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14260

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3 District of Oklahoma, and RANDAL SENDEL, Assistant U.S.
4 Attorney for the Western District of Oklahoma, 210 West
Park
5 Avenue, Suite 400, Oklahoma City, Oklahoma, 73102,
appearing
6 for the plaintiff.
7 LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,
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Attorneys
9 to the U.S. Attorney General, 1961 Stout Street, Suite
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10 Denver, Colorado, 80294, appearing for the plaintiff.
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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
Mr. Wahl

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

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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

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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'

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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

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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

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

11 But when Steve Hodge said he did not agree
that
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.

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

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

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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

14280

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.

14281

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

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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
6 purchase the second ton of fertilizer. He chose to
make sure
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

1 It is with this series of calls, ladies and
gentlemen,
2 that you can see exactly where Mr. Nichols was. He
rented the
3 storage shed in Council Grove on the 17th. He went to
the
4 Mid-Kansas Co-op on the 18th, around noon, and
purchased the
5 second ton of ammonium nitrate. He stored it in the
storage
6 shed in Council Grove. He made phone calls that
afternoon to
7 the barrel company and to the coin shop, and then he
showed up
8 at the coin shop that next morning and continued his
calls to
9 the barrel companies as soon as he'd received his cash.

10 You know that eventually Mr. Nichols did
obtain
11 barrels, because we found four plastic barrels in his
house.
12 These are the barrels in Government's Exhibit 1774, No.
4; and
13 they show the four barrels stacked up in Mr. Nichols'
garage.

14 The one thing you may recall is that Agent
Jasnowski

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

5 were Smurfit plastic. The barrels in Nichols' house
matched
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.

collected 6 After Timothy McVeigh and Terry Nichols
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

14307

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

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

14312

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

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.

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

14 YX1640 Michigan.

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

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

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

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

19 started to call Timothy McVeigh one more time.

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

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

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

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

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

14327

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

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

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.

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

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

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.

8 Words could not have caused the death of the
19

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

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

16 phone calls from Timothy McVeigh. We also know Timothy
McVeigh
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,

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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

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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

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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.

22 The only day that he wasn't there for a survey
-- or
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

1 But the real reason that you know that Terry
Nichols
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.

8 At DRMO on April 18, as Mr. Tigar would say,
Terry
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

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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

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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

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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
Nichols was on the morning of April 18, 1995.
very, 19 The bomb that Mr. Nichols made was not only a
kill 20 very big bomb but it was a bomb that was designed to
McVeigh on 21 people. Terry Nichols built that bomb with Timothy
Building and 22 April 18 because he wanted to destroy the Murrah
because 23 kill people and he knew that it would do it. He knew
build 24 he had read the Hunter. He knew because he knew how to
the 25 ammonium nitrate and fuel oil bombs, and he knew what

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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

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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.

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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.)

19 * * * * *

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24

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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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11

12

Paul Zuckerman

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Kara Spitler

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