

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

ff

9
10 REPORTER'S TRANSCRIPT
 (Trial to Jury: Volume 121)

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ff

12 Proceedings before the HONORABLE RICHARD P.
MATSCH,
13 Judge, United States District Court for the District of
14 Colorado, commencing at 8:45 a.m., on the 11th day of
December,
15 1997, in Courtroom C-204, United States Courthouse,
Denver,
16 Colorado.

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24
Transcription
Street,
629-9285

Proceeding Recorded by Mechanical Stenography,
Produced via Computer by Paul Zuckerman, 1929 Stout
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11 Street, Suite 1308, Denver, Colorado, 80203, appearing
for

12 Defendant Nichols.

13 * * * * *

14 PROCEEDINGS

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

16 THE COURT: Please be seated.

17 Counsel.

18 MR. MACKEY: May we approach, please.

19 (At the bench:)

20 (Bench Conference 121B1 is not herein transcribed
by court

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

22

23

24

25

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1 (In open court:)

2 (Jury in at 8:49 a.m.)

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

4 will continue with the testimony of Marife Nichols.

5 Ms. Nichols, if you'll please resume the stand
under

6 the oath that you have taken.

7 (Marife Nichols was re-called.)

8 THE COURT: Mr. Ryan, you may continue.

9 MR. RYAN: Thank you, your Honor.

10 CROSS-EXAMINATION CONTINUED

11 BY MR. RYAN:

12 Q. Good morning, Ms. Nichols.

13 A. Good morning.

14 Q. Let me show you what has been received in evidence
as 6 of

15 10 photograph -- photograph 6 of 10 of Government's
Exhibit

16 1769. Can you see that all right on your screen?

17 A. Yes.

18 Q. And this is a kit -- this is a photograph of your
kitchen

19 in Herington, Kansas; is that correct?

20 A. Yes.

21 Q. And there should be a pen on top of your desk. Do
you see

22 it? It's a black pen attached to a cord. No. It's a
black

23 pen.

24 A. Yes, sir.

25 Q. Right. If you'll take that and place it underneath
your

Marife Nichols – Cross

1 table.

2 A. Okay.

3 Q. And you can press it right up against the screen
and it'll

4 make a mark on the screen.

5 A. Yes.

6 Q. Would you circle the drawer where Mr. Nichols kept
his

7 coins in the kitchen. Make a circle around it. Okay.

8 A. Okay.

9 Q. It isn't helping with me moving that, is it?

10 MR. RYAN: Now, may I approach the witness,
your

11 Honor?

12 THE COURT: Yes.

13 BY MR. RYAN:

14 Q. Placing before you Government's Exhibit 1875. Do
you

15 recognize that?

16 A. Yes.

17 Q. These are gold coins similar to the ones that you
had --

18 Mr. Nichols had in the home?

19 A. Yes.

20 Q. And were these the same type of coins that you and
21 Mr. McVeigh had sold for cash at Equity Numismatics in
Wichita

22 before you left for the Philippines?

23 A. I'm not sure all of it would be Maple Leafs.

24 Q. The two I showed you here as Government's Exhibit
1875 are

25 gold Maple leafs; correct?

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Marife Nichols - Cross

1 A. Yes.

2 Q. Now, let me show you what has been marked as
Government's

3 Exhibit No. 62. Would you press the -- on the side of
your pen

4 there, there's a button on the side. Very good. Can
you see

5 Government's Exhibit 62?

6 A. Yes.

7 Q. And can you see the marks, the circular marks on

8 Government's Exhibit 62?

9 A. This one?

10 Q. Yes. And then the one above it. Do you see the
two

11 circular marks?

12 A. Yes.

13 Q. And can you see that those marks -- that something
left an

14 impression like a coin on those marks?

15 A. Yes.

beside 16 Q. And would you agree with me if I placed these coins
17 the marks on Exhibit 62 that they are of the same size
mark as 18 would be left by the gold Maple Leaf coins?

19 A. I assume it's the same size.

told us 20 Q. Now, as I recall from your testimony yesterday, you
21 that Tim McVeigh had never been in the home in
Herington.

22 A. That's right.

Exhibit 23 Q. And so if these coins and this receipt, Government
24 62, came from that kitchen drawer that you -- that you
25 indicated to us a moment ago, Tim McVeigh did not put
them

13975

Marife Nichols - Cross

1 there?

the 2 A. I don't know. I didn't know that that thing is in
3 drawer. I've known that there's gold in the drawer,
but I have 4 no idea if there's any receipt or something in there.

5 Q. But Tim McVeigh had never been there?

6 A. To my knowledge.

Terry 7 Q. To your knowledge, of course. To your knowledge.

8 Nichols had never told you that he had been there?

9 A. That's right.

10 Q. And you had not seen him in some seven months?

11 A. That's right.

12 Q. Now, you note the -- the name on this receipt dated
13 September 30 of 1994 is Mike Havens. Do you see that?

14 A. Yes.

15 Q. Now, is that a name that you know Terry Nichols
used as an

16 alias, "Havens"?

17 A. I couldn't tell if I have known that before or I
just

18 recently known that today. I mean, nowadays.

19 Q. You and Mr. Nichols have checked into motels in the
past,

20 have you not?

21 A. Yes.

22 Q. And what names did Mr. Nichols use when he checked
in mo --

23 in at motels with you?

24 A. I don't know.

25 Q. Where --

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Marife Nichols - Cross

1 A. I mean, most of the time when we check in in the
hotel,

lady 2 he's the one that come into some office or talk to some
3 where you pay, and I just stay in the truck.
4 Q. And he's never told you what name he used?
5 A. He's never told me. I never asked him.
6 Q. Excuse me?
7 A. He never told me. I never asked him.
8 Q. Let me show you what's been received in evidence as
9 registration Government's Exhibit No. 83. Can you see this
10 card in the name of "Terry Havens"?
11 A. Yes.
12 Q. Did Mr. Nichols ever tell you that he checked into
the
13 "Terry Starlite Motel on October 16, 1994, using the name of
14 Havens"?
15 A. I'm sorry. I have no idea on that time. I should
be in
16 Philippines.
17 Q. And the same would be true if I asked you about him
staying
18 at the Buckaroo Motel in October of 1994, you would
have no
19 knowledge of him using the "Havens" name at that time,
either?
20 A. No.
21 Q. You told us yesterday that you twice left for the
22 Philippines in 1994; is that correct?

23 A. That's correct.

24 Q. Once in approximately February of '94?

25 A. Yes.

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Marife Nichols - Cross

1 Q. And then once again in about September of 1994?

2 A. That's right.

3 Q. Did Mr. Nichols tell you that on both of those
occasions

4 after you left to Philippines, that he went immediately
to

5 Kingman, Arizona?

6 A. I don't remember.

7 Q. Let me place before you -- we can do this on the
ELMO. I

8 think it might be easier -- Exhibit 88. Government's
Exhibit

9 88.

10 MR. RYAN: Will you zoom that, please.

11 BY MR. RYAN:

12 Q. Now, can you see that on your screen, Government's
Exhibit

13 88?

14 A. Yes.

15 Q. Have you ever seen this lease agreement before?

16 A. No. I don't.

17 Q. Do you see the date, September 22, 1994?

18 A. Yes.

19 Q. That was the very day that you left for the
Philippines, as

20 I recall your testimony.

21 A. Yes.

22 Q. And do you see the address there? Route 2, Box 83?

23 A. Yes.

24 Q. Whose address is that?

25 A. That's the address that we live in in Marion,
Kansas.

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Marife Nichols - Cross

1 Q. Now, there's been a stipulation that you would have
no

2 reason to know about that the handwriting on this
document is

3 that of Tim McVeigh's. Can you recognize it as such?

4 A. No.

5 Q. Has Terry Nichols ever used this same last name as
an

6 alias, "Rivers"?

7 A. I don't remember.

8 Q. Do you recall that the address he used at Mail
Boxes Etcff

9 in Manhattan, Kansas, was 1228 Westloop, 197?

10 A. Yes.

11 Q. Let me show you on the ELMO Government's Exhibit
1957. See

12 "Joe Rivers" at that same address?

13 A. Yes.

14 Q. And that's the address that Terry Nichols used for
a mail

15 drop during 1994.

16 A. I guess so.

17 Q. Well, do you know that?

18 A. I don't remember. I might have.

19 Q. Where did you write him when you were in the
Philippines in

20 1994?

21 A. I might have wrote the same address, but I don't
remember

22 using "Joe Rivers."

23 Q. But do you recognize that as a name that Mr.
Nichols has

24 used, "Rivers"?

25 A. No.

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Marife Nichols - Cross

Terry

1 Q. Did you tell the FBI on April 29 that you knew that

2 Nichols had used the name "Joe Rivers"?

3 A. I might have said that.

Exhibit 4 Q. Now, this shed that I showed you the lease on,

5 88 --

6 MR. RYAN: Could we have that again, please.

7 BY MR. RYAN:

8 Q. Do you see the name, "The Mini Storage, Herington
9 Industrial Park, Herington, Kansas"?

10 A. Yes.

11 Q. Do you know where that is?

12 A. I don't.

13 Q. Let me show you on the ELMO what has been received
in
14 evidence as Exhibit No. 97. Do you see where it places
your
15 home there in Herington, Kansas?

16 A. Yes.

17 Q. And do you see over here in the top right-hand
corner where
18 it states "Herington Industrial Park"?

19 A. Yes.

20 Q. Can you tell the jury approximately how far that is
from
21 your home?

22 A. I don't know. 30 minutes' drive.

23 Q. How many -- do you know how big Herington is?

24 A. Pardon?

25 Q. Would you not agree with me this is about a mile or
2 from

13980

Marife Nichols - Cross

1 your home in Herington?

how to

2 A. Might be. I'm not an expert to that. I don't know

3 drive.

4 Q. Did Mr. Nichols not teach you how to drive?

5 A. He did.

6 Q. Well, do you drive?

assume I

7 A. I know -- I don't have a driver's license, but I

8 know how to drive, but . . .

9 Q. Let me show you what's been received in evidence as
10 Government's Exhibit 107A.

11 A. Okay.

Grove

12 Q. It's a receipt for a Storage Unit No. 40 in Council
13 under the name of "Joe Kyle"?

14 A. Yes.

15 Q. Have you seen this document before?

16 A. No.

your

17 Q. Do you recognize the name "Joe Kyle" as a name that
18 husband, Terry Nichols, has used?

19 A. I cannot remember which one he used in -- in the
gun shows,

20 so all this aliases -- it sounds familiar to me.

21 Q. Did you ever know that Terry Nichols had rented two
storage

22 sheds in Council Grove, Kansas?

23 A. No. I did not.

24 Q. Have you ever seen Terry Nichols with a wig?

25 A. No.

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Marife Nichols - Cross

1 Q. Or owning a wig?

2 A. No.

3 Q. Have you ever seen Terry Nichols with theatrical
makeup?

4 A. What?

5 Q. With makeup. With a makeup kit.

6 A. Okay.

7 Q. Like cosmetics?

8 A. He's using it?

9 Q. Yes.

10 A. No.

11 Q. Have you ever seen Terry Nichols with a black face
mask?

12 A. No.

13 Q. Let me show you what is Government's Exhibit 1549.
Excuse

14 me. Defense Exhibit 1549. Do you see that exhibit?

15 A. Yes.

16 Q. Have you ever seen Terry Nichols with that face
mask?

17 A. No.

18 Q. Or owning that face mask?

19 A. Oh, I'm sorry. He might have used it in Michigan
when he

20 was in the farm or -- I don't know. It might not be
black, but

21 I remember we were riding the lawnmower -- not the
lawnmower --

22 snowmobile.

23 Q. Did he have a black, full-length face mask at any
time that

24 you knew him?

25 A. I don't remember, but I assume -- we would use it
for

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Marife Nichols - Cross

1 winter or something.

2 Q. No. I'm not asking you to assume anything. I'm
wanting to

3 know if you'd ever seen a black face mask on Terry
Nichols.

4 A. I don't remember.

5 Q. I'll place on the -- on your screen there
Government's

6 Exhibit 1871. Can you see that?

7 A. Yes.

8 Q. Did you ever see this key in the Herington home in
9 Herington, Kansas, at any time?

10 A. I don't remember.

11 Q. Did you ever see any plastic barrels in the garage
at the
12 home in Herington, Kansas?

13 A. Yes, I did.

14 Q. You did. When did you see that?

15 A. When I was -- when we were living in there.

16 Q. Did Terry Nichols ever have a bank account?

17 A. Not to my knowledge.

18 Q. Ever have a -- have a safety-deposit box that you
were
19 aware of?

20 A. Not that I've known.

21 Q. When you saw this key, did you ask Mr. Nichols,
"What is
22 this?"

23 A. I -- I don't remember seeing this keys.

24 MR. WOODS: Your Honor, I object. She's
confused as
25 to the barrels and the keys.

1 MR. RYAN: I'm sorry. Let me rephrase. I
didn't

2 realize she was confused. Let me rephrase the
question.

3 BY MR. RYAN:

4 Q. A moment ago, I asked you had you seen this key
inside of a

5 plastic barrel at your home in Kansas.

6 A. I don't remember looking inside a plastic barrel.

7 Q. All right. So you've never seen this key before --

8 A. No. I do not.

9 Q. -- to your knowledge?

10 A. To my knowledge, I did not see it.

11 Q. But -- but in any event, Terry Nichols had no bank
account

12 and no safety-deposit box insofar as you knew?

13 A. That's right.

14 Q. Let me place before you on the screen Government's
Exhibit

15 1873. Had you ever seen this safety-deposit-box key
before?

16 A. No, I don't.

17 Q. Never saw it in the Herington home?

18 A. No.

19 Q. Or in any other home that you and Mr. Nichols had
lived in?

20 A. That's right.

21 Q. Let me show you what's been marked as Government's
Exhibit

22 1771, which is the second of eight photographs in that
exhibit.

23 Can you see the screen?

24 A. Yes.

25 Q. Do you recognize the quilt on the bed?

13984

Marife Nichols - Cross

1 A. Yes.

2 Q. This is a bed in the front bedroom of your home in
3 Herington?

4 A. Yes.

5 Q. Prior to going to the Philippines, had you ever
seen this
6 quilt?

7 A. I don't think so.

8 Q. But it was on your bed in Herington at the time you
went to
9 the police station on April 21st?

10 A. That's right.

11 Q. Did you have any matching pillowcases?

12 A. Yes.

13 Q. You did?

14 A. Well, I don't know. I don't think so.

15 Q. Do you have any recollection of ever purchasing
this quilt?

16 A. No.

17 Q. Let me show you what's been marked as Government's
Exhibit
18 113. Will you zoom it, please. Have you ever heard of
Boots
19 U-Store-It in Council Grove?
20 A. No.
21 Q. Or Unit No. 37?
22 A. No.
23 Q. Do you see the name "Ted Parker"?
24 A. Yes.
25 Q. And the date of the lease is -- as November 7,
1994?

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Marife Nichols - Cross

1 A. Yes.

2 Q. Did Mr. Nichols, insofar as you know, ever use the
alias
3 "Ted Parker"?
4 A. As far as I know, yes.
5 Q. And when do you know him to have used that alias?
6 A. Somewhere in a gun show.
7 Q. Now, yesterday, you told us that you had sold on
occasion
8 or two some ammonium nitrate in a bottle.
9 A. Yes.

10 Q. Or container.

11 A. Plastic bottle.

12 Q. Had this ammonium nitrate been ground, or was it in
the

13 prill form?

14 A. Some of it is been ground and some is in prill
form.

15 Q. On -- did you ever see more than two bags of
ammonium

16 nitrate in the home in Herington?

