

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 125)

11  
 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 15th day of  
 December,  
 15 1997, in Courtroom C-204, United States Courthouse,  
 Denver,  
 16 Colorado.

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 18  
 19  
 20

21  
22  
23  
24  
Transcription  
Street,  
629-9285

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

14260

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

Lincoln

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

15 \* \* \* \* \*

16 PROCEEDINGS

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

18 THE COURT: Be seated, please.

19 Good morning.

20 MR. TIGAR: Good morning.

21 THE COURT: You have a matter?

22 MR. TIGAR: Yes, your Honor.

23 (At the bench:)

24 (Bench Conference 125B1 is not herein transcribed  
by court  
25 order. It is transcribed as a separate sealed  
transcript.)

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1 (In open court:)

2 (Jury in at 8:52 a.m.)

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

4 JURORS: Good morning.

5 THE COURT: Again, forgive us the delay, but I  
had  
6 some matters to discuss with counsel so that we can

proceed

7 without interruption, and we are prepared to do that.

evidence

8 Now, before proceeding, I told you that the

now, by

9 was closed when we recessed last Thursday; but we have

limited

10 agreement, determined to reopen the evidence for the

is, as

11 purpose of receiving four additional exhibits, and this

12 I say, by agreement between both sides.

you will

13 Let me explain what these exhibits are. As

November 20,

14 recall, Richard Wahl testified before this jury on

22,

15 1997. Mr. Wahl testified that on the morning of April

on the

16 1995, he called an FBI hot line to report information

been

17 Oklahoma City bombing investigation. This hot line had

information

18 established for individuals to call and report

who

19 related to the Oklahoma City bombing. The FBI agent

FBI

20 received this call in Washington, D.C., completed an

control sheet

21 information control sheet. This control sheet --

has been

22 is marked as defendant's -- Defense Exhibit 1891 and

23 admitted as an exhibit in this case.

Budke 24 You will also recall that Agent Christopher  
at a 25 testified that on April 26, 1995, he spoke to Mr. Wahl

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1 Burger King in Junction City regarding this  
information. And  
2 that later that day, he summarized the conversation on  
another  
3 FBI information control sheet. This information  
control sheet  
4 was referred to as a lead sheet during Agent Budke's  
testimony.

5 This information control sheet has also been admitted  
as a  
6 defense exhibit. This exhibit is numbered as D1890.

7 You will also recall that during Agent Budke's  
8 testimony, there was a reference to an interview of Mr.  
Wahl by

9 FBI Agent Walter Schaefer. Also admitted as a defense  
exhibit  
10 is a portion of an FD 302 reflecting the interview of

11 by Agents Schaefer and Francis E. Carey, III, on April  
26 and  
12 28, 1995. This exhibit is numbered as D1890A.

13 Also admitted as a defense exhibit is a  
portion of  
14 Mr. Wahl's prior testimony before a federal grand jury

on July

15 19, 1995, in which he described the second vehicle he  
observed  
16 at Geary Lake on April 18, 1995. This exhibit is  
numbered  
17 D1892.

18 So these four exhibits have been received as  
an  
19 addition to the evidence, and with that, the evidence  
is now  
20 closed. And the exhibits will be handed in and will be  
a part  
21 of the exhibits that will be given to the jury in the  
case.

22 Now, members of the jury, we are with that  
ready to  
23 proceed with the last two stages or phases of trial,  
which are  
24 the closing arguments of counsel, following which I  
will  
25 instruct you in detail with respect to the law that  
governs in

14269

1 this case.

2 Under our procedure on closing arguments,  
because the

3 Government has the burden of proof in the case, you  
will hear

4 first from counsel for the Government, then counsel for

the

5 defense, then counsel for the Government has an  
opportunity for

6 a rebuttal argument.

7 Following all of the arguments, I will  
instruct you on

8 the law. With respect to scheduling today for these  
arguments,

9 please remember that it is important that we give full  
10 consideration to the arguments that are made by counsel  
in the

11 case, and this is an opportunity for the lawyers on  
each side

12 to advocate to you their respective positions as to  
what the

13 evidence in the case does or does not show.

14 In the course of these arguments, there may be  
15 placards and other items shown to you to illustrate the  
points

16 being made in argument. Now, these things are  
different from

17 any exhibits in the case, of course. They're not  
received as

18 exhibits and they're not the same as demonstrative  
exhibits

19 which were used in the course of the taking of  
testimony to

20 assist in the -- in the explanations being given by  
witnesses

21 in their testimony. These exhibits are -- they're not

22 exhibits -- these placards and charts are for the  
purpose of

course, 23 assisting counsel in illustrating the argument. And of  
as the 24 you will recognize that the arguments of counsel, just  
evidence 25 opening statements of counsel, are not a part of the

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made by 1 in the case. They are simply suggestion to you being  
is before 2 each side as to how you may analyze the evidence that  
3 you.

4 Also with respect to our recesses now, we'll  
counsel 5 anticipate perhaps several additional breaks so that  
times to 6 will have an opportunity to tell us where convenient  
noon 7 interrupt the arguments might be, and we will close the  
be our 8 hour down to an hour to assist us here. So that will  
counsel for 9 schedule. And we'll proceed, then, and hear from  
10 the Government. Miss Wilkinson.

11 CLOSING ARGUMENT

counsel, 12 MS. WILKINSON: May it please the Court,  
13 ladies and gentlemen of the jury. Good morning.



would be 14 Looking back on September 1994, most of us  
went to 15 hard-pressed to remember what we were doing. People  
Americans 16 work, people took their kids to day-care centers, and  
for 17 around the country performed their daily routine. But  
hatred for 18 Terry Nichols, September 1994 was the month when his  
19 the government evolved from thought into action.  
McVeigh, to 20 Terry Nichols decided, along with Timothy  
Murrah 21 construct and then execute a plan to bomb the Alfred P.  
Timothy 22 Building and to commit mass murder. In seven months,  
needed to 23 McVeigh and Terry Nichols acquired everything they  
innocent 24 bring down the Alfred P. Murrah Building, to kill 168  
sense 25 men, women, and children, and to shatter every American

14271

1 of what would never happen in our country.  
evidence 2 For the past two months, you have heard the  
his plan 3 that proves that Terry Nichols plotted and carried out

many  
and chaos  
seen the  
Court. And  
to  
Terry  
Alfred P.  
submit to  
no  
Nichols

4 to attack the Government. His countless actions over  
5 months show you that he intended death, destruction,  
6 in Oklahoma City on April 19, 1995; and there was.

7 You have heard from the witnesses. You have  
8 exhibits. And soon, you will hear the law from the  
9 when you are through, you will have only one question  
10 answer. There's only one question in this case: Did  
11 Nichols intentionally help Timothy McVeigh bomb the  
12 Murrah Building and kill the people inside of it? We  
13 you the answer is obvious, the answer is yes. This was  
14 mistake, no coincidence. It wasn't a toss of the coin  
15 conspiracy: Heads, Terry Nichols was in; tails, Terry  
16 was out.

mere  
ongoing

17 The evidence is not simply a collection of  
18 chances. Rather it was an accumulation of deliberate,  
19 choices and decisions, choices that Terry Nichols made  
20 intentionally, and knowingly.

21 As I review the evidence with you this  
morning, I'd

22 like you to consider three things: The time, the  
distance, and  
23 the persistence of Terry Nichols. The time of seven  
months  
24 that he took to plan and carry out the bombing of the  
Alfred P.  
25 Murrah Building, the thousands and thousands of miles  
that he

14272

1 drove to accomplish these tasks, and the persistence he  
showed  
2 in overcoming obstacles to secure all of the bomb  
components  
3 that he and Timothy McVeigh needed.

4 All of those facts point to only one answer:  
Terry  
5 Nichols repeatedly made the choices to participate in  
the plan  
6 to bomb the Murrah Building.

7 When the arguments are done today and the  
words in the  
8 courtroom are silent, the only thing that will remain  
with you  
9 is the evidence. So this morning, I want to spend my  
time with  
10 you reviewing the evidence, and this review will take  
some  
11 time. I hope you'll be patient with me as we start  
with Terry

12 Nichols' actions back in August and September of 1994  
and trace  
13 his steps through April of 1995.

14           There has been so much evidence in this case;  
it can  
15 best be described as a avalanche of evidence against  
Terry

16 Nichols. The momentum of this evidence has been  
apparent over  
17 the past two months: The links between Timothy McVeigh  
and

18 Terry Nichols, all of the actions that they took to  
obtain bomb  
19 components, and perhaps most frightening, the elaborate  
20 measures that they took to hide their identities and to  
conceal  
21 these components until April 19, 1995.

22           Now, if you were to separate one piece of  
evidence, it  
23 may tell you about one fact. But in order to see all  
of the  
24 different facts, you have to look at all of the  
different  
25 evidence and see the picture that it paints of Terry  
Nichols'

14273

1 actions. We ask you to evaluate all of that evidence  
together.

2           His Honor has told you from the beginning and

has

wait 3 repeated every day that you must keep an open mind and  
4 until you hear and see all of the evidence to make your  
that 5 decision. The purpose of that instruction is to ensure  
6 all of the you do not make up your mind before you can evaluate  
7 consider evidence together. We want you to do that. Do not  
8 in the any one piece of evidence in isolation, but consider it  
9 context of all the other proof.

only 10 If you do that, you will see that there's not  
11 the evidence beyond any reasonable doubt, but you will see  
12 be momentum of the evidence, the connections that cannot  
13 luck. explained away again and again by coincidence, or bad  
14 of The evidence -- the avalanche of evidence is a mountain  
15 proof that Terry Nichols cannot dispute.

the 16 To help us review what Terry Nichols did over  
17 we've seven months preceding the bombing in Oklahoma City,  
18 Terry designed a chart that sets forth the major steps that  
19 Nichols took to help Timothy McVeigh acquire the bomb  
20 components, construct the bomb, and detonate it in

Oklahoma

21 City. Terry Nichols and Timothy McVeigh started in

22 September 1994 down the road to destruction.

23                   You can see on this chart the major steps as  
alleged

24 in the indictment that Terry Nichols took to help  
Timothy

25 McVeigh with the bombing, starting in September 1994,  
when the

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1 Alfred P. Murrah Building was a glass-faced office  
building in

2 downtown Oklahoma City, where people from various  
Government

3 agencies did the work of the Government, providing  
services for

4 the men, women, and children of Oklahoma City.

5                   But on September 30, Terry Nichols purchased  
one ton

6 of ammoniumnitrate fertilizer. Within days, over  
October 1

7 and 2, he stole explosives from the Martin Marietta  
quarry.

8                   And just another step down the road, on  
October 18, he

9 drove to McPherson, Kansas, and purchased the second  
ton of

10 ammonium nitrate fertilizer.

11                    Within three days, he was on the road again  
down to  
12                    Ennis, Texas, helping Timothy McVeigh purchase three  
barrels of  
13                    nitromethane.

14                    The beginning of November, Terry Nichols,  
armed with a  
15                    shotgun, robbed Roger Moore of all of his property to  
help fund  
16                    the bombing conspiracy.

17                    And then just days before the bombing, Terry  
Nichols  
18                    and Timothy McVeigh got together in central Kansas and  
made  
19                    their final plans.

20                    On April 16, Terry Nichols drove to Oklahoma  
City and  
21                    stashed the getaway car for Timothy McVeigh.

22                    Just 24 hours before this happened on April 19  
at 9:02  
23                    a.m., in downtown Oklahoma City, Terry Nichols built  
the bomb.  
24                    He constructed it with his own hands and manufactured a  
25                    4,000-pound ammonium nitrate bomb to devastate the  
building and

14275

1                    kill the people inside of it.

2                    Now, any of these steps, ladies and gentlemen,

if you

3 find Mr. Nichols guilty of any one of these actions,  
knowing  
4 that he intended to bomb the Murrah Building, you can  
find him  
5 guilty of the crimes. But we submit to you, there is  
evidence  
6 beyond a reasonable doubt of every one of these  
actions,  
7 showing that Terry Nichols knowingly, intentionally  
killed 168  
8 people.

9 As you can see from this road to destruction,  
some of  
10 the trips were long, and some of the trips were short.  
But  
11 Mr. Nichols spent many, many hours and many, many days  
and  
12 many, many months thinking about what he intended to  
do. He  
13 had time with Timothy McVeigh to think and plan and  
plot.

14 We will use this chart as we go along to keep  
track of  
15 all the actions Mr. Nichols took in his plot to carry  
-- his  
16 plot that he carried out to bomb and kill. And as we  
review  
17 the evidence, I'll put up charts here for you to review  
all the  
18 different types of proof we have for each one of these  
19 allegations.



and 20 You'll see as we review those that Mr. Nichols  
carry out 21 Mr. McVeigh had patterns, their MO that they used to  
-- of 22 this crime, patterns of using fake names, of using tele  
phones 23 using the Bridges telephone calling card, of using pay  
what 24 and of covering their tracks so that no one would know  
25 they were doing for seven months.

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that it 1 As we review this evidence and see the net  
patterns 2 tightly weaves, I will point out to you the different  
the 3 of behavior that Mr. Nichols engaged in. You will see  
conclude that 4 repetition, the attempts to conceal, and you will  
guilty 5 these are no coincidences. These are the actions of a  
6 man.

is wrong 7 Now, Mr. Nichols' counsel has told us that it  
house or 8 to judge someone by the literature they had in their  
judge 9 by the words they may have spoken. So how does one

10 someone? By their actions. As we review the evidence  
and see  
11 all the accumulation of actions Terry Nichols took on  
this road  
12 to destruction, there will be no doubt that he is  
guilty  
13 because of the actions that he took. It is his own  
deeds that  
14 will tell you everything that you need to know about  
his role  
15 in the crime.

16 Let's start back at the very beginning, back  
in August  
17 and September of 1994 when Terry Nichols and Timothy  
McVeigh  
18 were together in central Kansas. You know from Michael  
Fortier  
19 that Timothy McVeigh sent a letter to him, telling him  
that  
20 Terry Nichols and Timothy McVeigh had agreed to take  
action  
21 against the Government. How do you know that that's  
true? You  
22 know that Timothy McVeigh arrived in Kansas in August  
of 1994.  
23 And you know Marife Nichols, Mr. Nichols' wife, left  
Kansas in  
24 September of 1994 and didn't return to the United  
States until  
25 March 17, 1995, just a month before the bombing.

1                   So back in the fall of 1994, Terry Nichols was  
free to  
2                   be with Timothy McVeigh for those crucial weeks when  
they  
3                   obtained most of the bomb components. Marife Nichols  
had left,  
4                   and Terry Nichols and Timothy McVeigh began to  
immediately  
5                   carry out their deadly plan.

6                   The first thing they did was rent a storage  
shed in  
7                   Herington, Kansas. You can see that on Government  
Exhibit 88,  
8                   which shows the rental agreement that Timothy McVeigh  
signed.

9                   Excuse me. Thank you.

10                  You may be able to see it.

11                  Well, if you could see it -- and you'll see it  
when  
12                  you go back into the jury room -- Government Exhibit 88  
is the  
13                  rental agreement between Timothy McVeigh and the  
Herington  
14                  storage unit. But it's not in his true name; it's in  
the name  
15                  of Shawn Rivers, and it was rented on September 22,  
1994, and  
16                  eventually paid in cash so that the unit was available  
to  
17                  Mr. McVeigh and to Mr. Nichols through April of 1995.

18 Just that very first action tells you  
something about  
19 what Terry Nichols and Timothy McVeigh planned back in  
20 September. Back in the fall of 1995, they knew that  
they were  
21 going to use that storage shed to store the bomb  
components  
22 that they would accumulate but not use until April 19,  
1995.  
23 So let there be no doubt about it, even back in the  
fall of  
24 1995 (sic), they knew what their objective was: They  
knew that  
25 they wanted to attack the government and bomb the  
Murrah

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1 Building in downtown Oklahoma City in the fall of 1994.  
2 You also know that this was their mind-set,  
because  
3 you heard a defense witness, Steven Hodge, tell you  
about  
4 Timothy McVeigh and what he was thinking back in the  
summer of  
5 1994. Mr. Hodge, Timothy McVeigh's best friend in  
Lockport,  
6 New York, told you that McVeigh was trying to persuade  
him to  
7 take -- that taking violent action against the  
Government was

convince 8 justified. Timothy McVeigh took 23 pages to try and  
warned him 9 Steven Hodge that violent action was warranted and  
10 that blood would flow in the streets.

that 11 But when Steve Hodge said he did not agree  
12 violence was warranted, Timothy McVeigh rejected him.

On July

13 14, 1994, Timothy -- after that, Timothy McVeigh never  
14 contacted Steve Hodge again. After being friends since  
15 childhood, after exchanging at least 66 letters,

Timothy

16 McVeigh turned his back on his friend and went to  
central

17 Kansas to be with Terry Nichols, someone who did share  
his

18 views and someone who was willing to act on those  
views.

19 Timothy McVeigh and Terry Nichols were  
together.

"The Road 20 On September 30, the first day depicted on

a choice 21 To Destruction," Terry Nichols made a choice. He made

22 to get on the road with Timothy McVeigh and leave  
behind a good

23 job. It was a crossroads for Mr. Nichols. He had been

24 employed by Mr. Donahue, who many of you remember was  
the

25 farmer from Marion, Kansas. He had been receiving a  
good

14279

1 salary. But instead of continuing to work for Mr.  
Donahue, who  
2 told you that he would like -- he would have liked to  
have  
3 Mr. Nichols as a worker as long as Mr. Nichols was  
willing to  
4 stay, Terry Nichols made a different choice. He chose  
on  
5 September 30, to begin gathering bomb components for  
the deadly  
6 destructive device that he and Timothy McVeigh knew  
would kill  
7 and destroy the Murrah Building. Leaving behind an  
honest job  
8 and hard work, Terry Nichols started down the road to  
the  
9 biggest terrorist act in the history of our country.  
10 Instead of working at an honest job and truly  
building  
11 a life, Terry Nichols chose to quit his job, send his  
wife and  
12 child halfway around the world, and he joined up with  
Timothy  
13 McVeigh.  
14 You also heard evidence about what Mr.  
Nichols' state  
15 of mind was at that time. Mr. Donahue told you that at  
the

16 time that Mr. Nichols decided to leave his employment,  
he  
17 started talking about bombs, Waco, and overthrowing the  
18 government. That was at the same time that Timothy  
McVeigh was  
19 in Kansas with Terry Nichols. Terry Nichols told Mr.  
Donahue  
20 that he believed it was justified to overthrow the  
government,  
21 and he justified it by quoting Thomas Jefferson. That  
was a  
22 quote that you heard or you saw in a different context.  
The  
23 quote: "The tree of liberty must be refreshed from  
time to  
24 time with the blood of patriots and tyrants," was the  
same  
25 quote that Timothy McVeigh had on his shirt after he  
was

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1 arrested in Oklahoma on April 19, 1995.  
2 Mr. Nichols used Thomas Jefferson to justify  
violent  
3 action. Well, Thomas Jefferson never bombed a day-care  
center.  
4 There is no justification for what Terry  
Nichols and  
5 Timothy McVeigh did. But on September 30, Terry  
Nichols made a

6 choice, and he purchased one ton of ammonium nitrate.  
On that  
7 day, he wasn't building a life. He was building a bomb  
and he  
8 was building an alibi. He used a fake name on  
September 30,  
9 1994, to purchase that ton of ammonium nitrate; and for  
the  
10 next seven months, as he and Timothy McVeigh proceeded  
down the  
11 road to destruction, at every point, when Terry Nichols  
12 obtained bomb components, stole bomb components, robbed  
Roger  
13 Moore and plotted the final stages of the bombing, he  
used  
14 false statements and fake names to provide an alibi for  
his  
15 participation in the Oklahoma City bombing.

