did you take?

6 A. I don't recall again.

7 Q. How many did you mount in your notes?

8 A. How many are there? I didn't count them.

9 Q. I'm sorry. I have 16, sir.

10 A. Then there would be 16 attached to my notes.

11 Q. All right. And attached to your notes, is any of
those 16

12 photographs an as-received photograph of the tip of a
13 quarter-inch drill bit?

14 A. Not specifically, no.

15 Q. Well, will you look, sir? Is there one that is a
16 photograph of the tip of a one-quarter-inch drill bit
generally

17 or specifically?

18 A. Generally, yes.

19 Q. Which one is the generally one, sir?

20 A. That would be Photograph No. 12 on page 6.

21 Q. May I see the color version of that?

22 And the photograph here: Is that the one that
shows

23 these markings here? Is that one of the drill bits,
the one in

24 the middle?

25 A. Yes.

13706

William Tobin - Redirect

1 Q. And would it be fair to say that those markings are
2 consistent with significant corrosion on the shaft of
that
3 drill?

4 A. Yes, sir, there are.

5 Q. That is a side view of the drill, or is it an end-
on view

6 of the tip?

7 A. It's a side view of the flutes on the drill;
however,
8 because of the angle on the rake face -- on the face of
the
9 bit, one can see some surface. But in answer to your
question,
10 it's intended to be a side view.

11 MR. TIGAR: No further questions.

12 MR. MACKEY: Just a couple.

13 RE-CROSS-EXAMINATION

14 BY MR. MACKEY:

15 Q. Photograph No. 12 that you've identified shows a
side view
16 of three different drill bits; correct?

17 A. Yes.

18 Q. The one Mr. Tigar asked you about was the one in
the
19 center; correct?

20 A. Yes, sir.

21 Q. Your testimony that I'd like to elicit is based on
your
22 observation back in June of 1995. Did you notice on
the tip of

23 any of those three drill bits corrosion?

24 A. Yes. There was minimal corrosion on the center one
and

25 almost no corrosion on the other two but very minimal
on the

William Tobin - Recross

1 face -- on the tip of the center one.

2 Q. There are three drill bits there. Two of them on
the outer
3 sides of that same photograph show, do they not, no
corrosion?

4 A. That's correct.

5 Q. The only one that has any evidence is the one in
the
6 middle?

7 A. Yes, sir.

8 Q. Do you know from your firsthand knowledge, Mr.
Tobin,
9 which, if any, of these three were later examined by
10 Mr. Cadigan?

11 A. No.

12 MR. MACKEY: Nothing else.

13 MR. TIGAR: No further questions, your Honor.

14 THE COURT: All right. The witness now
excused?

15 MR. TIGAR: Yes, your Honor.

16 MR. MACKEY: Yes.

17 THE COURT: Is that agreeable?

18 You may step down. You're excused.

19 Yes, please.

20 MR. TIGAR: Joan Millar.

21 THE COURT: All right.

right
22 THE COURTROOM DEPUTY: Would you raise your
23 hand, please.

24 (Joan Millar affirmed.)

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

13708

and
1 Would you state your full name for the record
2 spell your last name.

3 THE WITNESS: Joan Irene Millar, M-I-L-L-A-R.

4 DIRECT EXAMINATION

5 BY MR. NEUREITER:

6 Q. How old are you, ma'am?

7 A. 56.

8 Q. Where are you from?

9 A. Elohim City, Oklahoma.

10 Q. Did you say Elohim City, Oklahoma?

11 A. Yes.

12 Q. How is that spelled for the court reporter?

13 A. E-L-O-H-I-M, City.

14 Q. Okay. Where is that located in Oklahoma?

15 A. It's in Adair County near Muldrow, Oklahoma.

16 Q. Where would that be in relation to Oklahoma City?
17 A. About 185 miles east and a little bit north.
18 Q. Is that east on I-40?
19 A. I-40, yes.
20 Q. What's your educational background?
21 A. I'm a registered nurse by profession.
22 Q. High school and then nursing training?
23 A. Yes, sir.
24 Q. Where are you originally from?
25 A. Toronto, Canada.

13709

Joan Millar - Direct

1 Q. And when did you move to Elohim City?
2 A. We visited off and on in the 70's, and we moved
there about
3 '81, '82.
4 Q. Are you married?
5 A. Yes, sir.
6 Q. What is your husband's name?
7 A. It's my second marriage. His name is Bruce.
8 Q. Is that Bruce Millar?
9 A. Yes, sir.
10 Q. What is his father's name?
11 A. Robert Millar.

12 Q. Do you have children?

13 A. We have eight between us. I have five girls.

14 Q. And you have grandchildren?

15 A. Yes. Yes, sir.

16 Q. Tell the jury a little bit about Elohim City and
what kind

17 of a community it is.

18 A. We were founded in 1973. I wasn't there then. The
people

19 are from different backgrounds, Christian backgrounds:
United

20 Church, Anglican . . .

21 Q. This is a religious community?

22 A. Yes. I think I would call it that.

23 Q. Who founded Elohim City?

24 A. Robert Millar.

25 Q. Is this an incorporated town?

13710

Joan Millar - Direct

1 A. No. The -- the property is incorporated. The
homes are

2 owned individually. We have about 400 acres.

3 Q. About 400 acres?

4 A. 481, I think it is.

5 Q. Do you abutt a mountain?

6 A. We're on the side of a mountain.

7 Q. How do people make their livings there at Elohim
City?

8 A. We have a sawmill. Some of them work in the
sawmill. We

9 have -- some of the young men have a construction
company and

10 they work in the area. We have -- we do a lot of
cutting of

11 firewood in the winter. A lot of people in the
neighboring

12 community buy firewood from us.

13 Q. How many people total would you say live in Elohim
City on

14 a permanent basis?

15 A. Probably between 70 and 80.

16 Q. And are many of those related to you and David
Millar?

17 A. Yes, sir.

18 Q. Without going into detail, can you describe for the
jury

19 the particular religious faith that is practiced there
at

20 Elohim City?

21 A. Well, everybody has their own beliefs, and what I
might

22 believe might be a little bit different from even my
husband or

23 some of the other people; but we do believe in the
power of God

24 to heal. We believe in healing. We believe in the
baptism of

25 the Holy Spirit. We believe in speaking in tongues.

13711

Joan Millar - Direct

the 1 Q. Do you have any particular beliefs with respect to
2 white race?

3 A. We believe that the -- the Scriptures teach that
the -- the

4 lost tribes of Israel migrated through Europe and
Britain and

5 have settled in America, so we do believe that we are
part of

6 the -- the white race is part -- is -- are the lost --
some of

7 the white race are the lost tribes of Israel.

8 Q. Would it be fair to characterize your beliefs as
the white

9 race is the chosen people spoken of in the Bible?

10 A. Yes, sir.

11 Q. What is the view at Elohim City with respect to
interracial

12 marriages?

13 A. We believe that all the races are special and
unique, but

14 we believe that you should marry within your own race.

15 Q. You oppose interracial marriages?

16 A. We would not marry someone from another race.

17 Q. In the 19 -- early 90's, did there develop some
concern in
18 your community with respect to the incidents at Waco
and Ruby
19 Ridge?

20 A. Yes.

21 Q. Could you tell the jury about that, please.

22 A. We had had some -- the press had done some reports
on us
23 before Waco and knew we were a community and that we
pretty
24 much kept to ourselves; but after what happened at
Waco, they
25 began asking us if we were concerned that it might
happen to us

13712

Joan Millar - Direct

1 or that they might come out. And I think we became a
little
2 apprehensive.

3 Q. When you say "they might come out," who did you
mean by
4 "they"?

5 A. The -- whether it was the ATF or the government, we
had
6 concerns because -- we just were concerned that they
might just
7 come in on us like they had at Waco.

8 Q. Did your community take steps with respect to

security as a

9 result of those concerns?

10 A. I think it was probably after that that we had --
we had --

11 we live about 30 miles from the nearest town, and there
is

12 no -- the local police do not provide patrol or
anything out

13 there; so we -- we developed a security system for
ourselves.

14 Q. Was part of the reason for that security system
that you

15 felt it would dissuade any attack by the ATF or the
FBI?

16 A. Yes. Our stance has never been offensive; but when
we saw

17 what happened at Waco and Ruby Ridge, we felt -- the
men felt

18 they wanted to be able to protect the women and
children if

19 they would come in on us, on a surprise.

20 Q. As parts of those concerns, did Elohim City
organize

21 security patrols?

22 A. Yes.

23 Q. Who is Andreas Strassmeier?

24 A. He was a young, German gentleman that was in the --
had

25 lived in Houston, and he came to live at our place
probably in

13713

Joan Millar - Direct

1 1992. And he had had a lot of training in the -- in

the -- in

2 Germany in the army. He knew a lot about weapons, and

he knew

3 a lot about first aid and fire prevention and that.

4 Q. Was Mr. Strassmeier given some responsibility with

respect

5 to the security precautions taken at Elohim City?