17 A. I don't remember.

18 Q. Well, what's the most number of bags that you do
remember?

19 A. Just two inside the house.

20 Q. Did you ever see any more than two inside the
house,

21 outside the house, in the garage, in the shed, in the
basement,

22 anywhere on the property?

23 A. I don't remember.

24 Q. Certainly never saw 40 bags?

25 A. That would make -- that would make me remember, if
I saw 40

13986

Marife Nichols - Cross

1 bags.

2 Q. And you did not?

3 A. No, I did not.

4 Q. Now, you saw Mr. Nichols grinding ammonium nitrate?

5 A. Yes. In our kitchen.

6 Q. On two occasions?

7 A. Yes.

8 Q. And he was doing it with a small kitchen mixer; is
that
9 true?

10 A. That's true.

11 Q. You never saw him using a larger mixer other than
the one
12 that you had there in the kitchen?

13 A. That's right.

14 Q. And did you call the -- did you label this bottle
or did he
15 label this bottle of this ammonium nitrate?

16 A. I think he did, because I don't remember labeling
it.

17 Q. This exhibit is not in evidence, so let me just
show it to

18 you on the ELM0. It's Exhibit 2025. Excuse me. I --
I stand
19 corrected. This is in evidence so -- do you recognize
this,

20 Mrs. Nichols?

21 A. Yes.

22 Q. This is the label that Mr. Nichols placed around
the small
23 bottles of ammonium nitrate?

24 A. Yes.

25 Q. Do you see the name down here, Ground Zero Impact?

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Marife Nichols - Cross

1 A. Yes.

2 Q. Is that the name that he gave this product?

3 A. I guess so. It's on the label.

4 Q. And this is the address in Manhattan, Kansas?

5 A. Yes.

6 Q. This 1228 Westloop, 197?

7 A. Yes.

8 Q. Which Mr. Nichols picked up his mail?

9 A. Yes.

10 Q. Now, you told us yesterday that you attended a gun
show in

11 Grand Rapids, Michigan, I believe, in the first week of
April

12 of 1995.

13 A. Yes.

14 Q. So it would have been about a week and a half
before the

15 Oklahoma City bombing?

16 A. Yes.

17 Q. And did you stay at a Motel 6 in Grand Rapids?

18 A. Yes.

what's
recall
into

19 Q. Let me -- this is not in evidence. Let me show you
20 been marked as Government's Exhibit 2145. Do you
21 arriving at the Motel 6 on April 8?
22 A. Yes.
23 Q. And departing on April 9th?
24 A. Yes.
25 Q. Do you -- were you present when Mr. Nichols checked

13988

Marife Nichols - Cross

1 the motel?
2 A. I was with him in the truck.
3 Q. Did -- you did not go into the -- watch him fill
out the
4 card?
5 A. I don't remember. I don't think so.
6 MR. RYAN: Your Honor, the Government would
offer
7 Exhibit 2145 pursuant --
8 MR. WOODS: No objection, your Honor.
9 THE COURT: 2145 received. May be shown.
10 BY MR. RYAN:
11 Q. This indicates, as you already told us, Mrs.
Nichols, that
12 you checked into the motel on April 8th and checked out

on

13 April 9th.

14 A. Yes.

Van Dyke

15 Q. And the address that was used here was 3616 North
16 Road, Decker, Michigan?

17 A. Yes.

18 Q. And what address is that?

19 A. That's the address of James Nichols.

used that

20 Q. Did Mr. Nichols -- Terry Nichols tell you why he
21 address as opposed to your address in Kansas?

asking him.

22 A. I don't think he told me, and I don't remember

you

23 Q. During this gun show in Grand Rapids, Michigan, did
24 meet a man by the name of Paulsen?

remember

25 A. I met lots of people there. I don't -- I don't

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Marife Nichols - Cross

1 the name.

someone

2 Q. Have you -- have you said in the past that you met
3 by the name of Paulsen?

4 A. Paulsen. No.

5 Q. A gun dealer in Michigan?

6 A. No.

Honor, we

7 MR. RYAN: Government's Exhibit 2146. Your

8 would offer Government's Exhibit 2146 as a motel record
from

9 Motel 6.

10 MR. WOODS: Object to relevancy, your Honor.

11 THE COURT: Well, is that the only -- yeah.

12 Sustained.

13 BY MR. RYAN:

14 Q. Ms. Nichols, let me show you what's been received
in

15 evidence as Exhibit 2086.

16 A. Okay.

17 Q. Do you recognize this as a floor plan of your home
in

18 Herington, the main floor?

19 A. Yes.

20 Q. And would you take your pen and show the jury where
the

21 telephone was.

22 A. Over here.

23 Q. Just make a little circle or mark or X of some
type.

24 And where -- now, would you go to the bedroom
where

25 you and Mr. Nichols slept.

Marife Nichols - Cross

1 And then where did Nicole sleep?

2 A. Nicole sleep with me all the time.

3 Q. And no one slept in that other bedroom next to
yours unless

4 Josh was in town?

5 A. Yes.

6 Q. Now, did the phone -- did you have just but the one
phone

7 there in the home?

8 A. Yes.

9 Q. Were there occasions when the phone would ring and
it would

10 wake Nicole up?

11 A. No.

12 Q. Were there times where the phone would ring and
wake you

13 up?

14 A. Yes.

15 Q. Did you have an answering machine on that
telephone?

16 A. No.

17 Q. Now, you've told us yesterday that you had not seen
or

18 heard from Mr. McVeigh in 7 months.

19 A. That's right.

20 Q. Let me show you Government's Exhibit 1888 for April

11.

Nichols, 21 Would you hit the side of your pen there again, Mrs.

22 and erase those marks.

23 A. Oh. Okay.

was 24 Q. Did Terry Nichols ever tell you that Tim McVeigh

25 staying in the Imperial Motel in Kingman, Arizona?

13991

Marife Nichols - Cross

1 A. No.

2 Q. Do you know where the Food for Less pay phone is in
3 Manhattan, Kansas, the last call there on the sheet?

but I 4 A. I'm -- Manhattan, Kansas. I might have been there,

5 don't know this Manhattan. I've forgotten.

6 Q. Did Terry Nichols ever tell you that he called the
7 residence of Michael Fortier on April 11, 1995?

8 A. I don't remember.

date? 9 Q. Well, let's turn to April 13. Do you recall that

10 That was Thursday.

11 A. Yes.

12 Q. And you -- you have a diary, do you not --

13 A. Yes.

14 Q. -- that you created?

15 A. Yes.

16 Q. Would it help you if I provided that to you?

17 A. That would help me, yes.

counsel

18 MR. WOODS: Your Honor, we would request that

it. And

19 clarify what the diary is before we start going into

20 we certainly have no objection to its use.

21 THE COURT: To its use. All right.

your

22 MR. RYAN: This is Defendant's Exhibit 1329,

23 Honor, I'm handing to Mrs. Nichols.

24 THE WITNESS: Thank you.

clarifying

25 THE COURT: All right. But I don't know --

13992

Marife Nichols - Cross

You

1 it, I suppose the witness could clarify what it is.

2 referred to it as a diary --

3 MR. RYAN: I'm going to.

4 THE COURT: -- and let her describe --

5 MR. RYAN: I will, your Honor.

6 MR. WOODS: Thank you.

7 BY MR. RYAN:

8 Q. Mrs. Nichols, what is Exhibit 1329?

9 A. It's my notes that I made when I was at the FBI
custody.

10 Q. And would it help you in recalling events and
refresh your

11 recollection if you were allowed to refer to your
diary?

12 A. That's right.

13 THE COURT: Well, she isn't calling it a diary
now.

14 MR. RYAN: Your notes.

15 THE COURT: Let's just make clear what it is
here.

16 Did you make these notes during the time the FBI was
with you

17 that you already talked about?

18 THE WITNESS: Yes, your Honor.

19 THE COURT: All right.

20 MR. RYAN: I'll call them notes then.

21 THE COURT: I think that would be more
appropriate.

22 MR. RYAN: All right.

23 BY MR. RYAN:

24 Q. Now, would you turn to April 13, and feel free to
look at

25 that and not read from it in terms of your testimony,
but if it

1 helps you refresh your recollection of what you did
that day,
2 then look over it. And then what we're wanting to hear
from
3 you with respect to the questions I'm going to go
through with
4 you is your own recollection.

5 A. Okay.

6 Q. Okay?

7 A. Thank you.

8 Q. On April 13, would you tell us to the best of your
9 recollection what you and Mr. Nichols did that day.

10 A. Me and Terry went to buy a bed with Josh and
Nicole.

11 Q. I'm sorry. You did what?

12 A. We went to buy -- we purchased this bed to some
couple in
13 Fort Riley. And I think we did make two trips on that
because

14 it doesn't fit all in the truck.

15 Q. Was Mr. Nichols with you all day?

16 A. Not all day. Because the second trip, I decided to
stay
17 home with Nicole and Josh, and Terry went to get the
rest of

18 it.

19 Q. And about how long was he gone?

20 A. About -- let's see. More than half an hour.

21 Q. Was he ever gone from you that day, on April 13,

for more

22 than an hour?

23 A. I don't think so.

24 Q. Let me show you what has been received in evidence
as

25 Exhibit 265B, which is a receipt from Wal-Mart in
Arkansas City

13994

Marife Nichols - Cross

1 showing a date of April 13.

2 A. April 13.

3 Q. Do you see that date?

4 A. Yes. Yes. This is in Arkansas?

5 Q. Arkansas City, which is approximately 175 miles or
so from

6 Herington.

7 A. Okay.

8 Q. Mr. Nichols did not have -- you did not go to
Arkansas City

9 on April 13 to buy an oil filter, did you?

10 A. No.

11 Q. And neither did Terry Nichols?

12 A. I assume he never went there. He's -- he's not
that far

13 gone.

14 Q. Now, do you recall Friday, April 14?

15 A. Yes.

16 Q. What do you recall about that day?

17 A. Terry was gone, but I cannot remember where was he
going.

18 He might have went to the sealed bid. Josh was with
us.

14. Do 19 Q. Let me show you Government Exhibit 1888 for April

20 you see the first call that is set forth in this
exhibit?

21 A. The first call. Yes.

22 Q. A call that was at 9:51 a.m.?

23 A. Yes.

24 Q. From the J & K Bus Depot phone in Junction City,
Kansas?

25 A. Yes.

13995

Marife Nichols - Cross

1 Q. Do you see that?

2 A. Yes.

3 Q. It shows a call to Terry Nichols and it gives a
phone

4 number.

5 A. Yes.

6 Q. Do you see that? Is that the correct phone number
for

7 where you and Mr. Nichols -- where -- you and Mr.
Nichols' home

8 in Herington, Kansas, in April of 1995?

9 A. I guess so.

10 Q. Excuse me?

11 A. I think so.

12 Q. Did Mr. Nichols ever tell you that Tim McVeigh had
called

13 him on April 14 from the J & K Bus Depot?

14 A. No.

15 Q. Did Mr. Nichols tell you that Mr. McVeigh was in
central

16 Kansas on April 14th, 1995?

17 A. No.

18 Q. If Mr. McVeigh had been in town, in Herington or
Junction

19 City, you would have expected him to stay with you?

20 A. Yes.

21 Q. Because it would be the customary practice that you
and

22 Mr. Nichols had developed over the years with Mr.
McVeigh for

23 him to stay with you?

24 A. Yes.

25 Q. Now, you do recall that he had been gone sometime
that

13996

Marife Nichols - Cross

1 morning or that day --

2 THE COURT: Are you asking that --

3 BY MR. RYAN:

4 Q. -- or not?

5 MR. RYAN: Excuse me. Let me rephrase my
question,

6 your Honor.

7 BY MR. RYAN:

8 Q. Do you recall that at some point during the day of
9 April 14, 1995, that Mr. Nichols was gone from the
home?

10 A. Yes.

11 Q. And do you know where he was?

12 A. I don't remember.

13 Q. Did he tell you where he went?

14 A. I forgot.

15 Q. Now, let's turn, if we could, to April 15. Can you
tell us

16 approximately what time you got up that morning?

17 A. Somewhere at 8 or 9.

18 Q. When you got up, was Mr. Nichols home?

19 A. Yes.

20 Q. Did you tell the FBI on May 1 that Mr. Nichols was
not home

21 when you got up on April 15th?

22 A. I don't remember.

23 Q. Did you tell them that he was gone and had left no
note?

24 A. On that date?

25 Q. Yes, ma'am.

13997

Marife Nichols - Cross

1 A. I don't remember.

Nichols

2 Q. Do you recall that later that day that you and Mr.

3 traveled to Junction City?

4 A. Yes.

5 Q. And do you remember that you went to the Conoco --

6 A. Gas station --

7 Q. -- gas station to get gas for the pickup?

8 A. Yes.

that

9 Q. And do you recall after going to the Conoco station

at Mail

10 you went to Manhattan for Mr. Nichols to get his mail

11 Boxes Etcff?

12 A. Yes.

13 Q. And you remember this being in the afternoon?

14 A. Yes.

Mail

15 Q. And do you remember that Mr. Nichols went into the

16 Boxes Etcff by himself?

17 A. Yes.

18 Q. You did not go?
19 A. Yes. I did not go.
20 Q. And when he came back to the vehicle, what did he
tell you
21 about the mail?
22 A. I don't think I asked him about the mail.
23 Q. Isn't it true that he told you that he had no mail
except
24 for one piece of junk mail?
25 A. I don't remember.

13998

Marife Nichols - Cross

Do you
1 Q. After that, you went to Kinko's for business cards.
2 recall that?
3 A. Yes.
4 Q. On April 15th?
5 A. Yes.
6 Q. And then after that, you went to the Wal-Mart there
in
7 Manhattan?
8 A. Yes. On the way home.
9 Q. Excuse me?
10 A. On the way home.
11 Q. Let me show you what has been received in evidence
as --

12 A. Okay.

13 Q. -- Government's Exhibit 2000. Can you see that, or
do you

14 need me to zoom it a little closer?

15 A. Yeah. A little closer, please. That's good.

16 Q. Do you see the date here at the bottom of April 15,
1995?

17 A. Yes.

18 Q. Is that the date that you went to the Wal-Mart's in
19 Manhattan?

20 A. Yes.

21 Q. And do you see the time there of 1440, which I
believe is

22 military time for about 2:40 in the afternoon?

23 A. Yes.

24 Q. Does that coincide with your recollection of when
you went

25 to that Wal-Mart?

13999

Marife Nichols - Cross

1 A. Yes.

2 Q. Do you see here at the top, it shows the Manhattan,
Kansas,

3 Wal-Mart store?

4 A. Yes.

5 Q. And so the items here that we've listed that are
listed

that day 6 here on Exhibit 2000 are the items that you purchased

7 at Wal-Mart?

8 A. Yes.

Mart 9 Q. Now, do you recall that while you were at that Wal-

filter? 10 that day, that Mr. Nichols went in to return an oil

11 A. Yes.

when he 12 Q. And you recall telling the FBI that you had no idea

13 had purchased this oil filter?

14 A. That's right.

filter, he 15 Q. And after he went in to get a refund on the oil

16 came out, having forgotten to get the refund?

17 A. Yes.

that? 18 Q. And then you traveled over to Junction City after

19 A. Okay. What was the last question?

20 Q. Yes.

21 A. We come out and then he remember.

the 22 Q. Yes. Let me go back over it. After he came out of

after 23 Manhattan, Kansas, Wal-Mart and Mr. Nichols came out

to get 24 having taken the oil filter in and came out, he forgot

25 his receipt?

14000

Marife Nichols - Cross

1 A. Yes.

2 Q. Do you remember that?

3 A. We were already driving on the way.

4 Q. Right. And did you drive over to Junction City and
go to
5 another Wal-Mart over there?

6 THE COURT: Just a minute. You said he forgot
to get
7 the receipt? Is that what you meant?

8 MR. RYAN: I'm sorry, your Honor. The refund.

9 BY MR. RYAN:

10 Q. Forgot to get the refund at the Wal-Mart there in
11 Manhattan?

12 A. Yes.

13 Q. And he remembered that after he had gotten in the
car and
14 had started driving to Junction City; is that correct?