16 Now, the first question we need to answer  
about Terry  
17 Nichols and the purchase of the ammonium nitrate  
fertilizer on  
18 September 30 is: Who was Mike Havens? We submit to  
you that  
19 Terry Nichols was Mike Havens, and we have presented  
lots of  
20 different types of proof to show you why.

21 As you can see here, this is just a list of  
all the  
22 different types of proof that show you why Terry  
Nichols was  
23 Mike Havens on September 30. Let's start at the top.  
And the



24 first thing we have is the actual purchase of 2,000  
pounds of  
25 ammonium nitrate fertilizer by Mike Havens.

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1           You saw this receipt many times in evidence,  
2 Government's Exhibit 62, which shows the purchase on  
3 September 30, 1994, in the name of Mike Havens, for 40  
bags of  
4 50 -- 40 50-pound bags of ammonium nitrate fertilizer  
with a  
5 tax of \$12.74 and a total of \$228.74. This was the  
same  
6 receipt you saw Mr. Ryan show Miss Marife Nichols that  
has the  
7 two coin impressions, and it was found in Terry  
Nichols' house.

8           We know that Terry Nichols had the opportunity  
to be  
9 Mike Havens on September 30 because Mr. Donahue told  
you that  
10 he left work early that day. That was supposed to be  
his last  
11 day at work, Friday, September 30; but in an unusual  
turn of  
12 events, he asked Mr. Donahue to leave early. He left  
early  
13 enough to make that purchase and to return back to the  
farm

7:00 and 14 where Mr. Donahue saw him later that evening around  
was on 15 noticed for the first time that that white camper shell  
16 top of his dark blue truck.

17 You have seen Government's Exhibit 51, which  
is the 18 photograph of Mr. Nichols' truck. That is the truck  
and the 19 Mr. Donahue saw on September 30, the white camper top,  
the one 20 blue truck that Mr. Nichols used to purchase the am --  
21 ton of ammonium nitrate fertilizer.

22 So so far we have a purchase for 2,000 pounds,  
a false 23 name of Mike Havens, and a large cash purchase. You  
heard from 24 Mr. Nattier who told you that was a very unusual  
transaction 25 for the Mid-Kansas Co-op, because normally, customers  
who

14282

1 purchase that amount of fertilizer, purchased it from  
an 2 account. It was, in fact, the largest transaction in  
cash at 3 the Mid-Kansas Co-op in McPherson that year.

4 Let's go to the most obvious fact, the next  
one on the

5 list, that the Mike Havens receipt, the one I just  
showed,  
6 Government's Exhibit 62, was found in Terry Nichols'  
kitchen.  
7 It was found in his kitchen three days after the  
bombing in a  
8 house that his wife told you they had just moved into  
in March  
9 of 1995. Mrs. Nichols also told you that Timothy  
McVeigh had  
10 never been in that house, as far as she knew, and that  
all of  
11 those coins that were in the kitchen cabinet where this  
receipt  
12 was found belonged to Terry Nichols. In fact, she  
identified  
13 the two coins that were found with the receipt and told  
you  
14 that those coins were Terry Nichols'.  
15 Mr. Nichols also told the FBI that Timothy  
McVeigh had  
16 never been to his house and that he hadn't had personal  
contact  
17 with Timothy McVeigh in the months prior to the  
bombing. The  
18 only conclusion, then, ladies and gentlemen, is that  
Terry  
19 Nichols made that purchase on September 30. The Havens  
receipt  
20 was found in Terry Nichols' kitchen. The one thing  
that Terry  
21 Nichols should have learned in the real estate business  
was

22 location, location, location.

23  
Nichols is

The next reason that you know that Terry

24 Mike Havens is because he used the name "Havens" on two  
25 different occasions. In Government's Exhibit 83, you  
can see

14283

1 the Starlite registration that Mr. Havens used. Terry  
Havens.

2 You can see the address, Route 2, Box 28, in Hillsboro,  
Kansas,

3 another fake address used by Mr. Nichols on several  
different

4 occasions. You know that he's Terry Nich -- Terry  
Havens

5 because he doesn't dispute it. That's his handwriting,  
as we

6 heard. And this registration occurred on October 16,  
1994.

7 That's just two days before the second purchase of  
ammonium

8 nitrate fertilizer on October 18, 1994. You also know  
that

9 there were fingerprints found on the Terry Havens  
Starlite

10 registration card -- another good reason for Mr.  
Nichols to

11 admit that it was his handwriting.

12                    We saw Mr. Nichols use that name "Havens" one  
other  
13                    time: when he checked in at the Buckaroo Motel under  
the name  
14                    "Joe Havens" on October 25, and again, notice the  
information  
15                    that's on this receipt: The name "Havens," the same  
false  
16                    address, Route 2, Box 28, Hillsboro, Kansas. And then  
look  
17                    down at the bottom. Gives you the number of the party,  
two;  
18                    the make of the car, the pickup; and the license plate,  
WX1640.  
19                    As you know from seeing the photograph of the license  
plate in  
20                    Nichols' house, you can see right here, WX1460 was his  
Michigan  
21                    license plate at that time. He transposed the two  
numbers, the  
22                    4 and the 6, but this is his license plate that he used  
on his  
23                    dark blue pickup truck with a light camper shell in the  
fall of  
24                    1994.

25                    So so far, we have 2,000-pound purchase and a  
fake

14284

1                    name, we have that name being used by Mr. Nichols on  
two

and 2 different occasions, and we have the same fake address  
3 license plate being used on those registration cards.

4 identification

5 of Mr. Nichols' truck at the Mid-Kansas Co-op on  
September 30.

6 You heard from two of the employees from Mid-Kansas Co-  
op who

7 told you that they had worked on the transaction on

8 September 30 and one who had worked on the transaction  
on

9 October 18, 1994. They both recalled the transaction  
was for

10 2,000 pounds of ammonium nitrate, and Mr. Schlender  
recalls

11 that Havens -- the Mike Havens who made this purchase  
-- had a

12 dark-colored pickup truck with a light-colored camper  
shell.

13 That was the same day that Terry Nichols left work  
early.

14 You also heard that during that transaction,  
the

15 customer did not want the tax exemption, despite the  
fact that

16 he said that he was a farmer and he was going to use  
the

17 ammonium nitrate for his wheat crop. Now, here's where  
you can

18 use your common sense. Who spends money that they  
don't have

19 to? What farmer who is going to use the ammonium  
nitrate for  
20 his crop wouldn't take the tax exemption? Well, we  
know why  
21 Terry Nichols didn't want the tax exemption: Because  
it would  
22 have created a paper trail, and Terry Nichols was very  
careful  
23 from the very beginning to try and cover his tracks.  
So  
24 instead of saving the money, the \$12.74 that every  
farmer would  
25 want to save by filling out the tax exemption  
paperwork, Terry

14285

1 Nichols chose to pay that money and hide his true  
identity.  
2 I've already told you that the coins and the  
receipt  
3 were identified by Marife Nichols. So there can be no  
4 suggestion from the evidence that you've heard that  
Timothy  
5 McVeigh took that receipt, wrapped it around Terry  
Nichols'  
6 coins, and put it in his house. There is no evidence  
that  
7 supports that theory.  
8 Now, you've heard descriptions of Mike Havens  
from

9 Mr. Schlender and Mr. Showalter, one who had done the  
10 transaction on September 30, and one who recalls the  
11 transaction from October 18. Both described the person  
12 similarly, but what's most obvious is both say it was  
not  
13 Timothy McVeigh. Mr. Schlender said it was a white  
male who  
14 was 35 to 40 years old, 5' 8" to 6 feet tall, with a  
slight  
15 build, light brown hair, but not cut in a crew cut, and  
it was  
16 not McVeigh. He also told you that the person who made  
the  
17 purchase on September 30 was the same person who made  
the  
18 purchase on October 18.

19 Mr. Showalter said he also recalled that Mr.  
Havens  
20 was a white male in his late 30's and early 40s, 5' 9"  
to 5'  
21 10", dark brown hair and an average build. He, too,  
told you  
22 that it was not Timothy McVeigh.

23 It is for all these reasons, ladies and  
gentlemen, all  
24 the reasons listed on this one chart, that you can  
conclude  
25 beyond a reasonable doubt that Terry Nichols was Mike  
Havens on



of 1 September 30, 1994, and that he purchased 2,000 pounds  
2 ammonium nitrate.

3 The next step that Terry Nichols took on the  
road to 4 destruction occurred almost immediately thereafter.  
After 5 loading the ammonium nitrate into the storage shed, Mr.  
Nichols 6 returned to his home and on October 1, we know he  
wasn't 7 working. We know he wasn't working because Mr. Donahue  
told us 8 that his last day of work was the Friday, September 30.  
So he 9 and Timothy McVeigh were in Marion, Kansas, on October  
1 and 2. 10 Mr. Donahue told you that when he went over to check to  
see if 11 Terry Nichols had left that weekend, Mr. Nichols' truck  
was 12 still there. So once again, we know that Terry Nichols  
had the 13 opportunity to rob the Martin Marietta quarry which was  
located 14 just down the street.

15 And here are the reasons why you know Terry  
Nichols 16 robbed the quarry. Again, let's start with the obvious  
one. 17 The quarry was just down the road from the ranch where

18 Mr. Nichols worked. You heard that to go to the bank  
where  
19 Mr. Nichols cashed his check every two weeks, he had to  
drive  
20 right by the quarry. He, again, had the opportunity,  
and he  
21 had the tools.

22 We know that the quarry was burglarized.  
There's no  
23 debate about that. You heard from Mr. Radtke who  
described  
24 what's depicted here in Government Exhibit 123, the  
quarry  
25 magazines that were held shut by the padlocks which are

14287

1 underneath these small protective areas in metal here  
so that  
2 someone who wanted to drill those locks would have to  
reach up  
3 with some kind of cordless drill and reach under that  
4 protective area to drill the padlocks.  
5 You heard from Mr. Radtke, who was the blaster  
who  
6 worked at the Martin Marietta quarry every day; and he  
told you  
7 that on September 28, he had checked those magazines to  
make  
8 sure that they were secure. When he came back the next

time to

9 check them on October 3, after the weekend, he realized  
that

10 some of the magazines had been broken into, and that  
explosives

11 had been stolen. You heard that electric blasting caps  
had

12 been stolen, and dozens of the non-electric, Primadet,  
60-foot,

13 eight-second delay blasting caps with that orange shock  
tube

14 had been taken. And finally, you heard and saw what's  
depicted

15 here in Government's Exhibit 122, that cases of the  
sausages of

16 Tovex, a high explosive, were also missing that day.  
These

17 explosives were the explosives that Terry Nichols and  
Timothy

18 McVeigh needed to detonate the ammonium nitrate that  
they had

19 already purchased.

20 The next day, you heard Mr. Radtke tell you  
that he

21 also checked the ammonium nitrate and fuel oil trailer  
where

22 they had those big heavy sacks of premixed ANFO, and he  
noticed

23 that one of locks there had been partially drilled. He  
took

24 that lock and turned it over to law enforcement. And  
you saw

25 that lock here in court.

14288

1                   You know that up until the bombing in Oklahoma  
City,  
2                   the robbery was not solved. But there is no question  
that the  
3                   quarry was robbed. So for you the question is: Who  
did it?  
4                   We know that Terry Nichols and Timothy McVeigh had  
those  
5                   explosives because you heard that they were stored in  
Kingman,  
6                   Arizona, in Unit E10. In Government's Exhibit 177,  
Michael  
7                   Fortier picked out for you E10, which is right here in  
the  
8                   middle, and told you that he had seen Timothy McVeigh  
and Terry  
9                   Nichols inside that storage shed. The storage shed  
itself was  
10                  rented on October 4. That date's no coincidence.  
That's the  
11                  date that follows the robbery in Marion, Kansas. Mr.  
McVeigh  
12                  rented that storage shed under his true name, because  
he had to  
13                  show identification, and he and Terry Nichols stored  
the  
14                  explosives there.

15                         But how do you know that what Mr. Fortier told

you was

16 true? How do you know that Terry Nichols was actually  
in the  
17 storage shed with the explosives? Well, first of all,  
we found  
18 Primadet in Kingman that had Mr. Nichols' fingerprint  
on it.  
19 There was the Primadet that was found in Mr. Nichols'  
house,  
20 Government's Exhibit 140, the exact same kind of  
Primadet that  
21 was stolen from the quarry and the exact same kind of  
Primadet  
22 that was found in Kingman, Arizona. Mr. Nichols had  
that  
23 Primadet in that house, and he had his fingerprint on  
the  
24 Primadet in Kingman.

25 That is the type of corroboration that we want  
to show

14289

1 you each time we ask you to believe Michael Fortier.  
We're not  
2 asking you to rely on his testimony alone, but we're  
asking you  
3 to look for other facts that support what he said.

4 The fingerprint found on the Primadet in  
Kingman tells  
5 you that Mr. Nichols was there, just as Mr. Fortier

told you,

6 handling the high explosives.

7 You also heard that he came out in early  
October and

8 had parked his car in front of the storage shed and was  
inside,

9 moving other items -- I believe it was a tire that he  
was

10 moving at that time -- in and out of the storage shed.  
So

11 clearly, he had access to that shed where all of those  
12 explosives were.

13 At that same time, Timothy McVeigh showed  
Michael

14 Fortier a box marked "explosives" where they contained  
sausages

15 of explosives, which we call Tovex. That box that was  
marked

16 "explosives" with the yellow diamond looked exactly  
like the

17 box that Mr. Radtke described for you that was stolen  
from the

18 quarry back over the weekend of October 1 and 2.

19 Now, I asked you at the beginning when we  
consider

20 this evidence to consider the distance that Mr. Nichols  
went to

21 carry out this crime. Just in this trip alone, ladies  
and

22 gentlemen, he drove over 1100 miles and crossed four  
state

23 lines to store the explosives in Kingman.

24                    Now, ask yourselves, why would he get in his  
car and  
25                    drive that car far, all the way from Marion, Kansas, at  
a time

14290

1                    when he had no job, to store explosives with Timothy  
McVeigh?  
2                    The answer is simple: He and Timothy McVeigh had  
stolen the  
3                    explosives from the Marion quarry, and they wanted to  
store  
4                    them as far away from the crime scene as they possibly  
could.  
5                    They wanted to make sure that law enforcement didn't  
know what  
6                    they were doing as they were accumulating bomb  
components  
7                    because if anyone stopped them at any step, they would  
never  
8                    get to their final point of destruction on April 19,  
1995.

9                    Unfortunately, Terry Nichols and Timothy  
McVeigh were  
10                   very successful at covering their tracks and no one had  
any  
11                   idea before the bombing that they had robbed the  
quarry.

12                   Now, in case you need any other evidence about  
why

13 Terry Nichols robbed the quarry, you also found -- or  
you also  
14 heard that a Makita drill, cordless Makita drill, was  
found in  
15 his house after the bombing. That cordless drill had a  
set of  
16 bits, and that bit was used and analyzed and compared  
to the  
17 padlock.

18 Now, before we get into the analysis that was  
done --  
19 and you can see the drill here on Government's Exhibit  
2011 --  
20 look at the drill itself. It is a Makita cordless  
drill.

21 Michael Fortier told you that he had heard from Timothy  
McVeigh  
22 that Terry Nichols and Timothy McVeigh had robbed the  
quarry.

23 He also told you that a Makita drill had been used.  
Now, how  
24 would he have known that? How would he have known that  
if that  
25 weren't true? When we went to Mr. Nichols' house,  
that's

14291

1 exactly what we found; we found a cordless Makita drill  
that  
2 could be used to reach under those padlocks and drill  
the lock.



3 Again, corroboration for what Mr. Fortier told you.  
After the  
4 lock and drill bit were turned over to law enforcement,  
two  
5 different tool mark examiners compared the marks made  
by the  
6 drill bit, the quarter-inch drill bit, to the padlock  
that had  
7 been recovered from the quarry. And you heard that  
there were  
8 similarities between both of those items. Mr. Krivosta  
from  
9 the New York Suffolk County laboratory told you that  
those were  
10 picture-perfect similarities. But you don't need to  
rely on  
11 those folks. You can make the comparison yourself.  
You can  
12 look at those marks and see that they match. You can  
see that  
13 the drill bit found in Mr. Nichols' house was used to  
drill the  
14 padlock at the Marion quarry.

15 Now, all of this evidence shows you that Terry  
Nichols  
16 and Timothy McVeigh robbed the quarry. But you also  
heard part  
17 of the story from Michael Fortier, and he told that he  
had seen  
18 the explosives, as I said, in the shed, and he said  
that he had  
19 heard the story from Mr. McVeigh.

can't 20 Defense counsel has suggested to you that you  
you can 21 believe Michael Fortier. But he suggests to you that  
wants you 22 only disbelieve him on certain counts. That is, he  
believe that 23 to use selective believability. He wants you to  
McVeigh 24 Timothy McVeigh did the bombing, and that Timothy  
Terry 25 carried out all the activities to support it. But

14292

Fortier was 1 Nichols wants to try and convince you that Michael  
crime. 2 lying when he says Terry Nichols was involved with the  
supposedly 3 Michael Fortier was right about Timothy McVeigh, but  
Fortier has 4 wrong about Terry Nichols. Everything that Michael  
to 5 told you about the bombing has been corroborated. And  
believe, you 6 believe the theory that Mr. Nichols wants you to  
details 7 have to believe that Michael Fortier remembers all the  
remember 8 about Timothy McVeigh correctly, but just happens to  
9 all the details about Terry Nichols incorrectly.

10                   That can't be true. We know that the basic  
things  
11                   that Mr. Fortier told Timothy -- or that Timothy  
McVeigh told  
12                   Michael Fortier are true. He told them that they were  
going to  
13                   bomb the federal building in Oklahoma City. They did  
that.  
14                   They told you that they were going to obtain components  
to mix  
15                   that bomb and use the site of Geary Lake. They told  
you that  
16                   they were going to attack the federal government to  
retaliate  
17                   for Waco. And Mr. McVeigh told Michael Fortier that  
they were  
18                   going to mix racing fuel and ammonium nitrate in 55-  
gallon  
19                   plastic barrels and detonate the mixture with the  
explosives  
20                   they stole at the quarry. They did that.

21                   That in fact, the bombing itself, ladies and  
22                   gentlemen, is the most tragic corroboration of what Mr.  
Fortier  
23                   told you.

