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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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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
1200,
10 Denver, Colorado, 80294, appearing for the plaintiff.
11 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,
REID
12 NEUREITER, and JANE TIGAR, Attorneys at Law, 1120

Lincoln

13 Street, Suite 1308, Denver, Colorado, 80203, appearing
for
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 I have provided you with what I intend to give
to the
21 jury as preliminary instructions, and your views are
recorded
22 in your written submissions. So this is what I intend
to
23 proceed with.

24 Do -- Mr. Tigar, does the defense intend an
opening
25 statement, do you know yet?

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1 MR. TIGAR: Yes, we know, your Honor; and --
and yes,

2 we will. Your Honor, there are --

3 THE COURT: Immediately following the
Government's?

4 MR. TIGAR: We're not going to reserve.

5 THE COURT: All right.

6 MR. TIGAR: Your Honor, there are two issues.
One is
7 this -- the videotape motion.

8 THE COURT: Yes.

9 MR. TIGAR: And a ruling on that would be
helpful
10 before opening statement, obviously, because --

11 THE COURT: The Government -- the videotape
that the
12 Government offered.

13 MR. TIGAR: Yes.

14 THE COURT: I reviewed that and I reviewed
what was
15 just filed this morning by the Government about
possible

16 redaction, and I'm going to exclude it in its entirety.

17 MR. TIGAR: Thank you, your Honor.

18 And then, your Honor, I would like to know the
rules
19 on exhibits in opening statement. We had understood no
20 exhibits in opening statement and didn't bring any for
that
21 purpose, but I see that at least somebody thinks that
--

22 THE COURT: Well, does the Government intend
some
23 opening statement -- exhibits in opening statement?

24 MR. RYAN: No, your Honor.

25 MR. TIGAR: Oh, well -- oh, then perhaps we

could at

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1 some point move the television out of the way or --

2 THE COURT: Well, is it in the way?

3 MR. TIGAR: No. It's not in the way.

4 THE COURT: Okay.

5 MR. TIGAR: All right.

6 THE COURT: Then I think we're ready to
proceed.

7 MR. TIGAR: We are.

8 THE COURT: Bring in the jury.

9 (Jury in at 8:47 p.m.)

10 PRELIMINARY JURY INSTRUCTIONS

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

12 Before we begin this penalty phase hearing, I
want to

13 give you a general overview of the purpose of this
proceeding

14 and what you may expect in the days ahead.

15 The 12 members of the jury who deliberated in
this

16 case found the defendant, Terry Lynn Nichols, guilty on
the

17 first count of the indictment, conspiracy. The federal
statute

18 found to be violated, which is 18 United States Code

Section

19 2332(a), provides that a person who conspires to use a
weapon
20 of mass destruction against persons within the United
States
21 and property of the United States may, if death
results, be
22 punished by death, imprisonment for life, or for any
term of
23 years. The statute also provides that a sentence to
death or
24 for life imprisonment without possibility of parole can
only be
25 made by the jury.

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1 The jury in this case also decided that Terry
Lynn
2 Nichols was not proved guilty beyond a reasonable doubt
of the
3 crimes charged in Counts 2 and 3 in the indictment and
as to
4 the eight counts of first-degree murder, found him
guilty of
5 the lesser included offense of involuntary
manslaughter. The
6 sentencing on the guilty verdicts on those eight counts
of
7 involuntary manslaughter is a matter to be determined
by the

8 Court.

9 Accordingly, what this hearing will be about
is
10 whether for the crime of conspiracy to use a weapon of
mass
11 destruction, Terry Lynn Nichols should be sentenced to
death,
12 to life imprisonment without any possibility of
release, or to
13 a lesser sentence to be determined by the Court.

14 Even though the jury has found Mr. Nichols
guilty of a
15 charge carrying the possibility of a death sentence,
the law
16 requires that you approach this sentencing proceeding
with open
17 minds and be able to give meaningful consideration to
all of
18 the possible sentences which again are death, life in
prison
19 without the possibility of ever being released, or any
lesser
20 sentence provided by law.

21 Before deciding on the appropriate punishment,
you
22 must consider additional information about the crime
and about
23 the uniqueness of the defendant as an individual human
being.

24 The information you may consider includes the
evidence
25 presented at the trial. Thus, you may consider the
testimony,

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1 the exhibits, and the stipulations offered by both
sides during

2 the guilt phase. And there will be no need for the
parties to

3 reoffer that evidence that is already before you.

4 The parties will also call witnesses and offer

5 exhibits at this second hearing in an effort to prove

6 aggravating and mitigating circumstances. The
Government first

7 will present information about aggravating
circumstances which

8 the Government lawyers believe will tend to support
imposition

9 of the death penalty. The defendant then will present

10 information about mitigating circumstances, which the
defense

11 lawyers believe tend to support imposition of a
sentence other

12 than death.

13 I will instruct you in more detail at the
close of

14 this hearing regarding the questions you must answer
based on

15 all of the information which you will then have before
you.

16 Your initial responsibility will be to decide whether
the

17 Government proved beyond a reasonable doubt that the
defendant
18 acted with the requisite intention to cause death; that
is,
19 that Terry Nichols intentionally participated in an
act,
20 contemplating that lives would be taken or intending
that
21 lethal force would be used and that victims died as a
-- as a
22 direct result, or that he intentionally and
specifically
23 engaged in an act of violence knowing that the act
created a
24 grave risk of death to the people in the Murrah
Building, and
25 his participation constituted a reckless disregard for
human

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1 life and that victims died as a direct result of the
act.

2 If you make these findings, you must then
consider
3 whether the Government has proved beyond a reasonable
doubt
4 additional aggravating factors called "non-statutory
5 aggravating factors" as alleged. In addition to a
statutory
6 aggravating factor -- and these will be detailed for

you in the

7 instructions that will be given at the end of the
hearing, but

8 I'm just now giving you a general overview of the
purpose of

9 the hearing, as I've said.

10 And then, each juror, during deliberations
here,

11 individually must consider whether the defendant has
proved any

12 mitigating factors by a preponderance of the evidence.

13 Mitigating factors may include relatively minor
participation

14 in the offense and information about personal traits,

15 character, and background of Mr. Nichols.

16 The jury must ultimately determine whether the
proven

17 aggravating factor or factors sufficiently outweigh any
proven

18 mitigating factor or factors to justify a sentence of
death.

19 The weighing of aggravating and mitigating factors is
not a

20 mechanical process. The jury should not simply count
the

21 number of aggravating factors and mitigating factors
and decide

22 which number is greater, but instead, must consider the
weight

23 and value of each factor. Whatever findings you make
with

24 respect to aggravating and mitigating factors, the jury

is

25 never required to impose a sentence of death.

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1 The jury's role in this proceeding is to be
the
2 conscience of the community in making a moral judgment
about
3 the worth of a specific life balanced against the
societal
4 value of a deserved punishment for a particular crime.
The
5 jury's decision must be a reasoned one, free from the
influence
6 of passion, prejudice, or any other arbitrary factor.

7 As in the guilt phase of the trial, there will
be four
8 steps in this sentencing hearing:

9 First, counsel for the Government will make an
opening
10 statement. Counsel for the defendant will then make an
opening
11 statement.

12 Second, the parties will present information
beginning
13 with the Government, and then the defendant, and
finally, the
14 Government again in rebuttal if it wishes.

15 The third stage or phase will be counsel for

the

16 Government and the defendant will make closing
arguments, just

17 as they did during the trial, beginning with the
Government and

18 then defense counsel and then Government's counsel
again in

19 rebuttal.

20 And fourth and finally, I will instruct you in
detail

21 more fully on the controlling law.

22 Now, once again, just as it was true during
the trial

23 and throughout the trial, you must keep open minds and
wait

24 until you've heard it all before making any individual

25 decisions and before discussing the question of
punishment with

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1 any other jurors.

2 Of course, the jury will be limited to
considering

3 what you see and hear in this courtroom. But you won't
have

4 now the same type of objections being made by lawyers
with

5 respect to certain rules of evidence as, for example,
hearsay.

6 Hearsay, within limits, can be considered in this
information.

7 It -- and we refer to it now as "information" rather
than

8 "evidence" because this is a different type of hearing.
We're

9 at a sentencing hearing, and the rules, so to speak,
that I

10 will be applying are a bit different. There will be,
however,

11 other objections and rulings made with respect to what
is

12 appropriate for you to hear and consider.

13 Of course, the fundamental rule is that the
jury must

14 fairly and impartially consider what they have heard,
both at

15 trial and during this phase, and follow the law in
making a

16 decision.

17 Now, we're going forward, of course, operating
on the

18 assumption, as we have throughout the trial and
continue, that

19 whenever -- if it should happen that a juror does
encounter

20 something outside of the evidence and now the
information that

21 will be presented, you'll let me know about it; or if
you have

22 had any contacts inadvertently or otherwise with anyone
in any

23 manner affecting your role as a juror in this case,

you'll let

24 me know about that.

25 As I said, we'll continue during this phase,
as we did

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1 during the trial, of asking you to simply give me a
note --

2 don't discuss it with other jurors -- but give me a
note

3 whenever that should occur. And of course, I remind
you if it

4 has occurred, you've been away from the courtroom for a
few

5 days -- and any time, you know, if it should occur,
that you've

6 had contact with anybody or anybody's attempted to
contact you

7 or you've inadvertently come across something relating
to the

8 case or the subject matter of it, you let me know about
it by

9 giving me a note, as I say, as to what occurred and
without

10 discussing it with other jurors.

11 So, members of the jury, we're prepared now to
proceed

12 with this hearing; and as I indicated in this overview
that

13 I've just given to you, the first phase or stage is

opening

14 statements from both sides in the case. And we'll
begin with

15 the Government and Mr. Ryan.

16 OPENING STATEMENT

17 MR. RYAN: Thank you, your Honor.

18 Good morning. I know you each got a late
start on the

19 holiday season, but I hope you had a joyous last three
or four

20 days.

21 MR. TIGAR: I object to the greeting, your
Honor.

22 MR. RYAN: May --

23 THE COURT: Overruled.

24 MR. RYAN: May it please the Court. Mr.
Tigar,

25 Mr. Woods, my colleagues, members of the jury.

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1 The morning of Wednesday, April 19, 1995, in
Oklahoma

2 City began just like every other morning. The men,
women, and

3 children of the city got up, showered, had breakfast,
and said

4 goodbye to their families. 168 of those people said
goodbye

5 for the last time.

6 On April 19, Helena Garrett got up at 6:00
that
7 morning to get ready for work. She had to be at the
Journal
8 Record Building by 8:00. She got her son, Tevin, up.
Tevin
9 was 16 months old. And he came into the bathroom with
her, as
10 he always did; and he pulled on the curlers that she
had on the
11 dresser and they tumbled to the floor and they laughed.
And
12 she told him to go wake up his sister, Sharonda, who
was five.
13 And he went in as he always did, grabbed a plastic
vase, and
14 bopped her on the head. She wasn't angry. He did that
every
15 morning.

16 Helena came in, found Tevin, tossed him up in
the air.
17 You know the sort of way that playful parents have with
18 children they love. She was running late and told
Sharonda
19 that she might have to take Sharonda to the Murrah day-
care
20 center with Tevin. Otherwise, she might be late for
work.
21 Sharonda said no, she had kindergarten practice for
their
22 kindergarten graduation that morning. She had to go to her

23 practice.
24 They left home about 7:15, and Helena dropped
Sharonda
City at 25 off at kindergarten and arrived in downtown Oklahoma

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1 7:45. Helena decided to park in the two-hour parking
space at
2 the Murrah Building so that she wouldn't be late for
work. She
3 intended to come back about 9:00 to move her car to her
regular
4 parking space and say hello to Tevin. She walked Tevin
to the
5 second floor of the Murrah Building, rang the doorbell.
Nobody
6 came. Finally, Aaron Coverdale, a five-year-old there
at the
7 day care, opened the door, and Helena saw why one of
the
8 workers had not come to open the door. Wanda Howell
was over
9 with Baylee Almon on a changing table, changing
Baylee's
10 diapers, and didn't want to leave Baylee for fear she
might
11 fall from the table.
12 Helena got ready to leave, and Tevin started
to cry.