6 A. Yes. He sort of headed up the patrols. He wasn't

the head

7 of security. We didn't feel that he knew enough about

the --

8 that he was as in tune with the spiritual values of our

9 community, so he didn't have free reign in this, but he

did

10 organize if we felt that we should have patrols at

night or

11 something to make sure nobody just came in unannounced;

that he

12 didn't -- he organized these.

13 Q. How did Mr. Strassmeier carry himself as he walked

about

14 your community while he was there responsible for

security?

15 A. He took his -- he took his position very seriously.

He did

16 not -- he didn't walk relaxed. He always walked like

he was on

17 parade or whatever. You didn't see him just slouch

around or

18 walk. He was very exact in his manner.

19 Q. Did Mr. Strassmeier, to your knowledge, go to gun
shows for

20 a particular purpose with respect to Elohim City?

21 A. He would maybe go to two or three a year. He would
-- he

22 would go with some of the other young men. He would
advise

23 them if they wanted to purchase something. He would,
you know,

24 help them pick up things. He picked up camouflage
clothing and

25 things like that.

13714

Joan Millar - Direct

1 Q. Was part of -- were these trips to gun shows part
of his

2 responsibility in terms of assisting in the security
3 precautions at Elohim City?

4 A. Not necessarily, but most of the local people in
our area,

5 if there was a gun show in town, they would -- a lot of
them

6 would go to it. It wasn't just -- it wasn't specific
to Elohim

7 City.

8 Q. Would Mr. Strassmeier take orders from people in
the

9 community about what kinds of supplies they needed
before he

10 went to a gun show?

11 A. Frequently, yes.

12 Q. Did you attend a gun show with Mr. Strassmeier?

13 A. I went to one, yes.

14 Q. Who is Dennis Mahon?

15 A. He's a gentleman that lives in Tulsa. I don't know
him

16 very well. He had a trailer at Elohim City for a short
period

17 of time.

18 Q. Was he affiliated, to your knowledge, with an
organization

19 with the initials WAR?

20 A. I believe so, yes.

21 Q. What is that? What do those initials stand for?

22 A. White Aryan Resistance.

23 Q. Did Mr. Mahon come and live at Elohim City?

24 A. No, he just visited. He had a camper there. He
might come

25 down for a day. I think once or twice he stayed
overnight, but

13715

Joan Millar - Direct

1 he had no long-term stay there.

visitors 2 Q. Did Elohim City have a practice with respect to
3 coming and staying or not staying?
Most of 4 A. We didn't solicit people to come and stay there.
children 5 the people that were there have grown up there, our
us and 6 and our grandchildren. But if someone had heard about
policy. They 7 wanted to stay, we have a -- what we call a "333"
with 8 could come for three days; and if it worked with us and
months, but 9 them, then they could stay for three weeks or three
anybody 10 it wasn't something -- we just didn't open our arms to
11 that came along.

visitors -- 12 Q. In the 1992, '93, '94 time period, did you have
13 did you have a number of young men come to visit?

14 A. Yes, sir.

viewpoint 15 Q. And if you could describe generally the political
16 of those young men.

17 MS. WILKINSON: Objection as to relevance.

18 THE COURT: Overruled.

guess 19 THE WITNESS: We had some come that were -- I
20 you'd call them "survivalists," a few that had lived
off in the

21 woods; and they had heard about us and wanted to come
see what
22 we were about. We had some come that maybe were from
the -- I
23 guess would be called "skinheads," but I don't know
really how
24 to define that. But they were maybe more radical in
their
25 viewpoints than we were.

13716

Joan Millar - Direct

1 BY MR. NEUREITER:
2 Q. You would not actively solicit people to come and
visit; is
3 that right?
4 A. No, sir.
5 Q. Did there come a time in April of 1995 when you
received a
6 phone call at Elohim City?
7 A. Yes, sir.
8 Q. And if you could tell the jury exactly what your
role was
9 at Elohim City in terms of manning the phone.
10 A. We -- the phone company had wanted a quarter of a
million
11 dollars to bring a phone line up, and we couldn't
afford that;
12 so we ran our own telephone line for about 2 miles, and
we only

community 13 had three phones at the time. But the one that the
-- I was 14 used was in my house. So when it rang, it was usually
15 usually the one that answered it.

shows, 16 Q. To your knowledge, when Mr. Strassmeier went to gun
17 would he on occasion give out cards?

18 MS. WILKINSON: Objection.

her own 19 THE COURT: Well, she has to know this from
20 knowledge.

21 MR. NEUREITER: Yes, your Honor. I think we
22 established she did attend one gun show.

23 THE COURT: Well, you said multiple times.

24 BY MR. NEUREITER:

25 Q. Did you ever see Mr. Strassmeier hand out cards?

13717

Joan Millar - Direct

1 A. No, sir.

April of 2 Q. You did tell us that you received a phone call in
3 1995?

4 A. Yes, sir.

been 5 Q. I'm going to show you what's been marked -- has

6 previously admitted as Government's Exhibit 553. And
this is 7 page 189 of that exhibit.

8 And do you see at the top it says "April 5,
1995"?

9 A. Yes, sir.

10 Q. And there is a number of phone calls here. I'm
going to 11 zoom out so you can just see the whole sheet.

12 Do you see that there are a number of phone
calls 13 listed?

14 A. Yes, sir.

15 Q. And here there is a call placed from "phone
subscribed

16 by" -- "call placed to," "phone subscribed by." Do you
see 17 that?

18 A. Yes, sir.

19 Q. And to zoom in a little bit, the first call on this
page is 20 from the Imperial Motel to a Ryder Truck Rental? Do
you see 21 that?

22 A. Yes, sir.

23 Q. The second one is from the Imperial Motel -- if you
could 24 just read the "to" indication there, if you can.

25 A. It says, "To David Millar, Muldrow, Oklahoma, (918)

13718

Joan Millar - Direct

1 427-7739."

2 Q. Do you recognize that phone number?

3 A. Yes, sir.

4 Q. What phone number is that?

5 A. That's the phone number that at that time was in my
house.

6 Q. And if we look at the other calls, they're all from
the

7 Imperial Motel and then one as "Spotlight balance,"
then

8 "National Alliance," "Spotlight balance" and "National
9 Alliance." Do you see that?

10 A. Yes, sir.

11 Q. Do you remember getting this phone call at the
phone in

12 your house on April 5, 1995?

13 A. I don't remember the date, but I remember the phone
call.

14 Q. Could you describe the phone call to the jury,
please.

15 A. When I answered the phone, it was a male voice. He
gave a

16 name, but it wasn't "McVeigh." He said that he had --
he would

17 be in the area within the next couple weeks and he
wanted to

18 know if he could come and visit Elohim City.

19 Q. And what did you say back in response to that
initial --

20 A. I asked him how he had heard about us, because we
weren't

21 in the habit of just letting anybody that called up
come and

22 visit.

23 And he replied that he was reluctant at first,
and

24 then he said that he had been at a gun show and he had
met some

25 of the young men from Elohim City and someone had given
him a

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Joan Millar - Direct

1 card with the phone number on it.

2 Q. Did he describe in any way, shape, or form -- did
you say

3 anything back?

4 A. I asked him who it was that gave him the card, and
he said,

5 "I don't remember his name, but he had a very broad
foreign

6 accent."

7 Q. How many people at Elohim City had broad foreign
accents at

8 that time?

9 A. Just Andy.

10 I said, "Was it Andy?"

11 And he said, "That might have been his name."

12 Q. What was next said?

13 A. I asked him if he wanted directions.

14 And he said no, but he would call -- or
something to

15 the effect that he -- that he'd need directions, and he
said

16 he'd be coming by in the next few weeks and he would
call when

17 he got into the area.

18 Q. And what next was said, if anything?

19 A. Let me look here. I wrote down --

20 Q. Are you looking at a sheet of paper up there? Is
that a

21 sheet of paper up there that you're looking at?

22 A. Yes, sir.

23 Q. What is that sheet of paper?

24 A. When the press kept saying we had a phone call and
I

25 remembered this call, I wrote down what I remembered.

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Joan Millar - Direct

1 Q. Don't read it yet, please.

2 A. Okay.

3 MS. WILKINSON: Your Honor, I'm going to
object and

4 ask that we be provided with copies of her notes.

5 MR. NEUREITER: I have not seen the notes
before, your

6 Honor.

7 THE COURT: We're finding out what the notes
are

8 first. Let's do that.

9 BY MR. NEUREITER:

10 Q. Around what time period -- go ahead -- don't -- I
ask that

11 you don't read the notes. Go ahead and turn that over.

12 When did you write those notes? What time
period?

13 A. I wrote this sometime after May, when all the press
kept

14 saying we had a phone call. I remembered that there
was a call

15 that the person that phoned never showed up, and that
was the

16 only strange call that I could recollect.

17 THE COURT: May of what year?

18 THE WITNESS: '95.

19 BY MR. NEUREITER:

20 Q. So shortly after the bombing, within a month of the
21 bombing?

22 A. Probably, yes.

23 MR. NEUREITER: I have no objection to Counsel
looking

24 at the notes. I haven't seen them either, if they

assist her.