24                   Michael Fortier also told you that Timothy  
McVeigh had  
25                   told him about the plan to bomb the building and the  
plan to

options  
to  
Kansas so  
he  
waiting  
scene after  
parked  
right near  
the key  
in that  
the

1 get away. That plan included Terry Nichols. The two  
2 that they were considering was whether they would drive  
3 Oklahoma City several days before the bombing, leave  
4 Mr. McVeigh's car there, and drive back to central  
5 that Timothy McVeigh would have a getaway vehicle when  
6 actually detonated the bomb in front of the building.  
7 The other plan was that Mr. Nichols would be  
8 in a car nearby and drive Mr. McVeigh away from the  
9 the bombing. Well, we know that Mr. McVeigh's car was  
10 in the area where Mr. Fortier told you -- that is;  
11 the YMCA building -- because you saw the key. You saw  
12 that was recovered from the crime scene that was found  
13 alleyway; right around the YMCA building on the way to  
14 parking lot.

make sure  
that's what  
Building,

15 Timothy McVeigh had said that he wanted to  
16 there was a building between him and the blast, and  
17 he did. He left the truck in front of the Murrah

18 walked around the YMCA, dropped the key, and went to  
his parked

19 vehicle right around the corner.

20 On April 16, 1995, Terry Nichols helped  
Timothy

21 McVeigh plant that getaway car just the way Michael  
Fortier

22 told you.

23 Let's go back for a moment, if we could, to  
the other

24 things that you heard from Michael Fortier about the  
stolen

25 explosives. We have other ways of proving that Terry  
Nichols

14294

1 was in Arizona at the time those explosives were stored  
and at

2 the time Michael Fortier saw him. Let's take a look at

3 Government's Exhibit 1888 which are the phone records  
for

4 October 6. And as you can see here, it shows that at  
5:30 in

5 the afternoon, there was a call from Kingman, Arizona,  
to Lana

6 Padilla's house in Las Vegas. And shortly after that,  
another

7 call was made from that same pay phone to Lana  
Padilla's house

8 for 5 minutes and 27 seconds.

9 She told you -- Miss Padilla told you that she  
had  
10 never spoken to Mr. McVeigh for any length of time. So  
you  
11 know these calls are from Terry Nichols to his ex-wife  
and son  
12 in Las Vegas, Nevada. Another piece of evidence that  
shows you  
13 that Terry Nichols was in Arizona in early October,  
1994.

14 You also know that in late October, 1994,  
Terry  
15 Nichols returned to Kingman, Arizona, to help Timothy  
McVeigh  
16 clear out the explosives and bring them back to Kansas.  
17 Michael Fortier told you that Terry -- Timothy McVeigh  
had been  
18 at his house at the end of October and that he was  
waiting for  
19 Terry Nichols. Timothy McVeigh got tired of waiting.  
He told  
20 Fortier to give Terry Nichols the message to pick up  
the stuff  
21 and meet him in New Mexico. When Fortier asked him  
what stuff  
22 he was talking about, McVeigh said that Terry Nichols  
would  
23 know.

24 McVeigh was right. When Terry Nichols showed  
up just  
25 20 minutes later, Fortier gave Timothy -- gave Terry  
Nichols

14295

1 the message, and Terry Nichols didn't ask any  
questions. He  
2 just nodded his head and went on. He didn't ask what  
stuff  
3 McVeigh was talking about, he didn't ask where in New  
Mexico he  
4 was supposed to meet Timothy McVeigh. He just nodded.  
5 And if we look at the phone records for that  
time, on  
6 October 29 on Government's Exhibit 1888, we can see  
evidence,  
7 again, that Terry Nichols came to Kingman, Arizona.  
Here on  
8 October 29, there's a call at 9:52 a.m. from Michael  
Fortier's  
9 house to Lana Padilla, and within minutes that morning,  
there's  
10 a call from a pay phone, a phone of choice for Terry  
Nichols,  
11 to Michael Fortier's house returning that call for 4  
minutes  
12 and 46 seconds. It is on that day that Terry Nichols  
then left  
13 Kingman, Arizona -- excuse me, left Las Vegas, Nevada,  
and came  
14 to Kingman, Arizona, to pick up the explosives and to  
meet  
15 Mr. McVeigh in New Mexico.

16                    We know Mr. McVeigh was in New Mexico that day  
because  
17                    he has a hotel or motel registration from Motel 76.  
Here on  
18                    Government's Exhibit 227 you can see Timothy McVeigh  
checked in  
19                    at the Motel 76 in Albuquerque on October 31, 1994, the  
hotel  
20                    where Terry Nichols and Timothy McVeigh met after they  
21                    collected some of the explosives out of the Unit 10 in  
Kingman.  
22                    Michael Fortier told you one other thing about  
the  
23                    explosives. He told you that Timothy McVeigh and Terry  
Nichols  
24                    wanted to make sure that they were going to get it  
right on  
25                    April 19, 1995, so they conducted a small test blast.  
You

14296

1                    recall that Mr. Fortier saw that jug of ammonium  
nitrate and  
2                    fuel oil and a sausage explosive that Terry Nichols and  
Timothy  
3                    McVeigh were going to use out in the desert to conduct  
their  
4                    test. They asked Mr. Fortier whether he wanted to  
accompany  
5                    them, and he said no. But at that time, when Michael



Fortier

6 was listening to Terry -- to Timothy McVeigh tell him  
about the

7 test blast, Terry Nichols was standing just six inches  
away.

8 He was there when Michael Fortier was touching that  
sausage of

9 Tovex, and he was there when Timothy McVeigh was  
talking about

10 the test. He was there with his dark-colored truck and  
a light

11 camper shell.

12 Terry Nichols went with Timothy McVeigh to do  
the test

13 blast. Michael Fortier did not.

14 It is for all those reasons, ladies and  
gentlemen:

15 The quarry near Mr. Nichols' house, the proximity of  
the

16 location; the Primadet found in his house; the Primadet  
found

17 in Kingman with his fingerprint on it; the explosives  
locker

18 padlock that was drilled out that has similarities to

19 Mr. Nichols' drill and drill bit; and the stories from  
Michael

20 Fortier about Mr. Nichols' presence in Arizona at the  
times

21 when the explosives were being handled that all tell  
you that

22 Terry Nichols stole explosives from the quarry in  
October of

23 1994.

24                   Within just a couple of days of making the  
choice, the

25 choice to go down the pathway to destruction, Terry  
Nichols had

14297

1 already purchased a ton of ammonium nitrate, he had  
already

2 chosen to rob a quarry, and he had already driven all  
the way

3 to Kingman, Arizona, to store those explosives. He had  
lots of

4 time on the road to think about what he was doing. And  
he

5 chose to take the next step. He chose on October 18 to  
make sure

6 purchase the second ton of fertilizer. He chose to

7 that he built a big bomb, as Linda Jones said, a very  
big bomb.

8                   So he went back to the Mid-Kansas Co-op, and  
what did

9 he do? He purchased on October 18, 2,000 pounds in the  
same

10 name: Mike Havens.

11                   Terry Nichols was Mike Havens on October 18,  
1994. He

12 was Mike Havens because he used the same name, Havens,  
that he

13 had used during that same time period. Folks who

handled the

14 transaction told you it was the same man. We have the  
same  
15 name. It was for the same amount, and it was from the  
same  
16 store. All of the facts exactly like the transaction  
on  
17 September 30.

18 But by this time, Terry Nichols and Timothy  
McVeigh

19 had accumulated a rather large amount of bomb  
components and

20 they needed another storage shed, another place to  
store their

21 bomb components. So just one day before the purchase  
of

22 ammonium nitrate on October 17, Terry Nichols went to  
Council

23 Grove, and you can see it here on your monitor, how he  
rented

24 this storage shed, Unit 40, under a fake name. He used  
the

25 name "Joe Kyle" to rent No. 40 storage shed just 24  
hours

14298

1 before he was about to purchase the second ton of  
ammonium

2 nitrate.

3 Why did Terry Nichols choose to use the name

"Joe  
something 4 Kyle"? Well, we know that every time he wanted to do  
He had 5 to assist the bombing conspiracy, he used a fake name.  
the name 6 already used Mike Havens for the purchase, so he chose  
other 7 "Joe Kyle," the same name that he had used on several  
that it's 8 occasions. We know it's his name because he admits  
"Joe 9 his name. He told the FBI that he had used the name  
different 10 Kyle." He used the name "Joe Kyle" on several  
from the 11 occasions, and he used it to hide his true identity  
storage 12 folks at the storage unit at Boots U-Store-It to rent  
13 shed No. 40.  
suggest to 14 But you heard in opening statement counsel  
perhaps 15 you that Mr. Nichols had some creditor problems and  
in a fake 16 that's why he had to buy the Daryl Bridges phone card  
name. Well, 17 name and why he would rent storage sheds in a fake  
18 throughout this trial, there's been no evidence that  
did, why 19 Mr. Nichols had any credit problems. But even if he  
from 20 would you rent a storage shed in a fake name to hide

21 creditors? First of all, creditors don't go around  
searching

22 storage sheds to look for people's belongings.

23 But Mr. Nichols didn't have any belongings to  
store on

24 October 18. Nothing had happened at that time for him  
to need

25 a place to store anything but bomb components. He had  
moved

14299

1 out of his house on October 1 or 2. So any items that  
he had

2 to store, he had to store in Mr. McVeigh's storage unit  
in

3 Herington, the storage shed under the name of Shawn  
Rivers. He

4 had to have a place to put his things because we know  
after

5 October 2, he didn't have a house. He didn't have a  
home. His

6 family was gone. He was on the road and he was living  
in

7 motels. So if he had any large items to store, he  
would have

8 had to store them in the Herington storage shed back at  
the

9 beginning of October 1. So why, then, did he use --  
need

10 Council Grove No. 40 on October 17? We submit to you

that he

11 needed it because he was getting ready to purchase the  
second 12 ton of ammonium nitrate.

13 During the case, you saw a lot of phone  
records, and 14 you heard a lot about the Daryl Bridges phone card.  
Those 15 phone records are important because they show you many  
times 16 where Terry Nichols and Timothy McVeigh were and what  
they were 17 trying to do. In opening statement, we presented those  
phone 18 records to you and counsel suggested that there were  
some 19 problems with them. But over the trial, defense  
counsel used 20 those phone records just the way the Government did.  
Indeed, 21 during the defense case, you heard one of the counsel  
say, "The 22 phone records speak for themselves." We submit to you:  
They 23 do.

24 The phone records in this case show you why  
Terry 25 Nichols is the purchaser of the 2,000 pounds of  
ammonium

1 nitrate in the name of Mike Havens on October 18. If  
you look  
2 at the phone records for that day, you can see where  
Terry  
3 Nichols was. You might recall that the purchase of  
ammonium  
4 nitrate was somewhere between 12 and 1:30 that day back  
in  
5 McPherson, Kansas. Mr. Schlender told you that it was  
sometime  
6 around the noon hour. You can see that there are a  
series of  
7 phone calls in Council Grove; right near the Council  
Grove  
8 storage shed, several hours after that purchase. That  
gave  
9 Terry Nichols time to purchase the ammonium nitrate, to  
put it  
10 in the storage shed, and go to the phone -- excuse me,  
the pay  
11 phone to make these phone calls.

12 And look at what the series shows. They start  
at 3:32  
13 in the afternoon. And there's one call after another  
-- one,  
14 two, three, four, five, six calls, many to companies  
that  
15 provide barrels. You know from this series of calls  
that the  
16 person making these telephone calls on the Bridges card  
was  
17 Terry Nichols, and you know that because you can see

this last

18 call highlighted here from the Coastal Mart pay phone,  
the same

19 phone being used for all these previous calls, to  
Equity

20 Standard. That's the coin shop that Mr. Nichols was at  
the

21 following morning, on October 19.

22 Here's the videotape that you saw of Mr.  
Nichols,

23 Government's Exhibit 238B, and see the highlighted  
portion up

24 in the left-hand portion: It says 10-19, 1994. Mr.  
Nichols

25 called the coin shop the day before from Council Grove  
and

14301

1 showed up that morning at 10:11 a.m. And there he is;  
right

2 there in the -- inside the blue circle. You heard from  
Kevin

3 (sic) Dunlap that he recalls that transaction with Mr.  
Nichols.

4 He recalls it because he bought coins from him that  
day. Those

5 coins, ladies and gentlemen, that he purchased -- that  
he

6 turned in for cash -- cash we submit was used just two  
days



7 later on October 21 to purchase the nitromethane.

8 But Mr. Nichols was there that morning, had  
the  
9 transaction with Mr. Dunlap, and left immediately to  
start  
10 making calls for barrels at a phone booth right down  
the street  
11 from the coin shop.

12 Here you can see on this overhead map or  
photograph --  
13 excuse me -- the coin shop up here in the center where  
14 Mr. Nichols was that morning and the Denny's where the  
pay  
15 phone was where the calls began around 10:24 a.m.

16 You can see those calls on Government's  
Exhibit 1888.  
17 And these are the calls that begin right after Mr.  
Nichols  
18 leaves the coin shop, gets his cash, and goes down the  
street  
19 to the Denny's. Look at the time: Starts at 10:24  
from  
20 Denny's to Liberty Lobby, where Mr. Nichols often  
called in to  
21 check his balance for the Bridges card. And then  
there's a  
22 series of calls, 10:36, 10:49, and so on, down to  
11:22, where  
23 he tried repeatedly to contact barrel companies to  
obtain the  
24 containers he needed for the ammonium nitrate he had  
just

25 purchased.

14302

gentlemen, 1 It is with this series of calls, ladies and  
rented the 2 that you can see exactly where Mr. Nichols was. He  
the 3 storage shed in Council Grove on the 17th. He went to  
purchased the 4 Mid-Kansas Co-op on the 18th, around noon, and  
storage 5 second ton of ammonium nitrate. He stored it in the  
afternoon to 6 shed in Council Grove. He made phone calls that  
showed up 7 the barrel company and to the coin shop, and then he  
calls to 8 at the coin shop that next morning and continued his  
9 the barrel companies as soon as he'd received his cash.  
obtain 10 You know that eventually Mr. Nichols did  
house. 11 barrels, because we found four plastic barrels in his  
4; and 12 These are the barrels in Government's Exhibit 1774, No.  
garage. 13 they show the four barrels stacked up in Mr. Nichols'  
Jasnowski 14 The one thing you may recall is that Agent

15 told you there were no trash in these barrels. The  
barrels  
16 were empty except for the one barrel which contained  
Roger  
17 Moore's safe-deposit box keys. Mr. Nichols wasn't  
using these  
18 barrels for trash. He was using these barrels for  
containers  
19 for the ammonium nitrate and fuel oil that he and Mr.  
McVeigh  
20 planned -- used to bomb the Murrah Building on April  
19.

21 You know that these are similar barrels  
because you  
22 heard that the plastic fragments that were recovered at  
the  
23 scene were analyzed by Tony Tikuisis, the chemist, and  
that  
24 those fragments were Smurfit barrels.

25 You heard an instruction from the Court that  
you could

14303

1 not rely on the phone survey that Mr. Udell did. But  
you can  
2 rely on the chemical analysis that Mr. Tikuisis did  
when he  
3 told you that those fragments were Smurfit plastic. He  
also  
4 told you that two of the barrels found in Mr. Nichols'  
house

matched 5 were Smurfit plastic. The barrels in Nichols' house  
6 the fragments at the crime scene.

7 And you can be sure if Terry Nichols knew that  
there 8 was some other manufacturer who had used a different --  
used 9 the same recipe that Smurfit used, you would have heard  
from 10 that witness. Now, Mr. Nichols has the right to remain  
11 absolutely silent. He has the right to present no  
witnesses.

12 The burden is on the Government to prove to you beyond  
a 13 reasonable doubt that Terry Nichols is guilty of the  
crime.

14 But Mr. Nichols chose to present witnesses; and because  
he 15 chose, you can analyze what evidence he presented and  
what 16 evidence he did not. We did not hear evidence of any  
other 17 manufacturer who used the same recipe that Smurfit used  
to 18 manufacture these barrels. So you can conclude that  
the 19 Smurfit plastic at the crime scene matched the Smurfit  
barrels 20 found in Mr. Nichols' house.

21 It is all of these facts that suggest to you  
that on 22 the third step on the road to destruction, Terry

Nichols

23 knowingly and intentionally bought another ton of  
ammonium  
24 nitrate for the bomb that and Timothy McVeigh planned  
to use at  
25 the Murrah Building.

14304

Nichols' 1 Thus far, within three weeks, we have Terry  
explosives 2 purchasing 2 tons of ammonium nitrate and stealing  
3 that he could use to detonate the ammonium nitrate. We  
have 4 him storing those explosives, and we have him on the  
road with 5 Timothy McVeigh, on the road to destruction.

6 After Timothy McVeigh and Terry Nichols  
collected 7 those components, they knew that they needed something  
else.  
8 They knew that they needed a fuel to mix with the  
ammonium 9 nitrate so that it would actually explode in front of  
the 10 Murrah Building.

11 So within two days of purchasing the ammonium  
nitrate,  
12 Timothy McVeigh and Terry Nichols got on the road again  
and

Nichols 13 drove all the way to Ennis, Texas. You know that Terry  
there's 14 and Timothy McVeigh wanted to obtain fuels, because  
attempts to 15 numerous calls on the Bridges cards showing their  
in mid 16 try and find fuel. You know that back in early -- or  
made calls 17 September of 1994, Timothy McVeigh and Terry Nichols  
came in 18 on the Bridges card to obtain that fuel. David Darlak  
McVeigh had 19 and told you -- and Glynn Tipton -- that Timothy  
20 called them trying to find racing fuels.

21 If you review those calls, you'll see that  
there were 22 10 calls to racing companies and 18 calls to chemical  
23 companies, all in search of fuel for their bomb. These  
Nichols and 24 numbers, again, show you the persistence of Terry  
25 Timothy McVeigh in trying to obtain the components that  
they

14305

1 needed.  
2 Well, their persistence paid off on October  
21, when 3 they bought three barrels of nitromethane. You know

where they

4 were the day before on October 20 by looking at this  
phone

5 record, Government's Exhibit 1888, from October 20.  
You can

6 see that in the morning, at 10:01 a.m., they were back  
in

7 Junction City, and they were calling Coogle Trucking, a  
company

8 that Mr. Chambers told you sells racing fuel. That was  
the

9 last call for racing fuel on these records, because  
after they

10 left Junction City and drove to Pauls Valley, Oklahoma,  
and

11 Ennis, Texas, they obtained the racing fuel they had  
been

12 seeking for so many weeks, and there was never a phone  
call

13 again for racing fuel.

14           Once again, the phone call here at Junction  
City at

15 10:01 shows you where Timothy McVeigh and Terry Nichols  
were

16 that morning. At that time, Terry Nichols didn't have  
a job,

17 he didn't have a home, and he didn't have a family with  
him.

18 So he got on the road and drove to the Amish Inn, Pauls  
Valley,

19 Oklahoma. We know he stayed there because you heard  
from

20 Mr. Patel, who told you that someone named "Joe Kyle"

checked

21 in on October 20 for one night. Joe Kyle is that same  
name

22 that Mr. Nichols uses every time he's engaging in  
criminal

23 activity on behalf of the bombing plot, and the same  
address

24 that he uses every time: Route 2, Box 28, Hillsboro.  
And once

25 again, he switched the license plate: XW1640,  
Michigan, a

14306

1 plate that he had used over and over.

2 This is a map you saw earlier during the  
testimony

3 which shows Junction City, Kansas, up here, Geary Lake,

4 Herington, Marion, goes down through Arkansas City, get  
on 35

5 right here, drive straight through Oklahoma City and  
down to

6 Pauls Valley. That's what Terry Nichols did on the  
morning of

7 October 20. He drove from Junction City with Timothy  
McVeigh

8 through Oklahoma City and down to Pauls Valley; Pauls  
Valley,

9 which is just three to three-and-a-half hours from  
Ennis,

10 Texas, where he and Timothy McVeigh went the next day



to

11 purchase the three barrels of nitromethane.