13 You know the way children cry when they get ready to
leave
14 their -- their mothers. But Aaron Coverdale and Elijah
15 Coverdale, two brothers, came over and they patted
Tevin on the
16 back to comfort him, to console him. Helena felt
better, and
17 she left to go to work.

18 She worked till a little before 9 at the
Journal
19 Record building; and at that time, a thunderous
explosion
20 ripped through Oklahoma City. She screamed and she
called for
21 her friend, Deborah. Deborah came. They clasped
hands, and
22 they waited, waited for the deafening roar to stop.
Ceiling
23 tiles were falling, debris was falling. They crawled
and
24 climbed out of the building. Deborah was worried about
her
25 child, Kendra, who was at YMCA day care. They ran to
the YMCA

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1 building, and they saw a man on the grass in front of
the YMCA.
2 They told him it was all right. The children were
alive. And

you 3 Helena turned to Deborah and said, "See Deborah, I told
4 Kendra would be okay."

through 5 And at that moment, Helena Garrett turned, and
6 the billowing smoke of the Murrah Building, she saw
that gaping 7 hole and the whole scene that each of you have seen.
And

8 you've heard the rest. You've heard how she ran to the
9 building, she tried to get up into the building, she
stopped
10 the rescue workers who were carrying babies from the
building
11 and she told them to sweep the sidewalk clean of glass
because
12 she didn't want the dead babies to be laid down on
broken
13 glass.

14 The worst fear of any mother became Helena
Garrett's
15 reality: Her baby was dead.

16 This is one story of 168 stories.
17 I'm the United States Attorney in Oklahoma
City where

18 this crime occurred. Together with my fellow
prosecutors, it

19 is my privilege to talk to you today, my duty to
prepare you to

20 receive the information that you're about to receive
over the

us to 21 next few days, information that will be difficult for
hear. But 22 present, information that will be painful for you to
with 23 it is our duty to ensure that you're fully informed
that 24 respect to the death, the devastation, the destruction
25 occurred in Oklahoma City following this conspiracy.

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before you 1 And it is your duty to be fully informed
2 make a sentencing decision.
one we 3 No decision could be more important than the
without 4 ask you to make, and we would not ask you to do that
5 all of the facts.
an oath 6 At the beginning of this trial, you each took
You've 7 to begin each phase of this trial with an open mind.
listened to 8 done that with respect to the guilt phase. You've
9 that evidence. You've rendered your verdict.
reasonable 10 And by your verdict, you found beyond a
knowingly and 11 doubt that this defendant, Terry Nichols, one,

12 deliberately conspired to use a weapon of mass
destruction

13 against the Alfred P. Murrah Building and the persons
inside.

14 Two, you found that the death of persons was a
15 foreseeable result of this conspiracy.

16 And three, you found that this crime resulted
in
17 death.

18 Each of you, no doubt, felt somewhat
differently about

19 the evidence. Some of you may have felt stronger than
others

20 with respect to the proof the Government presented in
this

21 case. But one thing is clear, each of you agreed, all
12, that

22 Terry Nichols conspired to commit this crime, this act
of

23 terrorism.

24 Now we ask you to once again approach this
sentencing

25 phase with an open mind, to not make any decisions
about what

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1 the punishment should be until you've heard all the
facts.

2 That was the pledge you made to Judge Matsch and to the

lawyers

3 when you were selected as jurors in this case. You
said you 4 would be open in the event a defendant was convicted of
a 5 capital crime to both life or death and that you would
await 6 making that decision till all the evidence was in.

7 At the outset, you should understand one
important 8 point: We present this evidence to you not to evoke
your 9 sympathy. These victims in Oklahoma City have had all
the 10 sympathy they can stand for the last two-and-a-half
years. We 11 present this evidence so that you will be informed, so
you will 12 have the facts necessary to make an appropriate
sentencing 13 decision.

14 On April 19, 1995, this nation stood in shock
and 15 disbelief at what had occurred. We had heard of
terrorism. It 16 had happened elsewhere in the world. But who could
plan an 17 attack on secretaries, on engineers, on bank teller --
credit 18 union tellers and yes, even babies. We know now,
you've 19 spoken. Terry Nichols and Tim McVeigh could plan such
an

20 attack. And on April 19th, and the five-and-a-half
weeks that
21 followed, these facts emerged from Oklahoma City: 168
people
22 died. 19 of those were children. 15 were in the day-
care
23 center, and four were visitors of the Murrah Building.
163 of
24 those 168 were people who were inside the Murrah
building at
25 the time of the explosion. Two died in the Water
Resources

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1 Building, Trudy Rigney and Bob Chipman. One died in
the
2 Athenian Building almost directly across from the
Murrah
3 Building, Anita Hightower. One lady, Kathy Ridley,
died as she
4 was walking across the parking lot in front of the
Murrah
5 Building. And one nurse died, Rebecca Anderson, who
was trying
6 to assist in the recovery of bodies.
7 351 people were treated in area hospitals.
158 people
8 were treated by private physicians, and thousands of
people
9 sought and received emotional counseling as a result of

this

10 tragedy. And the surgeries and the therapy and the
treatment

11 goes on as I speak to you this morning.

12 This act of terrorism killed a cross section
of

13 American people. It made no distinctions for race, for
sex, or

14 for age. 125 Caucasians died. 34 African-Americans
died.

15 Five Hispanic-Americans died. Two Asian-Americans
died. One

16 Pacific Islander died. One Native American died. 94
women

17 died. 64 men died, men or boys. And the ages ranged
from four

18 months to 73 years. 99 of those who died were federal
workers.

19 69 were not.

20 In this case, in this sentencing phase, we'll
present

21 no post-mortem photographs, no autopsy photographs, no
22 photographs of dead bodies on slabs at medical
examiners'

23 offices. We want you to make this sentencing decision
based on

24 the cold, hard facts of what happened, on the
aggravating

25 factors that we will present to you and the crime that
was

1 committed.

2 There are special circumstances in cases in
which the
3 death penalty may be sought. His Honor talked to you
about
4 that this morning. At the outset, there is a threshold
5 question you must answer as to the defendant's intent.
The
6 Court has spoken to you about that this morning. The
first
7 requirement is that the United States prove beyond a
reasonable
8 doubt that Terry Nichols entered into this conspiracy
to bomb
9 the Murrah Building, the people inside it, with the
kind of
10 intent that permits the death penalty to be imposed
under our
11 system of justice in the United States.

12 By your verdict, you have found he knowingly
and
13 deliberately participated in this conspiracy to use a
weapon of
14 mass destruction against the Murrah Building and the
people
15 inside. You have found that death was foreseeable, and
you
16 found that death resulted.

17 The primary focus of this hearing will be on
the

Honor 18 aggravating factors and the mitigating factors that his

19 spoke to you about just moments ago.

20 The Court and the law will provide you with a
21 framework, a structure, a format of sorts to help guide
you and

22 assist you in reaching a sentencing verdict, and these
are

23 these matters and factors in aggravation and
mitigation. You

24 will not be left alone in the process. Indeed, the
Court will

25 provide you with detailed questions that you must
answer at the

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1 conclusion of this hearing that you, as a body of 12,
must

2 resolve. The Court will provide you instructions with
respect

3 to the burdens of proof that apply.

4 You're not alone.

5 However, the law does not define to you what
weight

6 you should give any particular factor. You may find
after you

7 listen to the evidence that some factors deserve
little, if

8 any, weight; other factors deserve a great deal of

weight, and

9 yet some, tons of weight. That decision is yours. In
the end,

10 you'll be asked to balance these aggravating factors
and

11 mitigating factors and return a sentencing verdict as
the moral

12 conscience of the community.

13 American citizens like you should make this
decision,

14 for only you can be the moral conscience of a
community.

15 I'm going to spend the remainder of my time
with you

16 this morning talking about seven aggravating factors
that the

17 United States will urge require a sentence of death.

18 Many months before this trial began, the
United States

19 provided a list of these factors to defense counsel,
factors

20 the United States would rely upon in the event that
you, the

21 jury, returned a verdict of guilty as to one or more
death

22 penalty counts.

23 The first factor is that this conspiracy, this
act of

24 terrorism, involved substantial planning and
premeditation.

25 The second factor is that the deaths or
injuries to

1 the people in the Murrah Building occurred as the
result of the
2 interstate transportation of explosives in interstate
commerce
3 and that that was part of the conspiracy.

4 The third factor is that the defendant
committed the
5 offenses against one or more public servants who were
law
6 enforcement officers because of their status as law
enforcement
7 officers.

8 The fourth aggravating factor is that the
defendant,
9 in conspiring to bomb the Murrah Building, used a
weapon of
10 mass destruction, creating a grave risk of death to
others, to
11 people in addition to the 168 people who died.

12 The fifth aggravating factor is that this
conspiracy
13 caused serious physical and permanent emotional and
physical
14 injuries, including maiming, disfigurement, and
permanent
15 disability to a number of people.

16 The sixth factor is that this conspiracy
resulted in

17 the deaths of 168 people.

18 The seventh factor is what we call "victim
impact
19 evidence." This is evidence concerning the effect of
this
20 crime upon the many families of the 168 people who
died.

21 We will present this testimony through
approximately
22 60 witnesses and five videotapes. This will take about
three
23 days.

24 For the past seven weeks, you've heard quite a
bit of
25 evidence already in this case. Some of it relates to
these

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1 aggravating factors. But we will not attempt to
reprove that
2 evidence. We know you recall it. And you heard his
Honor say
3 this morning that you could consider the evidence
you've
4 already heard as evidence establishing these factors.

5 I will start with the first factor of
substantial
6 planning and premeditation. Over the past seven weeks,
you

7 heard a great deal about planning and premeditation.
You've
8 heard it in bits and pieces. But taken together, it
tells you
9 something of the fabric of the person who planned this
crime.
10 Frequently, crimes are committed with little or no
thought,
11 seconds of premeditation, sometimes even in the heat of
12 passion. Not this crime. This crime was the result of
months
13 of preparation and thought.
14 Many aliases, purchases of ammonium nitrate,
renting
15 storage sheds in aliases, making phone calls to rent
sheds,
16 to -- to purchase nitromethane, to buy ammonium
nitrate, to
17 obtain barrels. You've heard it all. For days and
days and
18 weeks and weeks and months and months, this defendant
went down
19 that road of destruction and chose deliberately to
conspire to
20 blow up this building. And you've even heard the date
that was
21 selected, April 19, "Liberty Day," the two-year
anniversary of
22 the tragedy at Waco.
23 Terry Nichols made a conscience decision each
step of
24 the way, conversation after conversation, purchase
after

25 purchase, telephone call after telephone call, even
down to the

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1 lies he told his wife, Marife, on Easter Sunday, three
days

2 before the bombing.

3 This aggravation factor of substantial
planning and

4 premeditation has already been proven.

5 MR. TIGAR: Your Honor, I object -- I object
to that,

6 and I ask to approach the bench, your Honor.

7 THE COURT: All right. You may approach the
bench.

8 (At the bench:)

9 (Bench Conference 144B1 is not herein transcribed
by court

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

11

12

13

14

15

16

17

18
19
20
21
22
23
24
25

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1 (In open court:)

2 THE COURT: Members of the jury, let me just
say

3 here -- and of course, again, there are going to be
disputes

4 and disagreements among counsel about what is
appropriate in

5 this proceeding; and in part, these disagreements may
relate to

6 the law which I will instruct you on in considerable
detail at

7 the end of the hearing, as I've already said.

8 In part, also, interpretations about what the
jury's

9 verdict means. I will instruct you with respect to
that, as

10 well, but the 12 persons who decided the verdicts in

this case

11 know well what it is that the jury relied upon in the
evidence.

12 And when Mr. Ryan is speaking of premeditation here
with

13 respect to an aggravating factor relating to the
conspiracy

14 count, that must be distinguished from the Court's
instructions

15 about premeditation with respect to first-degree murder
which

16 was involved as an element of the first-degree murder
charge in

17 the eight counts on which this jury found the defendant
not

18 guilty of premeditated first-degree murder.