25
at them,

THE COURT: I suggest you pick them up, look

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Joan Millar - Direct

1 and also show them to Ms. Wilkinson.

2 MR. NEUREITER: Thank you, your Honor.

3 THE COURT: I trust that the purpose is to use
them

4 only for recollection.

5 MR. NEUREITER: Yes, your Honor. That would
be the

6 purpose.

7 BY MR. NEUREITER:

8 Q. Would looking at that document help refresh your
9 recollection as to exactly what transpired during that
10 conversation?

11 A. You asked me about the last part, and I wasn't sure
if

12 there was more I should --

13 THE COURT: I think what he's asking you is
would your

14 recollection be improved by looking at what you wrote
down in

15 May of 1995?

16 THE WITNESS: It may be. I don't know.

17 THE COURT: Okay.

18 BY MR. NEUREITER:
19 Q. Go ahead and glance at them, if it helps. Don't
read the
20 notes out loud, but if it just helps you remember.
21 Does it help you remember?
22 A. Yes.
23 Q. Did anything else happen after -- after that last
part you
24 told the jury about?
25 A. No. That was the end of the phone call.

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Joan Millar - Direct

1 Q. Where is Mr. Strassmeier today?
2 MS. WILKINSON: Objection.
3 THE COURT: Sustained.
4 MR. NEUREITER: One moment.
5 Pass the witness.
6 THE COURT: Ms. Wilkinson.
7 MS. WILKINSON: Thank you, your Honor.
8 CROSS-EXAMINATION
9 BY MS. WILKINSON:
10 Q. Good morning, Ms. Millar.
11 A. Hello.
12 Q. We've never met before, have we?

13 A. No, ma'am.

14 Q. You told us, I believe, during your direct examination that

15 you have people from all different backgrounds the Elohim City.

16 Is that right?

17 A. Yes.

18 Q. That's not really true, is it? You don't have -- you don't

19 allow anyone of the black race to live on your compound, do

20 you?

21 A. Just -- the situation has never come up, but --

22 Q. You wouldn't allow them, would you?

23 A. Probably not.

24 Q. And you wouldn't allow anyone of the Jewish faith to live

25 there, either, would you?

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Joan Millar - Cross

1 A. They probably wouldn't want to, either. I don't --

2 Q. And you wouldn't want them there, would you?

3 A. I don't think we would -- I don't think it would come up.

4 I don't think they'd ask to live there.

5 Q. Now, in addition to preaching about the supremacy of the

views 6 white race, you also talk at your compound about your
7 concerning the government; correct?

8 A. We don't use the term of the "supremacy of the
white race."

9 We talk about God's chosen people as Israel, which is
the white
10 race, but we don't use the term "supremacy."

11 Q. In addition to that about your views of the white
race, you
12 also talk about your views about the government.
Correct?

13 A. No. Our stress is more on our views -- on what the
14 Scriptures talk about, about God's kingdom coming to
earth.

15 Q. So no one at your compound to your knowledge
advocates
16 violence against the government. Is that right?

17 A. They don't -- they're not -- some of us may not be
happy
18 with some of the things the government is doing, but
there is
19 not an advocacy to go out and attack the government or
20 anything.

21 Q. So in your mind there is a big difference between
being
22 unhappy with the government and taking violent action
against
23 the government?

24 MR. NEUREITER: Objection.

25 THE COURT: What's the objection?

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Joan Millar - Cross

1 MR. NEUREITER: Relevance.

2 THE COURT: Overruled.

3 THE WITNESS: Our position -- the position of
the
4 leadership there has never been offensive. It's been
only if
5 someone would come against our wives and children, we
would
6 resist.

7 BY MS. WILKINSON:

8 Q. As self-defense; correct?

9 A. Yes.

10 Q. Defending your people.

11 So you're not aware of anyone advocating
violence
12 against the government at your compound. Correct?

13 A. As far as any plan for it, no.

14 Q. So if someone came in here and said the people at
your
15 compound had advocated violence, you have no knowledge
of that?
16 A. I -- some of the young people were disgruntled and
might

17 have talked about things, but I wasn't there when --

18 Q. Well, you all have regular prayer meetings;

correct?

19 A. Yes, ma'am.

20 Q. And Reverend Millar makes -- preaches during those
21 meetings?

22 A. Sometimes, yes.

at the

23 Q. And he talks about the views of the people that are
24 compound; correct?

25 A. Yes.

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Joan Millar - Cross

1 Q. And that's the leadership that you're talking
about?

2 A. Yes.

3 Q. And he doesn't advocate violence against the
government,
4 does he?

5 A. No. I haven't heard him talk against the
government. I've

6 heard him talk for God's kingdom coming to earth and
that there

7 needs to be a change and there needs to be
righteousness in the

8 nation.

9 Q. And he believes there is a problem of race in
America;

10 correct?

11 A. I think he feels although every race is u -- I
can't really

12 speak for him. I don't know that that's right.

13 Q. But you've never heard him preach that people in
your

14 compound should take violent action against the
government --

15 A. No.

16 Q. -- on their own? And is it the policy of your
compound

17 that if you heard someone having those type of
discussions, you

18 would not allow them to live there any longer, if you
were

19 aware of it?

20 A. If we've been aware of discussions like that, we --
we

21 really haven't been that aware of any plans for
anything on

22 that, but we do object to being called a "compound."

23 Q. I'm sorry. Tell me what you would rather have me
refer

24 to -- refer --

25 A. We refer to ourselves as a village. There was a
time

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Joan Millar - Cross

1 when -- our land is owned corporately. We are strong
on family

2 life. We teach our own children. When you say "a
compound,"
3 other than the Kennedy compound in the East, I think of
walls
4 and fences, and we don't have that.
5 Q. Would you allow anyone to live in your village if
they
6 advocated taking violent action against the government?
7 A. I don't believe so, if we knew that that was their
intent.
8 Q. And you had no knowledge that anyone in your
village
9 intended to take any violent action against the
government
10 before April of 1995; correct?
11 A. No, I had no knowledge of that.
12 Q. All right. And you know Mr. Strassmeier?
13 A. Yes, ma'am.
14 Q. And Mr. Strassmeier was present in April of 1995 at
your
15 village; correct?
16 A. Yes, ma'am.
17 Q. You know his whereabouts for those days, don't you?
18 A. Yes.
19 Q. Do you recall where he was?
20 A. Yes, ma'am. He was fixing fence at a neighbor's on
the
21 morning of the bombing.
22 Q. And you know he was at your village in the days
prior to

23 the bombing; correct?

24 A. Yes.

25 Q. So you know he was not in Kansas on April 16, 17,
18, and

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Joan Millar - Cross

1 19; correct?

2 A. To the best of my knowledge, he was at home those
days.

3 Q. Okay. Now, this conversation that you recall: You
don't

4 have any independent recollection of what date it
occurred on;

5 correct?

6 A. No.

7 Q. And you don't know who the caller was?

8 A. No. He didn't -- they showed me a list of aliases,
and I

9 didn't recognize any of them; but I know that it was --
it was

10 a man.

11 Q. Well, I just want to ask you about your
recollection, not

12 about conversations you had with anyone else, if we
could. All

13 right?

14 A. Okay.

15 Q. Based on your own recollection, you have said in
the past
16 that the person gave you the name "Hansen"; correct?
17 A. I think it was. I'm not a hundred percent sure on
that.
18 Q. But that was your best recollection?
19 A. Yes.
20 Q. Two years ago; correct?
21 A. Yes.
22 Q. And you had no idea of what date that conversation
occurred
23 with this person who could have left their name as
Hansen?
24 A. No.
25 Q. And when the person called, they did not say that
they knew

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Joan Millar – Cross

1 Mr. Strassmeier; correct?
2 A. No. They asked if they could come and visit Elohim
City.
3 Q. They didn't even know Mr. Strassmeier's name;
correct? You
4 had to provide the name "Andy"?
5 A. I provided the name "Andy."
6 Q. And they didn't give -- that person didn't give any
details
7 about Mr. Strassmeier or any meetings with Mr.

Strassmeier;

8 correct?

foreign 9 A. The only thing he mentioned was he had a broad

10 accent.

correct? 11 Q. And he thought he had met him at a gun show;

12 A. Yes.

your 13 Q. And this person told you that he wanted to visit

14 compound; correct?

15 A. Yes.

on 16 Q. And you would permit someone to visit your compound

17 certain occasions; correct?

18 A. Yes.

19 Q. But that person never showed up?

that they 20 A. Yes. That's why I remembered the call, the fact

21 never came.

called 22 Q. And to your best recollection, that person never

23 back?

24 A. I don't remember getting another call.

about this 25 Q. And you had a conversation with Mr. Strassmeier

1 call; correct?