12 On this road to destruction, Terry Nichols  
took a long

13 drive from Junction City, to Ennis, Texas, to obtain  
the fuels

14 that he and Timothy McVeigh wanted.

15 Now, why would Terry Nichols use the false  
name of Joe

16 Kyle if he was just going to Pauls Valley, Oklahoma,  
for some

17 other reason? Well, we know he wasn't going to a gun  
show.

18 You didn't hear any evidence of that. You know he  
wasn't going

19 to work, because he didn't have a job. We know he  
wasn't going

20 to see his family, because he didn't have any family in  
Pauls

21 Valley, Oklahoma. He was using a false name on October  
20

22 because he was hoping he wouldn't leave any records.  
He was

23 obtaining bomb components with Timothy McVeigh, and he  
didn't

24 want to leave a paper trail.

25 You heard from Timothy Chambers that the  
actual

one  
a  
his  
about  
barrels of  
that  
three  
about an  
the  
clearly  
1 purchase of the three drums of nitromethane was done by  
2 man. Mr. Chambers -- you may remember him -- was quite  
3 colorful character; and he told you that racing fuel is  
4 business. He loves those fast cars, and he knows a lot  
5 the sale of nitromethane. He had never sold three  
6 nitromethane for cash in his career. So he recalls  
7 transaction. He recalls that one man came and bought  
8 barrels from him, left the racetrack, and came back in  
9 hour with a dark or with a shiny pickup truck with a  
10 white-colored or light-colored camper shell. These are  
11 barrels that Mr. Chambers sold those days, barrels  
12 marked "VP Racing Fuels" and on the top clearly marked  
13 "nitromethane," for racing.

14 When Mr. Chambers testified, he didn't  
identify for  
15 you who the purchaser was. He gave a general  
description. But  
16 he didn't tell you who the actual purchaser was. But  
in this  
17 case, that doesn't matter, because defense counsel told  
you in  
18 his opening that the purchaser was Timothy McVeigh.

Timothy

19 McVeigh was the one who purchased three drums of  
nitromethane

20 on October 21, 1994.

21 MR. TIGAR: Object to what defense counsel  
said in

22 opening, your Honor. Not evidence.

23 THE COURT: Well, you'll limit remarks, of  
course, to

24 the evidence that's before the jury.

25 MS. WILKINSON: There's no dispute, ladies and

14308

1 gentlemen, that Timothy McVeigh was the purchaser of  
2 nitromethane. He bought those three barrels, and Mr.  
Chambers

3 loaded them up in that pickup truck with the light-  
colored

4 camper shell. And Mr. Chambers remembers that light-  
colored

5 camper shell because he had to maneuver those heavy  
barrels to

6 actually roll them into the truck. Those barrels were  
heavy.

7 They were heavy because they each weighed approximately  
8 543 pounds. Those barrels of nitromethane cannot be  
lifted by

9 one man alone.

10 Timothy McVeigh needed someone to help him get  
those  
11 barrels out of the truck and load them into the  
Herington  
12 storage shed. That's what Terry Nichols did. Terry  
Nichols  
13 drove his truck down to Pauls Valley, Oklahoma, with  
Timothy  
14 McVeigh, and drove right through Oklahoma City that  
day. He  
15 let Timothy McVeigh use his truck to purchase the  
nitromethane,  
16 and the two of them drove all the way back from Ennis,  
Texas,  
17 to Junction City -- well, really to Herington that day  
-- to  
18 unload the barrels.

19 You know that those nitromethane barrels were  
in the  
20 shed because you saw the barrel marks on Government's  
Exhibit  
21 2054. On this red circle here, you can see the partial  
rings  
22 left by the nitromethane barrels.

23 Terry Nichols cannot deny that he saw those  
barrels.  
24 He had access to the Herington shed. Those three  
barrels you  
25 saw are clearly marked and were standing three abreast  
in that

Terry  
But not  
helped  
there on

1 Herington shed for the months that Timothy McVeigh and  
2 Nichols waited to bomb the Alfred P. Murrah Building.  
3 only did he see them when they were in the shed, he  
4 Mr. McVeigh unload them from the truck and put them in  
5 October 21.

Valley  
that  
to

6 The only commonsense explanation for seeing  
7 Mr. Nichols' truck, which was identified on the Pauls  
8 registration, in Ennis, Texas, with Timothy McVeigh is  
9 Terry Nichols and Timothy McVeigh drove back together  
10 Herington, Kansas.

he had no  
he took  
and  
purchased  
got back  
nitromethane  
unloaded by

11 Now, Terry Nichols wants you to believe that  
12 idea what was going on. He wants you to believe that  
13 his truck from Junction City to Pauls Valley, Oklahoma,  
14 somehow miraculously Timothy McVeigh had it when he  
15 three barrels of nitromethane; that Terry Nichols then  
16 in the truck, having no idea that 1600 pounds of  
17 were in the back of his truck; that the barrels got

Nichols' 18 Timothy McVeigh into the storage shed without Terry

19 ever having a clue as to what was going on.

defies 20 We submit to you that can't be true. That

deliberate man. 21 common sense. Terry Nichols was a careful and

22 Terry Nichols did not give Timothy McVeigh his truck on  
that 23 October 21 and then get back into it and have no idea

truck. 24 1600 pounds of racing fuel were in the back of his

their 25 People don't loan their trucks and ride with

14310

they're 1 passenger for that many hours and not talk about what

back of 2 doing. Anyone knows that if you put 1600 pounds in the

weight, 3 a pickup truck, as you're driving, you can feel that

Terry 4 you can notice how it affects how fast you're going.

in those 5 Nichols knew exactly what was going on. He had turned

nitromethane 6 coins for cash and helped Mr. McVeigh pay for the

7 that they needed to mix their ammonium nitrate bomb.

8                   They drove over 500 miles, approximately 10  
hours,  
9                   together in Terry Nichols' truck. What were they  
talking  
10                  about? Your own experience tells you that when people  
take  
11                  long car trips, especially if they're business partners  
who are  
12                  supposedly starting up a gun show business, they would  
be  
13                  talking about what they were doing. You heard no  
evidence in  
14                  this case that Terry Nichols was at any gun shows in  
the fall  
15                  of 1994. You know that he and Mr. McVeigh weren't  
starting up  
16                  in the gun show business. That was just another false  
17                  statement that they told others to cover up what they  
were  
18                  really doing.

19                  Terry Nichols drove from Junction City,  
through  
20                  Oklahoma City, to Pauls Valley, Oklahoma, and Ennis,  
Texas, to  
21                  purposely and intentionally obtain nitromethane to mix  
in the  
22                  bomb that he and Timothy McVeigh would use to kill  
innocent  
23                  Americans in Oklahoma City on April 19. Terry Nichols  
24                  committed his energy and his time to furthering this  
plot in  
25                  the fall of 1994. He had nothing else to do. He and  
Timothy

14311

1 McVeigh had made a commitment together to obtain all  
the  
2 components that they needed in the first few weeks of  
the fall  
3 and then wait. Terry Nichols and Timothy McVeigh  
obtained  
4 those components, stored them in the sheds, and waited.  
5           They waited for months while people like Susan  
Hunt  
6 from HUD planned to use new space in the Alfred P.  
Murrah  
7 Building. She had a plan. But Terry Nichols had a  
different  
8 plan. Terry Nichols let the people in the Alfred P.  
Murrah  
9 Building go on with their business in the fall of 1994,  
having  
10 no idea that he and Timothy McVeigh were obtaining  
those bomb  
11 components and waiting for the day, the choice that  
they made  
12 of April 19, 1995, to bomb the Murrah Building and kill  
the  
13 people inside of it.  
14           From September 30 through October 21, Terry  
Nichols  
15 made choice after choice after choice. He wasn't doing



16 anything by happenstance. These weren't coincidences.  
He and  
17 Timothy McVeigh were in business together, but they  
were in  
18 business to bomb the Alfred P. Murrah Building.  
19 But the business got a little expensive, and  
Terry  
20 Nichols wanted to make sure that he and Timothy McVeigh  
had  
21 enough money to replenish their funds, to live in  
motels, and  
22 to do other things they needed to cover their tracks in  
the  
23 months as they waited for the date of April 19 to  
arrive.  
24 Terry Nichols and Timothy McVeigh decided that  
a good  
25 way for them to get money was to rob Roger Moore on  
November 5,

14312

1 1994. There are lots of reasons you know Terry Nichols  
robbed  
2 Roger Moore, and these are a list of just some of them:  
3 The first one begins with the actual date of  
the  
4 robbery, 11-5 or November 5, 1994. By that time, Terry  
Nichols  
5 and Timothy McVeigh had obtained most of the components  
that

6 they needed, and they had paid 2700 or approximately  
\$2,775 for  
7 the nitromethane that they would use to mix the bomb.  
They had  
8 stolen the explosives that they needed as a booster.  
And they  
9 had identified the target. But they needed more money.  
They  
10 didn't have jobs; they didn't have any income; and they  
knew  
11 they were going to have more expenses.

12 So they decided to rob Roger Moore. He was  
the  
13 perfect target. He was rich, he was paranoid, and he  
had no  
14 security system.

15 Roger Moore had befriended Timothy McVeigh,  
and  
16 Timothy McVeigh knew about Roger Moore's house. He  
knew that  
17 Roger didn't have any security. He knew that Roger  
kept a lot  
18 of cash in his home and that Roger had a gun  
collection. And  
19 he knew that Roger Moore was paranoid. Roger Moore  
would be  
20 the first one to suspect law enforcement's involvement  
in the  
21 robbery.

22 But Timothy McVeigh couldn't be the robber, he  
23 couldn't be the one to hold up Roger Moore, because  
Roger would

24 recognize him. So Terry Nichols was the one who  
carried out  
25 the armed robbery. And as Michael Fortier told you  
here in

14313

1 court, Timothy McVeigh told you that -- told him that,  
quote,  
2 "Terry did Bob," Bob Miller, the gun dealer from  
Arkansas,  
3 whose true name is Roger Moore.

4 Roger Moore's another character. You can say  
a lot of  
5 things about him. You could say he's rude, you could  
say he's  
6 paranoid, you can say he's suspicious of the  
government. But

7 everyone who came into this courtroom said Roger Moore  
got

8 robbed. Government witnesses and defense witnesses  
alike told

9 you Roger Moore was robbed on November 5, 1994. Mr.  
Moore came

10 in here and described the details of that robbery.  
Karen

11 Anderson told you about the property that was stolen.  
The

12 deputy sheriffs who investigated the robbery told you  
what they

13 found: the duct tape, the plastic ties, the report of  
the

14 stolen items. Even the insurance reps, who processed  
15 Mr. Moore's claim for \$5900, told you that Mr. Moore  
was  
16 robbed.

17 But let's step back for a moment and forget  
about who  
18 did the robbery. We know that Roger Moore's property  
was found  
19 throughout Terry Nichols' home. What the heck was he  
doing  
20 with Roger Moore's property in his house? The question  
is so  
21 obvious, but it's one that was never answered by the  
defense  
22 witnesses. It wasn't answered because it can't be.  
That  
23 property was there because Terry Nichols robbed Roger  
Moore.

24 Marife Nichols, Mr. Nichols' own wife, came  
forward  
25 and told you that the quilt depicted here in  
Government's

14314

1 Exhibit 1771, I believe, No. 2, was a quilt in their  
house, a  
2 quilt that she had not purchased and a quilt that  
didn't have  
3 matching pillowcases, as you can see from the picture.

4 Mr. Nichols even took the quilt off Mr.  
Moore's bed --

5 or Miss Anderson's bed, that is, when he committed the  
robbery.

6 He put it on his own bed in his house in Herington,  
Kansas.

7 Why did he leave it there? He never thought anyone  
would know

8 that he was the robber. He committed the robbery on  
9 November 5, 1994. And as of April 19, 1995, no one  
ever

10 suspected that he was involved.

11 But he didn't just have this quilt in his  
home. He

12 had guns, lots of guns, long guns, that he had stolen  
from

13 Mr. Moore. He had two safe-deposit keys that belonged  
to

14 Mr. Moore, of little good to anyone else other than Mr.  
Moore.

15 He had a blanket. He had ammunition that belonged to  
Mr. Moore

16 and Miss Anderson's business. He even had the four  
Army motion

17 detectors that Mr. Moore had to try and protect his  
property --

18 all of that different property spread all throughout  
19 Mr. Nichols' house, property that the defense does not  
dispute

20 in part belonged to Roger Moore.

21 So because they can't dispute that the  
property

22 belonged to Roger Moore, they have tried to suggest  
that  
23 Mr. Moore was not really robbed. They basically tried  
to put  
24 Roger Moore on trial. They tried to raise questions  
about his  
25 relationship with his wife and Miss Karen Anderson.  
They tried

14315

1 to raise questions about his political views, views  
that they  
2 claim don't say anything about who a person is and what  
actions  
3 he takes. They tried to raise questions about Mr.  
Moore's  
4 connections to Timothy McVeigh, and they even tried to  
suggest  
5 that Mr. Moore had committed some kind of insurance  
fraud for  
6 \$5900.

7 None of these claims were ever substantiated.  
The  
8 important facts that the Government alleged at the  
beginning of  
9 the case -- that Mr. Moore was robbed by an armed  
gunman in a  
10 ski mask -- were proven. They were proven beyond a  
reasonable  
11 doubt by the Government's witnesses and by the defense

12 witnesses.  
13 For the defense theory to be true -- that is,  
that  
14 Roger Moore somehow was not robbed and that he engaged  
in some  
15 form of insurance fraud -- you would have to defy your  
common  
16 sense. The theory makes no sense. If Mr. Moore was  
not  
17 robbed, why did he give police and the insurance claims  
18 adjuster Timothy McVeigh's name and location? Mr.  
Spivey, who  
19 was called by the defense, told you that Mr. Moore told  
him  
20 that Timothy McVeigh lived in Kingman. Mr. Moore also  
told the  
21 police that Mr. McVeigh was from New York and had been  
at Fort  
22 Riley, the three places that we know Timothy McVeigh  
had been:  
23 Kingman, central Kansas, and New York.

24 If Mr. Moore was not robbed, why did he call  
the  
25 police week after week? Why did he demand from the  
insurance

14316

And why  
1 company that they assist him in finding the robber?  
2 did he even contact a private investigator when he was

so upset

3 at the sheriff's office, who he thought hadn't done  
enough and

4 who he thought might be involved in the robbery? If  
someone

5 were trying to engage in insurance fraud or give  
property away

6 to some other person, why would they contact their own  
private

7 investigator to get on the case? That behavior, we  
submit to

8 you, is not consistent with someone who arranged his  
own

9 robbery for some type of insurance fraud, but it's  
behavior

10 consistent with someone who is a victim of a crime.

11 Your Honor, this might be a good stopping  
point.

12 THE COURT: All right.

13 We will take our recess at this time; and we  
may be

14 taking more than the usual recesses, as I've already  
told you.

15 We will at this time take a 20-minute recess. And  
during this

16 time, of course, I'm sure you are aware -- but I need  
to point

17 out the obvious -- that the case has not been given to  
you;

18 that we are in the middle of Government Counsel's  
arguments,

19 and that it would be a violation of your oath, of  
course, to



20 begin now to discuss the case based on partial  
argument. Wait  
21 till you hear -- have heard not only from Government  
counsel  
22 but defense counsel and of course from me with respect  
to the  
23 law to be applied. So -- the case has not been given  
to you,  
24 the trial is not complete, and your instructions during  
this  
25 recess are the same: Keep open minds, avoid discussion  
of the

14317

1 case among yourselves and all others, and avoid  
anything  
2 outside the evidence. We're going to recess now for 20  
3 minutes.

4 (Jury out at 10:19 a.m.)

5 THE COURT: We'll be in recess.

6 (Recess at 10:20 a.m.)

7 (Reconvened at 10:38 a.m.)

8 THE COURT: Be seated, please.

9 (Jury in at 10:38 a.m.)

10 THE COURT: Continue, please, Ms. Wilkinson.

11 MS. WILKINSON: When we broke, we were talking  
about

12 the Roger Moore robbery and why the defense theory that  
this  
13 wasn't a robbery makes no sense.

14 I told you about all the different contacts  
that  
15 Mr. Moore made to try and find a robber, but we also  
know that  
16 Mr. Moore had no reason to try and perpetrate any kind  
of  
17 insurance fraud. He had millions of dollars, and he  
had no  
18 reason to give away the property that was important to  
him like  
19 his father's Hornet rifle that he had had for 30 years  
and that  
20 was found in Mr. Nichols' house. He had semiprecious  
stones  
21 and jade and gold Tiki dolls that he himself had dug  
out of  
22 Costa Rica back in 1974.

23 If he wanted to give someone money and get rid  
of his  
24 property, or get rid of his property, to fund  
something, why  
25 didn't he just give away cash? You heard him say and  
others

14318

1 say that he carried around large amounts of cash and he  
also

2 had access to other money. So if he wanted to give  
money away,  
3 he could have done that without giving away any items  
that  
4 could be traced.

5 He also didn't get much money for the property  
that  
6 was stolen. If he was trying to perpetrate an  
insurance fraud,  
7 why would he have given away his luxury items, the  
items that  
8 he knew weren't covered by his insurance?

9 You heard Mrs. Dies, who was the insurance  
agent in  
10 Royal, Arkansas, tell you that he was never concerned  
about  
11 those riders. He knew that he didn't have them, and he  
told  
12 you the reason he didn't have them: because he didn't  
want to  
13 tell anybody about the property that he had. He was  
paranoid.  
14 And he told Mrs. Dies the same thing after the robbery,  
when  
15 she asked him why he had never insured all of these  
items.

16 So you can say that he's paranoid, you can say  
he's  
17 distrustful of the federal government, but you can't  
say that  
18 he gave away over \$60,000 in property to get \$5900  
back,  
19 knowing that he would never recover the full value of

those

20 items.

21           You know that, then -- that Terry Nichols was  
the  
22 robber; but you know it not just because of all the  
property  
23 that we found in his house, but you know it by his  
actions,  
24 what he did around the time of the robbery on November  
5, 6,  
25 and 7.

14319

1           You know first of all on November 5, he has no  
alibi.  
2 We don't know where Mr. Nichols was that day. Again,  
he wasn't  
3 at work, he wasn't at a gun show, and he wasn't buying  
army  
4 surplus. He wasn't with his wife, because she was in  
the  
5 Philippines. And he had no home.