19 So, you know, during the course of this
hearing, there

20 are going to be things said and done where some people
may have

21 an interpretation about what your thinking has been.
We can't

22 ask you and it would be wholly inappropriate for us to
ask you

23 to explain your verdict. Your verdict is your verdict;
and as

24 I said when I received your verdict, only you, the 12
jurors

25 who deliberated in this case, know the details of your

1 collective decision.

2 So when lawyers in the case refer to what you
have

3 found or not found, you are the ones who will tell us
in final

4 decision with respect to the questions to be asked of
you what

5 you've found, both with respect to your previous
verdict and

6 now whatever you may find with respect to the questions
that

7 will be put to you at the close of this hearing.

8 So I just want to emphasize that none of us
here --

9 Mr. Ryan, or the other prosecutors or defense counsel
or me --

10 can interpret your verdict in any way different from
your

11 verdict. That's your folks' decision. So when
references may

12 be made in the course of argument or opening statement
about

13 what you did or didn't find, please understand that
these are

14 not efforts to try to talk you into or out of anything
that

15 you've already found. Your findings are yours, and we
don't

16 ask you to explain them.

17 MR. RYAN: Thank you, your Honor.

18 THE COURT: Please proceed.

the 19 MR. RYAN: At the conclusion of this phase of
this 20 trial, the United States will ask that you find that
21 conspiracy was a result of substantial planning and
22 premeditation.

talk to 23 The second aggravating factor that I want to
conspiring 24 you about this morning is that the defendant, in
United 25 with Tim McVeigh, also committed the crime under 18

14862

in 1 States Code Section 844(d) of transporting explosives
used to 2 interstate commerce, and these explosives were later
heard 3 make a truck bomb. Again, you heard the evidence. You
quarry. 4 the evidence of the burglary at the Martin Marietta
Kingman, 5 You heard about transporting those explosives to
heard 6 Arizona, where they were stored in a storage shed. You
about 7 about the purchase of nitromethane in Texas. You heard
that 8 purchases of ammonium nitrate in Kansas. And you know

9 those components were used to create a truck bomb. You
know
10 what "interstate commerce" means. His Honor will
instruct you
11 on it. It simply means crossing state lines with these
12 explosives. We will ask that this second aggravating
factor be
13 found by you beyond a reasonable doubt.

14 The third factor involves the defendant's
conspiring
15 against law enforcement officers because of their
status as
16 public servants. You know that Tim McVeigh and Terry
Nichols
17 were upset about what federal law enforcement officers
or what
18 they perceived federal law enforcement officers had
done at
19 Waco, Texas. The focus of their conspiracy to bomb the
Murrah
20 Building was to avenge the deaths of those at Waco
through a
21 terrorist attack on federal law enforcement.

22 And as you know, there were eight federal law
23 enforcement officers in the Murrah Building, and I know
you
24 recall their names because you found that the defendant
had
25 committed manslaughter with respect to each of those
officers:

14863

1 Cindy Campbell-Brown, Mickey Maroney, Don Leonard, Alan
2 Whicher, Kenny McCullough, Paul Broxterman, Claude
Medearis,
3 Paul Ice.

4 Cindy Campbell-Brown was a new Secret Service
agent.

5 She was 27 years old. 40 days before the Murrah
Building, she

6 was married to Ron Brown, a Secret Service agent she
had met in

7 her training class. He was stationed in Arizona. Ten
days

8 before April 19, she had last seen her dad, Gary
Campbell. He

9 had come up from Sherman, Texas, to see her office.
She was

10 proud of her office. She was proud of what she was
doing, and

11 she was proud of the people she worked with and she
expressed

12 that to her father.

13 When the bomb went off and they saw the images
in

14 Arizona and Texas, what had happened in Oklahoma City,
they

15 began to wait. Waiting was one thing these families of
these

16 law enforcement officers all had in common. They had
waited

17 all -- all of them had waited many, many nights because
their
18 loved ones were out on dangerous assignments. Some --
one of
19 them had been shot. All of them had been scared. And
all of
20 their families had waited. But Ron Brown and Gary
Campbell did
21 not have long to wait on Cindy Campbell-Brown, because
she was
22 on the ninth floor of the building and she was the very
first
23 person to be identified by the state medical examiner's
office
24 of the 168 victims.

25 Rescuers and firemen will come into this court
and

14864

1 they will tell you about the recovery of the bodies,
about the
2 conditions they worked in, and they will tell you what
happened
3 when that building exploded and floors pancaked one on
top of
4 the other, crushing these bodies. And you will come to
realize
5 why it is that people on the ninth floor were among the
first
6 to be identified, because only the roof of the building
fell on

7 them.

8 enforcement

9 were on

10 the ninth floor.

11 Oklahoma

12 Robbie,

13 about a

14 explosion,

15 at the

16 picture that

17 and she

18 return home

19 alive, and she was right.

20 to her

21 14th

22 victim of the 168 to be removed from the building and
23 identified by the medical examiner's office.

24 Alan

The third Secret Service agent that died was

25 Whicher. Alan and his wife, Pam, had recently moved to

14865

Secret 1 Oklahoma City. Alan had a distinguished career with
Thatcher, 2 Service. He had protected the president, Margaret
3 Prince Charles, even the Pope.

4 When he went through his Secret Service
training class
5 many years before the Oklahoma City bombing, he met a
friend,
6 Steve Colo, and they entered into a pact because they
knew they
7 were entering upon a dangerous line of work. And their
pact
8 was that if anything should happen to one of them, the
other
9 would be there for the family.

10 And at 11:00 on the night of April 19, Steve
Colo
11 showed up on the doorstep of Pam Whicher, and he waited
with
12 her and her family as they sought in vain to get
information
13 about Alan's whereabouts and what had happened to him.

14 Alan was recovered and identified on April
21st. He
15 was the 26th victim of the 168 to be identified.

Leonard. 16 The fourth Secret Service agent was Don
Don
17 Leonard had had a long career with Secret Service. He
had been
18 on protection details for seven different presidents of
this
19 nation. His wife, Diane, will come before you and
she'll
20 testify in this case and she will tell you about the
many, many
21 times that she worried about Don, the assignments that
he had
22 overseas sometimes he couldn't talk to her about. She
will
23 tell you the one time she never worried about him was
when he
24 went to work at the Murrah Building.
25 She talked to him on the night of April 18th.
She was

14866

1 in Tulsa. She worked as a sales representative. She
called
2 him that night as she always did when she was out of
town.
3 The next day, on the 19th, she was working.
She did
4 not find out about what had happened till 2:00 that
afternoon,
5 and the people she was with knew but didn't want to
tell her.

6 But they did.

7 She She got in her car and sped to Oklahoma City.

8 What she turned on the radio, desperately seeking information.

9 heard dealt with the fact that they needed body bags in
10 Oklahoma City.

11 went When she got to Oklahoma City, she immediately

12 downtown, trying to find her husband. She went to area
13 hospitals. She scanned the list they had posted of the
14 injured, hoping to find Don's name. It wasn't there.

15 kids Finally, two days later, the "suits," as her

16 she knew called it -- the "suits" walked down her driveway and

17 what news they had brought. Don Leonard was dead.

18 identified. He was the 30th victim out of 168 to be

19 wife The fifth officer was Kenny McCullough, Drug
20 Enforcement agent. He went to Texas A & M. He and his

21 previously and their children lived in Oklahoma City. He had

22 gone to worked with the Defense Investigative Service, then

23 work for Drug Enforcement Administration. His wife was
24 immediately teaching school at the time of the bombing. She

25 turned on a television, saw what had happened, realized

that

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1 her husband probably would not return.

2 And sure enough, three days later, DEA agents
brought
3 his badge and wallet to her. He was the 32d victim to
be
4 identified of 168.

5 The sixth officer was Paul Ice, an officer
with U.S.
6 Customs. Paul grew up in a town outside Oklahoma City
called
7 Midwest City. He was the middle son of Jack and Neva
Ice.

8 After high school, he went into the Marine Corps where
he
9 served on active duty and reserves for 20 years,
retiring as a
10 lieutenant colonel. He went to work for the United
States

11 Customs. He too had been on many dangerous
assignments. When
12 his family found out what happened on April 19th, they
came to
13 the city, they talked to Priscilla Salyer (sic).
Priscilla

14 Salyer was his secretary. And she told them that on
the
15 morning of the 19th at 9:00, she was face to face with

Paul

16 Ice. And when the explosion erupted, he disappeared
and she
17 fell several floors into the rubble where she was
buried for
18 hours. She told the family after rescuers had dug her
out that
19 she never saw Paul again, never heard his voice, never
felt his
20 touch.

21 Paul Ice's family waited eight days for news
of Paul
22 Ice. He was the 94th victim of 164 -- 68 to be
identified
23 because he was on the fifth floor.

24 Claude Medearis was the seventh officer who
died.
25 Claude graduated from high school down in Colorado
Springs.

14868

1 Like Paul, he went into the military. They worked
together in
2 Customs, Paul Ice and Claude Medearis. He worked
border patrol
3 for U.S. Customs in Texas. Until the end of Desert
Storm when
4 his oldest daughter Kathy's husband died on the last
day of
5 Desert Storm, he decided and demanded that he be

brought to

his 6 Oklahoma City with U.S. Customs so he could be close to
7 daughter to help her through this difficult time.

told his 8 On the morning of the 19th, Claude Medearis

only 9 family that he had to go to the Murrah Building but

10 briefly because he had an appointment over in El Reno,
11 Oklahoma, in a federal prison that morning. So when
his family

12 heard about the news of the Murrah Building at 9:00,
they hoped

13 and they prayed that he had left the building and
gotten out on

14 his way to his appointment. He hadn't.

15 They waited. They waited for ten days for
news.

16 Claude Medearis was the 109th victim out of 168 victims
to be

17 identified.

18 The eighth victim was Paul Broxterman with the
19 Inspector General's office with Housing and Urban
Development.

20 To search back in time to the first day of this trial
when you

21 heard the testimony of Susan Hunt, Susan was that very
tall

22 lady who was the office manager for HUD. And she told
you that

23 their offices in the Murrah Building were on the 7th
and 8th

of his 24 floors with one exception. Paul Broxterman. Because
rest of 25 job with Inspector General, he was separated from the

14869

assigned to 1 the offices. He was on the 4th floor. He had been
19th, 2 Oklahoma City for three days. On the morning of the
getting 3 Susan told you that he was there in the supply room,
4 supplies needed for a trial that he had to testify in.

5 Paul Broxterman's family waited 13 days. Paul
by the 6 Broxterman was the 134th victim of 168 to be identified
7 medical examiner's office.

Nichols and 8 These eight officers are the reason Terry
of their 9 Tim McVeigh selected the Murrah Building as the object
Those 10 conspiracy, and this object of the conspiracy was met.
object 11 eight people died. 160 other people also died, but the
find that 12 of the conspiracy was met, and we will ask that you
doubt. 13 aggravating factor has been proven beyond a reasonable

14 The fourth aggravating factor is that the
defendant,
15 in conspiring with Timothy McVeigh to use a weapon of
mass
16 destruction against the Murrah Building and the people
inside,
17 created a grave risk of death to others besides these
168 we've
18 been talking about.

19 Just as Terry Nichols planned, he was safely
at home
20 on the morning of April 19th as Tim McVeigh drove his
truck
21 east on 5th Street towards the Murrah Building.
Another
22 witness you may remember from the very beginning of the
trial
23 was Richard Nichols. Richard Nichols was the
maintenance man
24 at the Regency Tower apartments about a block and a
half west
25 of the Murrah Building on 5th Street. You may recall
that his

14870

1 wife drove her small Ford, red Ford Fiesta to the
Murrah
2 Building with her nephew Chad. Chad had a doctor's
appointment
3 that morning. And you may recall seeing on the video
footage

Richard 4 Mrs. Richard Nichols walking into the building and Mr.
5 Nichols coming out of the building.

