

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

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 10 REPORTER'S TRANSCRIPT
 (Trial to Jury: Volume 129)

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12 Proceedings before the HONORABLE RICHARD P.
 MATSCH,
 13 Judge, United States District Court for the District of
 14 Colorado, commencing at 5:01 p.m., on the 16th day of
 December,
 15 1997, in Courtroom C-204, United States Courthouse,
 Denver,
 16 Colorado.

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Transcription
Street,
629-9285

Proceeding Recorded by Mechanical Stenography,
Produced via Computer by Paul Zuckerman, 1929 Stout
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APPEARANCES

Western
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GEOFFREY
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Attorneys
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PATRICK RYAN, United States Attorney for the
District of Oklahoma, 210 West Park Avenue, Suite 400,
City, Oklahoma, 73102, appearing for the plaintiff.
LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,
MEARNS, JAMIE ORENSTEIN, and AITAN GOELMAN, Special
to the U.S. Attorney General, 1961 Stout Street, Suite
Denver, Colorado, 80294, appearing for the plaintiff.
MICHAEL TIGAR, RONALD WOODS, and JANE TIGAR,
at Law, 1120 Lincoln Street, Suite 1308, Denver,
80203, appearing for Defendant Nichols.

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PROCEEDINGS

14

(Reconvened at 5:01 p.m.)

in and

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THE COURT: All right. We'll bring the jury

16

recess their deliberations overnight.

17

(Jury in at 5:01 p.m.)

going to

18

THE COURT: Now, members of the jury, I'm

home

19

recess your deliberations at this time and let you go

20

overnight.

time

21

The situation now is different from any other

completed,

22

that I've addressed you, because the trial has been

23

the case has been given to you, and it's in your hands.

24

I want to give you some cautions, of course,

As I have

25

recognizing that this is a very sensitive situation.

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separate

1

explained to you before, I could keep you together,

not

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and apart from all other persons and keep you together

private and

3

necessarily deliberating, of course, but in some

4

convenient place where you would be by yourselves and

away from

5 the possibility of being influenced in any way by
anyone else,

6 including anything on radio, television, newspapers,

and the

7 like.

8 I'm not going to do that, though. I'm going
to rely

9 on your oath and on your commitment under that oath to
follow

10 the law and be guided only by the law and the evidence
in this

11 case.

12 So accordingly, as we recess now, you will be
able to

13 go your respective ways with the extra caution that, of
course,

14 not only is this situation the same in that you must
not

15 discuss the case with any other person or permit anyone
to talk

16 to you or in your presence about this case, not only
will you

17 avoid anything on radio, television, newspapers,
magazines,

18 books, or whatever, which could in any way possibly
influence

19 you in your decision, but you must also recognize that
each one

20 of you is one of 12 and that it will be 12 people who

21 deliberate in this case and that you really only serve
on this

22 jury when you are together as a jury behind closed
doors with

23 the foreperson presiding.

24 And accordingly, now, as are excused and go
your

25 respective ways, if it should be the case that any of
you are

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1 riding together in a carpool or whatever, or see, you
know,

2 other jurors outside of the jury deliberation room
here, you

3 must remember that you're not to discuss the case in
twos or

4 threes or in any way other than when the 12 of you are
back

5 here in the jury room with closed doors and the
foreperson is

6 presiding and you are deliberating.

7 That means, of course, also that you don't
talk on the

8 telephone with each other. You know, it's not a matter
of all

9 of you thinking about this or discussing it in twos or
threes

10 and then coming together to see how you think about it.

11 Deliberation is something that's done within the
dynamics of

12 the jury room and with the 12 jurors participating,

because it

13 is, as you were told, your recollection of the
testimony and

14 your contributions, each of you, to the discussion that
you

15 must rely on in this matter.

16 So what I'm asking you to do now is for each
of you to

17 let the matter rest, come back together in the morning,
and

18 when you're back in the jury room and all of you are
present,

19 you resume your deliberations.

20 Now, the timing of your deliberations is, of
course, a

21 matter for you to decide. I'm going to assume here the
usual

22 workday. I suggest that you start at 8:30. You're
usually

23 here by that time, and you can resume at 8:30.

24 Now, your deliberations are secret in the
sense that

25 they only -- only the 12 of you should know about them.
So as

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1 you leave tonight, the deliberation room, that room,
will be

2 sealed off. No one will have any access to it. No
cleaning

3 persons, no one. And accordingly, whatever you may
have in the
4 way of notes and things -- and if you have any exhibits
in
5 there, you can use, you know -- bring exhibits in
there, if you
6 want to. But whatever is in there will be sealed off.
No one
7 will have access to that excepting for you. I want you
to be
8 reassured of that. If you have notes on the wall or
something
9 like that, no one else will see them.

10 We may ask you to bring the trash out or
something and
11 have you do that yourselves, but that's a part of
making sure
12 that no one has any access to your thinking or your
13 deliberations, because that's a part of the process.

14 So please follow these cautions. And when you
come in
15 tomorrow, we won't be back in the courtroom. You will
be going
16 directly to the jury room and resuming your
deliberations under
17 the guidance of the process that you've agreed upon and
the
18 foreperson that you agreed to lead you.

19 So with that, members of the jury, you're
excused now.
20 You'll resume your deliberations tomorrow.

21 8:30 agreeable to you all?

a 22 All right. You're excused. We hope you have
23 pleasant evening.

24 (Jury out at 5:08 p.m.)

subject 25 THE COURT: All right. We're again in recess

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1 to call.

2 (Recess at 5:08 p.m.)

3 * * * * *

4 REPORTER'S CERTIFICATE

transcript from 5 I certify that the foregoing is a correct

Dated 6 the record of proceedings in the above-entitled matter.

7 at Denver, Colorado, this 16th day of December, 1997.

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Paul Zuckerman

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