15 A. Yes.

16 Q. All right. When you got to Junction City, did you
go to
17 another Wal-Mart?

18 A. He did. We just stayed in the parking lot.

19 Q. And the purpose of him going in was to get his
refund?

20 A. Yes.

21 Q. And did he get his refund that day?

22 A. I don't think so.

23 Q. He came out and did he tell you the lines were too
long?

24 A. Yes.

25 Q. Did you have any idea on April 15th where Mr.
Nichols had

14001

Marife Nichols - Cross

1 obtained this receipt for an oil filter?

2 A. No. I don't.

3 Q. Now, when you -- do you remember coming home later
that

4 day?

5 A. Yes.

6 Q. Do you remember finding a letter from Tim McVeigh
to Terry

7 Nichols?

8 A. I don't remember. I know in that period of time
that I

9 found a letter, but I don't remember the dates.

10 Q. But you remember that it was written in some type
of secret

11 code that was hard for you to understand?

12 A. Okay. I would not put it in a secret code because
when

13 people put terms and stuff like that in English, I just
don't

14 understand most of it.

15 Q. What are the two phrases that you recall from that
letter?

16 A. There's a word sec -- what was it? "Second half."

17 Q. Do you recall the words, quote, "shake and bake,"
end of

18 quote?

19 A. Yes.

20 Q. That was in the letter from Tim McVeigh to Terry
Nichols?

21 A. Yes.

22 Q. Do you recall the words, quote, "needed an excuse
for your

23 second half"?

24 A. Yes.

25 Q. End of quote?

14002

Marife Nichols - Cross

1 A. Yes.

2 Q. Those were the two phrases that you recall from
this

3 letter?

4 A. That I don't understand.

5 Q. I understand. But these -- these are the two
phrases that

6 you recalled from this letter that you saw the week
before the
7 Oklahoma City bombing?
8 A. That's right.
9 Q. Now, on April 16th, you told us that you went to
church?
10 A. Yes.
11 Q. That's a Sunday. This is Easter Sunday?
12 A. Easter Sunday.
13 Q. Now --
14 A. Yes.
15 Q. -- had you ever been to -- did you go to church in
16 Herington?
17 A. We passed by there, but never go in there on Sunday
mass.
18 Q. Had you ever been to the church in Herington?
19 A. No.
20 Q. You went to -- you went by the church in Herington
and
21 didn't go in?
22 A. That's right.
23 Q. Because you went to another church?
24 A. Well, the Herington church wasn't open on that
date.
25 Q. So did you go to another church?

Marife Nichols – Cross

1 A. Yes.

2 Q. Where was that?

3 A. Somewhere in Junction City.

4 Q. Had you ever been to that church before?

5 A. No.

6 Q. When you came home that evening -- or excuse me.
Not that

7 evening. But after church that day to fix Easter
dinner -- is

8 that what you said?

9 A. That's right.

10 Q. Is it true that you were expecting Tim McVeigh to
come by

11 Herington for Easter dinner that day?

12 A. I was expecting Tim McVeigh to stop by somewhere in
that

13 weeks because Terry had told me that he picked up --
and Josh

14 had told me that he already picked up the TV set in Las
Vegas.

15 Q. On the subject of the -- of the television set, was
that

16 something that you wanted to have, the TV set?

17 A. Yes.

18 Q. Is that something that was your idea to insist upon
getting

19 the TV set from Las Vegas to Kansas?

20 A. No. I asked Terry if we can get a TV. I didn't
insist

21 that he could get the TV in Las Vegas.
22 Q. I understand. But you were -- you were the one who
said,
23 "We need a TV here in Kansas"?
24 A. That's right.
25 Q. Okay. Now, did you cook extra food on Easter
because Tim

14004

Marife Nichols - Cross

1 McVeigh might come by that day?
2 A. I was guessing, yes.
3 Q. And did you cook extra food?
4 A. That's right.
5 Q. And I think you told us yesterday that you sat down
to eat
6 around 3:00 or so?
7 A. Yes. Somewhere in there.
8 Q. And while you were seated at the table, your meal
was
9 interrupted?
10 A. Yes.
11 Q. By a telephone call?
12 A. Yes.
13 Q. Let me show you Exhibit 1888 for April 16th. Can
you see
14 that?

15 A. Yes.

16 Q. Do you see the time of the call there is 3:08 in
the

17 afternoon?

18 A. Yes.

19 Q. That call is about 3 minutes? Do you see that?

20 A. Yes.

21 Q. Is that about the length of the call that Mr.
Nichols had

22 with Mr. McVeigh that afternoon?

23 A. I think so.

24 Q. Now, do you know where Tim's Amoco pay phone is?

25 A. It's in Herington. It says here.

14005

Marife Nichols - Cross

1 Q. Let me show you Exhibit No. 97. Do you see this
exhibit?

2 A. Yes.

3 Q. Do you see where it says "Tim's Amoco" at the
bottom

4 right-hand corner?

5 A. Yes.

6 Q. Had you been to that gas station before?

7 A. I think we passed by there most of the time.

8 Q. It's seven or eight blocks from your house?

9 A. Yes.

10 Q. Did you know Mr. McVeigh was in Herington, Kansas,
at the
11 time of the call on Easter Sunday?

12 A. No, I don't.

13 Q. Did Mr. Nichols ever tell you that?

14 A. No.

15 Q. Now, I think you told us yesterday that Mr. Nichols
left
16 10, 15 minutes or so after that phone call?

17 A. Yes.

18 Q. And what did he tell you when he left?

19 A. He needs to go and help Tim in Omaha.

20 Q. Because he was having --

21 A. And pick up the TV, too.

22 Q. Because he was having car troubles?

23 A. Yes.

24 Q. You know now that that was not true?

25 A. That's right.

14006

Marife Nichols - Cross

1 Q. It wasn't true that Tim was in Omaha?

2 A. That's right.

3 Q. And it wasn't true that Tim was having car
troubles?

4 A. Oh, I don't know that.

5 Q. Now, you knew, did you not, that Mr. McVeigh was
traveling

6 from Kingman, Arizona, to New York?

7 A. That's what I heard from Terry.

8 Q. Now, I know you were born in the Philippines and
have spent

9 most of your life there; correct?

10 A. That's right.

11 Q. But you know a little bit about the geography of
the United

12 States?

13 A. Yes.

14 Q. And you know that Omaha, Nebraska, is not on the
way from

15 Kingman, Arizona, to New York?

16 A. That's right.

17 Q. And that troubled you, didn't it?

18 A. That's right.

19 Q. It concerned you to the extent that you called your
mom

20 that evening in the Philippines?

21 A. That's not the reason that I called my mom,
but . . .

22 Q. You did call her?

23 A. I did mention that to her.

24 Q. And you told her that night that it didn't make
sense that

25 Terry was going to Omaha to meet Tim McVeigh?

14007

Marife Nichols - Cross

when it's
he's

1 A. It did not make sense for Tim to go up in Omaha
2 not on his way, but maybe he has friends there that
3 stopping by.
4 Q. Now, Josh was present; correct?
5 A. That's right.
6 Q. At the home there that Easter Sunday?
7 A. That's right.
8 Q. And Josh was about 12 or so at the time?
9 A. Yeah.
Josh in
10 Q. And as far as you know, Mr. Nichols had not seen
11 two or three months prior to that week --
12 A. Yes.
13 Q. -- when Josh came to visit there --
14 A. Yes.
telling
15 Q. -- just before Easter? And do you remember Josh
16 Mr. Nichols that he, Josh, wanted to go with his father
on the
17 trip to Omaha?
18 A. That's right.
19 Q. And what was said about that by Mr. Nichols?

20 A. He doesn't want Josh to go because -- what was the
--
21 there's not enough room and it's a long drive and -- I
don't --
22 he doesn't know what kind of trouble Tim is.
23 Q. He told Josh that there would not be room in the
pickup for
24 Josh, Tim McVeigh, and him and the television set?
25 A. Yes. And I understand that because I know
sometimes Josh

14008

Marife Nichols - Cross

1 is not that much patience.
2 Q. Well, let me show you on the ELMO what's been
received in
3 evidence as Exhibit 51. Do you recognize this vehicle?
4 A. Yes.
5 Q. That's Terry Nichols' vehicle; correct?
6 A. That's correct.
7 Q. With a camper shell on it.
8 A. Correct.
9 Q. There's certainly room in the back of the camper
shell for
10 a television set?
11 A. That's right.
12 Q. And the camper shell protects the television set
from the

13 elements and rain and all that?

14 A. That's right.

15 Q. Now, let me show you what has not been received in
evidence

16 as Exhibit 2129. Do you recognize that as the interior
of

17 Mr. Nichols' pickup?

18 A. That's right.

19 MR. RYAN: Your Honor, we would offer
Government's

20 Exhibit 2129.

21 MR. WOODS: No objection.

22 THE COURT: Received.

23 BY MR. RYAN:

24 Q. Now, for the benefit of the jury, this is the
inside of the

25 front bench of Mr. Nichols' pickup truck?

14009

Marife Nichols - Cross

1 A. Yes.

2 Q. We're not -- you know what bucket seats are;
correct?

3 A. Pardon?

4 Q. Do you know what bucket seats are? The term
"bucket

5 seats"?

6 A. No.

7 Q. This had one long bench all across the front of the
seat in

8 the pickup truck?

9 A. Okay.

10 Q. Is that right?

11 A. Yeah.

12 Q. And all week long, prior to Easter Sunday, you had
been

13 traveling in the vehicle with Mr. Nichols?

14 A. And Nicole and Josh.

15 Q. And Nicole's car seat?

16 A. No. Because we would not fit in.

17 Q. Okay. But the four of you had been traveling in
this

18 vehicle all week long?

19 A. Yes.

20 Q. But Mr. Nichols told Josh that day there was no
room for

21 him?

22 A. That's right.

23 Q. Now -- you --

24 A. But he also told he doesn't know what kind of
trouble Tim

25 McVeigh is in.

Marife Nichols - Cross

1 Q. Now, when you saw Mr. Nichols talking to Tim
McVeigh on the
2 telephone -- or did you see him talking to Tim McVeigh?
3 A. Yes.
4 Q. Did you see Mr. Nichols writing down any directions
or
5 where to go?
6 A. I don't remember.
7 Q. To your knowledge, had Terry Nichols ever been to
Omaha,
8 Nebraska?
9 A. I don't know.
10 Q. Did he leave that day, as far as you could tell,
that
11 Easter Sunday -- did he leave on his trip to Oklahoma
City
12 without any notes and without any directions as to how
or where
13 he would meet Mr. McVeigh?
14 A. I don't know. I did not ask him.
15 Q. And -- but you did not see any such notes?
16 A. That's right.
17 Q. And you never saw him scribbling down anything as
he was
18 talking to Mr. McVeigh for these 3 minutes?
19 A. No.
20 Q. Now, you told us yesterday that Mr. McVeigh --
excuse me --

Sunday 21 that Mr. Nichols did not return to Herington on Easter
22 evening?
23 A. That's right.
24 Q. You went to bed, you said, at 12:00 or so?
25 A. That's right.

14011

Marife Nichols - Cross

to 1 Q. And when you woke up the next morning, you did talk
2 Mr. Nichols?
3 A. Yes.
4 Q. He was there?
5 A. Yes.
received 6 Q. Let me show you what's been marked as Exhibit --
7 in evidence as Exhibit 1888 for April 17th. Before we
look at 8 that, did you expect Mr. McVeigh to come back to
Herington with 9 Mr. Nichols?
10 A. Yes.
11 Q. But he did not, as far as you knew?
12 A. Yes.
13 Q. Terry Nichols never told you he came back, that
14 Mr. McVeigh --

15 A. No.

16 Q. -- came back with him to Kansas?

17 A. No. He never told me, I never asked him.

18 Q. Did Mr. Nichols ever tell you that he had received
a

19 telephone call on Monday morning, April 17th, from Mr.
McVeigh

20 at approximately 9:00?

21 A. No.

22 Q. Did he tell you at any time that he had dropped Mr.
McVeigh

23 off at a closed McDonald's in Junction City with a
rucksack at

24 1 or 2:00 in the morning?

25 A. No.

14012

Marife Nichols - Cross

1 Q. Did he tell you at any time that Mr. McVeigh was
staying at

2 the Dreamland Motel?

3 A. No.

4 Q. Had Mr. Terry Nichols ever, prior to the week
before the

5 bombing, not told you the truth about his activities
with Tim

6 McVeigh?

7 A. Not to my knowledge.

drove to 8 Q. Now, that evening, I think you told us that you

9 the Kansas City airport with Mr. Nichols?

10 A. Yes.

11 Q. To drop Josh off?

12 A. Yes.

13 Q. Do you recall that Mr. Nichols was carrying a gun?

14 A. I don't -- I don't know.

Nichols 15 Q. Do you recall telling the jury yesterday that Mr.

16 made a telephone call from the pay phone?

17 A. In the airport.

18 Q. At the Kansas City airport.

19 A. Yes.

made 20 Q. And did Mr. Nichols tell you that the phone call he

21 was to Tim McVeigh?

22 A. No. I asked him. It was Lana because I was there.

Exhibit 23 Q. Do you see the second call here on the screen,

24 1888, for April 17?

25 A. Yes. Yes.

14013

Marife Nichols - Cross

Kansas 1 Q. Do you see a call from the airport telephone in

2 City?

3 A. Yes.

4 Q. To the Dreamland Motel?

5 A. Yes.

6 Q. Prior to this moment, were you aware of that fact?

7 A. No.

8 Q. Now, you got home late that evening.

9 A. Yes.

10 Q. I think you told us yesterday 2 or 3:00 in the
morning.

11 A. Yes.

12 Q. When you woke up on the morning of the 18th, Terry
Nichols

13 was gone; is that correct?

14 A. Yes.

15 Q. You didn't know where he'd gone?

16 A. I forgot right now. I forgot where he had gone.

17 Q. He didn't leave you a note?

18 A. No.

19 Q. That had been his practice, had it not, to leave
you a note

20 to tell you where he was going to be?

21 A. I don't remember. It would -- it's not an occasion
where

22 he would normally leave a note.

23 Q. Well, it was the first time you saw Terry --

24 A. I'm sorry.

Terry 25 Q. That's all right. When was the first time you saw

14014

Marife Nichols - Cross

1 Nichols on April 18th, as best you can recall?

2 A. At noon.

3 Q. And what happened at noon that day?

rent 4 A. I forgot. We went to -- we went to a store and

5 movies.

date 6 Q. I want to make sure you're together with me on the

7 here, Mrs. Nichols.

8 A. Yeah.

Is it 9 Q. I'm asking you about Tuesday, April 18th. Okay?

noon 10 still your recollection that you saw Mr. Nichols around

11 that day?

12 A. Yes.

that 13 Q. And that was the first time you had seen him on

14 occasion?

15 A. Yes.

lunch 16 Q. And did he later, after he came home -- did he have

17 that day at noon?

18 A. Yes.

19 Q. And do you recall that after he had lunch with you
that

20 morning -- I mean -- excuse me -- at noon that day,
that he

21 said he had to go to the DRMO for an auction?

22 A. Yes.

23 Q. Did you have any knowledge that Tim McVeigh and
Terry

24 Nichols were together on the morning of April 18th?

25 A. No.

14015

Marife Nichols - Cross

1 MR. WOODS: Your Honor, I would object if he's
reading

2 that from here. That's certainly not what's reflected.