2 A. Yes, ma'am.

3 Q. And he didn't recollect anything about the person
who
4 called; correct?

5 MR. NEUREITER: Objection to hearsay.

6 THE COURT: Sustained.

7 BY MS. WILKINSON:

8 Q. Mrs. Millar, you were asked to look at one page of
9 telephone records from April 5. Do you recall that on
your
10 direct examination?

11 A. Yes, ma'am.

12 Q. And if I asked you to review or take a look at the
records
13 on the dates from April 5 to April 19, could you do
that and
14 tell us whether there are any other telephone calls to
the
15 number that you told us was in your home back in April
of 1995?

16 MR. NEUREITER: Your Honor, we believe the
records
17 speak for themselves, and we would so stipulate.

18 THE COURT: All right. You agree that there
are none?

19 MS. WILKINSON: There are no other calls.

20 THE COURT: All right. Thank you.

21 BY MS. WILKINSON:

22 Q. And you don't recall getting any other calls from
this
23 person?

24 A. No, ma'am.

25 Q. Either before April 5, 1995, or after; correct?

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Joan Millar – Cross

1 A. No, ma'am.

2 Q. Mrs. Millar, if you were driving from Oklahoma City
to get
3 to your village, you don't need to go north on I-35, do
you?

4 A. No, ma'am.

5 Q. That wouldn't get me to your village, would it?

6 A. No, ma'am.

7 Q. It would be the wrong direction?

8 A. Yes, ma'am.

9 MS. WILKINSON: Thank you very much. We have
no
10 further questions.

11 THE COURT: Anything else?

12 MR. NEUREITER: Just one question.

13 REDIRECT EXAMINATION

14 BY MR. NEUREITER:

15 Q. Mrs. Millar, you said you don't have a specific

16 recollection of the date that you received this call.
Can you
17 put it in some time frame prior to the Oklahoma City
bombing?
18 A. I knew it was in the first part of April. That's
all. It
19 was early in April sometime.

20 MR. NEUREITER: No further questions.

21 THE COURT: Is she excused?

22 MS. WILKINSON: Yes, your Honor.

23 THE COURT: Agreed.

24 MR. NEUREITER: Yes.

25 THE COURT: Mrs. Millar, you may step down.
You're

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1 excused.

2 Next, please.

3 MR. TIGAR: Carol Howe.

4 THE COURT: Okay.

5 THE COURTROOM DEPUTY: Would you raise your
right

6 hand, please.

7 (Carol Howe affirmed.)

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

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

11 THE WITNESS: Carol Elizabeth Howe, H-O-W-E.

12 THE COURTROOM DEPUTY: Thank you.

13 THE COURT: Proceed.

14 DIRECT EXAMINATION

15 BY MR. THURSCHELL:

16 Q. Good morning, Ms. Howe.

17 Ms. Howe, where do you live?

18 A. In Tulsa, Oklahoma.

19 Q. And if you could just lean forward a little bit and
speak 20 into the microphone, it would help people hear.

21 Ms. Howe, in the fall of 1994, were you
present on 22 numerous occasions at the area known as Elohim City?

23 A. Yes, I was.

24 Q. And if I showed you a map of the state of Oklahoma,
could 25 you identify for the jury where it's located?

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Carol Howe - Direct

1 A. Yes, I could.

2 MR. THURSCHELL: I'm going to show the
witness and

3 the jury what's been previously admitted as D1801.

4 BY MR. THURSCHELL:

5 Q. Now, can you -- let me back out.

6 Do you recognize this map as a map of
Oklahoma?

7 A. Yes, I do.

8 Q. Okay. And I cut it off a little bit here, but I'll
extend

9 it.

10 And focusing in, can you see that this is
Oklahoma

11 City where I'm pointing right here?

12 A. Yes, sir.

13 Q. Now -- and then this would be Tulsa, which is where
you

14 live?

15 A. Yes, sir.

16 Q. Okay. Now, in relation to Tulsa, what we see here
-- can

17 you point on this map to where Elohim City is located?
I can

18 zoom in a little bit, if that would help.

19 What you have to do is take the light pen
that's on

20 your front of you -- it's attached to the wire -- and
touch it

21 to the actual television screen.

22 You have to go underneath the glass. I'm
sorry.

23 A. It's right around in this area somewhere in there.

change
right
24 Q. I'm going to focus in on that area. It's going to
25 where your marks are, but tell me if I still have the

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Carol Howe - Direct

Elohim
1 area. Do you see -- do you see a town that -- where
2 City is located and a post office address?
3 A. In Muldrow, which is right there.
4 Q. And is Muldrow -- what is that major highway that's
5 indicated running right next to Muldrow?
6 A. Interstate 40.
7 Q. And if you go east on Interstate 40, where do you
get to?
8 What's the first state you reach?
9 A. Arkansas.
10 Q. Okay. And if you -- what's the first major city
you get to
11 if you travel west on I-40?
12 A. Sallisaw, Oklahoma.
13 Q. And after that?
14 A. Oklahoma City.
15 Q. Oklahoma City. Okay. Thank you very much.
16 I-40 runs directly through Oklahoma City?
17 A. Yes, sir.

at 18 Q. Now, in your -- the occasions that you were present
19 Elohim City, did you have a chance to overhear
conversations
20 among individuals who identified themselves with Elohim
City?
21 A. Yes, sir.
22 Q. Okay. And did you get a chance to observe their
23 activities?
24 A. Yes, I did.
25 Q. Did you get a chance to overhear any of the
individuals who

13734

Carol Howe - Direct

1 identified themselves talking about their political
views?
2 A. Yes, I did.
3 Q. Can you tell the jury what the political views --
if there
4 was a general sentiment there towards the federal
government?
5 Can you describe that for the jury?
6 A. Yes. There was a very antigovernment sentiment out
at
7 Elohim City that the federal government was an evil
entity,
8 talking about destroying the government. Very
antigovernment.

9 Q. You say talk about destroying the government. Did
you ever
10 hear any individuals who identified themselves at
Elohim City
11 advocate the direct use of violence against the
government?

12 A. Yes, I did.

13 Q. By force of arms?

14 A. Yes, sir.

15 Q. Do you know who Robert Millar is?

16 A. Yes, I do.

17 Q. Who is he?

18 A. He's the patriarch at Elohim City, the leader at
the
19 compound.

20 Q. Did you ever hear him advocate the use of direct
violent
21 action against the federal government?

22 A. Yes, I did.

23 Q. And if you can, was -- did he -- was he a religious
leader?

24 A. Yes, he was.

25 Q. And were at least one of those occasions where you
heard

13735

Carol Howe - Direct

1 him advocate that during a sermon?

2 A. Yes, sir.

3 Q. And where numerous members of the community were
present?

4 A. Yes.

5 Q. Did you hear talk about violence against the
federal
6 government and advocacy of violence against the federal
7 government from others who lived at Elohim City?

8 A. Yes.

9 Q. Do you know who Andreas Strassmeier is?

10 A. Yes, I do.

11 Q. What was his position or role at Elohim City, if
you know?

12 A. He was a head of security in charge of security
checks and
13 weapons training, that sort of thing.

14 Q. Now, you say "weapons training." Were there
weapons at
15 Oklahoma -- at Elohim City, if you know?

16 A. Yes.

17 Q. Were there -- can you -- are you familiar -- did
you come
18 to be familiar with certain weapons that were legal and
certain
19 weapons that were not legal?

20 A. Yes, sir.

21 Q. Were the weapons at Elohim City legal, or illegal?

22 MS. WILKINSON: Objection, your Honor.

23 THE COURT: Sustained.

24 BY MR. THURSCHELL:

25 Q. Was it -- was it common for individuals to carry
arms and

13736

Carol Howe - Direct

1 use them at Elohim City?

2 A. Yes, sir.

3 Q. Would it -- could you characterize the number or
extent of
4 the armament there during the period that you're
familiar with?

5 A. Very extensive armaments.

6 Q. Mr. Strassmeier: Did you ever hear him advocate
direct
7 violent action against the federal government?

8 MS. WILKINSON: Objection.

9 THE COURT: Overruled.

10 THE WITNESS: Yes, sir.

11 BY MR. THURSCHELL:

12 Q. And you heard that from others as well?

13 A. Yes.

14 Q. Are you familiar with an individual by the name of
Dennis
15 Mahon?

16 A. Yes, I am.

17 Q. And was Dennis -- did Dennis Mahon spend

considerable time

with? 18 at Elohim City during the period that you are familiar

19 A. Yes, he did.

20 Q. Did he at any point live there?

21 A. He had a trailer out there that he would go and
stay in

22 while he was out there, but he did not take up
permanent

23 residence there.

24 Q. Was he affiliated with another political group that
you

25 know of?

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Carol Howe - Direct

1 A. Yes.

2 Q. Would that be the group with the initials WAR?

3 A. Yes.

4 Q. And what does that -- what do those initials stand
for?

5 A. White Aryan Resistance.

6 Q. Was Mr. Mahon an individual who -- did you ever
hear him

7 advocate direct violent action against the federal
government?