6           So on November 5, he had plenty of time to  
drive to  
7 Royal, Arkansas, commit the robbery, and come back to  
Junction  
8 City where he stayed that evening. You know that he  
stayed at  
9 the Sunset Motel that night. And we've shown you the

10 registration card, Government's Exhibit 1757, right  
here. He  
11 uses his favorite fake name for criminal activity, "Joe  
Kyle."  
12 But this time, he uses his address back in Michigan,  
1400  
13 Decker. Well, not really his address back in Michigan  
but a  
14 variation of the Decker, Michigan, address. And he  
checks in  
15 on November 5, 1995 -- 1994, the evening of the  
robbery.  
16 What's unusual about this is you know that Mr.  
Nichols  
17 stayed at the Sunset Motel on many occasions in 1994  
and 1995.  
18 In fact, he stayed there seven times. We showed you  
this  
19 chart, Government's Exhibit 1764, which documents all  
of  
20 Mr. Nichols' stays at the Sunset Motel. Take a look at  
it. On  
21 each and every occasion, other than November 5, Mr.  
Nichols  
22 used his true name. He used a variety of addresses, as  
you can  
23 see here: the true Decker address, no address in  
February, a  
24 general Manhattan address in the middle of February and  
his  
25 post office box in Manhattan in March. But on each  
occasion he

14320

1 used his true name, "Terry Nichols." It was only on  
2 November 5, when he was trying to cover his tracks and  
create  
3 an alibi, that he checked in for "Joe Kyle."

4 He told you -- or Mr. Chowdhury told you, who  
runs the  
5 Sunset Motel, that when Mr. Nichols checked in that  
evening, he  
6 claimed he was checking in for a friend. He was  
expecting a  
7 friend and he wanted to check in for the man under the  
name  
8 "Joe Kyle," and he took the keys to the room.

9 We submit to you there was no friend. Terry  
Nichols

10 checked in that day under the name of "Joe Kyle"  
because that's

11 the name that he used as an alias. He used it on  
October 17,

12 when he rented the storage shed at Council Grove for  
the

13 ammonium nitrate. He used it three days later on  
October 20,

14 when he checked into the Amish Inn in Pauls Valley, and  
then he

15 used it on November 5 after he had robbed Roger Moore.  
He used

16 it to hide his identity and to cover his tracks.

17 But that's not the only thing he did after

November 5

18 to hide his identity and cover his tracks. Mr. Nichols  
was a  
19 very busy man after the robbery of Roger Moore. The  
next  
20 morning, Sunday, November 6, he immediately wanted to  
get in  
21 touch with Timothy McVeigh. He wanted to tell them  
about the  
22 success -- tell him the success of their plan to rob  
Roger  
23 Moore.

24 Take a look at these phone records from  
November 6.

25 You can see that first thing in the morning, Mr.  
Nichols was in

14321

1 Junction City, Kansas, as we know, at the Sunset. He  
went down  
2 to the video pay phone and checked his Spotlight  
balance.

3 Thereafter, he immediately tried to call William  
McVeigh in  
4 Pendleton, New York. You know from the agreement that  
William  
5 McVeigh is Timothy McVeigh's father and that Timothy  
McVeigh  
6 was at a gun show in Ohio on November 5 and was in  
Pendleton,

7 New York, following that time at his father's home.

8 Terry Nichols knew, that, too; and that's why  
he  
9 wanted to contact Timothy McVeigh that morning to tell  
him  
10 exactly what had happened in Royal, Arkansas; to tell  
him about  
11 the cache of weapons, cash, semiprecious stones, and  
jade that  
12 he had stolen from Roger Moore.

13 You can see that this call to Mr. McVeigh's  
residence  
14 was very short. Probably Mr. Nichols was not  
successful in  
15 getting in touch with Timothy McVeigh that morning, but  
that  
16 didn't stop him.

17 He made some other phone calls. He called to  
Esquire  
18 Realty, as you know, which is Lana Padilla's business  
phone  
19 that was forwarded that day to her phone at home in Las  
Vegas.

20 She had a very unusual conversation with Mr.  
Nichols  
21 that day, and we'll talk about that in a moment. Later  
that  
22 afternoon, Terry Nichols tried again. This time he  
tried from  
23 one of his favorite pay phones in Manhattan, Kansas,  
the Waters  
24 True Value pay phone, trying again not to create any  
phone



25 records that would ever show you what Terry Nichols was  
doing

14322

1 that day.

2 Terry Nichols knew that a pay phone would not  
create a

3 record. But what Terry Nichols didn't know was that  
the

4 Bridges phone card would, so he used that Bridges phone  
card to

5 contact the McVeigh residence again and had  
approximately a

6 minute phone call, tried again for another minute. And  
that

7 evening, he contacted Lana Padilla at her residence  
again. And

8 we see a phone call, the very last phone call of the  
evening,

9 where Timothy McVeigh went to the Convenient Mart pay  
phone

10 right down the road from his house at Pendleton and  
tried to

11 contact Mr. Nichols at the Waters True Value pay phone  
in

12 Manhattan, pay phone to pay phone, conspirator to  
conspirator,

13 to discuss their illegal activities.

14 But that evening at 7:41, Mr. McVeigh was not

15 successful in getting in touch with Terry Nichols.

16 We do know that Terry Nichols left his number  
at the

17 Waters True Value with the McVeighs, because you saw

18 Government's Exhibit 1889. This was a piece of paper  
recovered

19 from Mr. McVeigh's home with "Terry Nichols" written  
down and

20 the number "(913) 539-9702." Everyone agreed that that  
was

21 Jennifer McVeigh's handwriting. She wrote down Terry  
Nichols'

22 number; but go back to the phone records for November 6  
and

23 look at the number for Waters True Value: (913)  
539-9702.

24 Terry Nichols told the McVeighs that his phone number  
was the

25 Waters True Value.

14323

Terry 1 It does not look like Timothy McVeigh and

2 Nichols got in touch that day, but that didn't stop

3 Mr. Nichols. He wanted to tell Timothy McVeigh what he  
had

4 done, how successful he had been; so he tried again on

5 November 7, that Monday morning after the robbery.

6 He made a phone call very early that morning

at

7 8:23 -- well, excuse me. The first phone call at 8:23  
was from

8 Mr. McVeigh's residence back to that Waters True Value  
pay

9 phone, the same number Mr. Nichols had given. Timothy  
McVeigh

10 wanted to find out what had happened, and he tried  
first thing

11 in the morning to get in touch with Mr. Nichols.

12 You can see that the next few calls, the next  
two

13 calls, the one at 8:23 and 8:46, were not successful,  
two

14 different pay phones in Lockport, New York, to the same  
Waters

15 True Value pay phone. Mr. McVeigh could not reach Mr.  
Nichols.

16 And there was a reason he couldn't reach him,  
because

17 Mr. Nichols was using the business hours to accomplish  
many of

18 the tasks that he needed to, to hide what he had done  
at Roger

19 Moore's and to fund the conspiracy.

20 On November 7, after being Joe Kyle that  
Saturday,

21 Terry Nichols decided he was Daryl Bridges. And that  
morning,

22 he purchased a money order for the Daryl Bridges phone  
card,

23 Government's Exhibit 495, which has Terry Nichols'  
handwriting

name of 24 and his fingerprints on it, a purchase for \$100 in the  
25 Daryl Bridges.

14324

1 Terry Nichols, although he was leaving for the  
2 Philippines just two weeks after that, decided to pay  
\$100 on 3 the Bridges card. Now, why would he do that if he were  
going 4 to the Philippines and had broken away from Timothy  
McVeigh? 5 There is no reason to fund the card for Timothy McVeigh  
if they 6 were no longer partners. He funded it because they  
were 7 partners. He knew he couldn't use the Bridges card in  
the 8 Philippines. You heard that from the witnesses from  
The 9 Spotlight company, from the Darrell Bridges -- that  
owned the 10 Darrell Bridges card. The card did not work calling  
from the 11 Philippines to the United States. So Terry Nichols  
took just a 12 teeny bit of the money that he had stolen from Roger  
Moore, 13 \$100, and funded the Darrell Bridges card for Timothy  
McVeigh

14 while he was away in the Philippines.

Darrell  
15 Terry Nichols not only was Joe Kyle and  
16 Bridges that weekend, but he became Ted Parker just a  
few hours  
17 later when he rented another storage shed at Council  
Grove.

--  
18 You see here the agreement for Ted Parker -- Ted Parker  
Nichols'  
19 excuse me -- with the Van Dyke, Decker address, Mr.  
20 family home, for Unit 37 on 11-7-94. That's November  
7, 1994.

21 Now, ask yourselves again: Why did Terry  
Nichols need  
22 yet another storage shed? He hadn't moved. He didn't  
have a  
23 house. He had no belongings to store. And he already  
had  
24 another storage shed at this same facility. We know he  
rented  
25 Council Grove No. 40 on October 17. So what had  
changed from

14325

1 October 17 to November 7?

2 Terry Nichols had robbed Roger Moore, and he  
had all  
3 of the stolen property in the back of his pickup truck  
on the

robbery. 4 first Monday open for business after the date of the

his 5 Terry Nichols needed a place to store all of  
6 stolen property, so he went back to the storage unit  
facility.

Nichols 7 And you heard from Sharri Furman. She identified Mr.  
8 as the person who rented the storage shed under the  
name "Ted  
9 Parker." What he didn't -- what Terry Nichols didn't  
tell

10 Mrs. Furman at that time was that he already had  
another unit  
11 there under yet another name.

12 So she rented him the storage shed under the  
name of  
13 "Ted Parker"; and within three days, Terry Nichols was  
three  
14 different men: Joe Kyle, Daryl Bridges, and Ted  
Parker. He  
15 was three different men because he was trying to cover  
the best  
16 that he could all of the criminal activity that he had  
engaged  
17 in.

18 If we were to ask ourselves who had used that  
many  
19 fake names, nine fake names that Mr. Nichols has used  
20 throughout this entire case, the only person in this  
courtroom  
21 who would raise their hand would be Terry Nichols.

22                   Those aren't trade names, as were suggested to  
you.

23                   Those are aliases, fake names, used by Mr. Nichols to  
cover his  
24                   tracks.

25                   Trade names are names that people use for --  
so that

14326

1                   people know who they are, so they recognize their name,  
like  
2                   "Xerox." It's not a name that someone uses to hide  
their  
3                   identity and conceal the paperwork or to create fake  
paperwork  
4                   so no one can track their activities.

5                   Terry Nichols used Joe Kyle, Daryl Bridges,  
and Ted  
6                   Parker so no one would know what he was up to in early  
November  
7                   of 1994.

8                   He did this one more time on November 7, after  
he had  
9                   bought the money order for the phone card and after he  
had  
10                  rented the storage shed. He checked in at the  
Travelers Motel,  
11                  using that same name, Ted Parker, claiming he was from  
Lum,

12 Michigan.

13 Now, once again, he put down his pickup truck  
as

14 YX1640 Michigan.

15 He checked into the Travelers; and by that  
time, he

16 still had not reached Timothy McVeigh. So as soon as  
he was

17 done checking in, he walked over to the Mini Mart,  
which you

18 know is just down the street from the Travelers Motel,  
and

19 started to call Timothy McVeigh one more time.

20 Here is a chart that shows all of the phone  
records

21 that were made on the 7th. You can see the calls from

22 Lockport, New York, the two calls in the morning to the

23 Waters -- the Waters True Value pay phone where Mr.  
Nichols had

24 left his number. You can then see the phone call that  
evening

25 after Mr. Nichols had been three different men and he  
rented a

14327

1 storage shed and checked into a motel, from the Mini  
Mart pay

2 phone at 5:59, when he called to check his balance on  
The



3 Spotlight balance check.

4                   Several minutes later, he went back to the  
Travelers  
14 Motel and called the McVeigh residence for a minute and  
14  
6 seconds, just enough time to try to make an arrangement  
to have  
7 their true criminal call from pay phone to pay phone.  
And what  
8 do you see? Just minutes later after 6:04, Timothy  
McVeigh  
9 went to the Convenient Mart Pendleton pay phone and  
made one,  
10 two, three, four, five, six, seven attempts to reach  
out for  
11 Terry Nichols at the Mini Mart pay phone just down the  
road  
12 from the Travelers Motel.

13                   These two men wanted to get in touch with each  
other,  
14 and they wanted to get in touch so they could talk from  
pay  
15 phone to pay phone about with had happened to Roger  
Moore.  
16                   Finally, after being unable to reach each  
other  
17 through the pay phones, Mr. Nichols went back to the  
Travelers  
18 Motel where he had checked in under the name "Ted  
Parker"; and  
19 at 7:22, he had a 6-minute conversation with Timothy  
McVeigh at  
20 the William McVeigh residence. Finally, they had

achieved

21 their goal: They had reached each other so Terry  
Nichols had 6  
22 minutes and 9 seconds to tell Timothy McVeigh about how  
the  
23 Roger Moore robbery had gone and how he had stored all  
the  
24 items in Kansas.

25 These were two men who were determined, and  
they were

14328

1 persistent. Over two days and 15 phone calls, Timothy  
McVeigh  
2 and Terry Nichols wanted to get in touch with each  
other to  
3 tell each other what they had done.

4 This suggests to you, ladies and gentlemen,  
that Terry

5 Nichols and Timothy McVeigh did not part ways in  
November of  
6 1994, as Counsel suggested during opening statement.

7 These two men were together from the beginning  
until  
8 the end.

9 We know from many different sources that Terry  
Nichols  
10 did not leave or part ways with Timothy McVeigh in  
November of

11 1994. We can see it from the activity of robbing Roger  
Moore,  
12 to the telephone calls. We heard it from Marife  
Nichols when  
13 she told you that Terry Nichols had arrived in the  
Philippines  
14 as a surprise. She wasn't even expecting him. She  
called it a  
15 vacation.

16 Terry Nichols had paid for the Bridges card  
before he  
17 left, the card that he shared with Terry -- with  
Timothy  
18 McVeigh; and he had left the stolen property in a  
storage shed  
19 right down the row from the bomb components.

20 But perhaps the best evidence that Terry  
Nichols and  
21 Timothy McVeigh were together in November of 1994 --  
that is,  
22 together in mind and purpose -- is the letter that  
Terry  
23 Nichols left for Timothy McVeigh in case of his death.  
He  
24 wanted -- he wanted to ensure that even if he died,  
this  
25 conspiracy would go forward. He wanted to ensure even  
if he

people 1 died that the Murrah Building was destroyed and the  
2 inside of it were killed.

3 Their goal was clear at that time. They knew  
from the 4 very first day on September 30 that they didn't want  
anyone to 5 stop them; and Terry Nichols wanted to make sure that  
when he 6 left for the Philippines, Timothy McVeigh had  
everything he 7 needed if for some unknown reason Terry Nichols didn't  
return 8 from the Philippines.

9 Terry Nichols wrote this letter, Government's  
Exhibit 10 1857, and left it with Lana Padilla on November 22 as  
he 11 boarded the plane to the Philippines.

12 You can also see this letter on your screen.

13 You'll recall that Lana Padilla told you that  
Terry 14 Nichols left her with a package that was wrapped and  
was not 15 supposed to be opened unless he didn't return from the  
16 Philippines. But Ms. Padilla did what many people  
would do. 17 She worried about Mr. Nichols and she was curious, so  
she 18 opened the package; and luckily for us, she did,  
because here 19 on Government's Exhibit 1857, you can see what Terry

Nichols'

20 state of mind was in November of 1994. You can see how  
devoted  
21 he was to this plan to bomb the Murrah Building and how  
far  
22 down the road to destruction he had already gone on  
23 November 22, 1994.

24 He wrote this letter so that Timothy McVeigh  
could  
25 understand it and he wrote it in code, but a code that  
Timothy

14330

1 McVeigh would understand because they had been together  
in the  
2 fall of 1994 and Timothy McVeigh knew exactly what  
Terry  
3 Nichols had been doing.

4 He said, "Tim, if you should receive this  
letter, then  
5 clear everything out of CG 37 by 1 February 95 or pay  
to keep  
6 it longer under Ted Parker of Decker."

7 Now, you know what CG 37 means now. You know  
that it  
8 means Council Grove Unit 37. And you know what "under  
Ted  
9 Parker of Decker" means now.

10 But Lana Padilla didn't know what that meant

when she

11 read that letter, and neither would anybody else who  
wasn't

12 able to accumulate all the evidence that we've  
accumulated for

13 you.

14 This was written by Terry Nichols to Tim  
McVeigh, who

15 knew that he had already had storage sheds at Council  
Grove,

16 who knew that Terry Nichols had rented the Council  
Grove

17 storage shed No. 37 and that he would rent it under a  
false

18 name, the name listed here, Ted Parker, of Decker.  
Timothy

19 McVeigh and Terry Nichols were communicating in code,  
and Terry

20 Nichols used that code because he knew Timothy McVeigh  
would

21 understand.

22 He also told him exactly the status of this  
letter,

23 what would have happened if he had received it. He  
says, "This

24 letter has been written and sealed before I left, 21  
November

25 '94, and being mailed by Lana as per my instructions to  
her in

1 writing." He assures Timothy McVeigh that if this  
letter were  
2 to ever reach Timothy McVeigh, it's because he could  
not come  
3 back from the Philippines and because Lana had mailed  
it.  
4 But most tellingly, ladies and gentlemen, he  
said,  
5 "This is all she knows." Ask yourself: What does that  
mean?  
6 Why is he assuring Timothy McVeigh that the only thing  
Lana  
7 Padilla knows is that this letter was sent on his  
behalf? He  
8 is trying to keep a secret about his activities from  
everyone,  
9 from the mother of his son, from his family, from his  
friends,  
10 and even from his current wife.  
11 He wants to assure Timothy McVeigh that the  
two of  
12 them are the only ones who know about their plot to  
bomb the  
13 Murrah Building. Lana doesn't know. "This is all she  
knows."  
14 He goes on to say, "It would be a good idea to  
write  
15 or call her to verify things," and gives the number at  
home and  
16 office"; just ask for Lana," enough instructions for  
Timothy  
17 McVeigh to go to Council Grove 37, retrieve the weapons

that

18 had been stolen and fund the bombing plot until April  
19, 1995,  
19 when they intended to decimate downtown Oklahoma City.

20 And just in case there is any question, Terry  
Nichols  
21 made sure Timothy McVeigh knew that he was with him in  
spirit.

22 He said, "You're on your own." You're not with John  
Doe 2,  
23 you're not with anyone else. "You're on your own. Go  
for it."

24 Now, you've heard a lot about what this phrase  
"go for  
you in  
25 it" means. There are all kinds of suggestions made to

14332

1 opening statement.

2 We submit to you it means exactly what it  
says, what

3 you know it means: Go for it, achieve your objective,  
do what  
4 you intend to do.

5 Ms. Padilla can come in and here tell you that  
this

6 was a phrase used by an insurance company, and you can  
hear

7 that it was on the side of a box of Girl Scout cookies,  
but it



8 doesn't change the meaning. In this context, Terry  
Nichols was  
9 telling Timothy McVeigh: If I don't come back, if I  
die in the  
10 Philippines, I want you to succeed. I want you to bomb  
the  
11 Murrah Building. "You're on your own. Go for it."

12 After signing it "Terry," he gives him a few  
more  
13 instructions so that nothing possibly could go wrong.  
Terry

14 Nichols, the deliberate, careful man, who plans  
everything,  
15 makes sure that Timothy McVeigh has no questions if  
Terry  
16 Nichols is not able to return.

17 He says, "Also liquidate 40." Now, what does  
he mean  
18 by that? If you didn't see all the evidence about the  
storage  
19 sheds that he rented, you'd have no idea. If you were  
Lana  
20 Padilla reading this letter back in November, 1994,  
you'd have  
21 no idea.

22 But you all do know. You know that "liquidate  
40"  
23 means liquidate Council Grove Unit 40, the other  
storage shed  
24 that they had rented to store the ammonium nitrate.