6 And as they reached the car, fortunately,
their nephew

7 Chad was moving from the front seat to the back seat.
As

8 Richard Nichols looked up, and saw this whirling axle
coming

9 towards him and his family, it hit dead center on the
red Ford

10 Fiesta.

11 All three of those people were under a grave
risk of
12 death. Fortunately, they survived.

13 You'll recall as the Ryder truck passed by the
Water

14 Resources Building, Terry Nichols was home safe in
Herington.

15 But you recall who was inside that building. Lou
Klaver came

16 and testified before you. She was the lawyer who was
taping

17 the meeting of the water rights hearing on the north
side of

18 the building. You heard the tape. You heard the
frightened

19 voices. People clamoring to get out of the building.
All 65

20 people in that building were exposed to the grave risk
of

21 death. Two died. Bob Chipman and Trudy Rigney.

Terry 22 As the truck passed the Athenian Building,
planned 23 Nichols was home in Herington, safe, just the way he
with four 24 it. But Anita Hightower was in that building, along
Helena 25 others. Anita Hightower is the lady you recall who

14871

the one 1 Garrett told you about when she testified, her friend,
they 2 she had run into in front of the Murrah Building and
Anita 3 talked to Tevin Garrett through the glass windows.
Building 4 Hightower was crushed to death when the Athenian
exposed to 5 collapsed. All five people in that building were
Four 6 the grave risk of death by this conspiracy. One died.
7 lived.

8 When that truck, this weapon of mass
destruction, was
9 pulled in front of the Murrah Building, dozens of
people were
10 waiting for services of Social Security at 9:00. You
remember
11 the list Eric McKisick brought you, showed the list of

some of

12 the people who had appointments that morning. Five of
them
13 were older, married couples, waiting for their days of
14 retirement. All five of those couples died. The
Hurlburts,
15 Jean and Charles; Fritzlers, Mary Anne and Don, Donald;
the
16 Treanors, Gean and LaRue -- Luther, I mean. Excuse me.
The
17 Lusters, Donna and Robert; and the Battles, Peola and
Calvin.
18 They all died. All of these visitors who were on the
other
19 side of that glass wall were exposed to the grave risk
of
20 death. Most of them died, but not all.

21 As Mr. McVeigh got out of his truck, the
children were
22 playing in the day care; and you know from the
testimony of
23 Helena Garrett, their pictures were on the wall, the
glass
24 wall. The cribs were against the wall. It could be
seen from
25 the street, the very same street that Terry Nichols had
driven

14872

1 down three days before. At 9:02, Royia Sims, a lady

who worked

2 in the Journal Record Building, was in her office. Her
office

3 faced the window of the Murrah Building, plate glass
window.

4 And as the bomb exploded, that plate glass window
rocketed to

5 her face in shards and broken pieces. You will witness
the

6 results. There were 303 people in that Journal Record
7 Building. All were exposed to the grave risk of death.

8 Kathy Ridley was walking across the parking
lot, that

9 parking lot that the defense spent so much time on with
the

10 victims. Terry Nichols did not know that Kathy Ridley
would be

11 walking across that parking lot at 9:02 Wednesday
morning, but

12 he knew that with 4,000 pounds of ammonium nitrate, a
bomb of

13 that size, anyone who was outside that truck bomb would
be

14 burned to death by the blast and the fires that crossed
the

15 street, and Kathy Ridley was. Everyone on the streets
in

16 downtown Oklahoma City, in the vicinity of the Murrah
Building

17 were exposed to the grave risk of death.

18 Directly ahead of the Ryder truck was the YMCA
19 building. It's a building where people were working,

You may 20 exercising, where children were attending day care.
saw of 21 remember at the beginning of this trial, a video you
22 children. Well, those were the children of the YMCA,
were 23 frightened, blood-stained. They all lived. But all
was safe 24 exposed to the grave risk of death while Terry Nichols
25 at home in Herington.

14873

this 1 Marine Captain Randy Norfleet will testify in
Stillwater, 2 case. He will tell you that he was assigned to the
that 3 Oklahoma, office. He had been to a prayer breakfast
moments 4 morning. And he went to the Murrah Building just
saw 5 before 9:00, went up to the 6th floor, and there, he
news as to 6 Sergeant Ben Davis. Sergeant Davis was awaiting on
school. He 7 whether he had been accepted to officer's candidate
erupted. 8 was excited. Captain Norfleet walked away. The bomb
one 9 Sergeant Davis died. Randy Norfleet lived. Blinded in

10 eye, but he lived.

11 Matt Cooper, you remember him, the Marine
captain who

12 testified in this case. He told you his office faced
the north

13 wall of the Murrah Building. That moments before 9:00,
he had

14 gotten up to go talk to another Marine in the south
part of the

15 building.

16 Captain Randolph Guzman went and sat in his
chair.

17 When the bomb exploded, Captain Cooper lived. Captain
Guzman

18 died. Death was random at Oklahoma City on April 19th.

19 The indictment and the charges in this case
listed

20 only 160 people as dying in the Murrah Building. You
may be

21 wondering about what I've said. Why did I say 163? At
the

22 time this indictment was brought in August of 1995, it
was

23 thought that 160 people died in the Murrah Building.
But

24 subsequent to that, three people who were thought to
have died

25 elsewhere, in fact, died inside the Murrah Building:
Raymond

were, 1 Johnson, Kathy Cregan and Charlotte Thomas. There
have 2 however, 361 people in the Murrah Building, as I may
the 3 mentioned earlier. 163 died, 198 lived. Sue Mallonee,
injury 4 state epidemiologist, a person who studies injuries,
She 5 prevention, conducted a study following this bombing.
this 6 determined these numbers and she will testify to you in
7 proceeding by way of videotape.

8 And at the conclusion of this evidence, we
will ask 9 you to find beyond a reasonable doubt that this
conspiracy to 10 use a weapon of mass destruction against the Murrah
Building 11 and the people inside created a grave risk of death to
many, 12 many people; not just 168 who died.

13 The fifth aggravating factor is that serious
and 14 permanent injuries occurred to numerous people in
Oklahoma 15 City. Of course, we will not bring you all of the
people who 16 were severely injured. We will only bring a few
because we 17 want you to have some understanding, some glimpse of

what

18 happened to so many, many people.

19 One of the victims who was so seriously
injured was

20 Daina Bradley. Daina Bradley was a young woman who
went to

21 Social Security that morning with her mother, with her
sister,

22 and with her two children. When the firemen and the
rescuers

23 went into the building to find those that had been
trapped,

24 they found Daina Bradley in a small cave inside the
bowels of

25 the building.

14875

1 Americans have always been heroic. But never
more so

2 or rarely more so than on April 19th. The rescuers
called

3 Dr. Andy Sullivan, an orthopedic surgeon in Oklahoma
City, to

4 come down to the building. A building that was still
smoking,

5 smoldering and shuddering.

6 And Andy Sullivan will testify in this case
and he

7 will tell you what it was like to go into that
building. He

about 8 was scared. They were all scared. He will tell you
Daina 9 crawling into a very small space and lying on top of
Thousands 10 Bradley because the rescuers couldn't get her out.
leg. He 11 and thousands of pounds of concrete had fallen on her
was not 12 will tell you about laying on top of her because there
that 13 room to do anything else, about sawing her leg off in
14 building, and about removing her that day.
her 15 Her mother died. Both her children died. And
Daina. 16 sister was very seriously injured, as, of course, was
and women 17 Daina is but one story. There were many men
18 panicked and trapped in that building. Some died of
to them, 19 suffocation and injuries before the rescuers could get
20 all a result of this conspiracy.
arms 21 21 children left the safety of their parents'
Chris 22 that morning to go to day-care. 15 died. Six lived.
23 Nguyen lived. Joe Webber lived. Rebecca Denney lived.
Allen lived. 24 Brandon Denney lived. Nekia McCloud lived. P. J.
here. 25 But that's it. We will not bring these children in

14876

1 Again, we don't want sympathy.

2 We'll bring a videotape of these children so
that you

3 can see the serious and permanent, long-lasting
injuries these

4 children suffered: Brandon Denney, a child who had a
ceiling

5 tile pierce his skull and embed deep into his brain;
seven

6 brain surgeries. And you will -- you will see him with
his

7 therapist, Michelle Kirby, as he tries to do things
with his

8 dominant arm that he can't use very well. You'll see
how he

9 walks.

10 You will see a video of P. J. Allen, a young
boy who

11 was severely burned, who underwent excruciating skin-
grafting.

12 You will see as he attempts to breathe and he rasps
through his

13 tracheostomy.

14 You will see Nekia McCloud and you will hear
the

15 testimony of her physician, Dr. Morris Gessouroun, as
he tells

16 you about the profound and permanent and severe brain
damage.

17 And you will see her -- you'll see her frustration as
she tries

18 to follow the simplest of commands.

19 When you've heard this evidence, you'll be
satisfied

20 that the people of Oklahoma City suffered numerous
physical,

21 serious injuries.

22 The sixth factor is that multiple deaths
occurred as a

23 result of the defendants' conspiracy. The death of 168
people.

24 It would be tempting for you to think of this as one
mass

25 murder. Don't.

14877

1 These are 168 people that are all unique.
They are

2 all different. They all had families and friends.
They are as

3 different as everyone in this courtroom. They went to
church.

4 They coached Little League. They designed highways.
They

5 watched their children dance. They helped to prevent
disease.

6 They played with their kids on the bed. They nursed

the sick.

7 They enforced our nation's laws. They had unique
smiles and
8 ways of greeting people at the credit union. They knew
how to
9 run machines and keep buildings going. They knew how
to nurse
10 the sick. They helped people obtain Social Security.
They
11 protected presidents. They protected popes. And they
all
12 brought enjoyment and love to others.

13 The evidence will be that these 168 people all
died a
14 violent and frightening death. They were mangled.
They were
15 crushed. And they were degraded in their death. Many
were
16 amputated. Some decapitated. When we've concluded,
you will
17 be satisfied that this aggravating factor has been met.

18 The seventh aggravating and last factor is
that the
19 crime, this crime of conspiracy, had a severe impact on
many,
20 many people. You will only have a glimpse of the
devastation,
21 of the broken dreams, the lost lives. We're not going
to bring
22 all the relatives into this courtroom. My gosh, they
wouldn't
23 fit in this whole courthouse. We'll bring you some
mothers and

24 some fathers, some brothers and sisters and sons and
daughters.

25 We'll ask as they testify, please recall and remember
while

14878

1 you're listening to this mother, there are many, many
other
2 mothers who won't be here.

3 Diane Leonard will testify. She will tell you
about

4 her husband Donald. She'll tell you about his career.
She'll

5 tell you about her sons. She'll tell you about the
impact of

6 his death on her and her children. The defendant's
conspiracy

7 resulted in the death of many husbands.

8 Greg Sohn will tell you about his wife, Vicky,
and the

9 five kids that lived in their house, kids from each of
their

10 former marriages. He will tell you about the impact of
his

11 wife's death on him. The defendant's conspiracy
resulted in

12 the deaths of many wives.

13 Carl Brown will testify to you about his son
-- his

center. 14 grandson, Anthony, one of the children at the day-care

do, what 15 He will tell you about Anthony, things he enjoyed to

This 16 he was like, the impact of Anthony's death on him.

17 conspiracy resulted in the death of many grandchildren.

about 18 Glenn Westberry will testify. He will testify

19 the death of his father, Robert. Robert had many

to you 20 grandchildren, among them greats. And he will testify

21 about the fact and the impact of the death of a
grandfather on

of many 22 grandchildren. This conspiracy resulted in the deaths

23 grandparents.

come 24 Lynn Gist's sister, Karen, died. Lynn will

the 25 before you. She will testify there were five girls in

14879

about what 1 family, and Lynn will testify from her perspective

in the 2 it's like to lose a sister. This conspiracy resulted

3 death of many sisters.

brother, 4 Kay Ice will testify about the death of her

5 Paul, and the impact of that death upon her, how close
they
6 were. This conspiracy resulted in the deaths of many
brothers.

7 Mike Lenz's wife, Carrie died. Carrie worked
for the
8 DEA. On the morning of the 19th, she was up there on
the 9th
9 floor. She was showing the ultrasound film of her
pregnancy to
10 her co-workers. Mike will tell you about the impact of
that,
11 loss of his wife and the loss of an unborn child. This
12 conspiracy resulted in the death of three unborn
children.