8 A. Yes, sir.

9 Q. Now, are you familiar with what Timothy McVeigh
looks like,

10 Ms. Howe?

11 A. Yes, sir.

12 Q. Have you seen photographs of Timothy McVeigh?

13 A. Yes, I have.

14 Q. Did you ever see Timothy McVeigh at the Elohim City
15 compound?

16 A. I believe I did.

17 Q. All right. When did you see him?

18 A. It was in July of 1994.

19 Q. Okay. And where did you see him?

20 A. He was at a section of the compound walking across
a lawn
21 near the church building.

22 Q. And was he accompanied by any other individuals who
you
23 know?

24 A. Yes, he was.

25 Q. And who were they?

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Carol Howe - Direct

1 A. A man named Peter Ward and a man named Andreas
Strassmeier.

2 Q. About how far away were you when you believe you
saw

3 Timothy McVeigh?

4 A. Approximately 70 feet.

5 Q. At the time that you saw him, did you know his name
was

6 Timothy McVeigh?

7 A. No, sir.

8 Q. You subsequently came to learn his name was Timothy
9 McVeigh?

10 A. Correct.

11 Q. Now, did you have occasion to -- did Mr. Mahon --
strike

12 that.

13 Did Mr. Mahon have an apartment in Tulsa,
Oklahoma,

14 during this time period?

15 A. A house, yes.

16 Q. A house. And did you have occasion to spend time
there

17 during the time period we're talking about, fall, 1994?

18 A. Yes, sir.

19 Q. Did Mr. Mahon in your recollection -- did he ever
receive

20 any phone calls while you were in the house with him?

21 A. Yes, sir.

22 Q. Do you recall Mr. Mahon ever saying or mentioning
the name

23 "Tim Tuttle"?

24 MS. WILKINSON: Objection.

25 THE COURT: Overruled.

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Carol Howe - Direct

1 THE WITNESS: Yes, I do.

2 BY MR. THURSCHWELL:

3 Q. Okay. Could you tell the jury not any contents of
the
4 phone call that he related to you but how you came to
hear his
5 name; that is, Tim Tuttle's name?

6 A. Mr. Mahon received a phone call. We were sitting
in the
7 living room. He went into the bedroom to answer the
phone, and
8 I heard his statements from where I was sitting.

9 Q. And what did you hear him say?

10 A. I heard him say, "Tim Tuttle, Tuttle, Tuttle,
Tuttle,
11 Tuttle," and laughed.

12 Q. And you subsequently had a conversation about that
phone
13 call that he had received?

14 A. Yes. When he came back --

15 MR. THURSCHWELL: No, just so we know.

16 Nothing further, your Honor.

17 THE COURT: All right. Ms. Wilkinson.

18 CROSS-EXAMINATION

19 BY MS. WILKINSON:

20 Q. Good morning, Ms. Howe.

21 A. Good morning.

22 Q. We've not met, have we?

23 A. No, ma'am.

24 Q. When you were at the compound or the village -- how
do you

25 refer to Elohim City?

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Carol Howe - Cross

1 A. As a compound.

2 Q. When you were at the compound, did you know Joan
Millar?

3 A. Pardon?

4 Q. Did you know Joan Millar?

5 A. Yes, sir (sic).

6 Q. And she knew most of the people there?

7 A. Yes, ma'am.

8 Q. She knew everybody there?

9 A. Yes, ma'am.

10 Q. And she attended some of these same sermons that
you've

11 described for the jury?

12 A. Yes, she did.

13 Q. And as far as you know, she's an honest person?

14 A. Yes, ma'am.

15 Q. And she would be more knowledgeable than you,
wouldn't she,

16 about what occurred at Elohim City?

17 A. I would think so.

18 Q. She was there every day; correct?

19 A. More often than me, yes.

20 Q. You were not.

21 A. Right.

22 Q. And so if we wanted to know about Elohim City and
what

23 occurred there, she would be a good source; correct?

24 A. I would think so.

25 MR. THURSCHELL: Objection, your Honor.
Opinion.

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Carol Howe – Cross

1 THE COURT: Sustained.

2 BY MS. WILKINSON:

3 Q. Ms. Howe, you look a little different today than
you did

4 when you were back at Elohim City, don't you?

5 A. Yes, ma'am.

6 Q. Changed your hair color?

7 A. Yes, ma'am.

8 Q. And you had a tattoo, didn't you, at that time?

9 A. Yes, I did.

10 Q. What kind of tattoo did you have?

11 A. Swastika on my shoulder.

12 Q. You were a believer at certain times in your life
in

13 white -- white supremacy, weren't you?

14 A. At one period, yes.

15 Q. Well, you were a believer back in March of 1994;
correct?

16 A. Yes, ma'am.

17 Q. You had an incident, you claim, with several

18 African-Americans; correct?

19 A. Three. Yes, ma'am.

20 Q. And right after that time, you got yourself in
touch with a

21 number called a "racist hot line," didn't you?

22 A. Yes, I did.

23 Q. And that's what you did after you thought that you
had some

24 encounter with some African-American men?

25 A. When I did, yes.

13742

Carol Howe - Cross

1 Q. And you decided that the correct response was to
call a hot

2 line; correct?

3 A. I was angry at the time, and so I did call.

heard a 4 Q. And in response, you called a number where you

5 racist message; correct?

6 A. Yes, ma'am.

address that 7 Q. And you didn't just hear it, you wrote to the

8 they gave you on that message; correct?

9 A. Later, I did, yes.

10 Q. You wanted to meet people that had similar views?

11 A. Yes, ma'am.

12 Q. And you did that, didn't you?

13 A. Yes, I did.

14 Q. That's how you met Dennis Mahon?

15 A. Yes.

16 Q. And you began to socialize with him?

17 A. Yes, I did.

18 Q. And you had some kind of falling out; correct?

19 A. Yes.

20 Q. And after that, you visited Elohim City?

21 A. Prior to that and then after that.

touch 22 Q. So you went to Elohim City when you were still in

23 with Mr. Mahon and on good terms; correct?

24 A. Yes, ma'am.

25 Q. And you went there willingly?

Carol Howe - Cross

1 A. Yes, I did.

2 Q. With him?

3 A. Yes.

4 Q. And you knew what the beliefs were at Elohim City?

5 A. Not until I went there.

6 Q. But you knew what Mr. Mahon's beliefs were?

7 A. Yes, I did.

8 Q. He was a white supremacist; correct?

9 A. Correct.

10 Q. And you agreed with him at that time?

11 A. That's correct.

12 Q. And after you heard these conversations in April of
1995,

13 you heard about the bombing on April 19; correct?

14 A. Correct.

15 Q. And you saw pictures of Mr. McVeigh?

16 A. Yes, I did.

17 Q. And in fact, you reported that you had information,
didn't

18 you?

19 A. Yes.

20 Q. And when you reported that information, you said
you might

21 know who John Doe No. 1 was?

22 A. I was asked to identify some composites, yes.
23 Q. And you gave some information, didn't you?
24 A. Yes, I did.
25 Q. And you said you thought you knew who John Doe No.

1 was?

13744

Carol Howe - Cross

1 A. Yes.
2 Q. And you said you thought you knew who John Doe No.

2 was?

3 A. Correct.

4 Q. And you said they were the Ward brothers that were
were at
5 Elohim City; correct?

6 A. Correct.

7 Q. And in fact when you made those statements, you
compared
8 them to Timothy McVeigh and said they didn't look like
Timothy
9 McVeigh, didn't you?

10 A. Correct.

11 Q. And at that time, you never mentioned that you had
seen
12 Timothy McVeigh at Elohim City, did you?

13 A. Not on that date.

14 Q. No, you didn't. Even though you were asked about
John Doe

15 No. 1 and John Doe No. 2 and the photographs of Timothy
16 McVeigh; correct?

17 A. Correct. Later on, I did talk about Tim McVeigh.

18 Q. You didn't do that right after the bombing when
your memory

19 would have been freshest, did you?

20 A. Not on April 21.

21 THE COURT: Let's let her finish the answers.
Go a

22 little slower, here.

23 BY MS. WILKINSON:

24 Q. If you could just respond to my questions, Mrs.
Howe.

25 You did not report that information on April
21, just

13745

Carol Howe – Cross

1 two days after the bombing, did you?

2 A. No, ma'am.

3 Q. And that's when your memory would have been
freshest,

4 wouldn't it have been?

5 A. Yes.

6 Q. And after that, you agreed with law enforcement to
go into

7 Elohim City and do some investigation, didn't you?

8 A. Yes, I did.

9 Q. You cooperated with law enforcement at that time?

10 A. Yes.

11 Q. And you went back to Elohim City?

12 A. Yes, I did.

13 Q. And you tried to look for the Ward brothers?

14 A. Yes.

15 Q. And after that, you were debriefed by the agents,

weren't

16 you?