25 Terry Nichols told Timothy McVeigh to have his  
mail

14333

In other  
names,  
about the  
Council Grove  
was signed  
Moore  
days'  
another term  
were not  
and the  
that  
and  
period --  
15

1 forwarded to Lana, "but use my name and her address."  
2 words, don't use any of my aliases, don't use my fake  
3 use my own name and mail it to Lana's address.  
4 Terry Nichols gives a few more instructions  
5 Council Grove 40 when he says -- excuse me -- the  
6 37 when at the bottom here he says, "The Parker deal  
7 and dated 7 November 94," two days after the Roger  
8 robbery, "so you should have till 7 February plus five  
9 grace if close or they disagree, then should pay  
10 period." Terry Nichols knew that these storage sheds  
11 for his personal belongings but for the stolen goods  
12 bomb components, and he made sure Timothy McVeigh knew  
13 that storage shed was paid only through February of '95  
14 that if he wanted to keep it going for that next term  
15 that is, through April of '95 when they planned to bomb

the

16 Murrah Building -- he needed to make another payment.

17 He made sure Timothy McVeigh knew everything  
about

18 those storage sheds, storage sheds that weren't used  
for just

19 personal property but were used for the bombing plot.

20 But if you had any question in your mind, any  
question

21 whatsoever about what Terry Nichols intended in  
November of

22 1994, it's answered in these last two lines of letter.  
He

23 says, "As far as heat, none that I know of. This  
letter would

24 be for the purpose of my death."

25 You're not going to see, "as far as heat, none  
that I

14334

1 know of," on the side of any Girl Scout cookie box.  
That means

2 exactly what you know it means; that as for law  
enforcement

3 knowing what they've been doing, none that Terry  
Nichols knows

4 of. He was concerned in November of 1994 about law

5 enforcement, and he was concerned because he didn't  
want anyone

Murrah 6 to stop him, him and Timothy McVeigh, from bombing the  
7 Building and killing as many people as they could.

written 8 Now, in criminal cases, you don't often get a  
9 record of someone's intent; but here you have it: 1857  
tells 10 you all you need to know about Terry Nichols' state of  
mind in 11 November of 1994. He was not leaving Timothy McVeigh.  
He was 12 going to the Philippines with the intent of returning  
in 60 13 days, which he did; but he was going to make sure that  
if for 14 some reason he didn't come back, the bombing plot would  
be 15 successful. Even in his death, he wanted the Murrah  
Building 16 destroyed.

shed at 17 Now, even though he had rented the storage  
more 18 Council Grove 37 for the stolen weapons, he rented one  
recall he 19 storage shed in November of 1994 before he left. You  
his 20 rented a storage shed in Vegas -- in Las Vegas -- under  
In 21 true name, because again they asked for identification.  
full, he 22 that storage shed, which Ms. Padilla told you was not  
23 left some of the other items that he took from Roger

Moore. He

24 left the jade wrapped in tissue in the cigar box just  
the way

25 Mr. Moore described it to you. Ms. Padilla saw it. He  
left

14335

1 some of the coins. He left some of the semiprecious  
stones;

2 but most importantly, he left the tools of the robbery.  
He

3 left a ski mask, a wig, and pantyhose.

4 Why did he take some of the items from the  
robbery and

5 leave them in Las Vegas and keep the others in Council  
Grove?

6 No one knows. Perhaps he had found more at Mr. Moore's  
house

7 than he ever imagined. Perhaps he wanted to keep some  
of the

8 valuable items for himself. But what we do know is  
those items

9 were there and those items were taken from Mr. Moore.

10 Lana Padilla came into this courtroom and told  
you

11 that she had seen those items. You can say a lot of  
things

12 about a lot of witnesses in this case, but you know  
that

13 Ms. Padilla had no axe to grind, no motive to lie, no

reason to

14 implicate Terry Nichols. She came in here to tell you  
the

15 truth. She told you she had found the ski mask, the  
wig, the

16 makeup and the pantyhose; and the first thought that  
came to

17 mind was what is Terry Nichols doing? Robbing banks?  
She was

18 pretty close. He was robbing Roger Moore.

19 She had the same reaction when she found that  
\$20,000

20 in cash hidden in a secret compartment in her kitchen,

21 something we submit to you doesn't happen very often to  
normal

22 people; but Terry Nichols wanted to make sure that he  
hid that

23 \$20,000 and had it for himself upon his return.

24 When Lana Padilla found it, she wondered how  
he could

25 ever have \$20,000 cash when he had no job and his  
family was in

14336

1 the Philippines.

2 Terry Nichols had that money because he had  
robbed

3 Roger Moore, and he had those items in the storage shed  
because

4 he had robbed Roger Moore.

Nichols  
told you  
she  
the ski  
Nichols

5 To counter the proof of Lana Padilla and her  
6 identification of the ski mask and the wig, Terry  
7 continued to lie even after his arrest. Lana Padilla  
8 that after Terry Nichols' arrest in the summer of 1995,  
9 went to see Mr. Nichols and Mr. Nichols told her that  
10 mask and the wig had been used by him to scare Marife  
11 on Halloween.

that  
had  
items.  
so  
lied.  
lied to  
never  
trying  
of the  
ridiculous

12 His attempts to lie, his attempts to build  
13 ridiculous explanation as an alibi for that ski mask,  
14 failed. Marife Nichols told you she never saw those  
15 Never mind that she was in the Philippines on Halloween  
16 Terry Nichols couldn't have scared her. Terry Nichols  
17 He lied to the FBI, he lied to his wife, and he even  
18 his ex-wife months after his arrest. Terry Nichols has  
19 stopped trying to create an alibi. He's never stopped  
20 to confuse and deceive and deny his role in the bombing  
21 Alfred P. Murrah Building; and he went to such

a wig 22 lengths as telling his own ex-wife that a ski mask and  
23 were used to scare Marife Nichols.

would 24 He did that because he knew exactly what you  
robber 25 know if you heard that testimony: That he had been the

14337

1 who robbed Roger Moore at gunpoint.

there is 2 With all that proof, ladies and gentlemen,  
the most 3 one piece of evidence about the Moore robbery that is  
and that 4 devastating, the one piece that no one can argue with,  
the 5 is the jade that Barry, Lana Padilla's son, took from  
in to the 6 storage shed back in the fall of 1994 and turned back  
took the 7 FBI after the bombing that shows that Terry Nichols  
that 8 jade from Roger Moore's house. Here is the photograph  
shows all 9 Roger Moore produced, Government's Exhibit 1747, that  
and the 10 the jade pieces he had taken from Costa Rica in 1974  
11 gold Tiki dolls.



12 Lana Padilla and Barry told you that  
Government's  
13 Exhibit 1748, this piece of jade, was taken from Terry  
Nichols'  
14 storage shed in Las Vegas in the fall of 1994. This  
piece of  
15 jade is right there on the photograph, right in the  
center to  
16 the right, right down the center one, two, three rows.  
You can  
17 see this piece of jade. You can make that match  
yourself.

18 Terry Nichols robbed Roger Moore and took this  
jade  
19 and stored it in Las Vegas before he left for the  
Philippines  
20 in November of 1994.

21 Now, in light of all this overwhelming proof  
that  
22 Roger Moore was robbed by Terry Nichols, I suspect you  
will  
23 hear much about the robbery during the defense argument  
and  
24 especially about the list of 14 serial numbers that  
Karen  
25 Anderson provided during her testimony.

14338

1 We are not asking you to rely on that list in  
any way.

2 That list is flawed. The list has one serial number  
that  
3 according to ATF paperwork belongs to Terry Nichols,  
but that  
4 gun was never introduced into evidence, it was never  
presented  
5 to you as Roger Moore's gun; and that single entry on  
that list  
6 does not diminish all of this overwhelming proof about  
the  
7 robbery of Roger Moore.

8 We do not want you to rely on that list in any  
way,  
9 and we are not asking you to determine that Terry  
Nichols  
10 robbed Roger Moore based on that list.

11 What we are asking you to do is look at all of  
the  
12 evidence that they cannot dispute: the quilt, the  
stamp, the  
13 stamped ammunition, the jade, the storage shed, the  
phone  
14 calls, the motels, the firearms, ammunition, and the  
15 safe-deposit keys that were in Terry Nichols' house.  
It is all  
16 of this evidence that can convince you beyond a  
reasonable  
17 doubt that Terry Nichols robbed Roger Moore and funded  
the  
18 bombing conspiracy.

19 One other thing about the robbery: You know  
from all

Roger 20 the evidence that Timothy McVeigh was not the robber.  
21 Moore told you that he was not and that he could have  
22 identified him or he could have recognized his voice  
and his  
23 build if it was him, and Roger Moore told you he  
couldn't  
24 identify the robber at all because of the ski mask  
blocking the  
25 man's face.

14339

1 But we know that Timothy McVeigh was involved  
with the  
2 robbery and that he was familiar with Roger Moore's  
house, and  
3 we know that he and Terry Nichols used the revenue that  
they  
4 generated from robbing Roger Moore to pay for their  
expenses.

5 Michael Fortier told you that and Michael  
Fortier  
6 identified Council Grove No. 37, the storage shed that  
Terry  
7 Nichols used to store the stolen weapons, when he came  
in to  
8 testify before you; again, another piece of evidence  
that  
9 supports his testimony.

10 Timothy McVeigh could not be the gunman, so

Terry

11 Nichols was.

12 When Terry Nichols left the package for Lana  
Padilla,

13 he was planning for every contingency for Timothy  
McVeigh down

14 to the use of his truck. You may remember there was  
another

15 letter in the package that showed -- Government's  
Exhibit

16 231 -- that showed Terry Nichols' making arrangements  
for his

17 storage shed and his vehicle. Down at the bottom  
there, you

18 can see highlighted Terry Nichols is talking about his  
'84 GMC

19 half-ton, diesel truck, the same pickup truck that he  
used

20 throughout the entire bombing plot. And at the very  
bottom, in

21 case Timothy McVeigh had any question, he told him that  
if he

22 used the truck, the oil had to be changed every 3,000  
miles and

23 that they needed a PH13 Fram oil filter. Even back in  
November

24 of 1994, Terry Nichols knew exactly what kind of oil  
filter was

25 necessary for his truck. And he knew it wasn't the one  
that

14340

and the 1 was purchased at the Arkansas City Wal-Mart on April 13  
2 one he returned to Wal-Mart in Kansas on April 15.

made 3 So Terry Nichols, the careful, deliberate man,  
4 arrangements with Timothy McVeigh that if he ever  
wanted to use 5 his truck while he was away in the Philippines, Timothy  
McVeigh 6 knew exactly where it was and knew exactly what it  
needed.

7 Terry Nichols did one other thing that tells  
you what 8 he was thinking back in November of 1994 before he left  
for the 9 Philippines. He had one other conversation, a  
conversation 10 with Lana Padilla, that tells you what his mind-set was  
in the 11 fall of 1994. On November 6, the day after the  
robbery, when 12 Terry Nichols couldn't reach Timothy McVeigh, he  
reached out 13 for Lana Padilla. Lana Padilla just wanted to talk  
about Josh, 14 but Terry Nichols wanted to talk about Waco, civil  
unrest, 15 government overreaching, and shooting at the White  
House. 16 Terry Nichols told Lana Padilla that shooting at the  
White

17 House was justified, another example of Terry Nichols'  
18 advocating violence.

19                   But on November 6, when Lana Padilla wanted to  
talk  
20 about their son and what they should do about him,  
Terry  
21 Nichols was obsessed with his cause. He had just  
robbed Roger  
22 Moore. He had found the money that he needed to fund  
the  
23 conspiracy; and he was excited, if you can call it  
that, about  
24 the potential for civil unrest. He predicted to Lana  
Padilla  
25 that people were going to be killing each other in the  
streets.

14341

1                   Well, little did he know -- or little did Lana  
know  
2 that the street and the killing that he was predicting  
was 5th  
3 Street in downtown Oklahoma City, where he knew he and  
Timothy  
4 McVeigh were going to kill as many people as possible.

5                   Padilla talked about her son; Terry Nichols  
talked  
6 about Waco.

7                   But look at the timing. Waco had occurred  
over a year

8 and a half before that, and Terry Nichols was still  
angry. He  
9 was still predicting civil unrest at that time. In his  
10 tortured mind, he thought that the government's actions  
at Waco  
11 justified violence.

12 He made these statements advocating violence  
and  
13 discussing the shooting at the White House while he was  
on the  
14 road to destruction in the fall of 1994, the road that  
he and  
15 Timothy McVeigh were on that led to violence against  
the  
16 government; that led to the intentional killing of  
government  
17 agents and workers and the destruction of a federal  
building.

18 When Terry Nichols now comes before you and  
tries to  
19 claim through counsel that he's never advocated  
violence, he is  
20 trying to make you believe that what you know is true  
is not.

21 Terry Nichols was a man of few words. You  
heard that  
22 from several witnesses. He did not make speeches. He  
didn't  
23 write letters setting forth his views on the  
government; but he  
24 did take actions to make his views clear. He didn't  
pay his

and he 25 taxes. He signed documents "UCC without prejudice,"

14342

1 hated the government.

Terry 2 As you know, actions speak louder than words.

3 Nichols did what was much more dangerous than making  
speeches.

4 He took actions. He planned the intentional murder of  
innocent

5 civilians and the destruction of the federal building  
with

6 Timothy McVeigh to retaliate for Waco. It is his  
actions and

7 not his words that killed 168 people.

19 8 Words could not have caused the death of the

Nichols' 9 children in the Murrah Building that day. Terry

10 actions caused the murder of 19 children.

11 It wasn't words that caused 35 -- 18 women  
from the

12 credit union to fall to their deaths that day. It was  
Terry

13 Nichols' actions that caused the death of 18 women in  
the

14 credit union.

15 So regardless of whether Mr. Nichols spoke  
about what



based on 16 he intended to do, the judgment you must make must be  
to 17 his actions; and his actions, his steps down the road  
Murrah 18 destruction, are what caused the decimation of the  
19 Building and the 168 deaths.

Road to 20 As you can see from the fall portion of "The  
obtained 21 Destruction," Terry Nichols and Timothy McVeigh had  
had 22 almost all the bomb components that they needed. They  
was 23 money to fund their activities, and all they had to do  
were going 24 wait. Think about it. They knew exactly what they  
April 19, 25 to do. They knew they were going to kill people on

14343

the 1 and they waited. They left those bomb components in  
2 storage shed and went about their business.

Philippines 3 Terry Nichols went to see his wife in the  
again in 4 for 60 days and returned in January. And his actions  
was 5 January tell you exactly what he was doing and that he

6 working with Timothy McVeigh in their final stages in  
their  
7 plot to bomb the Murrah Building.

8 Terry Nichols returned to the United States on  
9 January 16, 1995, and Lana Padilla picked him up from  
the

10 airport. That same day, she received a call. On  
Government's

11 Exhibit 1888, we can see the call for January 16. Lana  
Padilla

12 right here at the top received a call from Kevin  
Nicholas'

13 residence. You know from Mrs. Nicholas that Timothy  
McVeigh

14 was visiting them in January of 1995. Timothy McVeigh  
knew

15 exactly when Terry Nichols was coming back, and he  
reached out

16 for him on the 16th.

17 That evening, Mr. Nichols arrived; and first  
thing the

18 next morning, within hours of Terry Nichols' arriving  
in the

19 United States, Timothy McVeigh called him and spoke to  
him for

20 6 minutes from the Nicholas' residence at Lana  
Padilla's house.

21 6 1/2 minutes were not quite enough for Terry Nichols  
and

22 Timothy McVeigh to make their plans, so Terry Nichols  
called

23 Timothy McVeigh back just few minutes later for another

5

Nicholas' 24 minutes, calling from Lana Padilla's residence to the  
25 house in Vassar, Michigan.

14344

1                   Within 24 hours of returning to the United  
States,  
2 Terry Nichols was in touch with his partner, his best  
friend,  
3 Timothy McVeigh.  
4                   They made plans then to meet in Junction City,  
Kansas;  
5 and you know they were there because of two different  
6 documents. One, Timothy McVeigh's registration at the  
Sunset  
7 Motel for January 19. That's Government's Exhibit  
1758. Here,  
8 Timothy McVeigh checked in on the 19th of January into  
Room 56.  
9 That number is very important, because Terry Nichols  
received a  
10 ticket that next day and gave his address as Room 56 at  
the  
11 Sunset Motel.  
12                   Here you can see Government's Exhibit 1900 and  
the  
13 ticket on the 20th of January, 1995, the name of Terry  
Nichols;

Timothy 14 and right under there, "Room 56," the Sunset Motel.  
three 15 McVeigh and Terry Nichols were staying together within  
from the 16 days of Terry Nichols' returning to the United States  
Terry 17 Philippines, certainly no sign that Timothy McVeigh and  
18 Nichols had parted ways in November of 1994.

Timothy 19 But there wasn't much for Terry Nichols and  
needed. They 20 McVeigh to do then. They had the components they  
needed 21 had the money they needed. The only thing they really  
smart 22 to do was rent the truck and build the bomb. They were  
right 23 enough to know that they weren't going to do that until  
24 before the date of destruction.

each 25 Terry Nichols and Timothy McVeigh did speak to

14345

the 1 other in February, and we know that one more time from  
12 and 2 phone records. We know that on February 12 and 13 --  
3 13, Timothy McVeigh was staying at the Hilltop Motel in  
4 Kingman, Arizona, and Terry Nichols was staying at his

favorite

5 motel, the Sunset, on that same day.

6 Timothy You can see a series of calls here where

7 McVeigh is trying to call Terry Nichols, and Timothy

8 almost 5 finally reaches Terry Nichols and speaks to him for

9 minutes on Monday, the 13th of February.

10 it's Once again, the two men keeping in touch until

11 time for their final plans.

12 convince During that time, Terry Nichols had tried to

13 convince you you that he was building a life. He was trying to

14 Herington, that he was a family man; that he bought a home in

15 about his Kansas, which we don't dispute, and that he was going

16 circuit. business getting into the -- getting on the gun show

17 was just We submit to you, ladies and gentlemen, that

18 attempt to one more step down the road to destruction, one more

19 was really cover his tracks and to give you excuses for what he

20 doing.

21 the You know that he was still building a bomb in

22 spring of 1994, because beginning on April 11, 1994,

Timothy

23 McVeigh and Terry Nichols were in touch. On April 11,  
there is  
24 a telephone call from the Imperial Motel to Terry  
Nichols'  
25 residence in Herington. There is another call right  
after that

14346

1 from Imperial to his residence; and within 40 minutes,  
there is  
2 a call from the Food for Less pay phone in Manhattan,  
Kansas,  
3 right up the road from Mr. Nichols' house, to Michael  
Fortier's  
4 residence.

5 That suggests that Timothy McVeigh and Terry  
Nichols  
6 had a plan. How did Terry Nichols know if he were at  
the  
7 Manhattan -- in Manhattan, Kansas, at the Food for Less  
pay  
8 phone that he was supposed to call Timothy McVeigh at  
Michael  
9 Fortier's address? That call is only 1 minute, but it  
suggests  
10 that Timothy McVeigh and Terry Nichols had agreed to  
reach out  
11 for each other on Monday -- excuse me -- Tuesday, April  
11, a

12 week before the bombing and a week before they were  
going to 13 execute the final steps of their plan.

