

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

ff

9  
 10                                   REPORTER'S TRANSCRIPT  
                                   (Trial to Jury: Volume 134)

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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 5:00 p.m., on the 18th day of  
 December,  
 15 1997, in Courtroom C-204, United States Courthouse,  
 Denver,  
 16 Colorado.

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24  
Transcription  
Street,  
629-9285

Proceeding Recorded by Mechanical Stenography,  
Produced via Computer by Paul Zuckerman, 1929 Stout  
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1 APPEARANCES  
2 PATRICK RYAN, United States Attorney for the  
Western  
3 District of Oklahoma, 210 West Park Avenue, Suite 400,  
Oklahoma  
4 City, Oklahoma, 73102, appearing for the plaintiff.  
5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNES,  
JAMIE  
6 ORENSTEIN, and AITAN GOELMAN, Special Attorneys to the  
U.S.  
7 Attorney General, 1961 Stout Street, Suite 1200,  
Denver,  
8 Colorado, 80294, appearing for the plaintiff.  
9 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,  
and  
10 JANE TIGAR, Attorneys at Law, 1120 Lincoln Street,  
Suite 1308,  
11 Denver, Colorado, 80203, appearing for Defendant  
Nichols.

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PROCEEDINGS

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(In open court at 5:00 p.m.)

15

THE COURT: Be seated, please.

16

We'll return the jury and see if they want to recess.

17

I suspect they do.

18

(Jury in at 5:00 p.m.)

19

THE COURT: Members of the jury, good afternoon.

20

JURORS: Good afternoon.

21

THE COURT: I've asked you to return to the courtroom

22

at this time because this has been the time when we usually

23

recess. And I've assumed that you want to recess at this time

24

and rest a bit before continuing your deliberations, so that's

25

what we'll do.

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1

Now, speaking of scheduling, as I mentioned, of

2

course, I want to repeat what I said in the instructions; and

3

that is that you, as the jury, are not to reveal to this court

4 or any person how the jury stands numerically or  
otherwise on  
5 the issues before you until after you have reached a  
unanimous  
6 verdict, and nothing that I say to you is in any way  
asking you  
7 to suggest or in any way reveal to us the status of  
your  
8 deliberations. I'm not asking about that at all. And  
of  
9 course, the timing of your deliberations is entirely a  
matter  
10 for the 12 of you, and nothing that I say to you should  
in any  
11 way be interpreted by you as suggesting that I have any  
12 opinions as to what time it should take you to decide  
the case  
13 or anything like that. I want to be clear about that.

14 But I also want to address what our usual  
schedule has  
15 been throughout the trial. Tomorrow is Friday. Our  
regular  
16 schedule throughout the trial has been that on Fridays,  
we have  
17 simply gone straight through till 1:00 and then  
recessed and  
18 have provided then a long weekend recess.

19 Now, there were reasons for doing that, not  
just to  
20 assist in accommodating anything that any of you had,  
you know,  
21 with respect to child care or other obligations with  
your

22 family and likewise, but it also assisted us in  
presenting the  
23 case, because it gave the lawyers and the people  
working with  
24 them some time to contact the witnesses, arrange for  
the  
25 travel, bring them in, and so forth. So early recess  
on Friday

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1 afternoon was particularly helpful to us in keeping the  
trial  
2 going according to the schedule.

3 That, of course, is no longer the case; and  
4 accordingly, it is not something that we require of you  
that

5 you recess at 1:00 tomorrow. As a matter of fact, I  
would

6 suggest that if need be that you work longer than that.  
But it

7 could well be also that because I told you that we were  
not

8 going to sequester you as a deliberating jury that some  
of you

9 made some commitments or something that -- anticipating  
that if

10 you were still deliberating you would recess. And if  
that is

11 true, I want you to advise Mr. Manspeaker about it when  
we do

12 recess. But we have the support staff available here;  
and we  
13 can work with you, you know, as you choose. And that  
can  
14 include into the weekend, if you were to choose to do  
that.  
15 I'm not going to tell you that you have to and I'm not  
in any  
16 way suggesting to you, you know, we think you ought to  
get this  
17 job done within a certain time or anything like that.  
Please  
18 understand that.

19 We know that you've been given a lot of  
evidence and  
20 it's been a long trial. And we certainly expect that  
you will  
21 take whatever time is necessary to take to analyze that  
22 evidence and come to a reasoned, rational decision  
about it.  
23 And there is no one who can suggest what time that  
would be.  
24 So please understand that.

25 But I would again suggest if it does not  
inconvenience

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1 anyone and if the time is necessary that we do a  
regular

problem 2 workday tomorrow. But again, if some of you have a  
3 with that because you have done something or made some  
4 commitments in reliance on the old schedule, you tell  
us.

5 Now, of course, we are going to recess for  
this day  
6 and send you home for, I hope, some relaxation and  
opportunity  
7 to, you know, get away from this for a while. And  
that's what  
8 we hope you will do during this time. But again, of  
course,  
9 just as I always repeated the cautionary instructions  
that were  
10 then applicable throughout the course of the trial, I  
do again  
11 repeat what I told you since you've been a deliberating  
jury:  
12 to remember that each one of you is 1/12 of the jury;  
that you  
13 work together as a jury, and that you should not  
therefore do  
14 anything on your own with respect to the case or --  
and, of  
15 course, not discuss it with anyone else, not any other  
members  
16 of the jury or anyone else, of course, and to again  
continue to  
17 be extremely careful during the time that you're away  
from us  
18 to avoid anything in any form of communication or  
publication

19 that could in any manner interfere with your solemn  
obligation  
20 and sworn obligation to decide this case according to  
the law  
21 and the evidence.

22 So again, put the matter to rest until you're  
23 reconvened in the morning.

24 So members of the jury, you're now recessed in  
your  
25 deliberations and free to go, and we'll expect you here  
at

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1 8:30, about, in the morning to resume when you're all  
together  
2 and your foreperson is presiding. And as I say, if any  
of you  
3 have a conflict problem with respect to scheduling  
tomorrow,  
4 let Mr. Manspeaker know.

5 We hope you have a pleasant and restful  
evening.

6 You're excused for now.

7 (Jury out at 5:07 p.m.)

8 THE COURT: We'll keep in touch.

9 MR. MACKEY: Your Honor, may I approach about  
10 scheduling?

11 THE COURT: Yes.



12 (At the bench:)

13 (Bench Conference 134B1 is not herein transcribed  
by court  
14 order. It is transcribed as a separate sealed  
transcript.)

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1 (In open court:)

2 THE COURT: All right. We'll be in recess  
subject to

3 call.

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

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REPORTER'S CERTIFICATE

7  
transcript from

I certify that the foregoing is a correct

8  
Dated

the record of proceedings in the above-entitled matter.

9 at Denver, Colorado, this 18th day of December, 1997.

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Paul Zuckerman

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