17 A. Yes, I was.

18 Q. And at that time, you never reported that you had
seen

19 Timothy McVeigh at Elohim City, did you?

20 A. It would have been at that time, yes, that I did.

21 Q. You did?

22 A. Yes.

23 Q. When was that?

24 A. It was approximately April 25 or 24. I was at the
Tulsa

25 ATF office. At the time that I was at that office, I
was shown

13746

Carol Howe – Cross

1 videotape. One videotape included Timothy McVeigh. I
looked

2 at the videotape and I told them that he looked
familiar; that

3 I had seen him at a rally.

4 Q. You said you had seen him at a Klan rally. You
didn't say

5 that you had seen him at Elohim City?

6 A. They're all white separatists.

7 Q. But they're different locations, aren't they?

8 A. They hold rallies at Elohim City.

9 Q. But you said you had seen him at a Klan rally --
correct --

10 not at a rally at Elohim City? You said you had seen
him at a

11 Klan rally?

12 A. At a Klan rally.

13 Q. So your memory has improved since then, hasn't it?

14 A. Not particularly.

15 Q. Well, you now know more details, don't you?

16 A. No.

17 Q. Well, you never mentioned a conversation about Tim
Tuttle

18 at that time, did you?

19 A. No. I didn't know the significance.

20 Q. In fact, you were very concerned about the bombing
in

21 Oklahoma City, weren't you?

22 A. Yes, I was.

23 Q. And you were trying to help out?

24 A. That's right.

25 Q. Trying to cooperate?

13747

Carol Howe – Cross

1 A. Correct.

2 Q. And you've said you were very concerned and
assisting the

3 Government in any way you could?

4 A. That's correct.

5 Q. And you never provided that information as to Tim
Tuttle to

6 the United States Government, did you?

7 A. Not at that time, I didn't.

8 Q. You didn't provide it for many months, did you?

9 A. No.

10 Q. In fact, you've never provided it to the U.S.
Government,

11 have you?

12 A. No. Through testimony, I have.

13 Q. But never provided it to the agents that you were
--

14 THE COURT: Well, are you speaking
specifically about

15 what she's just said with respect to Dennis Mahon?

16 MS. WILKINSON: No -- yes, about him hearing
"Timothy

17 Tuttle."

when 18 THE COURT: I think we should be very specific
are 19 you're asking her questions like this as to what you
20 asking.
21 MS. WILKINSON: I'm sorry, your Honor.
22 BY MS. WILKINSON:
with the 23 Q. You've never provided the United States Government
Mr. Mahon 24 information you testified to today concerning hearing
25 say the name "Tim Tuttle."

13748

Carol Howe - Cross

1 A. No.
2 Q. You were asked, were you not, when you were
cooperating 3 with the Government right after the bombing, Ms. Howe,
about 4 what you knew about Mr. Mahon, weren't you?
5 A. Yes, I was.
6 Q. And you provided that information?
7 A. Yes, I did.
8 Q. You provided that he had been at the compound?
9 A. Yes, ma'am.
out at 10 Q. And that he shared some of the views of the people

11 Elohim City?
12 A. Yes.
13 Q. And you never mentioned at that time that he had
talked
14 about some man named "Tim Tuttle"?
15 A. No.
16 Q. Correct?
17 A. He talked about a lot of people. I didn't know the
name
18 was significant at the time.
19 Q. You were also asked about Mr. Strassmeier, weren't
you,
20 after the bombing?
21 A. Yes.
22 Q. And you told the Government what you knew about
23 Mr. Strassmeier?
24 A. Correct.
25 Q. And you never mentioned to the Government at that
time that

13749

Carol Howe – Cross

1 you had seen Andreas Strassmeier and Tim McVeigh
together at
2 Elohim City; correct?
3 A. I didn't know Tim McVeigh at that point.
4 Q. On April 21, you didn't know who Tim McVeigh was?

5 A. No. I was met early Friday morning before
apparently that

6 I had seen all the video and the TV.

7 Q. How about when you were interviewed on April 25?

8 A. At that time, I had seen video of him.

9 Q. Everyone in America had seen Timothy McVeigh's
picture,

10 hadn't they?

11 A. I think so.

12 Q. And you didn't mention when you talked about
Andreas

13 Strassmeier on that day that you had seen him with
Timothy

14 McVeigh at the compound in Elohim City, did you?

15 A. No.

16 Q. And you were debriefed again in May, weren't you,
after

17 you --

18 A. Yes.

19 Q. -- cooperated? And you never mentioned that you
had seen

20 Andreas Strassmeier and Timothy McVeigh on the compound
in

21 Elohim City in May of 1994, did you?

22 A. Not then, no.

23 Q. You knew they were very interested in information
about

24 Timothy McVeigh, didn't you?

25 A. Yes.

13750

Carol Howe - Cross

1 Q. You knew he was under arrest?

2 A. Yes.

3 Q. You knew he was one of the main suspects in the
bombing?

4 A. Yes.

5 Q. And you knew that they were questioning you about
Andreas

6 Strassmeier?

7 A. At that time, no. On the first --

8 Q. You didn't provide any information on Andreas
Strassmeier

9 after the bombing.

10 A. Yes, I did, but not at the time that I thought you
were

11 asking about, the 1st through the 3rd of May.

12 Q. You knew that the Government was trying to
investigate

13 whether there was any connection between Elohim City
and

14 Timothy McVeigh; correct?

15 A. I'm sorry. Could you repeat that?

16 Q. You knew that the Government was trying to
investigate in

17 Timothy
May of 1995 whether there was any connection between

18 McVeigh and Elohim City.

19 A. I didn't know -- yeah, I think so.

20 Q. That's why you went to the compound, didn't you?

21 A. Yes.

22 Q. That was your whole purpose in cooperating?

23 A. Right.

told
McVeigh
24 Q. And you knew that; and even knowing that, you never
25 them that you saw Andreas Strassmeier and Timothy

13751

Carol Howe - Cross

1 together in Elohim City in 1994, when you had those

2 conversations with agents in May of 1995?

3 MR. THURSCHELL: Objection, your Honor.

Asked and

4 answered several times.

5 THE COURT: Yes. We've been over this with
her.

6 MS. WILKINSON: No further questions.

7 THE COURT: All right. Any redirect?

8 MR. THURSCHELL: Yes. Briefly, your Honor.

9 REDIRECT EXAMINATION

10 BY MR. THURSCHELL:

visit
11 Q. Ms. Howe, you were asked by the prosecution about a

12 to Elohim City you undertook at the request of the
Government
13 after the bombing. Is that right?
14 A. Correct.
15 Q. Did you on that visit get -- speak to people at the
16 compound about the bombing?
17 A. Yes, I did.
18 Q. What was the general sentiment at the compound
about the
19 bombing?
20 A. They were supportive of the bombing.
21 Q. All right. Now, at the time -- you also said, I
believe,
22 in response to a question that you were not aware --
you were
23 not aware of the significance of the name "Tim Tuttle"
at the
24 time that Ms. Wilkinson was asking you about. Is that
correct?
25 A. Yes.

13752

Carol Howe - Redirect

1 Q. All right. And do you recall when you first became
aware
2 that Tim Tuttle had anything to do -- the name "Tim
Tuttle" had
3 anything to do with the Oklahoma City bombing case?
4 A. It was approximately the first of this year, and

somebody

5 mentioned the name to me; and I didn't understand in
what

6 context. They only said, "Have you ever heard the name
'Tim

7 Tuttle'?" And at that point, I remembered that I did
because

8 of the incident that had occurred; and then I -- I
didn't know

9 the significance of the name, but I -- I did realize
that it

10 was significant.

11 Q. Were you at that point in time -- were you
providing

12 information to the ATF? Were you still -- were you
under some

13 kind of government contract or --

14 A. Yes, I was.

15 Q. All right. Now, have you testified under oath
before about

16 the -- your overhearing the name Tim Tuttle and seeing
Timothy

17 McVeigh at the compound?

18 A. Yes, I have.

19 Q. Prior to this?

20 A. Yes.

21 Q. Prior to this date?

22 A. Yes, I have.

23 Q. And that was fairly recently?

24 A. Yes, it was.

25 MR. THURSCHELL: Nothing further, your Honor.

13753

Honor? 1 MS. WILKINSON: May I have a moment, your

2 THE COURT: Yes.

3 MS. WILKINSON: We have no further questions.

4 THE COURT: The witness now excused?

Honor. 5 MR. THURSCHELL: The witness is excused, your

excused. 6 THE COURT: You may step down. You are

7 Next, please.

8 MR. TIGAR: Kenneth Siek.

9 THE COURT: Thank you.

right 10 THE COURTROOM DEPUTY: Would you raise your

11 hand, please.

12 (Kenneth Siek affirmed.)

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

14 MR. THURSCHELL: Your Honor, may Ms. Howe's

15 witness -- lawyer be excused?

16 THE COURT: Yes. You're excused, sir.

full name 17 THE COURTROOM DEPUTY: Would you state your

18 for the record and spell your last name.

19 THE WITNESS: Kenneth Leroy Siek, S-I-E-K.

20 THE COURTROOM DEPUTY: Thank you.

21 DIRECT EXAMINATION

22 BY MR. NEUREITER:

23 Q. Hello, Mr. Siek. How are you?

24 A. Fine.

25 Q. If you could lean forward a little bit and just
keep your

13754

Kenneth Siek - Direct

1 voice up, then everybody could hear. Can you hear me
okay?