14 All they needed to do was make the final  
arrangements

15 for mixing the bomb. So what happened? Timothy  
McVeigh left

16 Arizona. He left Arizona on April 12 and checked out  
of the

17 motel and drove toward Kansas, drove back to central  
Kansas to

18 be with his partner in crime, Terry Nichols.

19 But this time, Terry Nichols was very, very  
careful.

20 Terry Nichols did not want anyone to know that he was  
involved

21 with this plot, and he took every step he could to  
avoid

22 detection, including lying to his wife.

23 As Timothy McVeigh proceeded from Arizona to  
Kansas,

24 he was having car trouble with his Pontiac J2000, and  
he

25 stopped at the Wal-Mart in Arkansas City on April 13 to

14347

1 purchase an oil filter. Here on Government's Exhibit  
265B, you

2 can see the date of the purchase, April 13, 1995, and  
see that

3 it occurred at approximately 5:42 p.m., the store where  
it was  
4 purchased as "Arkansas City Wal-Mart," and it was an  
oil filter  
5 that Mr. Kordyak testified would fit Timothy McVeigh's  
Pontiac  
6 J2000. It was an oil filter that would not fit Terry  
Nichols'  
7 GMC pickup truck. So Timothy McVeigh in his car  
stopped to try  
8 and fix the problem in Arkansas City. But by the time  
he got  
9 to Junction City on the morning of April 14, he knew  
his car  
10 was not going to make it. He went straight to the  
Firestone  
11 station where he met with Mr. Manning, the man that you  
all saw  
12 on the video deposition, who said that Timothy McVeigh  
came in  
13 with his Pontiac J2000 smoking and had serious  
problems.  
14 Timothy McVeigh realized that he needed to  
have a  
15 getaway car, needed a way to escape from Oklahoma City  
after he  
16 drove the Ryder truck down to the Murrah Building; so  
he turned  
17 in the Pontiac J2000 to Mr. Manning, paid a couple  
hundred  
18 dollars, and bought the yellow Mercury Marquis, the  
yellow  
19 Mercury Marquis that became the getaway car. But once



he did

20 that, he had no need for that oil filter, no need for  
the oil  
21 filter he had bought just a few hours before that in  
Arkansas  
22 City.

23 Mr. Manning told you that while Mr. McVeigh  
was there  
24 purchasing the car, he did several things. One thing  
is  
25 Mr. Manning told you he doesn't remember seeing any TV  
set in

14348

1 that car. But Timothy McVeigh left for a few moments.  
He left  
2 the Firestone and went down the road to the J & K Bus  
Depot to  
3 make some phone calls. Here's a photograph showing you  
the  
4 Firestone -- excuse me -- showing you the J & K Bus  
Depot; and  
5 if you look back in the center of the photo, you can  
make out  
6 the word "Firestone."

7 Just a block away, Timothy McVeigh left his  
car and  
8 Mr. Manning and went to make two important phone calls.

9 Who was the first person that he called?  
Terry

10 Nichols. Before calling the Ryder truck company or  
Elliott's  
11 Body Shop, he checked in with his co-conspirator in  
crime,  
12 Terry Nichols. He called at 9:51 a.m. and spoke for  
just 54  
13 seconds from the pay phone to Terry Nichols' house.  
14 You know that Terry Nichols got that call  
because  
15 Terry Nichols was home that morning, like Marife  
Nichols said;  
16 and you can see that just a few minutes later, he was  
on the  
17 phone with Quarton U.S. Limited, the same folks he had  
been  
18 speaking to April 13, the day before, and the same  
records that  
19 show you that Terry Nichols could not have been in  
Arkansas  
20 City the day before to purchase that oil filter. So  
you know  
21 Terry Nichols received a 54-second call from Timothy  
McVeigh.  
22 You know that it was him and not Marife Nichols because  
she  
23 told you she had never spoken to Mr. McVeigh during  
that week  
24 preceding the bombing, so the only person in the home  
that  
25 could have received the call from Timothy McVeigh was  
Terry

14349

1 Nichols.

2 After checking in with Terry Nichols that  
morning,

3 Timothy McVeigh did just what Terry Nichols and he  
planned: He

4 called the Ryder rental company, what we know as  
Elliott's Body

5 Shop, and checked on the rates. You heard from Vicki  
Beemer,

6 who gave him an estimate and recalls the call taking  
over, I

7 believe she said, 7 minutes. This call is 7 minutes  
and 36

8 seconds from the pay phone to the Ryder truck company.

9 Timothy McVeigh now had made arrangements for  
the

10 truck, and he and Terry Nichols only needed to move the  
bomb

11 components and mix them at Geary Lake.

12 Just these phone calls show you that Terry  
Nichols

13 lied again and again. He lied to his wife, who he  
never told

14 about Timothy McVeigh or their contacts; and he lied to  
the FBI

15 just two days after the bombing, when he said that he  
had not

16 had contact with Timothy McVeigh in the months prior to  
the

17 bombing other than the letter he had written about the  
18 television set.

19           You also know that Terry Nichols lied about  
meeting  
20 with Timothy McVeigh. You know he met with Timothy  
McVeigh  
21 sometime on April 14 or 15, because Terry Nichols had  
Timothy  
22 McVeigh's Wal-Mart receipt in his wallet at the time of  
his  
23 arrest.

24           You also know that he met to obtain that Wal-  
Mart  
25 receipt that was generated on April 13 because Marife  
Nichols

14350

1 told you that he returned the oil filter on April 15;  
so for  
2 Terry Nichols -- for Timothy McVeigh to purchase the  
oil filter  
3 on the 13th and Terry Nichols to return it on the 15th,  
he and  
4 Timothy McVeigh had to be face to face either on April  
14 or  
5 the morning of April 15. He didn't tell anyone about  
that. He  
6 didn't tell his wife and he didn't tell the FBI.

7           On the morning of April 15, Timothy McVeigh  
tried one

8 more time to get in touch with Terry Nichols. Over  
these days  
9 just preceding the bombing, Timothy McVeigh and Terry  
Nichols  
10 talked or tried to get in touch with each other every  
single  
11 day.

12 On Saturday, you can see from the phone  
records  
13 Timothy McVeigh called from the Dreamland Motel where  
he was  
14 staying to Terry Nichols' residence. The length of the  
call is  
15 zero, which indicates that Timothy McVeigh was unable  
to reach  
16 Terry Nichols that morning.

17 Timothy McVeigh went about his business and  
went over  
18 to the Elliott's Body Shop by himself and paid a down  
payment  
19 for the Ryder truck that he was going to use with Terry  
Nichols  
20 to bomb the Alfred P. Murrah Building.

21 You know a few other things about the final  
22 preparations that Terry Nichols and Timothy McVeigh  
took in the  
23 days before the bombing, because Marife Nichols came in  
and  
24 told you about a letter that she had seen that arrived  
at their  
25 home sometime a week or so before the bombing. That  
letter had

14351

1 two phrases that she didn't understand, two phrases  
that tell  
2 you that not only did Terry Nichols intend to mix the  
bomb but  
3 that he intended to deceive his wife.  
4 The first thing that she recalls is that the  
letter  
5 said something about "shake and bake". We all know  
they  
6 weren't talking about chicken. "Shake and bake" was  
code for  
7 them to discuss making the bomb. Marife Nichols didn't  
8 understand it, and she wasn't supposed to understand  
it. Terry  
9 Nichols didn't want his own wife to know anything about  
what he  
10 was doing that week.

11 The other phrase that she remembers is "need  
an excuse  
12 for second half." Timothy McVeigh is acknowledging  
that for  
13 Terry Nichols to leave his home and help him store the  
getaway  
14 car in Oklahoma City, he needs an excuse for his second  
half,  
15 for his wife, Marife.

16 So Terry Nichols and Timothy McVeigh had

planned an

17 excuse. They planned to have Timothy McVeigh bring the  
18 television set so that when Terry Nichols arrived back  
at his  
19 home Monday morning, Marife Nichols and his son, Josh,  
would  
20 have no idea what Terry Nichols was really up to.

Terry

21 Nichols had come up with an excuse for his second half.

22 If there is one day that tells you the most  
about

23 Terry Nichols and his activities to further the bombing  
plot in

24 Oklahoma City, it's Easter Sunday, April 16. That's  
the day

25 that Terry Nichols and Timothy McVeigh stashed the  
getaway car

14352

1 in Oklahoma City and planned Mr. McVeigh's escape.

2 That morning, Terry Nichols and his family  
were home

3 in Herington, Kansas. They went to church and they had  
dinner.

4 But that was the same day that Terry Nichols chose  
Timothy

5 McVeigh and his plot for destruction over his own  
family.

6 Timothy McVeigh called Terry Nichols at  
approximately

7 3:08 that afternoon to tell him he was on the road and  
they  
8 were -- they should get ready to go one step further  
down the  
9 road to destruction. This call on the Bridges card,  
the only  
10 call that day, was from Tim's Amoco pay phone in  
Herington,  
11 just eight blocks down the street from Terry Nichols'  
house.

12 Timothy McVeigh wanted to make sure that Terry  
Nichols  
13 was ready to go and help him stash the getaway car down  
in  
14 Oklahoma City.

15 This map shows you how close Timothy McVeigh  
was to  
16 Terry Nichols at 3:00 on Easter Sunday.

17 When that call came in, Terry Nichols knew  
exactly  
18 what was going to happen. They had planned it. Terry  
Nichols  
19 also knew that he could never tell his wife what he was  
really  
20 doing. So he lied. He lied to Marife Nichols, he lied  
to his  
21 son Josh, and he said he was going to Omaha to pick up  
Timothy  
22 McVeigh.

23 Just ask yourselves why, if Terry Nichols was  
doing  
24 nothing wrong, if he had no idea what Timothy McVeigh



was do --

25 why would he lie to his own family about where he was  
going?

14353

1 Because, he says to the agents, that he, Timothy  
McVeigh, was a  
2 secretive man? Well, that's true. But he lied because  
he knew  
3 he could never tell anyone that he was going to Omaha  
-- to  
4 Oklahoma City three days before the Alfred P. Murrah  
building  
5 would be destroyed and three days before 168 people  
would be  
6 killed. He didn't want anyone to know after the  
bombing  
7 occurred that he had been anywhere near Oklahoma City  
in those  
8 hours before the bombing. He didn't want his wife to  
know, he  
9 didn't want his son to know, he didn't want anyone to  
know. So  
10 he lied.

11 And he chose Timothy McVeigh over his family  
when he  
12 refused to take his own son on the trip with him.  
Marife told

13 you that Josh Nichols wanted to go with his father. It  
was the

with his 14 last day he had before he returned to Las Vegas to be  
father. 15 mother. He was his son. He wanted to be with his

his own 16 Terry Nichols said no. Terry Nichols rejected  
told him 17 son and chose Timothy McVeigh. He lied to Josh and  
he told 18 that there wouldn't be room in the truck for him, but  
kind of 19 him a partial truth when he said he didn't know what  
he and 20 trouble McVeigh was in. He knew what kind of trouble  
he 21 Timothy McVeigh were in, but it was the kind of trouble  
was 22 didn't want anyone to find out about. He knew that he  
car, and 23 going to be helping Timothy McVeigh store the getaway  
didn't 24 he knew he was going to Oklahoma City to do it. And he  
rejected 25 want his son, Josh Nichols, to have any idea; so he

14354

1 his son and once again chose Timothy McVeigh.  
do it, 2 When he did that, you know he had planned to  
McVeigh, he 3 because when he took that phone call from Timothy

4 didn't write down any directions. He knew exactly  
where he was  
5 going. He knew he was going to Oklahoma City, and he  
knew that  
6 he was going to help Timothy McVeigh park the getaway  
car far  
7 enough away from the Murrah Building so that Timothy  
McVeigh  
8 would have been safe after he killed 168 people. Terry  
Nichols  
9 didn't need any directions. He knew the plan.

10 Marife didn't see him write down anything, and  
he  
11 didn't tell the agents about any directions he had  
written  
12 down. He knew where he was going, and he knew why he  
was going  
13 there.

14 On Government's Exhibit 97, you can see how  
long it  
15 takes to get from Junction City, Kansas, to Oklahoma  
City.  
16 Terry Nichols didn't just drive 5 hours each way to  
pick up a  
17 used television set from Timothy McVeigh. He didn't  
drive  
18 282 miles back from Oklahoma City to Junction City to  
drop off  
19 Timothy McVeigh because he was just doing a friend a  
favor. He  
20 drove to Oklahoma City to help with the plot. He drove  
down

21 there in his truck, picked up Timothy McVeigh, left the  
getaway  
22 car, and turned around and went up Route 35 to Route 77  
north  
23 to Herington.

24 Terry Nichols told the agents that he took  
Route 77;

25 and as you can see from this map, to take Timothy  
McVeigh all

14355

1 the way to Junction City, he had to bypass his own  
home. Why,

2 if Terry Nichols and Timothy McVeigh were just good  
friends and

3 Terry Nichols had no idea what Timothy McVeigh was  
planning?

4 Why in the middle of the night would he drive past his  
home in

5 Herington and drop off Timothy McVeigh at a closed  
McDonald's?

6 Marife Nichols told you she would have  
expected

7 Timothy McVeigh to stay at their home if he had been in  
town.

8 That was what they always did.

9 Terry Nichols didn't want to stop in  
Herington, even

10 though it was another 50 miles out of his way to go to  
Junction

11 City and back that evening because he didn't want  
anyone to  
12 know he was with Timothy McVeigh in those days before  
the  
13 bombing.  
14 So he got in his truck, drove all the way from  
15 Oklahoma City past his home in Herington; and at  
sometime at 1  
16 in the morning he dropped off Timothy McVeigh at a  
closed  
17 McDonald's.  
18 During that drive, Terry Nichols admitted that  
he and  
19 Timothy McVeigh discussed Waco. He tried to claim that  
he  
20 didn't know the anniversary date of Waco, even though  
he had  
21 literature in his house that made that date apparently  
clear or  
22 abundantly clear. He tried to minimize his  
conversations with  
23 Terry Nichols (sic) because he knew two days after the  
bombing  
24 when he was speaking with the agents that everyone  
suspected  
25 that Timothy McVeigh and Terry Nichols had bombed the  
building

14356

1 in retaliation for Waco. Terry Nichols even admitted

that

Terry 2 Timothy McVeigh said something big was going to happen.

Timothy 3 Nichols tried to shift the blame from himself to

been 4 McVeigh because he knew Timothy McVeigh had already

5 caught.

perhaps the 6 He knew that if he could blame his friend,

discover all 7 suspicion would move from him and people wouldn't

down the 8 the steps he had taken, all the miles he had driven

conceal 9 road to destruction, and all the ways he had tried to

10 his activity and his identity.

dropped 11 He did that the evening of April 16, when he

trying to 12 off Timothy McVeigh at a closed McDonald's. He kept

McVeigh 13 make an alibi, to evade detection. He left Timothy

couldn't 14 there, if you believe his story, in a place where he

Terry 15 get food and a place where he wouldn't have a room.

supposedly left 16 Nichols, who was Timothy McVeigh's best friend,

stay or 17 his best friend without knowing where he was going to

18 what he was going to do.

19 That, we know, was not true. But in case  
there is any  
20 question in your mind whether Terry Nichols knew what  
Timothy  
21 McVeigh was going to do in Oklahoma City, we found a  
drawing in  
22 Mr. Nichols' trash that shows you that Terry Nichols  
knew what  
23 Timothy McVeigh was up to. This is Government's  
Exhibit 352,  
24 which when you will look at it at first just looks like  
a bunch  
25 of scribbles, two large squares, a couple marks, and a  
couple

14357

1 arrows. I want to focus for a moment on several of the  
marks  
2 here to show you that Terry Nichols and Tim McVeigh had  
3 discussed exactly what Timothy McVeigh was going to do;  
and  
4 they had done a little drawing -- once again a drawing  
in code,  
5 not a map for any of us to understand -- to show what  
Timothy  
6 McVeigh was going to do on April 19.

7 Down here in the far left-hand corner is the  
Alfred P.  
8 Murrah Building. Right in front of it, you can see a  
little

the 9 circle depicting where he was going to leave the truck  
the 10 morning of April 19. The next building catty-corner is  
model. The 11 YMCA that you've seen on diagrams and seen on the  
Timothy 12 key was found right there where it's marked. And  
Building -- 13 McVeigh left that truck, walked around the Murrah  
and if 14 excuse me -- walked around the YMCA, dropped the key;  
right 15 you follow the circle, you'll see a little black dot  
he and 16 where Timothy McVeigh parked his getaway car, where and  
17 Terry Nichols left it on April 16.

straight up 18 Timothy McVeigh took his Mercury and drove  
is, 19 two blocks in this alley, took a right where that arrow  
Timothy 20 showing that even though this is a two-way street --  
a right 21 McVeigh was showing Terry Nichols he was going to take  
right to 22 and go up to the top of that street and go over to the  
23 get on the highway and get out of Oklahoma City.

was going 24 This diagram depicting what Timothy McVeigh  
after the 25 to do was found in Terry Nichols' trash just two days



14358

1 bombing.

2 You can also compare that diagram to a map of  
downtown  
3 Oklahoma City, and we've done that for you.

4 Here is the drawing from Mr. Nichols' trash,  
and we've  
5 identified some of these streets and buildings for you.  
Here  
6 is the Murrah Federal Building which you've seen over  
here on  
7 the aerial map you've seen many times in evidence,  
located  
8 right here.

9 6th Street is one full block up right here.

10 The YMCA depicted in this diagram catty-corner  
from  
11 the Murrah Building is right here -- catty-corner --  
excuse  
12 me -- catty-corner from the Murrah building on 5th  
Street.

13 This right here, slotted mark, is the alleyway  
that  
14 runs up in this direction; and the other one going east  
and  
15 west is another alleyway right behind the YMCA where  
you heard  
16 the key was recovered.

17 The dot here next to the YMCA is the parking

area that

18 you heard described right next to the Y during  
testimony in

19 this case. That's where Mr. McVeigh parked his car  
with Terry

20 Nichols on the night of April 16.

21 This street, 6th Street, as the arrow depicts,  
is a

22 one-way street going the other way; and it shows that  
you can

23 come around in front of the Murrah Building, like Mr.  
Nichols

24 described that he did, by going one way on 6th this way  
and

25 coming back down and going down 5th the other  
direction. Here

14359

1 is a parking lot and North Broadway and Robinson Avenue  
2 crossing through 7th, 6th and 5th.

3 Now here you can see an arrow going all the  
way across

4 from this alley to north Broadway. You can see that  
normally

5 is a two-way street which we've depicted for you; but  
the

6 arrow, we submit to you, is showing how Mr. McVeigh  
plans to

7 leave the scene and get out to North Broadway and to  
get out to

8 the highway to leave Oklahoma City.

9 Now, there is two things on this diagram we  
can't  
10 explain to you, and that's these numbers: 24th, 18th.  
We know  
11 that there are no 24th Street and 18th Street in this  
area of  
12 downtown Oklahoma City. We don't know what these  
numbers mean,  
13 and we weren't supposed to.

14 These were numbers for Timothy McVeigh and  
Terry  
15 Nichols, but clearly this diagram shows what Timothy  
McVeigh  
16 intended to do that day, how he planned to park the  
Ryder truck  
17 in front of the Murrah Building, get to his car over  
here by  
18 the YMCA, drive up the alleyway where he wouldn't be  
seen, get  
19 on 7th Street, and go up and out of Oklahoma City.