3 MR. RYAN: I'm not reading anything, Mr.
Woods.

4 MR. WOODS: All right.

5 THE COURT: All right. Let's clarify it to
make sure

6 everybody -- the source of your question was not
reading from

7 this?

8 MR. RYAN: No, your Honor, it was not.

9 THE COURT: All right.

10 BY MR. RYAN:

Nichols 11 Q. Do you recall that later that afternoon, Mr.
12 watched a movie?
13 A. Yes.
14 Q. A video?
15 A. Yes.
16 Q. It was a video that Tim McVeigh had given him, was
it not?
17 A. I don't know. What --
18 Q. Do you recall that Mr. Nichols that afternoon
watched a
19 video about taxes that Tim McVeigh had given him?
20 A. I recall him watching that, but I forgot what date.
21 Q. And on April 19th, you know that is the day of the
Oklahoma
22 City bombing?
23 A. Yes.
24 Q. Terry Nichols, did he know how to make a bomb?
25 A. I don't know. I've seen him back in Michigan, but
I would

14016

Marife Nichols - Cross

1 not call this a bomb.
2 Q. Did you tell the "American Journal" when they
interviewed
3 you in Cebu that Terry Nichols knew how to make a bomb?
4 A. I don't think so.

to make 5 Q. Did you tell them that he had even taught Josh how

6 a bomb?

7 A. I don't remember that.

that you 8 Q. Were you concerned -- did you tell Raymond Boyd

explosives? 9 were concerned about Mr. Nichols and his use of

10 A. I don't remember that.

11 Q. Raymond Boyd is your good friend?

12 A. Yes.

after the 13 Q. On April 20th -- do you recall that day, the day

14 Oklahoma City bombing?

15 A. Yes.

knowledge of 16 Q. As of the morning of April 20th, you had no

17 the Oklahoma City bombing; that's what you --

18 A. That's right.

anything 19 Q. And Mr. Nichols did not tell you that he knew

morning? 20 about the Oklahoma City bombing, either, as of that

21 A. Somewhere that day, yeah.

22 Q. Later that day, he does?

23 A. Yeah.

belongings 24 Q. Yes. Did he -- did Mr. Nichols tell you that on
25 April 20th, he went to a storage shed and picked up

14017

Marife Nichols - Cross

1 of Mr. McVeigh?

2 A. On that day? No.

3 Q. Did he ever tell you that Mr. McVeigh had leased a
storage

4 shed in Herington?

5 A. No.

6 Q. Did you ever at any time see a key or combination
or any

7 indication of a storage shed in Herington?

8 A. No.

9 Q. You said later, Mr. Mc -- Mr. Nichols brought home
three

10 newspapers that -- that evening or late afternoon?

11 A. That evening, we did bought -- I mean, he bought
it. I

12 went with him.

13 Q. He bought three newspapers?

14 A. Yes.

15 Q. On that same day, did you wash the clothes, April
20th?

16 A. I forgot. I might have.

17 Q. Now, as of April 20th, that afternoon, and when you
read

18 these newspapers, you became aware of the bombing in
Oklahoma

19 City?

20 A. That's right.

21 Q. And after you became aware of it, did you call
anyone and

22 talk to them about it?

23 A. Who?

24 Q. Did you call anyone to talk to them about the
Oklahoma City

25 bombing?

14018

Marife Nichols - Cross

1 A. No.

2 Q. Did you call Raymond Boyd on April 21st?

3 A. I think I did.

4 Q. And did you call him twice on that day?

5 A. I don't recall calling him twice, but I did talk to
him.

6 Q. And sometime that day, I think you told us in the
7 afternoon, Mr. Nichols came home and told you he had
heard his

8 name mentioned on the radio?

9 A. Yes.

10 Q. And what did he do after that?

11 A. He told me that he's going to the police station.

12 Q. What did he do after that?

13 A. He was in and out of the house.

14 Q. Do you recall that he went into the garage?

15 A. Yes. And I went with him, too.

16 Q. And did you see a fuel meter spread on the floor of
the

17 garage?

18 A. I see something spread in the garage, but I don't
know if

19 that was a fuel meter.

20 Q. Did Terry Nichols say, "I have to do something
about that"?

21 A. Yes. Because he told me he's fixing it. I asked
him,

22 "What is that?"

23 And he said that he is fixing it, he had to do
24 something about it.

25 Q. But this is after receiving news of the Oklahoma
City

14019

Marife Nichols - Cross

1 bombing?

2 A. That's right.

3 Q. And after receiving news that his name had been
mentioned

4 in connection with the Oklahoma City bombing --

5 A. That's right.

6 Q. -- did you see him spreading ammonium nitrate on

the yard

7 after --

8 A. No.

9 Q. -- hearing his name on the radio?

10 A. No.

Terry

11 Q. Now, you say that you left the home that day with

12 Nichols?

13 A. Yes.

go to

14 Q. That he had given you some money and you agreed to

15 the police station?

16 A. I decided to go.

police

17 Q. And the direction he went, however, was not the

18 station, was it?

19 A. On that, I have no idea where's the police station,

20 so . . .

21 Q. Do you remember going to Surplus City?

22 A. Yes. I remember --

yesterday, I

23 Q. This is the junkyard you were telling us about

24 think.

25 A. I thought it was a junkyard.

14020

Marife Nichols - Cross

1 Q. All right. And do you recall that Terry Nichols
said as he

2 pulled into the parking lot there at Surplus City,
"There are

3 two black cars following us"?

4 A. Yes.

5 Q. And do you recall at that time, he turned the car
around

6 and went back in the other direction?

7 A. Yes.

8 Q. And you went to the police station?

9 A. Yes.

10 Q. And prior to entering the police station, he told
you

11 something?

12 A. What?

13 Q. He told you what he had been doing the Sunday three
days

14 before the bombing in Oklahoma City?

15 A. He told -- yes. He told me that he was lying to me
about

16 Omaha.

17 Q. And he told you this moments before entering the
police

18 station?

19 A. That's right.

20 Q. At a time after he saw two black cars following
him?

21 A. I think so, yes.

22 Q. And at a time that he knew he was about to be
questioned?

23 A. Yes.

24 Q. And at that time, he tells you for the first time
he had

25 not gone to Omaha?

14021

Marife Nichols - Cross

1 A. That's right.

2 Q. He had really gone to Oklahoma City to the place
where the
3 bombing occurred?

4 A. Yes.

5 Q. And he tells you -- does he tell you at that time
that he
6 knew that Tim McVeigh was at the Dreamland Motel the
entire

7 four days prior to the Oklahoma City bombing?

8 A. On that time?

9 Q. Yes.

10 A. No.

11 Q. Did he tell you that he had been with Tim McVeigh
the day

12 prior to the bombing?

13 A. No.

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

15 THE COURT: Do you have redirect?

16 MR. WOODS: Yes, your Honor.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 BY MR. WOODS:

20 Q. Good morning, Mrs. Nichols.

21 A. Good morning.

22 Q. Yesterday, the prosecutor asked you about your
English

23 ability. Did your parents speak English in the home
when you

24 grew up?

25 A. No.

14022

Marife Nichols - Redirect

1 Q. Do they still speak English?

2 A. My father does.

3 Q. He speaks some English?

4 A. Some, yes.

5 Q. When you were growing up in the home and in school,
when

6 was the first year that you had English taught in the
school?

7 A. First grade.

8 Q. Okay. What -- when did you start having English
classes?

9 A. Somewhere in high school.

10 Q. All right. What language do you speak in the
Philippines?

11 A. Bisaya.

12 Q. Pardon me?

13 A. Bisaya.

14 Q. All right. And when -- your classes begun in
English in

15 high school; is that correct?

16 A. That's right.

17 Q. All right. How would you classify your ability in
speaking

18 English back in '95 when you were interviewed by the

19 Government?

20 A. I don't know.

21 Q. Was it as good as your English is now, two-and-a-
half years

22 later?

23 A. I don't think so.

24 Q. All right. Okay. Now, the prosecutor showed you
the notes

25 that you made when you were being questioned by the
FBI; is

14023

Marife Nichols - Redirect

1 that correct?

2 A. That's correct.

3 Q. And you have those notes in front of you?

4 A. Yes.

5 Q. What -- why did you make those notes?

6 A. Because I get confused in dates, and that's me.
And I was

7 just trying to remember things. And I know that by the
next

8 day or so, I would forget everything that I did.

9 Q. All right. Were the agents questioning you over
and over

10 concerning the dates and what happened on certain days?

11 A. Yes.

12 Q. Okay. Were you advised that you were going to
testify in

13 front of a grand jury?

14 A. Yes.

15 Q. Okay. Were you making the notes to try to help you
16 remember the dates?

17 A. That's right.

18 Q. Okay. Did you ever testify in front of the grand
jury?

19 A. No.

20 Q. Did you go to Oklahoma City on two times -- two
separate

21 occasions to testify at grand jury?

22 A. Yes. But I never got in the courtroom.

23 Q. What were you told on the second time the reason
why you

24 weren't going to testify in front of the grand jury?

25 MR. RYAN: Objection, your Honor.

14024

Marife Nichols – Redirect

1 THE COURT: Overruled.

2 BY MR. WOODS:

3 Q. What did they tell you the reason was that they
weren't
4 going to put you in front of the grand jury?

5 A. One of the lawyers told me that "We decided not to
put you
6 on the grand jury because we think you are telling us
the
7 truth."

8 Q. All right. And what did they say after that?

9 A. I don't remember. I forgot.

10 Q. All right. At any rate, you never went to the
grand jury?

11 Is that your testimony?

12 A. Yes.

13 Q. Do you remember approximately what date that was or
how
14 long you had been with the FBI, answering their
questions?

15 A. I don't know. 20 days.

16 Q. All right. It was in late May, if you recall?

17 A. The subpoena was May 16.

jury? 18 Q. Okay. The subpoena for your appearance at grand
19 A. Yes.
20 Q. Now, up until that date, had you been questioned
over and 21 over by the FBI?
22 A. Yes.
23 Q. And had you been questioned by lawyers from the
Department 24 of Justice on several occasions as of that day?
25 A. They questioned me once before. I was there once.

14025

Marife Nichols - Redirect

1 Q. And in Oklahoma City?
2 A. Yes.
3 Q. And you met with lawyers?
4 A. Yes.
5 Q. How many; do you remember?
6 A. Three, four. There was FBI, too.
7 Q. All right.
8 A. And Mr. Thomeczek and Sheila Dobson was with me,
too.
9 Q. And how long did that meeting last where they asked
you
10 questions?
11 A. I forgot. Two, three, four hours. I'm not --

remember
your
and
notes to
office.

12 Q. All right. Now, you made these notes. Do you
13 when you started making these notes to try to recall
14 recollection on what happened on these days?
15 A. Late in April.
16 Q. Okay. Before you were interviewed by the -- by the
17 Government lawyers; is that correct?
18 A. That's right.
19 Q. Now, did the Government lawyers examine those notes
20 make a copy of them?
21 A. I don't know.
22 Q. Okay. Do you remember whether or not you gave the
23 the Government lawyers?
24 A. I don't remember, but I remember it was left in the
25 Q. You left the notes there in the office; right?

14026

Marife Nichols - Redirect

1 A. Yes.
2 Q. And somebody returned them to you later?
3 A. Yes. The -- the black lawyer.
4 Q. Okay. Do you remember who you left the notes with?
5 A. No.

6 Q. Did someone ask you for the notes?
7 A. Yes.
8 Q. Okay. How long was it before they were returned to
you?
9 A. Weeks, because we went back to Kansas.
10 Q. Okay. So you didn't get the notes for several days
later?
11 A. I'm not sure.
12 Q. Okay.
13 A. I forgot now.
14 Q. But at any rate, the notes that are in front of
you, are
15 those the notes that you made at that time?
16 A. Yes.
17 Q. And are they in your handwriting?
18 A. Yes.
19 Q. You answered some questions from the prosecutor,
and I'll
20 go through those in order with you. First off, Mr. --
the
21 prosecutor asked you if you were forbidden to use the
Daryl
22 Bridges phone call -- phone card. Do you recall that
question?
23 A. Forbidden.
24 Q. That you were not allowed to use the phone card?
25 A. I never asked, so I don't know if I'm allowed or
not.

14027

Marife Nichols - Redirect

1 Q. All right. Do you remember early in December when
you went
2 from Decker, Michigan, to Las Vegas and when you
stopped in

3 Arizona -- do you remember using the card?

4 A. Rather than -- I don't.

5 Q. Let me just show what's in evidence -- I'm going to
show

6 you what's been introduced into evidence as
Government's

7 Exhibit No. 553. And the first two calls that were
made on

8 this card --

9 A. Yes.

10 Q. -- can you tell the jury who Richard Gibson is.

11 A. Richard Gibson is the boss of my Auntie Lori.

12 Q. All right.

13 A. She works -- I mean, she's the housekeeper of
Richard

14 Gibson.

15 Q. Now, did you make that call, or did Terry Nichols
make that

16 call?

17 A. I think I did.

18 Q. Okay. And you recall this date of December the
7th, '93?

19 A. Yes.

20 Q. Being in Nevada?

21 A. Yes.

22 Q. All right. And then the next day, December the 8th

--

23 A. Yes.

24 Q. -- do you recall whether or not you used the card?

25 A. I might have, but --

14028

Marife Nichols - Redirect

1 Q. Now, you told the prosecutor yesterday that Tim
McVeigh had

2 called one time and asked for the number of that card
and that

3 you gave it to him.

4 A. Yes.

5 Q. How did you have the number?

6 A. When he called, I tried to find the card. So I
gave it to

7 him.

8 Q. You gave Tim McVeigh the number?

9 A. The number, yes.

10 Q. And the number is the number that allows you to
make long

11 distance calls? Is that your understanding?

12 A. Yes.

13 Q. Okay. Now, Richard Gibson again is who?
14 A. The boss of my Auntie Lori.
15 Q. And do you recall whether or not you spoke with
your aunt
16 in December of '93?
17 A. Yes.
18 Q. Ms. Nichols, when you were in the Philippines after
19 December, '93, when this card was obtained -- you went
to the
'94?
20 Philippines in early '94; is that correct? February of
21 A. Yes.
22 Q. Okay. And you returned to Terry Nichols at the
Marion farm
23 in like April, '94?
24 A. Yes.
25 Q. And then you went back to the Philippines in
September,

14029

Marife Nichols - Redirect

1 '94?
2 A. Yes.
3 Q. And you returned to the United States in March of
'95; is
4 that correct?
5 A. That's correct.
6 Q. During those occasions, did Terry Nichols call you?

7 A. Yes.

8 Q. Okay. Do you have a phone where you live with your
9 parents?

10 A. Yes.

11 Q. Where is the phone?

12 A. It's in the office. We live in the lumberyard, and
it's in
13 the office.

14 Q. Okay. You live in an apartment attached to a
lumberyard?

15 A. Yes.

16 Q. And the phone is in the lumberyard?

17 A. Yes.

18 Q. So is the phone in your home where you would answer
it?

19 A. No.

20 Q. Okay. Would you get messages, then, from the
lumberyard
21 that you had a phone message?

22 A. That's right.

23 MR. WOODS: Okay. Your Honor, may I approach
the

24 witness?

25 THE COURT: Yes.

1 BY MR. WOODS:

2 Q. Ms. Nichols, I want to show you what's been offered
into

3 evidence by the Government as 553. And I want you to
just flip

4 through these pages. This shows the place the call is
placed

5 from, and this shows the call is placed to a certain
location.

6 And if you would, without going through each separate
page --

7 but hurriedly flip through and notice the number of
calls that

8 were made to the Philippines.

9 A. Okay.

10 Q. Okay. And don't take a long time.

11 A. Okay.

12 Q. Just --

13 A. Okay. I'll do my best. Do I have to put this in
order

14 later?