2 A. Very good.

3 Q. Okay. Where are you from, Mr. Siek?

4 A. Abilene, Kansas, presently.

5 Q. Do you know Kevin and Ray Siek?

6 A. You bet.

7 Q. Who are they?

8 A. Kevin is my nephew, and Ray is my brother.

9 Q. Did you live in Herington, Kansas, in 1995, or did
you have

10 a house there?

11 A. In 1995, no, not 1995. I had a house there, but I
didn't

12 live there.

13 Q. You had a house there, though?

14 A. Yes.

15 Q. How old are you, sir?

16 A. 71.

17 Q. And what is your occupation?

18 A. Road construction.

19 Q. And you're still working?

20 A. Still working.

1995. 21 Q. Tell us about the house you had in Herington in

market with 22 A. 1995? That was 109 South 2nd. I put it on the

23 the Rucker Real Estate.

Estate? 24 Q. Would that have been with Georgia Rucker Real

25 A. Georgia Rucker --

13755

Kenneth Siek - Direct

1 Q. I interrupted you.

2 A. Georgia Rucker.

3 Q. Did you get an offer?

4 A. Yes, I did.

that 5 Q. Can you remember around what time period you got

6 offer?

that I 7 A. I would believe it was around February of that year
8 got that offer.

has 9 MR. NEUREITER: I want to put on the ELMO what
I'm 10 been previously admitted as D1465 -- and correct me if
11 wrong. I think it's been admitted.

12 This will be -- Bates' page 4 would be first.

13 BY MR. NEUREITER:

you, 14 Q. And you can look down on that TV screen in front of
15 sir.

19 -- 16 Is that the first page of the offer you got in
17 in February of 1995?

18 A. Yes.

19 Q. And did Georgia Rucker give you that offer sheet?

20 A. Yes, she gave it to me.

that 21 Q. And just to switch over, is that the second page of
22 offer sheet?

23 A. Yes.

005 of 24 MR. NEUREITER: For the record, that's Bates'
25 that exhibit.

1 BY MR. NEUREITER:

offer 2 Q. Was it Mr. Terry Nichols who offered you -- put the
3 on the house?

4 A. Terry Nichols.

the 5 Q. That is the Terry Nichols who is sitting here in
6 courtroom today?

7 A. Yes, it is.

8 Q. And you later met him?

9 A. Yes, I did.

10 Q. What did you think of that first offer?

11 A. I didn't think much of it.

house for 12 Q. Did you tell Georgia, "I'm not going to sell the
13 that"?

14 A. That's what I told her.

was it 15 Q. Was this a particular kind of an offer in terms of

financing kind 16 going through the bank, or was there a different
17 of situation?

18 A. It was a contract offer.

19 Q. It was a land contract?

20 A. Yes.

Folks 21 Q. And what is a land contract exactly, for the jury?

22 might not know what it is.

then you 23 A. Well, a land contract is you pay so much down and
years. 24 make payments over a number of months, a number of

house? 25 Q. So it's financed by the previous owner of the

13757

Kenneth Siek – Direct

1 A. Yes.

land 2 Q. Had you bought this particular house yourself on a
3 contract?

4 A. Yes, I did.

country? 5 Q. So it's common to do that in this part of the

6 A. Oh, yes.

7 Q. The part of the country you're from?

8 A. Yes.

You 9 Q. So you told them, "No, I'm not going to take that"?
correct? 10 told Ms. Rucker to decline that particular offer;

11 A. Yes, I did.

12 Q. Were there more negotiations that occurred?

13 A. Yes, there was.

14 Q. Could you tell us about those.

15 A. Well, he decided to meet with me and see if we
could come

16 up with a more reasonable offer.

17 Q. Okay. You say he decided to meet. Whose idea --

18 A. Terry Nichols'.

19 Q. Okay.

20 A. So we met at the -- she was the one that notified
me. Most

21 of this was done through the real estate office. She's
the one

22 that notified me that Terry would like to meet with me
and

23 perhaps renegotiate.

24 So I met with him in her office, and he gave
me

25 another offer; and it was on a weekend. And he said on
the

13758

Kenneth Siek - Direct

1 weekends, he was usually out of town with his business,

2 military surplus.

3 Q. Did he describe the nature of his military surplus
business

4 to you?

5 A. Yes, he sure did. He gave me one suggestion -- he
said,

6 "Buy ammunition boxes real cheap and sell them for
quite a

7 markup."

8 Q. So that was him describing what he did for a
living?

9 A. Yeah.

10 Q. Were you concerned about what he did for a living,
if this
11 was going to be a land contract?

12 A. No. I wasn't concerned at all. One of the most
13 respectable houses in Herington is met by -- lives in
with a --

14 does the same kind of business, Larry Miller.

15 Q. Were you concerned at all about his financial
stability in

16 terms of making payments to you?

17 A. We discussed it, but we came away with the emphatic
yes, to

18 go ahead and go through with the -- the final
negotiation offer

19 I gave him.

20 Q. Did you ask him for some references?

21 A. Yes, I did.

22 Q. And why was that?

23 A. I didn't even know him.

24 Q. And you thought you needed to know something about
somebody

25 before you sold a house?

1 A. I needed to know something about somebody that I
was going
2 to sell the house to.

3 MR. NEUREITER: I'm going to put up on the
ELMO what
4 has not been previously admitted, D1526.

5 BY MR. NEUREITER:

6 Q. Do you recognize that document, sir?

7 A. Yes, I do.

8 Q. And is that the -- just tell us what that is, if
you could.

9 A. Those are the two references he gave me to call.

10 Q. And is that in your handwriting, or is that in his
11 handwriting?

12 A. That's his handwriting, all except for up there at
the

13 upper right-hand corner where it says, "2 hours
earlier." I

14 think that had something to do with the time element.

15 Q. Okay. Did he write that down on a sheet of paper
and gave

16 it to you?

17 A. He wrote that down, but that looks like my
printing.

18 Q. In the upper right-hand corner?

19 A. Yes.

20 MR. NEUREITER: We offer this exhibit, your
Honor.

21 MR. ORENSTEIN: No objection.
22 THE COURT: Received. It was D1526; right?
23 MR. NEUREITER: 1526, your Honor.
24 THE COURT: All right.
25 BY MR. NEUREITER:

13760

Kenneth Siek - Direct

first
1 Q. And if we zoom in here so everybody can see, that
2 name: Could you just read that first name off?
3 A. "Lana Padilla."
-- you
4 Q. And when you were saying "2 hours earlier," that's
5 said that was your handwriting?
6 A. That's my printing, yeah.
written
7 Q. And do you have a recollection why you would have
8 "2 hours earlier" then?
9 A. I would presume it might have something to do with
the time
10 element. I'm not sure.
Vegas?
11 Q. You were in Kansas, and this address is in Las
12 A. Yeah.
13 Q. The next entry, the next reference he gave you?
14 A. "Kevin Nicholas."

15 Q. And you wrote down something about when he could be
16 reached?

17 A. He wrote that down. That's Terry's writing. He
wrote that
18 down, "nights." I believe it's his writing. I'm not
19 100 percent certain.

20 Q. Did you make an effort to contact the references?

21 A. Yes, I did.

22 Q. And were you able to reach Mr. Nicholas?

23 A. No, I wasn't ever able to reach him.

24 Q. Were you able to reach Mrs. Padilla?

25 A. Yes, I was.

13761

Kenneth Siek - Direct

1 Q. And did you proceed with the sale?

2 A. Did I proceed with what?

3 Q. The sale. I'm sorry.

4 A. Oh, yes, I proceeded with the sale after talking to
her.

5 Q. And did there come a time when you had a final
settlement?

6 A. Yes, there did.

7 Q. Do you remember what date that might have been?

8 A. I'm not -- it was in February, I presume.

9 MR. NEUREITER: Okay. I'll put on the ELM0
what has

10 not been previously admitted, D1524.

11 Your Honor, this one is a little big to show
on the

12 ELMO. If I could approach the witness?

13 THE COURT: Yes, you may.

14 BY MR. NEUREITER:

15 Q. Do you recognize that document?

16 A. Yes, I do.

17 MR. ORENSTEIN: I'm sorry. Which number,
Counsel?

18 THE COURT: 1524.

19 MR. ORENSTEIN: Thank you.

20 BY MR. NEUREITER:

21 Q. Could you tell us what document that is.

22 A. It's a settlement document.

23 Q. Does it have a date on there, without --

24 A. "February 20, 1995."

25 Q. And does it have your signature on there? Might be
on the

13762

Kenneth Siek - Direct

1 second page.