20 And Terry Nichols knew that's what Timothy  
McVeigh was  
21 doing, because he had this diagram in his trash on  
April 21.

22 With the car safely parked down in Oklahoma  
City and  
23 the "do not tow" sign which you saw in Timothy  
McVeigh's  
24 handwriting protecting that car so it wouldn't be towed  
away  
25 before April 19, Terry Nichols and Timothy McVeigh had

only one

14360

it 1 major step left. They had to build the bomb. We know  
all the 2 wasn't very hard to build the bomb. We heard that from  
3 experts. Sadly, it wasn't very difficult at all.

get 4 But Terry Nichols and Timothy McVeigh had to  
the 5 together, put the components into the Ryder truck, mix  
6 ammonium nitrate and the fuel oil, and get it ready for  
7 detonation.

had taken 8 So on the morning, Monday morning after they

Timothy 9 the road trip to Oklahoma City, Terry Nichols -- or

Exhibit 10 McVeigh called Terry Nichols. Now, on Government's

Dreamland 11 1888, we can see Timothy McVeigh, who was at the

little less 12 Motel, called Terry Nichols and spoke to him for a

he was 13 than a minute on Monday morning. Once again, we know

told you 14 the one who received that call, because Marife Nichols

any 15 he was home Monday morning and that she never received

McVeigh 16 phone calls from Timothy McVeigh. We also know Timothy  
17 was at the Dreamland Motel, because you saw his  
registration 18 form and you heard testimony about his stay there from  
April 14 19 through April 18 from Lea McGown.

20 On the 17th, Terry Nichols and Timothy McVeigh  
made 21 three important phone calls. That first morning,  
Timothy 22 McVeigh checked in with Terry Nichols just hours after  
Terry 23 Nichols had left him in Junction City. But it's the  
calls in 24 the evening, the calls that night from the airport,  
that tell 25 you everything about Terry Nichols and tell you that he  
was

14361

1 lying to the FBI two days after the bombing.  
2 Josh Nichols had to fly home to Las Vegas that  
3 evening, and Terry Nichols and Marife drove him to the  
Kansas 4 City airport so he could catch his flight at  
approximately 5 10:30. Terry Nichols used the airport pay phone to  
call

6 Timothy McVeigh at the Dreamland Motel.

7 There is no doubt that Terry Nichols made  
these calls.

8 You can see they're from the same airport pay phone,  
and

9 they're made within 10 minutes of each other: one --  
and the

10 first one -- to his partner in crime, Timothy McVeigh,  
and the

11 second one to Lana Padilla to let her know that Josh  
Nichols

12 was safely on his way home.

13 These calls tell you three things: (1) that  
Terry

14 Nichols picked Timothy McVeigh over his family. Terry  
Nichols,

15 when he had his first opportunity to do so, called  
Timothy

16 McVeigh, not Lana Padilla, but called Timothy McVeigh  
to check

17 in with him on their final plans to mix the bomb at  
Geary Lake

18 that next day.

19 After he was done making sure his plans were  
in order,

20 then, and only then, did he call Lana Padilla to say  
Josh was

21 on his way home.

22 You know from these calls also that there is  
no doubt

23 that Terry Nichols used the Bridges telephone calling  
card from

24 the beginning until the end. And after Terry Nichols  
made this  
25 final call to Timothy McVeigh to arrange to build the  
bomb,

14362

1 there were no other calls on the Daryl Bridges phone  
card.

2 This was the last call that Terry Nichols needed to  
make to  
3 complete his plan, and he did.

4 That morning, on April 18, Terry Nichols and  
Timothy  
5 McVeigh had planned to meet at Geary Lake. We know Mr.  
McVeigh  
6 left the Dreamland Motel that morning because Lea  
McGown saw  
7 him very early that morning in a Ryder truck.

8 Terry Nichols told the agents that he had  
received a  
9 phone call from Timothy McVeigh on the morning of April  
18,  
10 Tuesday, the day before the bombing. But you've seen  
no record  
11 of that. There was no call on the morning of the 18th.  
It was  
12 the evening of the 17th, that Monday night when Terry  
Nichols  
13 was at the airport that he and Timothy McVeigh made the  
final

Terry 14 plans. And it was that same night that shows you that  
He 15 Nichols knew exactly where Timothy McVeigh was staying.  
and he 16 knew that Timothy McVeigh was at the Dreamland Motel,  
show how 17 lied to the agents about it because he didn't want to  
18 much he had been a part of the plan to bomb the Murrah  
19 Building.

Timothy 20 At Geary Lake that morning, Terry Nichols and  
21 McVeigh were careful. They had Terry Nichols' dark-  
blue pickup 22 truck with the white camper shell, and they had the  
large Ryder 23 truck, but no one came into this courtroom to tell you  
that 24 they had seen either Terry Nichols or Timothy McVeigh  
there.  
to see 25 Terry Nichols and Timothy McVeigh did not want anyone

14363

could stop 1 them building the bomb. If there was anything that  
2 them, if there was anything that would stop their plot  
3 prematurely, it would be someone seeing them mix  
ammonium 4 nitrate fuel, adding boosters, and building a bomb.



5                    So they stayed inside the Ryder truck; but you  
know  
6                    there were people there, because we heard Mr. Wahl and  
7                    Mr. Nelson talk about the trucks and we heard that they  
were  
8                    moved. So someone had to be there during that three  
hours that  
9                    Mr. Wahl saw the Ryder truck and the pickup truck; but  
they  
10                   were two people who knew how to be very, very careful,  
how to  
11                   make sure that no one saw them building the bomb.

12                   But Mr. Wahl, who had every opportunity to see  
those  
13                   trucks, who was there fishing with his son that day,  
and who  
14                   reported the sightings long before the road stop that  
the FBI  
15                   did, noticed two trucks. He noticed a large Ryder  
truck and a  
16                   pickup truck with a white camper shell or at least a  
white  
17                   portion of the truck.

18                   Unlike many of the other witnesses, Mr. Wahl  
had every  
19                   opportunity to see these trucks, he was down at the  
lake for  
20                   approximately three hours, and he knows he saw a Ryder  
truck.  
21                   He also identified the pickup truck, and you know that  
it's  
22                   Terry Nichols' truck. Terry Nichols' truck, the same

truck

23 that matches the description of the truck used to  
purchase the

24 2 tons of ammonium nitrate, the same truck used to  
purchase --

25 used to load the three barrels of nitromethane, and the  
same

14364

1 pickup truck that you saw on videotape that was in  
Oklahoma

2 City on the evening of the 16th of April, 1995: Mr.  
Nichols'

3 truck was there with the Ryder truck.

4 But why is Mr. Nichols' fighting this? He  
told the

5 FBI that he had loaned his truck to Timothy McVeigh.  
If

6 Timothy McVeigh is the bomber and they don't dispute  
that and

7 Timothy McVeigh rented the Ryder truck that blew up the

8 building and they don't dispute that, why would there  
be any

9 problem with Terry Nichols' truck being with the Ryder  
truck at

10 Geary Lake? It makes sense if Mr. Nichols was telling  
the

11 truth about loaning his truck.

12 Well, he was telling the truth about his truck  
being

13 at Geary Lake; but he wasn't telling the truth about  
how it got  
14 there. He probably knew that someone could have seen  
him or at  
15 least seen his truck down at Geary Lake that day. If  
Mr. Wahl  
16 had been there for three hours fishing with his son and  
seen  
17 the trucks, it would be very easy for someone who was  
inside  
18 those trucks to look out and see people fishing.

19 So when Terry Nichols got to the police  
station in  
20 Herington on April 21, he was going to be very careful  
to admit  
21 what he knew the FBI could find out and deny what he  
thought  
22 they could never figure out.

23 So on the 21st, when he talked to law  
enforcement  
24 agents, he said that he had loaned his truck because he  
thought  
25 there was a very good chance that someone could have  
seen his

14365

1 pickup truck with the Ryder truck at Geary Lake. And  
he was  
2 right: Mr. Wahl and Mr. Nelson saw those trucks.

3                   The defense has claimed that we had a theory  
that  
4                   Mr. Nichols was part of this crime and we built our  
evidence  
5                   around that theory.

6                   They're wrong. What we had was evidence. Our  
7                   witnesses had seen those trucks before the roadblock,  
before  
8                   the publicity about Geary Lake. Those folks came in  
right  
9                   away, unlike the defense witnesses. The defense  
witnesses,  
10                  who, if you believe them, saw a Ryder truck at Geary  
Lake for  
11                  every day in the week preceding the bombing, all came  
forward  
12                  after the stop, after they had plenty of chance to hear  
about  
13                  the publicity.

14                  Now, we're not arguing that people think they  
saw  
15                  certain things. But the difference is what opportunity  
did  
16                  they have to see those things and when did they come  
forward  
17                  with that information. Mr. Wahl and Mr. Nelson came  
forward  
18                  right away. They testified before you and told you  
what they  
19                  saw. And Mr. Kitchener, who we called as the final  
witness,  
20                  told you that he had done surveys in the week before  
the 19th

21 down at Geary Lake and had never seen a Ryder truck.

-- or  
22           The only day that he wasn't there for a survey  
23 one of the only days -- was April 18, the morning when  
we know  
24 that Mr. Wahl saw Terry Nichols' truck and the Ryder  
truck used  
25 to bomb the building at Geary Lake.

14366

Nichols  
1           But the real reason that you know that Terry  
2 was there building the bomb was because of the alibi  
that he  
3 tried to create for himself and told the FBI about for  
4 April 18. He needed an alibi because he had lied to  
the FBI  
5 about loaning his truck. You know from the proof about  
DRMO,  
6 the military surplus sale -- you know about the  
truthfulness of  
7 Terry Nichols' alibi.

Terry  
8           At DRMO on April 18, as Mr. Tigar would say,  
9 Nichols wasn't there.

10           On the morning of April 18, Mr. Nichols wasn't  
11 building a life, he wasn't buying military surplus; he  
was

hours 12 building the bomb at Geary Lake, a bomb that within 24  
kill 13 was going to decimate the Alfred P. Murrah Building and  
to 14 168 innocent men, women, and children. And he knew how  
15 build that bomb.

went to 16 After building the bomb with Mr. McVeigh, he  
sign-in 17 DRMO and checked in. He signed in, as you saw from the  
18 sheet on Government's Exhibit 1956A, at approximately  
12:50.

showing that 19 As noted here, this is Mr. Nichols' handwriting,  
20 he came in at approximately 12:50. During the defense  
opening,  
21 you heard several promises about Terry Nichols'  
whereabouts on

that you 22 April 18. Both Mr. Tigar and Mr. Woods promised you  
and 23 would see video footage showing huge, fenced-in lots  
call a 24 hundreds and hundreds of items. They also promised to  
hours to 25 number of witnesses who would tell you that it takes

14367

1 look at these items in this huge, fixed area; and  
finally they

Nichols 2 promised to introduce catalogues that show that Terry  
they 3 marked items that he was interested in bidding on, and  
with 4 told you that the catalogues would match penny to penny  
18, 1995. 5 the prices listed on Mr. Nichols' bid sheet for April

you that 6 We promised you just one thing. We promised  
during 7 no one would be able to place Terry Nichols at the DRMO  
wasn't 8 the early morning hours of April 18, 1995, because he  
the bomb 9 there. Instead, he was with Timothy McVeigh building  
10 at Geary Lake.

DRMO that 11 And what is the evidence that you have about  
looking 12 tells you that Terry Nichols wasn't there for six hours  
you heard 13 at property outside? You heard it was a small sale,  
time it 14 it was terrible weather, and you heard about how much  
here to 15 takes to view that property outside. Nobody came in  
that 16 tell you that anyone spends hours outside looking at  
1989, 17 property. Mr. McDonald, who has worked there since  
minutes. 18 hasn't seen one person stay in the yard longer than 45

19 And he didn't see Terry Nichols there on April 18,  
1995.

20 We promised you that no one would put Terry  
Nichols

21 there because he wasn't there. You've heard from DRMO

22 witnesses from the Government and you've heard from  
DRMO

23 witnesses from the defense. And they all said one  
thing: No

24 one saw Terry Nichols there on the morning of April 18.

25 Instead, all the documentary evidence suggests to you  
that he

14368

1 did sign in at in 12:50 and submitted his bid at  
approximately

2 1:37.

3 You also know from reviewing the catalogues  
that Terry

4 Nichols wasn't there marking the items he was  
interested in

5 from the mail-order catalogue that he got because you  
saw that.

6 And that catalogue mailed to Joe Rivers at his  
Manhattan

7 address didn't have the prices in it. It was the  
catalogue

8 that he picked up when he went to DRMO, the catalogue  
he got



9 when he signed in at the sign-in desk where he had  
marked the

10 prices that matched his bid sheet.

11 So what did Terry Nichols really do that  
morning? He

12 went to Geary Lake in his dark-blue pickup truck with a  
white

13 camper, he got inside the Ryder truck and he mixed the  
ammonium

14 nitrate and fuel oil to make the bomb to kill the  
people in

15 Oklahoma City.

16 He left, as Marife Nichols told you, and  
either

17 returned home somewhere around noon, or arrived later  
than

18 that.

19 He then went to DRMO to cover his tracks. He  
checked

20 in at the sale at 12:50 and then quickly went around  
looking at

21 items, marking them down, and filling out a bid at  
1:37.

22 You know that he intended to fill out that bid  
and put

23 it in after he signed in at 12:50. Now he's trying to  
claim to

24 you that when the bid was made, he made it after he  
went to

25 look for Timothy McVeigh. His story to the FBI agents  
was that

14369

for  
in and  
on  
left at  
if  
gotten in

1 he was there all morning, came out around noon, looked  
2 Timothy McVeigh, did not find him, and then went back  
3 submitted a bid.

4 Well, if Terry Nichols was really there to bid  
5 items, why wouldn't he have put in the bid before he  
6 noon to go out and look for Timothy McVeigh? Because  
7 Timothy McVeigh had been there at noon, he would have  
8 the car and left and never put in a bid.

9 Terry Nichols said that because it wasn't  
true. Terry  
10 Nichols didn't go out at noon to look for Timothy  
McVeigh. He  
11 arrived around 12:50, signed in, made his bid, and  
left.

12 So Terry Nichols' alibi doesn't hold up for  
the most  
13 important day of the conspiracy, for the day before the  
14 bombing, April 18, 1995. And if there is any question  
in your  
15 mind about where he was that day, Marife Nichols told  
you she  
16 had no idea where he was. His own wife, the woman he  
had been

Terry 17 with every other day before that, had no idea where  
18 Nichols was on the morning of April 18, 1995.  
19 The bomb that Mr. Nichols made was not only a  
very,  
20 very big bomb but it was a bomb that was designed to  
kill  
21 people. Terry Nichols built that bomb with Timothy  
McVeigh on  
22 April 18 because he wanted to destroy the Murrah  
Building and  
23 kill people and he knew that it would do it. He knew  
because  
24 he had read the Hunter. He knew because he knew how to  
build  
25 ammonium nitrate and fuel oil bombs, and he knew what  
the

14370

1 consequences would be because he read the Hunter.  
2 You can see here on the excerpts. This is the  
book  
3 that was found in Mr. Nichols' house, Government's  
Exhibit 185.  
4 You heard there were 13 fingerprints of Mr. Nichols  
found in  
5 this book, so there is no doubt that he read this book.  
6 And once he read this book, he knew exactly  
what would  
7 happen if someone built an ammonium nitrate and fuel

oil bomb.

8 In fact, he knew even down to the detail of what would  
happen  
9 to a bomb -- to a building that was glass-faced. Look  
at this  
10 excerpt, 158A. "It was a large, modern store with lots  
of  
11 plate glass," and it talks about a medium-sized truck.

12 Terry Nichols knew what would happen if a  
truck was  
13 placed in front of a glass-front building.

14 Here on pages 179 and 180, Government's  
Exhibit 158E,  
15 he knew that the plate-glass windows had been  
transformed into

16 a "glittering hail of deadly shards."

17 That's what happens, ladies and gentlemen,  
when you  
18 place a bomb, an ammonium nitrate and fuel bomb, in  
front of a  
19 glass building.

20 You heard testimony from the agents who were  
at the  
21 scene and from many of the victims that there was glass  
22 everywhere around the Murrah Building. The bomb had  
blown out  
23 all the windows, just like described here in the  
Hunter.

24 But most disturbing is the description that  
". . . the  
25 glittering shards which had cut down four pedestrians  
on the

14371

1 sidewalk in front of the store. Dense smoke poured  
from the  
2 interior of the building. No one could survive  
inside."  
3 Terry Nichols knew that if he and Timothy  
McVeigh  
4 built a bomb of ammonium nitrate and fuel oil and  
placed it up  
5 next to a glass building, no one inside could survive.  
6 He even knew that a bomb of that size would  
create a  
7 crater and cause many, many deaths. On page 180,  
Government's  
8 Exhibit 158F, describes where the van had been was a  
gaping  
9 crater, just like what Ms. Jones described for you and  
the  
10 agents who were at the crime scene, a gaping crater  
where the  
11 Ryder truck had been. When you go down to the bottom,  
it  
12 describes what happens to the people that were anywhere  
near  
13 that bomb: "He counted the remains of six, maybe seven  
persons  
14 in the wreckage of the offices. Undoubtedly others  
were buried  
15 under the rubble." Tragically you heard testimony

about that,

16 too: That people were buried in the rubble.

17 Florence Rogers of the credit union told you  
about the

18 morning of April 19 when she was seated with several of  
her

19 colleagues. Women she had worked with for up to 18  
years were

20 seated around an office table, the bomb blew up, and  
her

21 colleagues fell in front of her to their deaths, buried  
in the

22 rubble, just like as described in the Hunter.

23 Terry Nichols knew exactly what he was doing,  
and he

24 knew that the bomb that he was building on April 18  
would kill

25 people, just as he intended that it would.

14372

1 Your Honor, I believe this is probably a good  
place to

2 break. I'm almost done.

3 THE COURT: All right. Well, we'll take our  
recess.

4 As I indicated earlier, we're going to make this a one-  
hour

5 luncheon recess; and of course, again, emphasize -- I  
do

6 emphasize to you that you've heard most of what you're  
going to  
7 hear, I guess, from one side, but you haven't heard  
from the  
8 other side and you haven't heard from me. So once  
again,  
9 please, do not discuss this case or anything about it  
among  
10 yourselves or with any other persons during this  
recess. Wait  
11 until you've heard it all and you've heard me instruct  
you  
12 about the law and that it's time to deliberate before  
you talk  
13 about it.

14 So, members of the jury, you're excused now  
for.

15 We'll make it 1:15.

16 (Jury out at 12:12 p.m.)

17 THE COURT: 1:15.

18 (Recess at 12:13 p.m.)

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1 INDEX

Page 2 Item

3 CLOSING ARGUMENTS

14270 4 By Ms. Wilkinson

5 \* \* \* \* \*

6 REPORTERS' CERTIFICATE

transcript from 7 We certify that the foregoing is a correct

Dated 8 the record of proceedings in the above-entitled matter.

9 at Denver, Colorado, this 15th day of December, 1997.

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\_\_\_\_\_  
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Paul Zuckerman

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Kara Spitler

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