13 Todd McCarthy's father, Jim, died. Jim worked
for the
14 Housing and Urban Development. On Easter Sunday, Todd
had come
15 from Kansas City to see his dad. His dad was very
proud. He
16 had recently been promoted. His dad took Todd down to
the
17 Murrah Building that Easter Sunday to show him his
office. And
18 Todd was very proud for his father. It was the same
Sunday
19 Terry Nichols was in Oklahoma City with Tim McVeigh.
Todd will
20 tell you about the impact of losing a father. This
conspiracy
21 resulted in the deaths of many fathers.

at 22 Clint Seidl's mother died, Kathy. She worked
23 Secret Service. Everyone at Secret Service died.
Clint's dad
24 Glenn, will be here to testify. He will talk to you
about the
25 death of Kathy from the standpoint of his son, Clint.
This

14880

1 conspiracy resulted in the deaths of many mothers.
2 Kathleen Treanor's daughter, Ashley, died.
Ashley had
3 gone down with her grandparents, the Treanors, to the
building
4 that morning. Kathleen will tell you what it's like to
lose a
5 daughter and the impact of that upon her. This
conspiracy
6 resulted in the deaths of many daughters.
7 Laura Kennedy will testify. She lost her son,
Blake.
8 She will tell you what it's like to lose a son. She
will tell
9 you about the impact of that upon her. This conspiracy
10 resulted in the deaths of many sons.
11 19 of those sons and daughters were under the
age of
12 six: Baylee Almon, Danielle Bell, Zachary Chavez,
Anthony

13 Cooper, Antonio Cooper, Aaron Coverdale, Elijah
Coverdale, Jaci

14 Rae Coyne, Tyler Eaves, Tevin Garrett, Kevin Gottshall,
Blake

15 Kennedy, Dominique London, Chase Smith, Colton Smith,
Gabreon

16 Bruce, Peachlyn Bradley, Kayla Titsworth, Ashley
Eckles.

17 After you've heard this evidence, you'll be
satisfied

18 beyond a reasonable doubt that the victims of this
crime were

19 greatly impacted.

20 Ladies and gentlemen, at the end of this case,
after

21 you've heard all the evidence, you and you alone will
have to

22 make a sentencing decision. We ask that you return a
verdict

23 of death. The punishment that fits this crime.

24 Thank you.

25 THE COURT: Members of the jury, we'll take
our

14881

1 morning recess before hearing from counsel for the
defense and

2 of course, you're going to hear me again repeat as I
did

throughout 3 throughout the course of the trial the caution that
4 all of these recesses, you must avoid discussion of the
case.
5 Once again, I remind you of your obligation under oath
to wait
6 until you've heard it all and to avoid the temptation
to
7 discuss what you hear and what now you're being told
that you
8 can expect to hear. Wait until you have heard it all,
and of
9 course, wait until you've heard what I have to tell you
about
10 the manner in which you approach this information and
evidence
11 before making a decision because the instructions that
will be
12 given here, just as the instructions that will be --
that were
13 given at the end of the trial on the issue of guilt or
nonguilt
14 or -- were part of your constructions, so too, will
that be now
15 in connection with the decisions to be made here.

16 And again, of course, you've heard counsel for
the
17 Government outline what kinds of testimony you're going
to be
18 hearing in the course of this. And necessarily, there
will be
19 emotion involved in that the kinds of testimony that
will be

20 presented to you involve people who have, you know,
experienced
21 emotional responses to this. And what you're going to
have to
22 do is separate out the emotion that will be present and
that
23 will be present in you as you hear this type of
testimony,
24 remembering that at the end, you'll be asked to make a
25 rational, reasoned, and informed decision based on the
law and

14882

1 the evidence and the information provided and that a
part of
2 your obligation as jurors is to distance yourself in
part from
3 the emotive aspects of this and look at it in a
rational and
4 reasoned way.

5 And of course, during the time of this and all
6 recesses, you will again avoid anything at all outside
of the
7 evidence and information to be presented to you and
that has
8 been presented to you so that you can decide on the
basis of
9 what you see and hear in this courtroom and not on
anything
10 else. So we're going to excuse you now for our usual

20-minute

11 recess.

12 (Jury out at 10:09 a.m.)

13 MR. TIGAR: May we approach, your Honor?

14 THE COURT: Yes.

15 (At the bench:)

16 (Bench Conference 144B2 is not herein transcribed
by court

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

18

19

20

21

22

23

24

25

14887

1 (In open court:)

2 THE COURT: We'll be in recess, 20 minutes.

3 (Recess at 10:12 a.m.)

4 (Reconvened at 10:32 a.m.)

5 THE COURT: Please be seated.

6 (Jury in at 10:32 a.m.)

7 THE COURT: Members of the jury, we'll hear
now an
8 opening statement from defense.

9 Mr. Tigar . . .

10 OPENING STATEMENT

11 MR. TIGAR: Good morning, members of the jury.

12 I want to outline the procedure that we expect
is
13 going to be followed in this case. And I want to begin
by
14 saying that it is my duty as a lawyer to accept your
verdict;
15 that is, 30 years ago or however long it was, 32, I
guess, I
16 took an oath. And it was that I would accept all
results
17 reached by fair process, even if I didn't agree with
parts of
18 the result.

19 And that more than that, of course, it's the
law; that
20 is to say, as his Honor has said and we expect will say
again,
21 nobody can challenge your verdict. Not only that, but
I don't
22 know that there is anybody in the world except you, the
12 who
23 deliberated, who knows exactly the basis of what you
decided.

24 The Judge's instructions gave you a lot of

options.

25 The Judge's instructions had different theories on
which you

14888

1 might proceed, and all we know is what you stood in
court and

2 announced. And as I say, we accept it. We accept all
of it.

3 And I hope that nothing that I say will be seen by you
as an

4 attempt to get you to go back on it or to take it back
or to,

5 you know -- to impose on you some other way of seeing
it. We

6 heard the verdict read out.

7 And I can interpret the guilty on Count 1, not
guilty

8 on Count 2, not guilty on Count 3, a finding that there
was

9 proof that death resulted, a finding that the death was

10 foreseeable, and then on Counts 4 through 11, a not
guilty on

11 first-degree murder, a not guilty on second degree
murder and

12 guilties on involuntary manslaughter. I could
interpret those.

13 But it's not my job to do it. Other lawyers can
interpret

14 those. It's not their job to do it. Indeed, they

don't have

15 the right to do it.

16 And so we start from that verdict and we try
to look

17 at a process that's going to go on here for the next
few

18 days -- not long; for the next few days. And it's like
the old

19 "God grant me the serenity to accept the things I
cannot

20 change, the courage to change the things I can, and the
wisdom

21 to know the difference."

22 Well, it's also clear, I think, what we want;
that is

23 to say the lawyers at this table: They want 12 of you,
all

24 12 -- it takes 12 -- to sign a paper that says that
some

25 morning or afternoon somebody should get Terry Nichols
and kill

14889

1 him.

2 We say that there are lots of reasons why all
12 of

3 you should not sign such a paper.

4 Everybody who sits here as a juror was asked
more

the idea 5 questions than I think you were comfortable with about
now; that 6 of what would happen if you got to where we are right
death 7 is to say, what is the role of the possibility of a
within the 8 sentence, the possibility of a life sentence without
these 9 possibility of parole, the idea of judge-sentencing
10 guidelines -- you know, what are these -- what are
11 options and what do they mean to folks?

that no 12 And everybody took an oath, an oath that said
the 13 matter what we came in here with that we'd accept what
might 14 rules are. And the rules are that contrary to what you
decision 15 believe, no jury that is ever faced with a sentencing
one of 16 of the kind that you are is supposed to figure if the
were 17 punishment fits the crime. Indeed, I thought that was
decision, 18 the most basic things that we all talked about when we
country 19 here asking questions; that is to say, the sentencing
going 20 whether made by a judge or made by a jury, in our
is to 21 always, always, always relies on the fact that there is
22 to be evidence about what happened in the world -- that

23 say that a terrible and tragic and horrible thing
happened, and
24 then about the defendant's role in that, what it was
exactly,
25 what the defendant's mental state was with respect to
it, and

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1 then beyond that about this person here as an
individual human
2 being, over and above everything else that happened,
and then
3 finally, where the options are, what they are here;
that there
4 would be this conscience of the community, that
reasoned moral
5 response which is an extra thing, a set of
circumstances that
6 sometimes doesn't arise or at least not quite in the
same way
7 when a judge is using some guidelines that are written
by
8 administrators based on what Congress did.
9 So that's what we're going to talk about, and
it's
10 larger than the evidence of what happened on April 19,
1995.
11 The procedure that we're going to follow here
is in
12 three stages, and the Judge has alluded to them; and if

13 anything I say is at variance with what the Judge says
the
14 instructions are, then, of course, you know who to
credit. I'm
15 just going to describe in general what the stages are.
16 First, the jury will consider what Mr.
Nichols' intent
17 was. And unless all 12 believe that the Government has
proved
18 beyond a reasonable doubt one of two intents, then the
matter
19 goes back to the Judge to sentence in accordance with
the
20 guidelines.
21 Then the jury in its deliberations looks at
four
22 statutory aggravating circumstances. Again, the
Government
23 must prove these beyond a reasonable doubt, at least
one of
24 them. And unless at least one of them is proved to the
25 satisfaction of 12, deliberations are over.

14891

1 Only if those two hurdles are met by the
Government's
2 proof would the jury get into the weighing of
aggravating
3 factors; that is, consider additional aggravating

factors and

4 then mitigating factors presented by the defense.

5 And then in that third stage, if you got
there, you

6 would do this weighing process, remembering as the
Judge said

7 this morning that no matter how you weighed, a sentence
of

8 death is never required.

9 Well, if that's the way that the jury's
deliberations

10 are going to be, it's difficult for me to talk about
the

11 evidence. And I suggest to you it may be difficult for
you all

12 to compartmentalize the evidence as it comes in.

13 Much of the evidence about the devastation
that was

14 wrought, about the harm that was done, about the impact
on

15 families, is not evidence that relates to the first two
phases.

16 It would come in, much of it, only if you got to the
third

17 phase; and yet you're going to hear it now before you
ever

18 start with Phase 1.

19 Well, I'll share with you what I'm worried
about,

20 about that: I think I said in opening statement that
we know

21 there is not a joy the world can give like that it

takes away.

22 We know that the evidence that's going to come from
that

23 witness stand will be the evidence of people who have
lost a

24 great deal, and they have feelings of great sadness
about that.

25 Some of them have feelings of anger about that. Of
course,

14892

1 their anger, if they have it and if you catch it, if
you catch

2 hold of it, is not a legitimate concern or something to

3 influence a decision when you get to the end; but we
will all

4 be sad and we will all be angered -- angry, perhaps at
the end.

5 We'll all see that evidence of devastation. Some of it
you've

6 already seen, but I tell you that what you are about to
see is

7 to a geometric degree, it's exponentially, it's so much
greater

8 in impact than what you've already seen that it is
impossible

9 to describe. Only perhaps some of us had life
experiences in

10 which we've gone to scenes like this, but I tell you
that this

11 evidence is affecting.

12 For example, Carl Brown who was mentioned:
He's the
13 father of Dana Cooper. He's the grandfather of Anthony
14 Christopher Cooper II. Now, both of them were killed
in the
15 bombing. Dana was director of the day-care center, and
her son
16 Christopher attended the day care. And so that
grandfather is
17 going to testify.

18 You may hear in the Government's case from a
medical
19 officer from the Oklahoma Medical Examiner's office
talking
20 about the process of recovering the victims and
attempting to
21 deal with the -- those who were injured and get them
out and
22 getting the victims out and getting them identified.