2 A. Yes, it does.

3 MR. NEUREITER: We offer it, your Honor.

4 THE COURT: Any objection?

5 MR. ORENSTEIN: No objection.

6 THE COURT: D1524 is received.

7 BY MR. NEUREITER:

8 Q. You had told the jury that this -- this document
was on

9 February 20, it's dated?

10 A. Yes.

11 Q. I'll zoom in. Is that the date up there?

12 A. Yes, it is.

13 Q. Do you remember what you sold it for?

14 A. Yes, I do.

15 Q. Is that reflected on this document somewhere?

16 A. Yes, it is.

17 Q. Down at the bottom there?

18 Could you read that for the jury?

19 A. "Cash at settlement, to/from seller, gross amount
due to

20 seller, \$25,048.82. Less reductions in amount due
seller,

21 24,277.94. Cash from seller, 770.88."

22 Q. Did you learn that -- over the course of these
23 negotiations -- that Mr. Nichols only dealt in cash?

24 A. Yes. I learned that he only dealt in cash.

25 Q. Did that cause you any concern?

Kenneth Siek - Direct

1 A. No.

2 Q. Why is that?

3 A. Well, because several people in my territory,
anyway, do

4 that. They deal only in cash. I don't know about the
rest of

5 the country.

6 Q. And you -- were you both present at this
settlement?

7 A. Yes.

8 Q. You had met him during your negotiations?

9 A. Yes.

10 Q. And then there was a second meeting here at the
settlement.

11 Did you ever meet Mr. Nichols again in person before
today?

12 A. No.

13 MR. NEUREITER: One moment, your Honor?

14 THE COURT: Yes.

15 MR. NEUREITER: Pass the witness.

16 THE COURT: All right. Mr. Orenstein?

17 CROSS-EXAMINATION

18 BY MR. ORENSTEIN:

19 Q. Good morning, sir. My name is Jamie Orenstein. We
haven't

20 met before; correct?

21 A. Pardon?

22 Q. We haven't met before; right?

23 A. No.

24 Q. Sir, I just have a very few questions for you. You
got an
25 offer from Mr. Nichols for your house; correct?

13764

Kenneth Siek - Cross

1 A. Yes.

2 Q. And then you had some negotiations with you -- he
had some
3 negotiations with you for the sale of your house?

4 A. Yes.

5 Q. And he had put together that offer himself?

6 A. Yes.

7 Q. And it had a lot of terms in it?

8 A. Yes.

9 Q. And it was clear to you that he had done a lot of
careful
10 thinking and planning before taking some action on
buying this
11 house from you; correct?

12 A. Yes.

13 Q. Now, you told us that obviously you want to know
something
14 about the man you're selling the house to; is that
right?

15 A. Yes.

16 Q. And so you asked Mr. Nichols, among other things,
why he
17 had chosen to live in Herington, Kansas?

18 A. Yeah. I -- I believe I did, but I'm not for
certain, it's
19 been that far back.

20 Q. Well, do you recall saying that to an investigator
from the
21 defense team that you ask asked him about that?

22 A. Yes.

23 Q. And do you recall that he didn't give you a direct
answer?

24 A. He didn't give me a direct answer, no, but he heard
that
25 was just a good place for him to set up his business.

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Kenneth Siek - Cross

1 Q. Did he tell you anything about whether or not he
had any

2 storage sheds in the area?

3 A. No.

4 Q. Now, the last time you saw Mr. Nichols was in -- on
5 February 20 of 1995; correct?

6 A. What was that month?

7 Q. February 20, the date on that --

8 A. Yeah, that's right.

9 Q. -- on that settlement document?

10 A. That's correct.

11 Q. From then until today, you never saw him; is that
right?

12 A. I've -- I saw him after that, but I never did talk
to him

13 anymore. I saw him -- I saw him by the house there.

14 Q. All right. But you can't say where he was or who
he was

15 with or what he was doing at any particular time from

16 February 20 until today; correct?

17 A. No.

18 MR. ORENSTEIN: Thank you, sir.

19 I have nothing further.

20 THE COURT: Any other questions of this
witness?

21 MR. NEUREITER: If I could consult with
counsel.

22 THE COURT: Yes.

23 MR. NEUREITER: No more questions, your Honor.

24 THE COURT: All right. I take it he's
excused.

25 MR. NEUREITER: Yes. Thanks for coming.

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

2 You don't have about a five-minute witness, do
you?

3 MR. TIGAR: No, your Honor, we don't. Not
five, not

4 two -- no short ones.

5 THE COURT: Well, we'll take --

6 MR. TIGAR: Your Honor, I could read a
stipulation, if

7 your Honor wants.

8 THE COURT: All right.

9 The reason that I'm asking, members of the
jury, is

10 simply that I know that I have to recess till about
1:40

11 because of a matter unrelated to the case, so I simply
wanted

12 to go ahead.

13 MR. TIGAR: Your Honor, these are stipulations
reached

14 between counsel for Mr. Nichols and the United States
with

15 respect to what two individuals would say --

16 THE COURT: All right.

17 MR. TIGAR: -- these individuals being
unavailable to

18 testify.

19 "Shawn W. Morris (Date of birth: 3-28-70) was
20 interviewed within the confines of the Douglas State
Prison,

21 offices of the Criminal Investigations Unit, Arizona

Department

22 of Corrections by Special Agent Phillip E. McClanahan.
Morris
23 was advised of the identity of the interviewing agent
and the
24 nature of the interview. He voluntarily provided the
following
25 information:

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1 "Morris advised he dealt methamphetamines with
the
2 assistance of Jim Rosencrans and another individual
whom Morris
3 identified as Rob Rowdy. Morris was again incarcerated
in
4 April and May of 1994 and, following his May
incarceration,
5 stayed in jail until he was released on October 14,
1994.

6 "Upon his release from jail, Morris moved into
103
7 West Oak Street in Kingman where he resided with
Kathleen
8 Candelaria. He drove a 1965 or 1964 Valiant which was
9 registered to Kathleen Candelaria. He used this car to
traffic
10 in drugs. Morris advised that he tried to shake his
11 methamphetamine habit but failed. He again started
dealing

12 with Rosencrans. During this time, he sold
methamphetamines to

13 Michael Fortier. Morris advised that he sold Fortier
much more

14 methamphetamines than Fortier could use himself.
Morris stated

15 that he did not know Fortier's wife and did not know if
she was

16 dealing drugs or used drugs.

17 "Fortier was always asking for a price break
on the

18 methamphetamines he purchased from Morris. Morris
advised he

19 only talked with Fortier on maybe five occasions."

20 THE COURT: All right. That's agreed as to
what his

21 testimony would be?

22 MR. MACKEY: Yes, your Honor.

23 THE COURT: I want to explain to you, members
of the

24 jury, there is a difference now between stipulations
about what

25 testimony would be and stipulations of fact. This
witness is

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1 not available to come here and testify, so what the
counsel

2 have done is agreed to what the witness would say if he

was

3 here with us; but it's not a stipulation of fact as
such.

4 And you have such a stipulation about another
witness?

5 MR. TIGAR: Yes. Same, your Honor.

6 "On June 28, 1995, Special Agent Kenneth J.
Williams

7 and Special Agent Bradford C. Petrie conducted an
interview of

8 Jason J. Hart, date of birth June 29, 1965. Hart was
advised

9 of the identities of the interviewing agents and the
nature of

10 the interview. He voluntarily provided the following
11 information:

12 "Hart was in Arizona state prison from
November, 1989,

13 through April, 1993. Hart was in prison for being in

14 possession of crystal methamphetamine with intent to

15 distribute. He did not maintain contact with Rick
Fortier or

16 Michael Fortier during his incarceration. Hart
reestablished

17 contact with them upon being paroled from prison.

18 "Michael Fortier used crystal methamphetamine
during

19 the time period that Hart associated with them.
Michael

20 Fortier also used to sell the drug. Hart knows this
because

amounts 21 Hart was Fortier's supplier. Fortier never sold large
Fortier 22 of the drug. Hart stopped supplying Fortier because
23 started using more of the drug than he was selling.

McVeigh 24 "Hart claims that he (Hart) also sold Timothy
one 25 a quarter (\$25) Baggie of crystal methamphetamine on

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believes that 1 occasion. He never saw McVeigh use the drug but

2 he did use it."

would be 3 THE COURT: All right. And it's agreed that
4 the substance of the testimony of Mr. Hart?

5 MR. MACKEY: Yes, your Honor.

recess 6 THE COURT: All right. Well, we'll take the

I can 7 now, members of the jury, and it may be about 1:45 till
do with 8 be available. As I say, the delay here has nothing to
9 the case.

to follow 10 During this time, of course, please continue

11 the cautions given at all recesses, keeping open minds,
12 avoiding discussion of anything in connection with the

case

13 among yourselves and with all others and avoiding
anything 14 outside of the evidence in the case that could relate
to the 15 issues to be decided.

16 You're excused now. We'll hopefully resume by
1:45.

17 (Jury out at 12:07 p.m.)

18 THE COURT: Be in recess.

19 (Recess at 12:07 p.m.)

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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct
transcript from

3 the record of proceedings in the above-entitled matter.
Dated

4 at Denver, Colorado, this 10th day of December, 1997.

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Paul Zuckerman

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Carpenter

Bonnie

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