15 Q. No. I'll do that.

16 A. Okay.

17 MR. RYAN: Your Honor, we would offer to
stipulate

18 that there are a number of calls there to the
Philippines if

19 that might --

20 MR. WOODS: That might save time, your Honor.

21 THE COURT: All right. Accept --
22 MR. WOODS: The jury will be able to count
them up. I
23 would offer the stipulation there are 117 calls to the
24 Philippines.
25 MR. RYAN: I've not counted them. If Mr.
Woods says

14031

Marife Nichols - Redirect

1 that, I'll accept that.
2 THE COURT: You'll accept 117?
3 MR. WOODS: Rather than go through, this takes
too
4 much time. Thank you, Mrs. Nichols.
5 THE WITNESS: Okay.
6 THE COURT: 117 is a lot to count.
7 MR. WOODS: Yes, your Honor.
8 BY MR. WOODS:
9 Q. Mrs. Nichols, you testified to the prosecutor about
where
10 your phone was located there in the home: In the
kitchen; is
11 that correct?
12 A. That's right.
13 Q. And where were you eating when you were having the
Easter
14 meal?

15 A. In the living room.

16 Q. Okay. When Mr. Nichols was on the phone in the
kitchen,

17 could you see whether or not he was writing notes? Was
he

18 standing in front of you?

19 A. No.

20 Q. Okay. On that phone, do you have Caller ID?

21 A. No.

22 Q. Do you know what Caller ID is?

23 A. I know now.

24 Q. Okay. Did you have any way to determine where
calls were

25 coming from when you would receive them there at the
home?

14032

Marife Nichols - Redirect

1 A. No.

2 Q. All right. And you didn't have an answering
machine; is

3 that correct?

4 A. That's right.

5 Q. Okay. Now, yesterday, the prosecutor asked you
that "Do

6 you recall that Terry and Tim McVeigh were upset about
Waco?"

7 And you said that "Terry was not as upset as

Tim about

8 Waco?" What did you mean by that?

When we

9 A. Well, okay. Terry's more closer to me than Tim.

when

10 were together, we don't talk about Waco. But when I --

time I

11 Tim and Terry talk about it, there's like most of the

of --

12 heard Tim talking about it. It's -- it's just a number

13 of time that I heard Tim McVeigh talking about Waco.

agitated

14 Q. All right. Would you say that he was somewhat

15 about it, or upset about it?

16 THE COURT: "He" being --

you, your

17 MR. WOODS: "He" being Mr. McVeigh. Thank

18 Honor.

19 THE COURT: Mr. McVeigh.

20 THE WITNESS: Yes.

21 BY MR. WOODS:

to be as

22 Q. All right. Did your husband, Terry Nichols, seem

23 upset as Tim McVeigh about it?

24 A. No.

about the

25 Q. Okay. Now, the prosecutor asked you yesterday

Marife Nichols – Redirect

grabbed 1 time you were reading a letter and that Terry Nichols
2 it out of your hand.

3 A. Yes.

is that 4 Q. And you told the prosecutor that Terry was teasing;
5 correct?

6 A. That's right.

7 Q. Did Terry often joke and tease with you?

8 A. Yes.

at gun 9 Q. The prosecutor asked you about the use of aliases
using 10 shows. Did Terry Nichols ever tell you why he was
11 aliases at gun shows?

want the 12 A. Yes. I asked him about that, and he said he don't
that you 13 customer -- because we're selling this guns or stuff,
customer to 14 don't know if it works or not. We don't want the
15 bother us afterwards when they buy it.

warranty with 16 Q. Okay. You were not offering any guarantee or
17 the guns or the items that you were selling?

18 A. I don't know.

why he was 19 Q. Okay. Did he offer any other explanation to you

20 using aliases at the gun shows?

21 A. No.

22 Q. Okay. Now, you further mentioned that you used an
alias of

23 "Mary Thomas"; is that correct?

24 A. Yes.

25 Q. Did the FBI have you registered at hotels under the
name

14034

Marife Nichols - Redirect

1 "Mary Thomas"?

2 A. Yes.

3 Q. Okay. Were they using an alias with you during
those 37

4 days that they were moving you from eight cities in
different

5 motels?

6 A. That's what I heard from Mr. Thomeczek, that he put
my name

7 as "Mary Thomas."

8 Q. Okay. Did you ever see the motel receipts or the
9 registration?

10 A. No.

11 Q. You were told that your name was "Mary Thomas"?

12 A. Yes.

13 Q. Okay. Were you ever allowed -- were you allowed to
make

14 phone calls out of there?

15 A. Yes.

16 Q. Now, concerning the phone calls, when -- back when
you were

17 in the Herington police station and you went downstairs
to see

18 Terry Nichols to advise him you were leaving, did you
tell

19 Terry Nichols where you were going?

20 A. No.

21 Q. Did you know where the agents were taking you at
that time?

22 A. Yes. They were taking me to Junction City.

23 Q. Okay. Did you tell Terry that?

24 A. I might have.

25 Q. Okay. Did he give you a phone card so that you
would be

14035

Marife Nichols - Redirect

1 able to make phone calls?

2 A. Yes.

3 Q. Did he tell you that was the reason why he was
giving you

4 the card?

5 A. Yes.

6 Q. Okay. Now, were you able to make phone calls
utilizing

7 that Southwestern Bell phone card while you were with
the FBI

8 those numerous days?

9 A. Yes.

10 Q. Did the FBI allow you to leave a name and number
where you

11 could be reached?

12 A. They told me I -- it's for my own safety that I
would never

13 leave my number or where I'm at.

14 Q. Okay. And that was for your safety?

15 A. That's what they said.

16 Q. And how many days were you with them?

17 A. 36 days.

18 Q. Okay. Did you ever have a lawyer during that time?

19 A. No.

20 Q. Now, the prosecutor asked you about when McVeigh
was

21 staying there in the Marion farm with you in August and

22 September, 1994, and you told him that Mr. McVeigh
would come

23 and leave; is that correct?

24 A. That's correct.

25 Q. Okay. I want to show you what's been offered into
evidence

Marife Nichols – Redirect

1 as Government's Exhibit 2046 which has been represent
-- you've

2 never seen this exhibit before; is that correct?

3 A. That's right.

4 Q. Okay. This has been represented by the Government
to be an

5 application for a Blockbuster card in Grand Junction
(sic),

6 Kansas, in August, '94, by Tim McVeigh. It's been
stipulated

7 that's his handwriting.

8 A. Yes.

9 Q. Were you able to rent videos in Marion, Kansas?

10 A. Yes.

11 Q. And even in Herington, Kansas, I assume you could
rent

12 videos because you did; is that correct?

13 A. Yes.

14 Q. Do you know of any reason why Mr. McVeigh has to go
to

15 Junction City to sign up for a rental card for movies?

16 A. No.

17 Q. Okay. Did he ever tell you that he was going to
Junction

18 City?

19 A. No. I never asked.

20 Q. Okay. Do you know whether or not Mr. McVeigh had
friends

he was 21 in Junction City that he was visiting these times that
22 in and out of your home in August and September of '94?
23 A. No.
24 Q. Did he ever tell you anything about going to
Junction City
25 or seeing friends?

14037

Marife Nichols - Redirect

1 A. No.
2 Q. Okay. What did he tell you he was doing when he
was in and
3 out during those times in August and September of '94?
4 A. I don't remember.
5 Q. Do you remember him telling you anyplace that he
was going
6 or people he was seeing?
7 A. He told me the first time he stopped by that he was
going
8 to Kingman, Arizona; and the second time, he was going
to New
9 York.
10 Q. Okay.
11 THE COURT: Is this a convenient --
12 MR. WOODS: Yes, your Honor.
13 THE COURT: -- place to interrupt?
14 MR. WOODS: Thank you.

15 THE COURT: All right. We'll take the morning
recess,
16 Mrs. Nichols. You may step down now.
17 Members of the jury, we will again take our
usual
18 recess with the customary cautions always given at
recesses, so
19 please do not discuss the testimony of this witness or
any of
20 the witnesses or anything about the evidence in the
time of the
21 recess. And keep open minds. Wait till next week when
we give
22 you the case for decision. So -- and avoid anything
outside
23 the evidence, of course.
24 You're excused now for 20 minutes.
25 (Jury out at 10:16 a.m.)

14038

Marife Nichols - Redirect

1 THE COURT: May I have counsel for just a
minute.
2 (At the bench:)
3 (Bench Conference 121B2 is not herein transcribed
by court
4 order. It is transcribed as a separate sealed
transcript.)
5

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22
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24
25

14044

Marife Nichols – Redirect

1 (In open court:)

2 THE COURT: All right. 20 minutes.

3 (Recess at 10:19 a.m.)

4 (Reconvened at 10:39 a.m.)

5 THE COURT: Please be seated.

6 (Jury in at 10:39 a.m.)

7 THE COURT: Ms. Nichols, resume the stand.

8 Mr. Woods, you may continue.

9 MR. WOODS: Thank you, your Honor.

10 BY MR. WOODS:

11 Q. Ms. Nichols, the prosecutor yesterday asked you a
question

12 about you made a statement that Terry told you that
"The

13 younger ones are easier to train."

14 A. Yes.

15 Q. Do you recall that? Was Terry joking with you, or
was he

16 serious when he said that?

17 A. Part joking.

18 Q. What did you take that to mean?

19 A. I don't know. I mean, I understand myself, I'm
young and

20 I'm still learning.

21 Q. Did you ever feel that you were restricted in doing
22 anything you wanted to do?

23 A. No.

24 Q. Okay. Did Terry encourage you to go to school?

25 A. Yes.

14045

Marife Nichols - Redirect

1 Q. Did he encourage you to get a driver's license?

2 A. Yes.

3 Q. Did he try to teach you how to drive?

4 A. Yes.

5 Q. Did he encourage you to go out and meet other
people?

6 A. Yes.

7 Q. Now, you mentioned about these notes that during
these

8 30 -- how many days was it that you were with the FBI?

9 A. 36 days.

10 Q. -- that you made these notes so that you could
recall and

11 answer their questions that they were asking you. Is
that

12 correct?

13 A. That's correct.

14 Q. Did you make them over a series of days there?

15 A. I think so.

16 Q. Okay. And you gave them to the Government. Is
that

17 correct?

18 A. I don't remember giving it to the Government.

19 Q. But it was in the Government's possession for a

certain

20 period of time, then they gave them back to you?

21 A. Yes.

evidence

22 MR. WOODS: Your Honor, we would offer into

23 the Defense Exhibit 17 -- whatever the number was.

24 MR. RYAN: Objection.

25 THE COURT: Sustained. We ought to make the
record as

14046

Marife Nichols - Redirect

1 to what the number is, though, so that it's clear.

2 MR. WOODS: Yes, your Honor.

3 THE COURTROOM DEPUTY: D1329.

4 MR. WOODS: 1329, your Honor, thank you.

5 THE COURT: All right.

6 BY MR. WOODS:

7 Q. Ms. Nichols, do you have any recollection, any
memory right

8 now about August 18, a Tuesday, the day before the
bombing,

9 without referring to notes that you made at the time?

10 A. Excuse me?

11 Q. Yes, ma'am. Do you have any present memory about
12 August 18?

13 A. August 18?

asking. 14 Q. Excuse me. April 18. Excuse me. No wonder you're

in your 15 Do you have any present memory about April 18

when it 16 memory now other than what you wrote down at that time

17 was fresh on your mind?

18 A. No, I don't.

for 19 Q. All right. And were the events that you wrote down

as to 20 April 18 -- were they fresh in your mind at that time

21 what your memory was?

22 A. Yes.

happened on 23 Q. And is the way that you're able to recall what

that 24 April 18, '95, is to refer to those notes you made for

25 day?

14047

Marife Nichols - Redirect

1 A. Yes.

evidence, 2 MR. WOODS: Your Honor, we would offer into

3 then, the notes relating solely to April 18, '95.

4 MR. RYAN: Same objection, your Honor.

5 THE COURT: Well, I'll receive that day.

6 MR. WOODS: Thank you.

7 THE COURT: We ought to mark that as a
separate

8 exhibit.

9 MR. TIGAR: I'll get an exhibit sticker, your
Honor.

10 MR. WOODS: Yes. This would be D1888, your
Honor, and

11 she has a copy of it in front of her.

12 THE COURT: All right.

13 MR. RYAN: Mr. Woods, could I see it, please.
I gave

14 her mine.

15 MR. WOODS: That's mine.

16 MR. RYAN: I'll give it right back to you.

17 MR. WOODS: Oh, okay.

18 THE COURTROOM DEPUTY: Mr. Woods . . .

19 MR. WOODS: I've got one, Pat. You can keep
that.

20 MR. RYAN: Okay.

21 BY MR. WOODS:

22 Q. Now, Ms. Nichols, when the prosecutor was talking
to you a

23 while ago, did you understand the difference between
"going to"

24 and "gone" that he was questioning you about on the
events of

25 April 18?

Marife Nichols - Redirect

1 A. Yeah.

2 Q. Okay. What do you recall -- all right. Well,
let's look

3 at April 18, what you wrote down when it was fresh on
your

4 mind.

5 THE COURT: Well, what is the number of this
single

6 page?

7 MR. TIGAR: D1888, your Honor.

8 THE COURT: Thank you. And that's being
received.

9 MR. WOODS: May I publish it, your Honor?

10 THE COURT: Yes.

11 BY MR. WOODS:

12 Q. Ms. Nichols, can you read what you wrote down at
that time

13 that was fresh on your mind as to the events of April
18?

14 A. "April 18, 1995, Tuesday.

15 "9 a.m. Joshua called from Las Vegas."

16 Q. Let me stop you a minute. When you say "9 a.m.,"
what does

17 that say if you look at it closely?

18 A. "Joshua called from Las Vegas."

19 Q. All right. Is it "9" or "9:30"?

20 A. I think it's -- oh. It's "9:30."

21 Q. I don't want to add words to what you're saying.
Just read

22 it as best you can.

23 A. Okay. "11:30 a.m. I woke up. Terry is gone.
Nicole

24 watched a movie, 'The Lion King.'

25 "1:30 p.m. Terry is home. He said he went to
the

14049

Marife Nichols - Redirect

1 sailed" (sic) "bid somewhere in Fort Rally" (sic).

2 At "2 p.m. We ate Filipino food, broccoli
with beef

3 and rice.

4 "Terry made a phone call to a guy who is
supposed to

5 send the laser.

6 "I sit around and watch the rest of the
movies. Terry

7 was in and out the house. He took some big ammo cans
into the

8 house so that we can dust it.

9 "We went to the IGA movie store, returned the
movies,

10 and buy one sing-along movies, 'The Mermaids,' rent to
tapes,

11 'A Girl to Kill,' western movies.

12 "Sleep.

13 "'Nice night, no arguments.'"

14 Q. Now, Mr. Ryan asked you about watching a movie that
-- that

15 Tim McVeigh had given to Terry Nichols. Do you recall
anything

16 about watching a movie that Terry Nich -- Tim McVeigh
had given

17 Terry?

18 A. I recall him watching that movie, but I'm not sure
if it's

19 from Tim McVeigh, and I'm not sure when was that.

20 Q. All right. Now, you mentioned that when you were
21 questioned by Mr. Ryan that you ate lunch and then
Terry

22 Nichols went to the auction. Was that your
recollection?

23 A. Yes.

24 Q. Your notes reflect that he came home at 1:30 and
said that

25 he had been to the sealed bid. What do you understand
that to

14050

Marife Nichols - Redirect

1 mean?

2 A. He has been to the sealed bid.

3 Q. Do you understand the difference between "going to"
and

4 "gone," the tense -- tenses of the word?

5 A. I guess I don't.

6 Q. When you first saw Terry Nichols on that day, do
you recall

7 what he said where he had been?