23 You may hear from the parents of Lakesha Levy.
24 Ms. Levy was killed in the bombing, and they had to
suffer
25 additional trauma because of a problem in the way that
the

14893

1 evidence was handled at the scene. Their daughter's
body was

2 exhumed and reexamined afterwards. I mean just a
horrible set
3 of personal circumstances.
4 And that's just a couple of examples, three
examples
5 of what the evidence is going to be.
6 As I say, I won't attempt to describe it for
you; but
7 it will be affecting.
8 What are we going to do about that? Well,
I've
9 already made one objection this morning. I don't
intend, and
10 none of us here, none of the lawyers for Terry Nichols,
intend
11 to make a lot of objections or to do behavior that is
more
12 appropriate to "L.A. Law" than to a courtroom, but it
is a fact
13 that even though the rules of evidence are different at
this
14 phase of the proceeding, there are -- there is a lot of
15 difficult case law out there, a lot of difficult legal
rules;
16 and where we feel it's appropriate to make a dignified
17 objection, we intend to do it. Why? Because if we
didn't make
18 an objection and if for some reason there was a valid
legal
19 point, it's our obligation -- we'd be defaulting on our
20 obligation, and I hope you understand that. We'll do
that in a

21 dignified way.

so. We
about
things
intrude

22 Are we going to cross-examine? I don't think
23 may have a question or two for this witness or that
24 something unrelated to the grief that they have or the
25 that they suffered; but somehow it seems to us that to

14894

that we
exception to

1 upon the stories that these folks want to tell you by
2 cross-examining them is inappropriate. It doesn't add
3 anything. It doesn't prove anything. There is nothing
4 have extra to bring out. If there should be an
5 that, it may just be a question or two.

lost so

6 We don't want to quarrel with anybody who has
7 much. Certainly our doing that wouldn't help to heal.

be
they're

8 We do hope that those that come before you who
9 disagree with your verdict to the extent that that may
10 relevant in assessing what their feelings are that
11 relating to you will say so.

12 Now, let's look at these phases that I talked

about

13 and look at the evidence. The first phase, as I say,
deals

14 with this question of intent. The Government must
prove to you

15 beyond a reasonable doubt that Mr. Nichols
intentionally

16 participated in an act contemplating that the life of a
person

17 would be taken or intending that lethal force would be
used

18 against a person and the victims died as a result of
it.

19 Now, I could sit here with the Judge's
instructions --

20 and indeed I spent some of the time over the early part
of the

21 holidays doing it -- trying to figure out where does
that fit.

22 Well, you'll know.

23 You can consider, by the way, all evidence
that you've

24 heard up to now in reaching any decision that you make.
In

25 other words, we're not going to retry that part of the
case;

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1 and one reason is well, you already decided. But the

2 Government has to prove that to you beyond a reasonable

doubt.

3 Alternatively, you could -- they would ask you
to find
4 that the defendant -- that's Terry Nichols --
intentionally and
5 specifically engaged in an act of violence knowing that
the act
6 created a grave risk of death to a person other than a
7 participant in the offense such that participation in
the act
8 constituted a reckless disregard for human life and the
victims
9 died as a direct result.

10 So the Judge will instruct you on these
things, but
11 that will be the first thing you'll consider: Did the
12 Government prove that beyond a reasonable doubt?
Unless all 12
13 are in accord, as I say, then it goes back to the
Judge.

14 Then if you get past that hurdle, if the
Government
15 has satisfied you, then you get to these evidence that
-- these
16 elements Government counsel was talking about. One of
the
17 four, beyond a reasonable doubt, the Government has to
show it
18 to you:

19 That Mr. Nichols committed the offense after
20 substantial planning and premeditation to commit an act
of

going to 21 terrorism. Well, when we argue this at the end, we're
we did 22 argue the evidence of intent in much the same way that
trial. We're 23 in arguing at the close of the other phase of the
state. 24 going to be looking at this same issue, the mental
that the 25 Then the second one is the Government alleges

14896

the 1 deaths or injuries resulting in death occurred during
transportation of 2 commission of an offense, and the offense is
example of 3 explosives in interstate commerce. Well, that's an
about that 4 where I don't know that there will be any evidence
the 5 in addition to what you already heard, because what's
they're 6 transportation? The prosecutor said that at least
to 7 going to rely on two instances, one the transportation
8 Arizona and the other nitromethane.
Fortier 9 Well, so you'll hear -- here comes Michael
10 again, because it's Michael Fortier -- is the one that

says

11 that he saw all of that. And we'll be arguing again or
talking
12 again about the believability of Michael Fortier and
whether
13 that's enough to sustain a Government burden beyond a
14 reasonable doubt.

15 The alternative is nitromethane. And you'll
recall
16 that the person who sold the nitromethane couldn't
identify the
17 truck by year or age or anything -- it was just a
pickup truck
18 with a camper -- and said that the purchaser certainly
was not
19 Terry Nichols but was a man who looked like a possum.
We'll be
20 talking about that at the end.

21 The third one of these is that the defendant
committed
22 the offense against one or more federal law enforcement
23 officers because of such victims' status as federal law
24 enforcement officers. You returned verdicts with
respect to
25 the eight law enforcement officers. And I'm not going
to argue

14897

1 with you about what that did or didn't mean. You

considered

2 that question, and now you will look at whether the
Government

3 has proved beyond a reasonable doubt some such desire
to act

4 against law enforcement officers.

5 And the final one was that the defendant
knowingly

6 created a grave risk of death. Well, the prosecutor
talked

7 about the grave risk of death. There is no question
that when

8 this bomb went off there was a grave risk of death to a
large

9 number of people other than those who actually died.

10 The knowingly element of the offense is going
to be

11 before you to consider.

12 So that -- that's the second part. They've
got to

13 prove one of those beyond a reasonable doubt to you;
and as I

14 say, the Judge will instruct you.

15 Then finally, if you got there, if you got
past that,

16 then you would consider the other three aggravating
factors:

17 168 people, causing serious emotional injury, caused
injury and

18 loss to -- suffered by the victims' families. That's
when that

19 evidence would become relevant; and at that point, then

you'd

20 also consider in addition to whether or not the
Government had

21 established that beyond a reasonable doubt -- you'd
take a look

22 at Terry Nichols, the human being. And in addition to
the

23 items that are referred to by Government counsel, there
are

24 certain things that the law permits us to bring forward
to you

25 and to present evidence about, things about the
circumstances

14898

1 of the offense and things about the circumstances of
Terry

2 Nichols.

3 And of course, we'll do that. For example, we
will

4 present evidence that Mr. Nichols' participation in the
offense

5 was relatively minor -- relative compared to others.
That's

6 something the law looks at in attempting to make sure
that

7 sentencing decisions are made in a fair way, in a way
that is

8 some kind of distributive justice. That's something
that isn't

9 going to take a lot of evidence but certainly it will
be there
10 for your consideration.

11 Then we're going to present evidence that
others who
12 were equally culpable will not be punished by death.

And
13 you'll look at the circumstances. You'll ask yourself
whether

14 other people who had a same or similar degree of
involvement
15 are going to receive death penalty. And there, we'll
ask you

16 to look at such things as the treatment afforded
Michael
17 Fortier or other people that the Government hasn't even
18 bothered to look for.

19 We're going to ask you to look at Mr. Nichols'
mental
20 state, whether or not somebody was attempting to coerce
him to
21 act in certain ways. We're going to ask you to look at
the
22 fact, of course, of no prior criminal record.

23 But beyond those things, we want to present to
you a
24 picture of a person who -- whose life pattern is
25 inconsistent -- inconsistent with what? Inconsistent
with the

1 first decision that you are required to make; that is
to say,
2 with respect to an intent actually to take a life -- so
that
3 will factor in there, too -- inconsistent with the
aggravating
4 factors that the Government has talked about but also
5 inconsistent with the qualities that would say that he
is
6 beyond redemption in the sense that you will be
required to
7 consider.

8 It's very interesting: We're not going to
relitigate
9 what you've seen before; that is to say, we're not
going to go
10 back over all the evidence about what happened in the
past and
11 Lana Padilla talked about that, or the evidence that
happened
12 in the past about what Mrs. Nichols, Marife Nichols
talked
13 about. We're going to focus on examples, events, in
Terry
14 Nichols' life that give you a glimpse into who he is.

15 What happened after he was arrested? It was
nearly a
16 year before he was permitted to touch his children;
that is to
17 say, there were regulations that said that he had --
there had

with his 18 to be a glass wall. And so how did he keep in touch
19 children during that time? How did he reach out to
them? What 20 sorts of human characteristics did he display towards
them?

21 And you'll see that.

22 My describing it isn't going to help you
understand or

23 see what it is. You'll see it. You'll see the fact
that yes,

24 he's been in custody, he was denied bail, which meant
that

25 there are certain things that were denied him such as
sharp

14900

1 objects like pencils and pens and so how he would
fashion cards

2 to send his children using little colored toothpaste to
make

3 the designs in the corners and how finally when contact
visits,

4 as they're called, were allowed he would welcome his
children

5 in and try to meet with them under circumstances that
were as

6 normal as possible; the younger children, to work with
them

7 with flash cards and to work with them to be as much of

a

8 father to them under these circumstances as he could;
how he
9 tried to keep in touch with Josh, his son, to talk to
him on
10 the phone, to write him letters to provide guidance;
how he
11 reached out to his family, to his sister, to his
brothers, to
12 his mother and father, in all of this how he used his
13 creativity to benefit these people in his family and to
bring
14 to them whatever it was that could make up for the fact
that he
15 was in the circumstance that he is.

16 You're going to hear a little more about what
I said
17 in opening statement, what we had evidence about
before; that
18 is to say, this extraordinary dedication to the well-
being of
19 his children. You'll recall that when Mr. Nichols went
into
20 the Army, he did so because he had been having marital
21 difficulty with then Mrs. Nichols, now Lana Padilla,
and that
22 they had a young son, Josh. And it wasn't very long
after he
23 went in that he found that Josh was for all intents and
24 purposes not being taken care of. So he went and got
Josh and
25 was raising him as a single parent, hired somebody to

take care

14901

1 of him when he was off on the post; and finally at the
urging
2 of his superiors in the Army obtained a honorable
discharge so
3 that he could continue to care for Josh and that when
he
4 returned to Michigan to care for Josh, he found that
Lana's
5 sons by a former marriage needed care, also; so he
started
6 raising them.

7 You'll find that in his community, growing up,
he
8 reached out to help a number of people and was active
in doing
9 things, not just what you'd expect in farm country but
well
10 beyond that.

11 In short, members of the jury, we're going to
present
12 a picture of Terry Nichols, the human being. And when
you've
13 heard that evidence, we're going to ask you to do a
number of
14 things. First is to consider it with respect to that
first
15 group of questions that you'll have; that is to say

that you

specific 16 may think it unlikely that he would have formed that
will 17 intent to kill. And when you do that, of course, you
already 18 reflect on the meaning of the verdict that you've
and we 19 rendered that we're not going to argue with you about
20 trust that nobody else will try to.

respect to 21 Second, we'll ask to you look at that with
those 22 the intent elements that must be proved with respect to
happened was 23 aggravating factors; that is, the fact that what
enough. 24 severe and devastated a lot of people is of course not
intent. 25 The Government has this extra burden with respect to

14902

suggest 1 And finally, should you get there, what we'll
reasoned 2 to you is that the death penalty in this case is not a
here. 3 moral response to what the evidence shows has occurred
arguments 4 And I'm not going to try to anticipate the sorts of

Nobody 5 that we will make at the end. I can promise you this:
6 can educate you, nobody can try to convince you as to
what your 7 morals ought to be. That's not -- that isn't
contemplated by 8 the rules. When reasoned moral response is spoken of,
it is 9 really a handing over to you to reach very deep inside
yourself 10 to a place that you may not have visited before and to
ask 11 yourself as the conscience of the community what's
required.

12 We submit that if you get there that it will
be 13 appropriate for you -- it will be appropriate for you
-- and 14 that's the most I can say -- to choose life.

15 THE COURT: Members of the jury, you've now
heard the 16 opening statements from both sides, and we're ready to
proceed 17 to take the testimony and consider the other
information to be 18 offered.