8 A. Yes. He said he's been to a sealed billed.

9 Q. All right. And then you ate lunch at home; is that
10 correct?

11 A. That's right.

12 Q. And Terry was home the rest of the day?

13 A. Yes.

14 Q. Now, is that your best recollection at the time
that you

15 wrote that down when --

16 A. At that time.

17 Q. -- when you were with the FBI?

18 A. Yes.

19 Q. And these are the notes that the Government had in
their

20 possession for some days before they returned them to
you. Is

21 that correct?

22 A. That's correct.

23 Q. Now, the prosecutor asked you yesterday about Mr.
Nichols

24 giving up a good job where he had a home in Marion,
Kansas, and

25 a good, full-time job to go on the road to do gun
shows. Do

14051

Marife Nichols - Redirect

1 you remember that testimony?

2 A. Yes.

3 Q. Did Terry tell you why he wanted to leave a job and
to go

4 to gun show work?

5 A. Well, it is a good job as far as I understand, but
I

6 complained almost every day because we don't have -- I
don't

7 have somebody -- it's out of nowhere.

8 Q. Did Terry ever say he wanted to spend more time
with you

9 and Nicole?

10 A. Yes.

11 Q. Did he say that this would give him an opportunity
to spend

12 more time at home and go to gun shows on the weekend?

13 A. Yes.

14 Q. The prosecutor showed a photograph of your kitchen
this

15 morning. Were you allowed to go back to that home
twice to

16 pack up some things while you were with the FBI?

17 A. Yes.

18 Q. Did you notice the black marks around your kitchen

and

19 other areas?

20 A. Yes.

21 Q. Was that the way you had left the house on April
21?

22 A. I don't think so.

23 Q. Did you keep the kitchen dirty like that?

24 A. I kept the kitchen dirty? I'm sorry.

25 Q. No, did you -- did you notice the photo that made
the

14052

Marife Nichols - Redirect

1 kitchen look dirty with the black marks all around the
handles?

2 A. Yeah, I notice it; but I don't think I made all
this black

3 marks.

4 Q. Did you notice what that was when you went to the
house?

5 A. No.

6 Q. Did you notice it was a black powder that was
spread around

7 the handles and various places in the house?

8 A. No.

9 Q. Do you know what fingerprint dust is?

10 A. I have no idea.

11 Q. Okay. All right. At any rate, that photo that you

saw:

12 That was not the condition of the house that you left
on

13 April 21; is that correct?

14 A. That's correct.

15 Q. Now, the prosecutor asked you some questions about
keys in

16 a barrel, and you were confused. You said, "Yes, I had
seen

17 them." You were talking about the barrels. Is that
correct?

18 A. The barrels, yes.

19 Q. How many barrels do you recall seeing in the house?

20 A. I don't remember.

21 Q. Did Terry ever tell you what he was going to do
with the

22 barrels?

23 A. I don't remember.

24 Q. Okay. Did he mention anything about using them in
a gun

25 show or selling them in a gun show?

14053

Marife Nichols - Redirect

1 A. I don't remember I asked him that. I don't know.

2 Q. Do you recall when those barrels were in the house?

3 A. Somewhere when I was there.

4 Q. When you were unloading the shovels and other items

into

5 the garage, they were there?

6 A. Yes.

Fort

7 Q. And that was in early April, when you went to the

auction?

8 Riley to get the goods that Terry had bought at an

9 A. Yes.

pieces

10 Q. All right. Now, the fuel meter that was there in

that had

11 with all the gears on it: Do you remember how long

12 been in the house?

13 A. No, I don't.

14 Q. When was the first time you ever saw it?

15 A. The day that we went to the police station.

other

16 Q. Okay. Had it been -- had you been in the garage

17 times?

stuff.

18 A. I don't -- yeah. I help him clean up and load

was

19 Q. Was it something that you would have noticed if it

20 there?

21 A. Yeah, if it was on the floor, yeah.

22 Q. What if it was up on the rack on a box?

23 A. I don't know. I don't think I would notice it.

the

24 Q. Now, you mentioned concerning the face mask that

25 prosecutor asked you about that when you lived in
Michigan, you

14054

Marife Nichols – Redirect

1 used to go snowmobiling. Is that correct?

2 A. Yes.

3 Q. Did you use masks at that time?

4 A. I think I remember I did.

5 Q. Do you remember having sort of olive-drab and gray
mask up

6 there at that time, or do you remember the color?

7 A. I don't remember the color.

8 Q. Did you ever go skiing with Terry?

9 A. No. I only went with him one time the snowmobile.

10 Q. Do you know whether or not Terry skied?

11 A. I don't remember asking him that.

12 Q. The letter that the prosecutor asked you about that
was

13 from Tim McVeigh: Do you remember when that was in the
house?

14 A. I don't remember the dates.

15 Q. Okay. And do you remember the context of the words
that

16 you mentioned to the jury? You mentioned to the jury
about

17 "need an excuse for second half" and "shake and bake."
Do you

18 remember the context of how that was in the letter?
19 A. I don't.
20 Q. Okay.
21 A. I just -- he just remind me about the "shake and
bake"; and
22 yes, I did remember that words.
23 Q. Okay. Do you remember anything else about that
page?
24 A. No.
25 Q. Did you ever hear the term "shake and bake" in the
military

14055

Marife Nichols - Redirect

1 usage when Tim and Terry were talking about anything?
2 A. No.
3 Q. Okay.
4 A. I remember Shake 'N Bake in, you know -- if you
bake pork,
5 or something, or chicken.
6 Q. Have you seen those labels of adding Shake 'N Bake
to meat
7 or some dish?
8 A. Yes.
9 Q. Did you ever use that yourself?
10 A. No, I don't.
11 Q. But you've seen the labels?

12 A. Yes.

13 Q. Okay. Now, the prosecutor asked you about whether
or not
14 you were expecting Tim McVeigh that day on Sunday.
Were you
15 expecting him that day, or sometime that week?

16 A. Sometime that week.

17 Q. And why was that?

18 A. Because Terry and Josh told me that he already
picked up
19 the TV and that would be something that I would want to
expect.

20 Q. Okay. So Josh mentioned to you that Tim had picked
up the
21 TV?

22 A. Yes.

23 Q. And was there any date known as to when he would be
driving
24 through?

25 A. No, I don't.

14056

1 MR. WOODS: All right. That's all the
questions I
2 have, your Honor.

3 THE COURT: Any recross?

4 MR. RYAN: Can I have just a moment, your
Honor?

5 THE COURT: Yes.

6 MR. RYAN: No questions, your Honor.

7 THE COURT: All right. Mrs. Nichols, you may
step
8 down.

9 THE WITNESS: Thank you, your Honor.

10 THE COURT: Mr. Tigar?

11 MR. TIGAR: Yes, your Honor. At this time we
would
12 like to publish the summary of the testimony of David
Paulsen
13 pursuant to --

14 THE COURT: Let me just advise the jury that
David
15 Paulsen is a person not available to be here to give
testimony,
16 and what we've agreed to do -- you know, sometimes
we've done
17 this with videotape, sometimes we've done it by reading
to you;
18 and in this situation, I believe we have an agreed
summary of
19 what he would say if called as a witness.

20 Is that right?

21 MR. TIGAR: That's correct, your Honor.

22 MR. MACKEY: Yes.

23 THE COURT: So Mr. Tigar is going to read to
you this
24 agreed summary of what David Paulsen would be expected
to say

25 if he were available to be a witness and testify here
with us.

14057

1 MR. TIGAR: Yes, your Honor. In the middle,
we will

2 publish the two exhibits. We've marked for
identification 418B

3 for demonstrative purposes only. It's just an
enlargement of

4 what's in evidence as 418.

5 THE COURT: That's agreed?

6 MR. MACKEY: It is.

7 THE COURT: Proceed.

8 SUMMARY OF TESTIMONY OF DAVID PAULSEN

9 MR. TIGAR: "My name is David Edward Paulsen.
I

10 turned 22 years old on July 12 of 1995. I live in
Melrose

11 Park, Illinois, which is 20 miles from downtown
Chicago.

12 During the week, I am employed at Webb Dodge
Dealership.

13 "My father is Edward Paulsen. My father's
business is

14 Paulsen's Military Supply. Paulsen's Military Supply
does

15 mail-order business for retail or wholesale for canvas
goods,

16 canteens, gun-cleaning kits, clips, pouches. In other
words,
17 it is a military surplus business.

18 "My father also sells parts for guns. He used
to sell
19 firearms. I'm not sure if he still does. I do not
have a
20 federal firearms license.

21 "Up until the Oklahoma bomb investigation, I
helped my
22 father in his gun business.

23 "In December of 1994, my role in my father's
gun
24 business was as follows: I'd go out to a fairgrounds
25 somewhere, to a flea market, and sell merchandise from
the

14058

1 store. I would go to gun shows. A gun show is similar
to a
2 flea market. You go there with your vehicle that you
can fit
3 your stuff in, find out where your table is and unload
it and
4 set up the table how you want it to look. Space is
rented from
5 a promoter. My father reserved the tables with the
promoter
6 and paid for them.

7 "As part of my father's business, I went to
gun shows
8 about -- just about every weekend, in the areas of
Illinois,
9 Indiana, and sometimes Wisconsin. I have been to
Michigan a
10 view times, but Michigan is a is farther drive, and
it's an
11 hour time difference, making it hard for me to get off
work
12 early to get up there. So to go to Michigan would be
unusual
13 for me.

14 "At gun shows, I would routinely have between
six and
15 seven tables. My father and I used the correct name
of our
16 business, and there was never an occasion when I used a
false
17 name.

18 "I did attend the gun show at Kalamazoo,
Michigan,
19 which was held in the first weekend of December of
1994. It
20 occurred on Friday, December 2; Saturday, December 3,
and
21 Sunday, December 4. At that gun show, I followed my
usual
22 routine in setting up the show. I arrived Friday
night, and
23 had, I believe, seven tables.

24 "I met Timothy McVeigh at the Kalamazoo gun

show. I

25 met McVeigh on Saturday, December 3, 1994. McVeigh was
another

14059

1 dealer at the gun show and had a table of his own. He
only had

2 one table. His table was close to mine, just on my
end,

3 like -- and like a rectangle, he was a little bit
kitty-corner

4 to me, pretty much across, but not correctly across. I
would

5 set up my tables up in a rectangle with one open table
at the

6 end and the other end open.

7 "What first draw my attention to McVeigh was
he had

8 some gun parts I was interested in on his table. There
was a

9 white male helping him there at the table. McVeigh was
dressed

10 in military fatigues -- I remember that because it just
stuck

11 in my mind.

12 "I walked over to his table to look at the gun
parts

13 on his table. I actually talked with McVeigh. I asked
him

14 what he wanted for the gun parts, how much money he was

15 talking. In addition to the gun parts, I was also
interested

16 in two mercury switches I got from him. I bought the
gun

17 parts, too.

18 "The gun parts were a selector and a
disconnecter for

19 an AR-15 rifle. My purpose in buying these parts was
to resell

20 them. There is a market for such parts. My father
resells

21 them in his mail-order business.

22 "A mercury switch is a small glass tube, oval
in

23 shape, with mercury inside of it. It is about an inch
and a

24 half long. A mercury switch can be made -- can be used
to make

25 an alarm for tonneau," T-O-N-N-E-A-U, "covers, on the
back of a

14060

1 pickup truck. When the cover is lifted, the mercury
switch

2 sets off the alarm so you can't steal the hard tonneau
cover.

3 I intended to buy these mercury switches for a man I
know at

4 work who makes such pickup truck alarms.

5 "Total, I took two mercury switches from
McVeigh.

6 "I paid money for the gun parts, and I traded
for the

7 mercury switches. We did not initially agree exactly
what it

8 would be that I would trade for the mercury switches.
I asked

9 McVeigh if he could come by my table and see if there
was

10 anything he was interested in to trade for. At my
table I had

11 gun-cleaning kits, magazine pouches, canteens, that
sort of

12 thing -- surplus. I also had first-aid kits and gun
parts.

13 "Later on Saturday, McVeigh came to my table.
I

14 believe, but I cannot be certain, that he took a
magazine pouch

15 for gun clips in exchange for the mercury switches.
This would

16 be just a canvas pouch that could hold a gun magazine
clip or a

17 first-aid kit. I don't know what mercury switches are
worth.

18 The pouches on my table cost between \$2 and \$15. A guy
at work

19 got a mercury switch from Radio Shack and paid around
\$8 for

20 it.

21 "During this second meeting, the one at my
table,

22 McVeigh and I had a conversation about him wanting to
sell me
23 some blasting caps. The subject came up because he saw
24 materials on my table. I have books like explosives
and
25 improvised munitions and that sort of thing. Another
reason

14061

1 was he might have thought that I was doing something
else with
2 the mercury switches. I'm sure I did not say anything
to him
3 that would lead him to believe I had some kind of big
plan for
4 mercury switches.

5 "McVeigh did not talk about the explosives
books with
6 me.

7 "So McVeigh asked me if I wanted to buy some
blasting
8 caps. We discussed a price in the vicinity of 3- to
\$5,000. I
9 did not tell him anything that would lead him to
believe I
10 could afford \$5,000 for blasting caps.

11 "I never had any intention to buy any blasting
caps
12 from him, and I could not afford them anyway. I do not
buy

for 13 blasting caps; and to my knowledge, there is no market

14 them. My father does not deal in blasting caps.

blasting 15 "I did tell McVeigh that I might buy his

do that 16 caps. I did it just to string him along. Sometimes I

17 at a show if I'm busy.

from 18 "I would imagine that when McVeigh walked away

those 19 that second conversation, he believed that I would buy

20 blasting caps.

discussed 21 "During the second conversation, we also

22 whether I could get him dynamite.

not ask 23 "He did not say why he needed it, and I did

24 him. I did not care.

dynamite, I told 25 "After he asked me if I could get him

14062

though I 1 him, 'I'll see what I can do.' I told him this, even

I could. 2 could not get him dynamite. I led him to believe that

I 3 "McVeigh did discuss a price for the dynamite.

not know 4 asked him what it is worth. He said \$5 a stick. I do
I've 5 if that's a good price. I've never sold dynamite and
6 never possessed dynamite.

7 "From what I said, when McVeigh walked away
from that 8 second conversation, he might have believed that I
could and 9 would get him dynamite.

10 "I recognize this" -- placing on the overhead
the 418B 11 for demonstrative purposes -- "as a copy of my father's
12 business card. The front says 'Paulsen's Military
Supply,' and 13 it's got an address in Antigo, Wisconsin.

14 "I gave this card to Timothy McVeigh."

15 Placing the second page of 418B.

16 "It's my card, and it's got my number on the
back 17 where it says 'Dave' and then a phone number. I wrote
the name 18 and phone number.

19 "In other writing it says, 'TNT at \$5 a stick,
need 20 more. Call after 1 May, see if I can get some more.'
I do not 21 know who wrote that.

22 "At the time McVeigh was arrested on April 19,
I had

'call' 23 not provided any dynamite to him. With respect to the
going to 24 after 1 May,' I made that up when I told him, I was
I made 25 talk to a guy in May. There is no explanation for why

14063

1 that up.
2 "I gave him the phone number so I could get
more gun 3 parts from him if he got them.
4 "The gun parts on his table were unusual in
that they 5 had NSN numbers on them -- indicating they were actual
military 6 parts. The significance of that is that these are
authentic 7 military parts, not made by remanufacturers or
aftermarket. To 8 some people, authentic military parts are more valuable
than 9 aftermarket parts.
10 "This same date, Saturday, December 3, I
talked to 11 McVeigh again. He asked me again about the dynamite.
He asked 12 me if I could get the stuff. I don't know why he would
bring 13 it up again. I told him I'd see what I could do. His

attitude

14 toward me during this third conversation was just
persistent,

15 no anger or anything. He did not make me uncomfortable
or try

16 to move up the May date.

17 "I gave him both my father's business number
and my

18 personal number in Melrose Park.

19 "Tim McVeigh called me at my personal number,
but I do

20 not remember dates very well. I did have telephone
21 conversations with Tim McVeigh at my home.

22 "McVeigh called approximately a month or less
after

23 the gun show. I have seen phone records that pertain
to my

24 home number, and there are 34 calls between December
17, 1994,

25 and January 7, 1995, that come from a credit card with
the

14064

1 number (800) 793-3377. The vast majority of those
calls don't

2 show an answer. I had answering machine at my home and
then

3 got rid of it. I don't remember when I had the
answering

4 machine at my home. It is possible that my uncle had
taken the
5 answering machine prior to December 17, 1994.

6 "I remember three actual phone conversations
with Tim
7 McVeigh. He identified himself as 'Tim from Michigan'
when he
8 called me -- when he talked with me over the phone.

9 "The records show a call lasting only half a
minute
10 that took place around midnight on December 17, 1994.

I
11 remember I was sleeping during that call, and I cannot
remember
12 what was said. I answered the call, but I don't
remember the
13 conversation.

14 "There came a time when I had a conversation
with
15 McVeigh about the blasting caps. It was the second
time he
16 called my house. I answered the phone, but I said that
he,
17 meaning Dave Paulsen -- me -- was not there. McVeigh
asked
18 when I was going to be home, and McVeigh wanted to talk
about
19 'winter caps' or 'stocking caps.' I can't remember
which one.

20 This call came on December 21, 1994, and lasted less
than 2
21 minutes. It is my best memory that this is when I
would have

22 told him I was not there. It is possible I had told
him this

23 on the first conversation; but during some
conversation, he had

24 spoken with me about winter caps or stocking caps.

25 "By using this -- these words, I would most
likely

14065

1 think he was talking about blasting caps.

2 "I don't know why he would call blasting caps
3 'stocking caps.' This is no code I have ever heard
before.

4 "The next phone call after the one where I
said I
5 wasn't there was the call where he wanted to set up a
6 rendezvous.

7 "I have no actual memory of when this call
came in.

8 He wanted to meet with me at a Denny's in Calumet City,
which
9 is about 45 minutes away from where I live, towards
Indiana.

10 It is near Highway 294.

11 "McVeigh suggested the Denny's at Calumet
City. I

12 have never been the Denny's at Calumet City. I don't
remember

13 the time of day he wanted to meet; but when I was
interviewed,

14 I believe I said "noon."

15 "The meeting was to take place on a Friday or
Saturday

16 a couple of days after the phone call on the weekend
afterward.

17 I told him I would be driving a white Chevy van, and I
believe

18 he said he was driving a pickup truck. I lied when I
told him

19 what I would be driving. I lied because I had no
intention of

20 meeting him.

21 "Over the phone I agreed to meet him because I
was

22 just stringing him along. That's when I started
getting

23 worried, because I told him I would go, and I was not
going to

24 show up, and this guy had my home number and he was an

25 extremely, extremely persistent person.

14066

1 "The purpose of this meeting was to get
blasting caps.

2 He was going to bring the blasting caps. In terms of
him

3 talking about how much money I should bring, the 3- to
5,000

we did 4 from earlier sticks in my head, but I don't remember if
5 in that conversation or not.

would 6 "I don't remember any conversation about how I
7 pay him.

that 8 "Looking at the phone records, it is my belief
9 the third call occurred on the 4th of January, 1995.

This call 10 is a real conversation that lasts about a minute 54
seconds.

meeting. 11 It is my belief that this is the call arranging the
12 There was another call to the store, but I did not talk
to him

13 there.
14 "I did not meet McVeigh. In the days before I
was

15 supposed to meet him, I never thought about changing my
mind
16 and actually meeting him. I had nothing to meet him
for. I

17 did not have money for the blasting caps.
18 "After the third time I talked to McVeigh on
the

19 telephone in January of '95, I never talked to him
again. I
20 never saw him again other than pictures they showed me.

21 "I never directly or indirectly supplied any
explosive

22 material to Tim McVeigh, and I never supplied dynamite
to Tim
23 McVeigh. I never gave Tim McVeigh a lead to somebody
who might
24 supply dynamite to him."

25 That's the statement, your Honor.

14067

1 THE COURT: All right. So we accept that as a
summary
2 of what the testimony of David Paulsen would be if he
were here
3 as a witness.

4 MR. TIGAR: Your Honor, at this time we would
like to
5 publish the transcript of the testimony of James
Rosencrans.

6 THE COURT: All right.

7 MR. TIGAR: May I ask Mr. Paris to read the
other
8 part?

9 THE COURT: Yes, sure.

10 Now, here, too, let me explain, members of the
jury.
11 We did this once before where a witness is unavailable,
as this
12 one is, and cannot come in here and testify. This
witness did
13 answer questions under oath on an earlier occasion, and

we'll

14 take those questions and answers now as his testimony.

15 (James Rosencrans was called.)

16 DIRECT EXAMINATION

17 BY MR. TIGAR:

18 Q. Sir, will you please identify yourself.

19 A. My name is James Rosencrans, R-O-S-E-N-C-R-A-N-S.

20 Q. Mr. Rosencrans, you presently live in Kingman,
Arizona; is

21 that right?

22 A. Yes, sir.

23 Q. You indicated and is it not true that you are a
neighbor of

24 Michael Fortier?

25 A. Yes.

14068

James Rosencrans - Direct

1 Q. That's F-O-R-T-I-E-R?

2 A. I don't know how to spell his name.

3 Q. Don't know how to spell it. And you've known him
for more

4 than a year?

5 A. Just a little over a year.

6 Q. You also have met Timothy McVeigh through Michael
Fortier.

7 Is that correct?

8 A. Yes, sir.

9 Q. When you first met Timothy McVeigh, was he driving
or did
10 he have use of a vehicle?

11 A. Yes, sir.

12 Q. Can you tell us what vehicle he had when you first
met him?

13 A. I don't know exactly what type it is.

14 Q. Just describe it as best you can.

15 A. A little four-door, gray car.

16 Q. And more recently, did he have a different kind of
vehicle

17 that he was using?

18 A. Yes. It was a little Pontiac station wagon.

19 Q. Do you know the model of that?

20 A. I sure don't.

21 Q. Did Mr. McVeigh at any time ever ask you to drive
one of

22 those cars for him?

23 A. Yes, he did.

24 Q. And which car was it he asked you to drive?

25 A. Pontiac station wagon.

14069

James Rosencrans - Direct

1 Q. You indicated yesterday that you were either in
your front

2 yard or Mr. Fortier's front yard when Mr. McVeigh
approached

3 you to make this request. Is that correct?

4 A. Yes, sir.

5 Q. Is it correct that you were in one of those front
yards

6 when he approached you?

7 A. Yes.

8 Q. Is it also correct that Mr. McVeigh asked you to
drive him

9 in his car?

10 A. Yes.

11 Q. And did he offer to pay you or give you anything
for that

12 service?

13 A. Yes, sir.

14 Q. Do you recall what he offered to give you or pay
you for

15 that service?

16 A. Yes. He offered to either give me a rifle or like
\$300

17 cash.

18 Q. And the value of the rifle was approximately what?

19 A. \$300.

20 Q. Did he specify a particular rifle?

21 A. Yes. A Mini-14.

22 Q. Do you know that the value was in the range of
\$300, or did

23 he tell you that?

24 A. That's what he told me.

25 Q. And did you tell him you were interested in doing
the job?

14070

James Rosencrans - Direct

1 A. Yes. I needed the money.

2 Q. And did you tell him you wanted the rifle, or you
wanted

3 the cash, or anything? Did you respond to his offer?

4 A. I told him I needed the cash.

5 Q. Did he tell you how long a drive it would be?

6 A. He said it could range anywhere from 5 hours, 10
hours, 15.

7 He didn't know.

8 Q. And did he tell you where you would be picking him
up or

9 where you would meet him to drive him?

10 A. No.

11 Q. Did he tell you where would you be dropping him off
after

12 the 5-, 10- or 15-hour or so drive?

13 A. No.

14 Q. Did he tell you what you would do, what he wanted
you to do

15 after you dropped him off?

16 A. Yes. Wherever I dropped him off, I was supposed to

take

17 his car and take it to an airport and park it and leave
it.

18 Q. Meaning abandon it at the airport?

19 A. Yes. Just leave it there in a parking space.

20 Q. And did the two of you discuss how you would get
home from

21 the airport?

22 A. No.

23 Q. Did you ask him what purpose this was going to
serve or why

24 he wanted you to do this driving?

25 A. Yes.

14071

James Rosencrans - Direct

1 Q. What did he say?

2 A. He never told me.

3 Q. Well, what did he say to you when you asked?

4 A. He said that he just -- basically just didn't tell
me. He

5 just said that I didn't need to know.

6 Q. So he told you you did not need to know?

7 A. Yes.

8 Q. Did the subject matter ever come up again?

9 A. Yes.

10 Q. I may have asked you, but when he asked -- let's go

to the

11 first time the subject matter came up. Which car did
he then

12 use?

13 A. Well, he had that little Pontiac station wagon
then.

14 Q. It was the station wagon, not the other four-door
car that

15 you described earlier?

16 A. No.

17 Q. The subject matter did come up again?

18 A. Yes.

19 Q. And where were you when the subject matter came up
again?

20 A. Out shooting in a canyon.

21 Q. Were with you Mr. Fortier there as well as Mr.
McVeigh?

22 A. Yes, yes.

23 Q. And when Mr. McVeigh talked to you, was Mr. Fortier
24 present?

25 A. No.

14072

James Rosencrans - Direct

1 Q. How did that happen?

2 A. He was off shooting about 20 feet away, 30 feet
away, and

3 Tim called me off to the side.

and
to
you to
to you?
wherever
in the
thought

4 Q. So Mr. Fortier was shooting at a distance from you,
5 Mr. McVeigh called you and asked you to go off with him
6 talk?
7 A. Yes, sir.
8 Q. And did you walk away with Mr. McVeigh then?
9 A. Yes.
10 Q. And during this time in the canyon when he asked
11 walk away with him to talk, do you recall what he said
12 A. He just asked me if I was interested in driving to
13 he needed to go still.
14 Q. And you indicated you were willing to, or not?
15 A. Yes, sir. If the cash was still there.
16 Q. I beg your pardon?
17 A. If he still had the cash, yes.
18 Q. You said you were willing to do it for the cash?
19 A. Yes.
20 Q. Was there a discussion? Was there anything further
21 discussion?
22 A. No. We got interrupted at this point.
23 Q. You got interrupted because you saw a van that you
24 might be used by law enforcement agents; is that right?

25 A. Yes.

14073

James Rosencrans – Direct

1 Q. And did you ever have an opportunity to ask Mr.
McVeigh

2 again why it was he wanted you to do this driving for
him?

3 A. Yes. I got the same answer again.

4 Q. What was that?

5 A. I didn't need to know. Basically, just change the
subject.

6 Q. I'm just confused on whether you're telling us that
you

7 didn't need to know, or he told you you don't need to
know.

8 A. He told me I didn't need to know.

9 MR. TIGAR: That's it, your Honor.

10 THE COURT: All right.

11 Then we have one other person unavailable as a
12 witness? Is that right?

13 MR. TIGAR: Yes, your Honor.

14 THE COURT: And here, the -- we're going to
take the

15 testimony, as it were, of this witness in still a
little

16 different fashion. This is a person who signed an
affidavit

17 under oath on October 20 of 1995, and I'm going to read

to you

18 from the affidavit of this person, who is not here as a
witness
19 and who is unavailable as a witness. So this is yet
another
20 form in which we take what is to be regarded as her
testimony.

21 SUMMARY OF TESTIMONY OF PATRICIA EDWARDS

22 "My name is Patricia Ann Edwards. I was born
July 26,
23 1969. For a period of time prior to the summer of
1995, I
24 lived at 3039 McVicker in Kingman, Arizona, with James
25 Rosencrans. Michael Fortier and his wife, Lori
Fortier, lived

14074

1 next door to us for a period of time. I met Tim
McVeigh
2 sometime in the summer of 1994 at Michael and Lori
Fortier's
3 residence.
4 "I have seen Tim McVeigh at their residence on
four or
5 five occasions between Thanksgiving of 1994 until March
or
6 April, 1995. Tim McVeigh also stayed at the Fortiers'
house
7 for a period of time. I did not know his last name
while he

8 was staying there but later came to know it.

9 "On Friday, April 21, 1995, sometime prior to
1 p.m.,

10 Michael Fortier came over to our house and said:
'Tim's the

11 one who did it,' in reference to the Oklahoma City
bombing.

12 "Sometime after the bombing in Oklahoma City,
I

13 received a package of items, including videotapes
concerning

14 the events in Waco, Texas, and some other items which
included

15 various types of literature and an army supply
catalogue. The

16 army supply catalogue had Tim McVeigh's name on it. I
gave the

17 package to Charles Rosencrans, as I did not want it at
my

18 house. I included some other items in the bag that I
did not

19 want at my house.

20 "Mike Fortier gave James Rosencrans a .22-
caliber

21 Hornet rifle around the time the FBI first went over to
22 Fortiers' house.

23 "At sometime around the search warrant at
Michael

24 Fortier's house, James Rosencrans told me he had gotten
a bag

25 of fertilizer from Fortier which James did not want at
the

14075

1 house and got rid of.

2 "I did not know or see what the fertilizer --
what the 3 fertilizer was in at that time."

4 And that we will consider as what would be the
5 testimony of Patricia Ann Edwards, if she were to be
called and 6 available to us as a witness at this trial.

7 MR. TIGAR: Defense rests.

8 THE COURT: The defense rests.

9 Are you prepared with rebuttal, or --

10 MR. MACKEY: Yes, your Honor. We'd like to
call two 11 additional witnesses. We would start with FBI Agent
12 Christopher Budke.

13 THE COURT: All right. Thank you.

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

15 (Christopher Budke affirmed.)

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

17 Would you state your full name for the record
and

18 spell your last name.

middle

19 THE WITNESS: Yes. My name is Christopher, my

20 initial is A., my last name is Budke, B-U-D-K-E.

21 THE COURTROOM DEPUTY: Thank you.

22 THE COURT: Mr. Mackey.

23 DIRECT EXAMINATION

24 BY MR. MACKEY:

25 Q. Agent Budke, you work for the FBI?

14076

Christopher Budke - Direct

1 A. Yes, I do.

2 Q. How long have you been employed with the FBI?

3 A. Be 14 years this January.

4 Q. Are you a special agent?

5 A. Yes, sir.

6 Q. Where are you currently assigned?

7 A. To the Kansas City office.

8 Q. In Kansas City, Missouri?

9 A. Yes, sir.

10 Q. Were you assigned there in April of 1995?

11 A. Yes, sir, I was.

12 Q. Did it fall to you and other agents of the FBI to

in April

13 participate in an investigation in the state of Kansas

14 of 1995 as it relates to leads generated by the

Oklahoma City

15 bombing?

16 A. Yes, sir.

17 Q. And was that your duty station then and after the
days of

18 the Oklahoma City bombing?

19 A. Yes, sir.

20 Q. Where specifically were you working -- after the
bombing in

21 Kansas?

22 A. Initially, I worked in the command post that was
set up in

23 the Kansas City, Missouri office. Later in the week, I
was

24 assigned to work in Junction City, Kansas, as they
moved the

25 command post to there.

14077

Christopher Budke - Direct

1 Q. Was that at a command post on Fort Riley in
Junction City?

2 A. Yes, sir.

3 Q. Let me direct your attention, Agent Budke, to
Wednesday,

4 April 26, 1995. Did you have occasion to meet an
individual

5 named Sergeant Richard Wahl?