19 I do want to introduce to you at this time an
20 additional attorney for the Government who will be
21 participating in this presentation, Mr. Randal Sengel,
who is 22 here now at the back table, who was not with us during
the

now in 23 trial of the evidence in the case but will participate
24 the presentation of the Government's information in
this phase.
25 Mr. Sengel is an assistant to Mr. Ryan in the Western
District

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1 of Oklahoma in the United States Attorney's office.

2 So we're ready, then, for the first witness by
the
3 Government.

4 MR. MACKEY: Thank you, your Honor. We'll
begin by
5 calling Ms. Laura Kennedy. Mr. Ryan will present.

6 THE COURT: All right.

7 THE COURTROOM DEPUTY: Would you raise your
right
8 hand, please.

9 (Laura Kennedy affirmed.)
10 THE COURTROOM DEPUTY: Would you have a seat,
please.

11 Would you state your full name for the record
and
12 spell your last name.

13 THE WITNESS: Laura C. Kennedy, K-E-N-N-E-D-Y.

14 THE COURTROOM DEPUTY: Thank you.

15 THE COURT: Mr. Ryan.

16 MR. RYAN: Thank you, your Honor.

17 DIRECT EXAMINATION

18 BY MR. RYAN:

19 Q. Good morning, Mrs. Kennedy.

20 A. Good morning.

21 Q. Tell the jury where you live.

22 A. I live near Amber, Oklahoma.

23 Q. And where is Amber?

24 A. It's about 40 miles from Oklahoma City.

25 Q. Where were you born and raised?

14904

Laura Kennedy – Direct

1 A. Verden, Oklahoma.

2 Q. What size community is Verden?

3 A. Pretty small.

4 Q. Are you married?

5 A. Yes.

6 Q. When were you married?

7 A. June 15, 1991.

8 Q. Do you have children?

9 A. Yes.

10 Q. What is your child's name?

11 A. Blake Ryan Kennedy.

12 Q. And when was Blake born?

13 A. October 10, 1993.

14 Q. He died in the Murrah Building?

15 A. Yes.

16 Q. What was his age at the time of his death?

17 A. He was 18 months old.

18 Q. Are you currently employed?

19 A. Yes.

20 Q. Where do you work?

21 A. I work for Southern Plains Medical Center in
Chickasha,

22 Oklahoma.

23 Q. What do you do there?

24 A. I'm a payroll clerk.

25 Q. And your husband? What is his name?

14905

Laura Kennedy – Direct

1 A. Steve.

2 Q. What does Steve do?

3 A. He is a hired hand for a farmer near Amber.

4 Q. What is your education?

5 A. After I finished high school, I went to
Southwestern

6 Oklahoma State University, and I graduated with a B.S.
in

7 accounting.

jury

8 Q. Let's talk about April of 1995. Would you tell the
9 where you worked at that time.

Inspector

10 A. I was working on the 3d floor for the United States
11 Department of Health and Human Services, Office of
12 General, Office of Audit; and I was an auditor.

13 Q. 3d floor of the Murrah Building?

14 A. 3d floor, yes.

1995?

15 Q. And what was Blake doing during the days in April,

16 A. He was in the day care on the 2d floor.

17 Q. And he was attending the day-care center?

18 A. Yes.

19 Q. When did he start attending day care?

went back

20 A. He started attending that day care as soon as I
21 to work after having him. He was six weeks old.

22 Q. So he had been there for approximately how long?

23 A. From 6 weeks to 18 months.

24 Q. So 14 1/2 months or so?

25 A. Yeah.

14906

Laura Kennedy - Direct

1 Q. Now, tell the jury a little bit about Blake, his

2 personality, what he was like.

3 A. Blake was a really outgoing, friendly, bubbly
personality,

4 really friendly, always saying hi to people and
laughing and

5 playing and just a really good kid.

6 Q. Did people in the Murrah Building know him?

7 A. Yes.

8 Q. How is that?

9 A. Even before Blake was born and I worked in the
Murrah

10 Building, everybody in the building just kind of always
watched

11 the kids. There was a playground at the back of the
building

12 and where my office was, it overlooked the playground;
so we

13 kind of watched them out there on the playground. And
I know

14 that other people in the building seen him on holidays
and just

15 out there on the playground, just different places.
Everybody

16 in the building knew a lot of the kids.

17 MR. RYAN: Okay. Let's see Exhibit 1477,
which is

18 already admitted in evidence.

19 As I understood, these photographs were agreed
to

20 between counsel. I'll let Mr. Mackey speak to that.

21 THE COURT: I don't think they were formally
admitted.

22 That is the point being raised by the clerk.

23 MR. MACKEY: I should report that we have a
24 foundational agreement with counsel; that photographs
depicting
25 those deceased or injured will be offered in this
manner.

14907

Laura Kennedy - Direct

1 THE COURT: I think we can proceed simply to
offer
2 them.

3 MR. TIGAR: Yes, your Honor. We certainly
have no
4 objection about foundation. We would like them shown
one at a
5 time so that we can keep track.

6 MR. RYAN: I will offer Exhibit 1477.

7 MR. TIGAR: And we have no objection.

8 THE COURT: It is received and may be
displayed.

9 BY MR. RYAN:

10 Q. If you would, Mrs. Kennedy, tell us about this
photograph.

11 A. That's a picture of my husband, Steve, and myself
and

12 Blake.

13 Q. And how old is Blake at the time of this
photograph?

14 A. At the time of that photo, he was 5 1/2 months.

15 Q. All right. Now, let's turn to April 19; and if you
would,

16 tell us when you got up and what you did that morning
before

17 going to the Murrah Building.

18 A. Okay. We probably got up about 6 or so and got
around

19 there. We live near Amber, so it takes us about, with
rush

20 hour traffic -- it would take us about an hour to get
downtown

21 to the Murrah Building. So, you know, we get up, get
dressed,

22 get around. I always tried to get Blake up last thing
and just

23 get him up and change his clothes.

24 They fed him breakfast at the day care, so he
didn't

25 eat breakfast with us; so I just tried to get him up
last

14908

Laura Kennedy - Direct

1 unless he woke up on his own.

2 And we drove to Oklahoma City. Blake was
tired that

3 day. We'd had a busy week. Easter had been that
Sunday, and

were 4 we just were busy out there at home on the farm and we
baby 5 kind of busy that time of year. We were having some
which was a 6 lambs; and he was tired, so he slept that morning,
stayed 7 little unusual. Since he had gotten older, he usually
8 awake during the drive, but he did sleep --

9 Q. Was Steve with you on the drive?

10 A. Yes. Steve was driving.

11 Q. About what time did you arrive downtown?

12 A. About 8, 8:05.

13 Q. And was Steve driving?

14 A. Yes, Steve was driving. He was -- he usually
dropped me

15 and Blake off there in front of the building and then
he went

16 on to work. He worked at I-40 and Agnew, which was a
little

17 ways drive. So -- and then he'd come back and get us.
It --

18 just because of our work schedule, it was better if he
dropped

19 us off.

20 Q. Is that what he did that morning?

21 A. Yes.

22 Q. Did he tell Blake good-bye?

23 A. Yes. Blake woke up when we got there, and we stood
there

24 on the sidewalk and Steve did like he did most
mornings. He
25 said bye to Blake and tried to get Blake to wave and
say bye or

14909

Laura Kennedy – Direct

1 whatever. And he just -- Blake didn't say anything.
He just

2 kind of stared at him.

3 Q. Now, did you go up to the day-care center at that
time?

4 A. Yes. I went in the front doors and went up the
stairs to

5 the day care on the second floor.

6 Q. Tell us about that.

7 A. They had a door there that you had to ring a buzzer
so

8 somebody could come get you and let you in, so I did
that.

9 And Wanda Howell, one of the day-care workers
there,

10 came to the door and let me and Blake in; and as soon
as Blake

11 seen her, he just got to bouncing in my arms, he was so

12 excited. He always -- as soon as he seen one of those

13 teachers, he knew that he was going to day care and how
much

14 fun he had there; and she let us in, and we followed
her into

15 the big room there.

16 I put Blake down on the floor, set him down on
the
17 floor; and I went into another room that was his area
and put
18 up his -- his diaper bag. And I came back through that
big
19 room; and Wanda had put Blake in a highchair, and she
was
20 trying to get him to say bye to me or whatever.

21 And Colton Smith said something to me --
something to
22 me; and most of the kids, several of the other kids
were there
23 because it was, you know, most of the time -- most of
them were
24 there at that time and they were all sitting around a
big
25 table. They were getting ready to eat breakfast.

14910

Laura Kennedy - Direct

1 Q. Is that -- and is that when you left?

2 A. Yeah. I -- I -- I told Blake I'd see him later and
left,
3 and I signed him -- you had to like sign him in; and I
signed
4 him in on my way out. And there was a clock right
there, and
5 it was 8:05.

6 Q. Is that the last time you saw Blake?

7 A. Yes.

3d

8 Q. All right. You went to work there, I guess, on the
9 floor that morning?

10 A. Yes, went up the stairs to the 3d floor.

11 Q. Tell us about 9:00.

room,

12 A. I went into our office. We have -- we had a break
13 and then two auditors had offices and the rest of us

were out

cubicle

14 there and had cubicles out there; and I went into my

paperwork.

15 and was sitting down and doing some work, doing some

field

16 I had been back from an audit. I had been out in the

wrapping up

17 doing an audit a couple weeks before that and was

18 some paperwork.

19 Q. What happened?

papers,

20 A. I was stamping some papers. I was stamping some

the

21 and that's about the last thing I remember till after

22 bombing.

23 Q. What's your next recollection?

blurry.

24 A. My next recollection is I opened my eyes and it was

25 I closed my eyes again and I opened them again, and

everything

14911

Laura Kennedy – Direct

1 was in such a mess. There was stuff scattered
everywhere.

2 There was just this white, dusty stuff all over
everything.

3 Nothing looked like it did. I -- my desk, my walls
around my

4 cubicle -- I mean none of that stuff was there.
Nothing looked

5 like it -- like it did before.

6 And I started trying to kind of stand up, and
I had

7 some stuff on top of my legs, and I tried to pull my
legs out;

8 and I could tell that I didn't have on one of my shoes,
and I

9 was kneeling for it, but I couldn't see it because my
legs were

10 under some stuff and I couldn't find my shoe, but I
managed to

11 get my legs pulled out.

12 And my boss, Jim Hargrove -- he seen me and he
started

13 yelling at me, asking me if I was okay.

14 And then --

15 Q. Could you see to the outside?

16 A. We could see in three -- I never looked like back

into the

17 building, but we could see in three directions sky,
blue sky in

18 three directions.

19 Q. All right.

20 A. We did have windows to the back of the building,
but I

21 could see in three directions sky.

22 Q. Who else was there?

23 A. Carol Clear, Ginger Addison, Jamie Radacy, Sam
Patterson,

24 and Michael Reyes.

25 Q. Was Michael Reyes assigned to the 3d floor of the
Murrah

14912

Laura Kennedy – Direct

1 Building?

2 A. No. I didn't know who he was or where he came
from. He

3 was just kind of there with the rest of us. We didn't
know who

4 he was or where he came from.

5 Q. Did you subsequently find out that he had fallen
from the

6 7th floor?

7 A. Later I found out that he had worked on the 7th
floor and

8 apparently had fallen to our floor.

9 Q. Okay. Were you able to get out of the building?

10 A. Yes. We all started yelling at each other, and we
were all

11 basically okay. Michael had quite a bit of blood
especially on

12 the back of his shirt. But he didn't act like he was
in any

13 really great pain. He just seemed to be, I guess, in
shock.

14 We were all kind of in shock and didn't know what had
happened.

15 And there at the back of the building, where
our

16 office was more towards the back of the building, where
our

17 windows were, there is kind of a ledge down. When you
go in

18 the back of the building, you were already on the 2d
floor, so

19 there is kind of a little ledge from the 3d down there
to the

20 plaza, and we basically slid down that ledge to get
out.

21 Q. Were you injured?

22 A. I -- at the time, I really didn't think I was or
know I

23 was; but later on in the day, my back got to hurting
really bad

24 and I had a blue spot on my cheekbone that was a
slightly

25 cracked cheekbone. And then as we were getting out, I
did cut

14913

Laura Kennedy – Direct

1 my hand on the glass, on the window.