6 A. Yes, sir, I did.

7 Q. Would you describe to the jury when it happened?

8 A. Okay. On that particular day, it was a day that
the
9 director of the FBI, Louie Freeh, had come to visit us
at the
10 command center. And it happened to be the only day
while
11 working out there that I wore a suit and tie.

12 During the lunch break that particular day, I
was
13 standing in line at a Burger King to get some lunch,
and
14 Sergeant Wahl approached me in the line and said, "How
long are
15 you all going to be here?"

16 And I was a little surprised that he knew who
I was
17 and realized that I had forgotten to take off my photo
ID that
18 we use to get in and out of the command post.

19 So I took that off and told him that we'd be
here for
20 a little while.

21 He then asked me where we were located.

22 And I told him that we were located here on
base.

23 He ordered his food and I ordered mine, and I
went and
24 sat down and ate. And a few minutes later, he came
over and he
25 asked me if he could ask me something.

14078

Christopher Budke – Direct

1 And I said yes, he could.

2 And he said he had contacted our 1-800 number
that was
3 established and provided some information several days
ago and
4 hadn't been contacted and he wondered why he hadn't
been
5 contacted.

6 And I asked him to go ahead and relay the
information
7 to me; I could see what I could do for him.

8 Q. At that time at the restaurant on April 26, did Mr.
Wahl
9 report to you at least in general terms a sighting he
had made
10 at Geary State Lake?

11 A. Yes, sir.

12 Q. Did you attempt to conduct a full interview of him
at that
13 time?

14 A. No. We had been instructed when we obtain a new
piece of
15 information like that --

16 MR. TIGAR: Excuse me, you. Not responsive.

17 THE COURT: Yes. Not what you were
instructed, what

18 you did.

19 THE WITNESS: Okay. No, I did not.

20 BY MR. MACKEY:

21 Q. Did you take his name and phone number?

22 A. Yes, I did.

23 Q. With that information that same day, Agent Budke,
what did

24 you do with it?

25 A. I went back to the command post, recorded --
advised my

14079

Christopher Budke - Direct

1 supervisor of the information he had provided me, and
he

2 advised -- or told me to record it on a lead sheet and
that it

3 would be assigned to -- as a lead to an agent.

4 Q. That same day, on April 26, Agent Budke, did you
meet with

5 FBI Agent Walter Schaefer?

6 A. Yes, sir.

7 Q. And to your knowledge, was he the FBI agent
assigned to

8 interview Mr. Wahl that same day?

9 A. Yes, sir.

10 Q. Did you relay the name and the phone number?

11 A. Yes.

12 Q. And to your knowledge, did Mr. Schaefer first
interview

13 Richard Wahl on April 26, 1995?

14 A. Yes. He immediately went out and contacted him.

15 Q. Agent Budke, during the time that you were assigned
in Fort

16 Riley, did you become aware of a motorists canvas, or
road

17 stop, around Geary Lake?

18 A. Yes. We had decided that we would make an attempt
to set

19 up a road stop on the same day of the week that
Sergeant Wahl

20 had seen the Ryder truck and a pickup truck out at the
lake in

21 hopes that maybe people who were driving by the road,
the

22 highway that the lake was located near, might also --
had seen

23 that truck.

24 Q. To your knowledge, was the FBI -- did they conduct
that

25 canvas on Tuesday, May 2 --

14080

Christopher Budke - Direct

1 A. Yes, sir.

2 Q. -- 1995?

3 A. Yes, sir.

4 MR. MACKEY: Nothing else, your Honor.

5 THE COURT: Mr. Tigar?

6 CROSS-EXAMINATION

7 BY MR. TIGAR:

8 Q. Good morning, Agent Budke.

9 A. Good morning, sir.

10 Q. Director Freeh was at Fort Riley?

11 A. Yes, sir.

12 Q. Was that for photo opportunity, or visit? What was
he
13 doing there?

14 MR. MACKEY: Objection.

15 THE COURT: Sustained -- I mean overruled.

16 If you know what he was doing there.

17 BY MR. TIGAR:

18 Q. Do you know why he was there?

19 A. I don't know specifically why he was there. He did
give a
20 speech to those of us that were working there, advised
us that
21 he understood that it was a hardship on our families to
be
22 there but appreciated the hard work we were doing. He
went
23 around and shook people's hands; and beyond that, I
don't know
24 what else he did while he was there.

25 Q. Did you have your picture taken with him that day?

14081

Christopher Budke - Cross

1 A. No.

2 Q. Now, you said you were in the Burger King. That's
the one

3 at Fort Riley?

4 A. Yes, sir.

5 Q. That's right on the base?

6 A. Yes. I think it's within the base compound, near
the PX.

7 Q. And Sergeant Wahl came up to you and said that
there has

8 been a 1-800 number that he had called. Is that right?

9 A. Yes.

10 Q. And you knew that there was a 1-800 number;
correct?

11 A. Yes.

12 Q. The purpose of that was so that when people called
in

13 leads, somebody would contact them; correct?

14 A. When people called in leads, a determination was
made

15 whether an individual would be contacted, yes.

16 Q. Well, what was the normal procedure if somebody
called in

17 something you were interested in about getting back to
them?

18 A. I'm not sure that I know the answer to that,
because the
19 1-800 number was answered by agents in Washington,
D.C.,
20 so . . .
21 Q. So you don't know what basis people decided whether
to call
22 people back after they had called or not; is that
right?
23 A. That's correct.
24 Q. And you don't know what kind of a delay there was
between
25 the time somebody would call and somebody would get
back to

14082

Christopher Budke - Cross

1 them if they were going to; correct?
2 A. That's correct.
3 Q. Now, from your standpoint, it was important to get
as much
4 information from citizens as possible about things
they'd seen
5 that might help you solve the case; correct?
6 A. That's what I tried to do, yes.
7 Q. And so -- and that is the responsibility of the
FBI, is it
8 not, to try to get as much information from citizens
that's

9 going to help them solve the case; correct?

10 A. Yes.

11 Q. And Sergeant Wahl came up to you and you said in
the chow

12 line --

13 A. He initially -- he initiated the conversation as we
were

14 standing in line waiting to order.

15 Q. After you got your meal, he came to see you again;
correct?

16 A. Yes, sir.

17 Q. And he said that he had called the 800 number and
provided

18 information; right?

19 A. That's correct.

20 Q. He said he provided information about a Ryder
truck?

21 A. Not at that point in time. He did later as I asked
him to

22 relay the information to me so that I could check to
see what

23 had happened with the call or if the information
warranted to

24 have somebody contact him.

25 Q. You -- did you have a pencil with you?

14083

Christopher Budke - Cross

1 A. Yes.

2 Q. Did you write down something that he told you?
3 A. I wrote down his name and his telephone number on a
napkin.
4 Q. And the napkin, you threw away later?
5 A. Yes.
6 Q. Did you write down any details, information that he
7 provided to you?
8 A. No.
9 Q. All right. And he told you that he had seen a
Ryder truck;
10 correct?
11 A. Yes.
12 Q. Did he tell you he had seen a pickup truck?
13 A. Yes.
14 Q. All right. Did he describe the pickup truck to
you?
15 A. Yes. He said it was a dark-colored --
16 Q. Hold it a second. Did he describe it? Yes or no.
17 A. Yes.
18 Q. So now you were getting some information from a man
who had
19 said he had seen a Ryder truck and a pickup truck at
the lake;
20 correct?
21 A. Yes.
22 Q. You are interviewing this gentleman; correct?
23 A. No. I'm not.

24 Q. Well, you were talking to him; correct?

25 A. Talking to him, yes.

14084

Christopher Budke - Cross

1 Q. Did -- you know what an FBI FD302 is; correct?

2 A. Yes.

3 Q. Did you make a 302 about it?

4 A. No, I did not.

5 Q. Did you ever memorialize -- that is to say, write
down --

6 "Sergeant Wahl told me about a Ryder truck and a pickup
truck"?

7 A. Yes, I did.

8 Q. And what's the date of that --

9 A. April --

10 Q. -- that you wrote it down?

11 A. April 26.

12 MR. TIGAR: May I have a moment, please.

13 THE COURT: Yes.

14 MR. TIGAR: May we approach, your Honor.

15 THE COURT: You may.

16 (At the bench:)

17 (Bench Conference 121B3 is not herein transcribed
by court

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

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14089

Christopher Budke - Cross

1 (In open court:)

2 THE COURT: We're going to look for a copy of
this.

3 BY MR. TIGAR:

4 Q. All right. Now, I've now been shown a copy of a
document.

5 I want to show that to you, sir.

6 A. Uh-huh.

7 Q. Is the upper portion of that what you wrote on that
day?

8 A. Yes, it is.

9 Q. And will you help me, sir, by reading that word.

10 A. The copy is not very good.

11 If I'm -- I'm going to guess, but if I were to
guess,

12 it would be "gray." I'm guessing.

13 Q. All right. So what it says is he observed a Ryder
truck
14 and a gray Chevy pickup truck parked at the lake.
Isn't that
15 what you wrote?
16 A. That's what I wrote.
17 Q. And then you also wrote that he never observed any
people
18 associated with the truck; correct?
19 A. That's correct.
20 Q. And that's what he told you?
21 A. He told me it was a dark-colored pickup truck,
possibly
22 gray.
23 Q. Sir, do you see the words "dark-colored" anywhere
on this
24 document that you wrote?
25 A. No, I don't; but that's what he told me.

14090

Christopher Budke - Cross

1 Q. Is it your habit, sir, to write down something
different
2 from what witnesses tell you when you're conducting
3 investigations?
4 A. No, but it was not a verbatim of what he had told
me.
5 Q. Sir, my question -- And since this time, you've
learned

6 that it's the Government's theory that it was a dark-
colored
7 pickup truck; correct? You know that, don't you?
8 A. I know that Mr. --
9 Q. You know Mr. Nichols has got a dark-colored pickup
truck,
10 don't you, sir?
11 A. After having had that conversation with him, I have
seen a
12 photograph of Mr. Nichols --
13 Q. And you know Mr. Nichols has a dark-blue pickup;
correct?
14 A. Yes, I do.
15 Q. And do you know what Mr. Wahl testified to when he
came in
16 here?
17 A. No, I do not.
18 Q. But you wrote down "gray Chevy," didn't you, sir?
19 A. Yes, sir.
20 Q. And you wrote it down on the 26th of April, 1995,
didn't
21 you, sir?
22 A. Yes.
23 Q. And you wrote it down at 12:45 p.m., didn't you,
sir?
24 A. I don't know what the time was, sir.
25 Q. All right.

Christopher Budke - Cross

1 A. It was after lunch.

2 Q. See a time on there?

3 A. Yes. 12:45.

4 Q. Is that when you wrote it?

5 A. I don't know if that would have been when I wrote
it, or
6 that's when I talked to him.

7 Q. Okay.

8 A. I'm not certain.

9 Q. Well, how long -- now, you were at the Burger King.
You
10 say you didn't -- you sat down, had your burger meal;
right?

11 A. Yes.

12 Q. And about how long after you had your burger did
you go
13 back and write this?

14 A. Immediately afterwards.

15 Q. So this was written just as soon as you could get a
place
16 where you could find a lead sheet and a pencil;
correct?

17 A. That's correct.

18 MR. TIGAR: No further questions.

19 THE COURT: Any redirect?

20 REDIRECT EXAMINATION

21 BY MR. MACKEY:

22 Q. Agent Budke, in this lead sheet, you wrote down Mr.
Rick

23 Wahl's name; correct?

24 A. Yes, sir.

25 Q. And then you said, "Wahl was fishing at Geary State
Fishing

14092

Christopher Budke - Redirect

1 Lake on Tuesday, April 18, 1995" --

2 A. Yes.

3 Q. -- "between 9 and 12 p.m."?

4 A. Yes, sir.

5 Q. Do you have any idea whether that's the note that
you made,

6 how it corresponds to the testimony Mr. Wahl gave in
this

7 courtroom?

8 A. No, I don't.

9 Q. You went on to say in your note, "Wahl observed a
Ryder

10 truck and a gray Chevy pickup truck parked in a
somewhat remote

11 area," period. Do you know whether that note -- and
how it

12 corresponds to the testimony of Mr. Wahl?

13 A. No.

people 14 Q. You wrote in your note, "Wahl never observed any
15 associated with the trucks." Do you know how that note
16 corresponds to the testimony of Mr. Wahl?
17 A. No, sir.

between 18 Q. You wrote that "Wahl advised the lake is located
19 Junction City, Kansas, and Herington on Highway 77."
Same 20 question.
21 A. No, sir.

number 22 Q. And your last entry was, "Wahl has called the 1-800
23 and reported this and was never contacted by the FBI."
That's 24 what he told you?
25 A. That's correct.

14093

Christopher Budke - Redirect

contact 1 Q. On two occasions at the Burger King, he initiated
2 with you?
3 A. Actually, three occasions, yeah, but two short
questions 4 while we stood in line and then once while I sat down
and ate 5 my meal.

6 Q. Agent Budke, to your knowledge, had the FBI
received any
7 direct information about the sighting of a Ryder truck
and a
8 pickup truck at Geary Lake before Sergeant Wahl
approached you?

9 A. I have learned subsequently that there was a record
made
10 when he called --

11 MR. TIGAR: I object to what he learned
subsequently,
12 your Honor.

13 THE COURT: Yes. Sustained.

14 BY MR. MACKEY:

15 Q. Agent Budke, do you know how many thousands of
phone calls
16 the 1-800 number received between April 19 and April
26?

17 A. Hundreds of thousands.

18 MR. TIGAR: Object, your Honor, unless he has
personal
19 knowledge.

20 THE COURT: Yes. Objection sustained. The
answer is
21 stricken, unless it's personal knowledge, which I don't
know
22 how it could be.

23 BY MR. MACKEY:

24 Q. You don't know, Agent Budke?

25 A. I don't know the specific number. I know --

1 MR. MACKEY: I have nothing.

2 MR. TIGAR: No further questions, your Honor.

3 THE COURT: All right. You may step down.

4 May I have counsel again for a moment.

5 (At the bench:)

6 (Bench Conference 121B4 is not herein transcribed
by court
7 order. It is transcribed as a separate sealed
transcript.)

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14099

1 (In open court:)

2 THE COURT: Members of the jury, we're going
to recess
3 now -- that's what I've just been talking with counsel
about --
4 because it would be easier to recess now, even though
it's
5 earlier than our normal luncheon recess, and come back
about
6 1:10 and then hear the additional testimony. And there
won't
7 be very much more. You'll be released early today, and
the
8 evidence will then be closed.

9 But -- or we expect it to. But I want to
caution you,
10 of course, once again when you hear me say, as I told
you
11 yesterday afternoon, as we get close, I know that it is
only
12 human nature to think about all that you have heard at
that

13 time and think about what you think a decision ought to
be; and
14 that's what you must not do, because as I told you
yesterday
15 afternoon, in addition to additional testimony, you're
going to
16 hear other very important parts of the case, the
closing
17 arguments and the instructions.

18 So this recess is not different from any of
the
19 others. Please be careful, avoid discussion among
yourselves
20 about anything connected with the trial, and wait till
the case
21 is given to the jury next week.

22 But what I'll tell you now is that you can
expect to
23 be released early today and then we'll be resuming on
Monday,
24 so you're going to have a very long weekend, which
always
25 worries me. But you're excused now till about 1:10.

14100

1 (Jury out at 11:40 a.m.)

2 THE COURT: Okay. We'll recess, 1:10.

3 (Recess at 11:40 a.m.)

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Withdrawn	21	Exhibit	Offered	Received	Refused	Reserved
	22	D1329	14045		14045	
	23	D1888	14047	14047		
	24					
	25			* * * * *		

14102

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 11th day of December, 1997.

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Paul Zuckerman

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Bonnie

Carpenter

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