2 Q. Now, when you got out of the building, what was
your first

3 thought?

4 A. Well, as soon as I opened my eyes that first time,
you

5 know, I thought about Blake, you know. Basically with
me being

6 on the 3d floor and him being on the 2d floor, I was,
you know,

7 kind of above him; and I thought that maybe what I was
walking

8 around on up there was our floor, was his ceiling; and
I

9 thought maybe stuff hadn't fallen down on him, but I
wanted to

10 see him. I mean I was concerned about him; and I said
his

11 name, you know, two or three times up there to my co-
workers.

12 Q. What did you do when you got outside about Blake?

13 A. I got down on the plaza; and I only had one shoe,
and it

14 was completely covered in pieces of glass. And I
couldn't

15 hardly get around with just one shoe, but I hobbled
around; and

16 I was at the back of the building, the back doors, and

a woman

17 come up to me and I told her that my son was in the day
care

18 and I needed to check on him.

19 And she asked me if I believed in God.

20 And I said yes, and so we said a prayer.

21 And she told me that she thought the kids had
already

22 gotten out.

23 And I saw a couple GSA workers there at the
back --

24 back door; and I thought maybe that they had just
gotten the

25 kids out or were fixing to get the kids out, because I
know

14914

Laura Kennedy - Direct

1 that everybody in the building thought the kids were
pretty

2 special and that, you know, they would always be first.

3 Q. So what did you do?

4 A. A man come up to me and that woman and said that I
couldn't

5 stay there, I needed to go down to the sidewalk; that I

6 couldn't stay up there.

7 And so I didn't -- I argued a little but not a
whole

8 lot, and I went down to the sidewalk.

9 Q. Did you find Steve?

10 A. Down on the sidewalk, I saw my other co-workers;
and we
11 were hugging each other. And there was a lot of people
down
12 there on the sidewalk. There was already policemen
down there.
13 It was just so chaotic. There were so many people down
there;
14 and as I was standing there with them and basically
telling
15 them, you know, I don't know anything about Blake, they
won't
16 tell me where Blake is. And I looked across the street
and
17 Steve, my husband, was running across the street.

18 Q. Once you met up with Steve, what did you do?

19 A. Well, I mean, basically, I told him that I didn't
know --
20 they wouldn't tell me where Blake was, and that's all I
kept
21 saying: They won't tell me where Blake is. And we
decided to
22 try to ask somebody, try to find out where they were.
And we
23 had trouble getting across certain streets. They --
the police
24 had certain streets blocked off. Certain alleyways
were
25 blocked off, and we just walked and walked and walked
and

14915

Laura Kennedy – Direct

1 walked down there. And they would say that the kids
are over
2 here on this corner; and we'd walk over to that corner,
and
3 those were the kids that had come out of the YMCA. And
you
4 know, those aren't the day-care kids that were in the
Murrah
5 Building. Those are the YMCA kids. And we just walked
and
6 walked.

7 And finally, we walked to a parking lot that
we were
8 told was some sort of command center. And there we saw
Melva
9 Noakes, who was the day-care director, and I didn't
know she
10 wasn't in the building; and she said she wasn't in the
building
11 and she didn't know anything about the kids.

12 And we saw Jim and Claudia Denney, who have
two kids
13 in the day care, and they didn't really know anything,
either.

14 And somebody there told us that they were
taking the
15 kids to Red Cross.

16 Q. Let me stop you there for one moment. From the
time you

Cross, 17 left that building until the time you went to the Red
in the 18 did it ever cross your mind those children were still
19 building?
20 A. No, not really. No.
21 Q. All right. You went to the Red Cross building?
22 A. Yes. We were with Jim and Claudia over there in
the Red
23 Cross. They had an automobile that was parked in front
of the
24 IRS building where Claudia worked, and Steve was parked
pretty
25 far away; so we rode with them over there to the Red
Cross.

14916

Laura Kennedy – Direct

1 When we got to Red Cross, there was a line of people to
donate
2 blood; and it was a very busy place, Red Cross was.
They took
3 some -- we filled out a missing persons report, and
then they
4 took us upstairs to the 2d floor, whatever that there
were some
5 kids up there; and when we got up there, they were kids
from
6 the YMCA that their parents did not find them downtown
and they

7 had brought them there.

8 And we finally realized that's what we'd been
told all
9 day, was people had always told us about the YMCA kids
and not
10 the Murrah Building kids. People were confused.

11 Q. Okay. Did you get information there while you were
there
12 at the Red Cross about the day-care kids at the Murrah
13 Building?

14 A. They started taking some descriptions and taking
some
15 pictures. There was quite a few of the family --
families
16 there, quite a few of the other parents were there up
in
17 that -- on that 2d floor.

18 And so somehow they were faxing -- somehow
they were
19 getting those descriptions to the hospitals, and the
hospitals
20 were faxing lists of people that had been admitted to
the
21 emergency rooms, which seems kind of silly because
those kids
22 couldn't have gave their names at the hospital; but I
mean, if
23 that was all the hope you had at that point, you know,
you were
24 going to look at those lists and see.

25 Q. Did Mr. and Mrs. Denney receive some information
while you

14917

Laura Kennedy - Direct

1 were at the Red Cross?

came

2 A. Yes. There was some TVs that were on; and a report

that

3 over the TV of a red-headed little girl in surgery, and

4 was their daughter, Rebecca.

5 Q. And did they leave?

and I

6 A. One of -- they were there with one of Jim's sons,

it

7 believe that he stayed and they went, I think, was how

8 worked.

9 Q. Who else was there? Was Mrs. Chavez there?

there.

10 A. Yes, the Chavezes were there, the Gottshalls were

were at

11 Q. Did Mrs. Chavez receive some information while you

12 Red Cross?

come

13 A. Later on in the day, a TV was on and the TV report

hit me

14 over that some children had died. And then it finally

not

15 and I started crying, and I said, "It's not Blake, it's

16 Blake."

17 And later on in the day, we were just all kind

of

18 sitting. A lot of people left, and we were just all
kind of
19 sitting there waiting, hoping. And some friend came,
some --
20 he was like a county deputy came by and told Zackary
Chavez's
21 mom -- he asked her -- I couldn't see her, but I could
hear
22 her. He asked her what specifically Zackary was
wearing.
23 And she described what he was wearing.
24 And I didn't hear what he told her then, but
she
25 started screaming that she wished she was dead; and I
knew that

14918

Laura Kennedy - Direct

1 he had told her that he had found Zackary and that he
was dead.
2 Q. Did you ever receive any information about Blake
that
3 evening?
4 A. No. I stayed there at the Red Cross till very
late. A lot
5 of Steve and my family members had come up there, and
they
6 convinced me that they would stay there at the Red
Cross and
7 that I should go over to the hospital. My whole cheek

was

8 swollen.

9 Q. Did you go?

10 A. And I went over to Presbyterian to the emergency
room.

11 Q. And what did you do after Presbyterian?

12 A. Came back to Red Cross, and then we finally decided
to

13 leave. They talked about putting us up in a hotel, but
we

14 decided to leave and spend the night with my parents.

15 Q. All right. Tell us about the next morning briefly,
what

16 you did on Thursday, April 20.

17 A. We got up fairly early and went back up to the city
and

18 went to the church where the family members were
supposed to

19 go.

20 Q. This is the church at 36th and Shartel?

21 A. Yes -- yes.

22 Q. First Christian Church?

23 A. Yes, First Christian. Yes.

24 Q. What did you do there?

25 A. We basically just sat and wait. At the emergency
room,

Laura Kennedy – Direct

1 they had gave me muscle relaxers and painkillers, so I
was kind
2 of pretty numb. We basically just sit there and wait
with a
3 lot of our family members.

4 There were some newspapers, there were some TV
5 reports, and we kind of looked at them a little bit for
-- I

6 was kind of interested in to see if I could find
anything out
7 about Brenda Daniels. That was one of the workers
there at the
8 day-care. That was Blake's teacher, and Brenda had
been there
9 since Blake was a baby and Brenda was his favorite; and
I was
10 kind of concerned about where she was, what had
happened to
11 her.

12 Q. Did the Medical Examiner's office have any
information on
13 Thursday, April 20, that they could share with you
about Blake?

14 A. No. I didn't hear anything Thursday.

15 Q. Let's turn to Friday, April 21, the following day.
What
16 did you do that day?

17 A. Well, basically, the same thing. On Thursday and
Friday
18 both, Steve and I went upstairs and lay down for a
little

of made 19 while. Like I said, I was on some medication that kind

20 me numb, kind of made me kind of sleepy.

21 Q. Upstairs in the church?

22 A. Upstairs in the church, yes.

to you? 23 Q. At some point that day, did the FBI come and talk

family -- 24 A. On Friday afternoon, they decided to bring the

little 25 the parents of the children in the day care into a

14920

Laura Kennedy - Direct

1 chapel they have there.

some more 2 Some of Steve's family members had brought

that 3 pictures of Blake, and I gave those. And they told us

4 they were going to go out to the homes and do some
5 fingerprinting.

6 Q. And did they do that?

7 A. Yes, they did.

8 Q. At your home?

9 A. Yes, they did.

10 Q. Did you take pictures to the church that day?

Blake, 11 A. We had a picture book that had lots of pictures of

gotten 12 and I had a little piece of paper in there that had I
13 from the hospital when he was born. And it had his
footprints
14 on it, and I thought maybe that would help identify
him; and I
15 gave that to them.

16 Q. On Saturday, April 22, were you given some
information
17 about Blake?

18 A. Yes.

19 Q. Tell us about that.

20 A. On Saturday morning when we got to the church -- we
spent
21 Friday night with my parents again because we didn't
want to go
22 home. We didn't feel like we were ready to go home
yet. On
23 Saturday morning when we got to the church, some of
Steve's
24 family was already there; and when we came in the door,
some of
25 the women that we had kind of talked to the last few
days

14921

Laura Kennedy - Direct

1 seemed like they were kind of avoiding us.

2 And we went back and sat down on the chairs
and we

the 3 went over and got some food, and I come back and sat in
started 4 chair. And I was trying to eat the food, but I just
5 crying.

so -- 6 And -- because I was so tired and it was so --
long two 7 didn't know what was going on, and it had been such a
8 or three days.

"We'll find 9 And Steve put his arm around me and said,
10 something out today."

people came 11 And right after he said that, they -- some
where you 12 and got us. And you knew when they came and got you
13 were going and what it was.

died. 14 Q. Now it's been over two-and-a-half years since Blake

death has 15 Would you tell the jury what the impact of Blake's
16 been on you and Steve.

was 17 A. Blake meant everything to me, my only child; and he
18 such a special little boy. And he was such -- such an
19 important part of our family. We have big families, we
have 20 close families; and Blake was always the center of
attention.

21 And he just -- he gave so much love. He was so special

and he

of me. I 22 was so full of life that when he died, it took a part

time. I'm 23 have an emptiness inside of me that's there all the

your 24 always thinking about him, and it's hard to get on with

big 25 life when somebody that was so important and was such a

14922

Laura Kennedy – Direct

1 part of your life is gone.

the day 2 Everything I did from the day he was born to

he was 3 he died was for him. He was always priority. I mean

And after 4 basically the reason that, you know -- that I lived.

5 he died, it -- it didn't seem to matter what happened.

6 Q. Do you and Steve have any other children?

7 A. No.

children? 8 Q. Have you given some thought to having other

settle 9 A. Maybe in a few months when this is over and things

but I also 10 down. I would want them to know about Blake's life,

Blake 11 have to tell them about his death and to explain why

12 died, why his classmates died, why his teachers died,
and why a
13 whole bunch of other people died. Be kind of hard to
do when I
14 don't even know why that happened myself. How do I
explain it?

15 Q. Did Blake have his own room?

16 A. Yes.

17 Q. What's the status of that room today?

18 A. It's basically the same as it was before the
bombing.

19 Q. Have you been inside the room?

20 A. Yes. I was in there not too long ago.

21 Q. Did you take anything out?

22 A. A few things but not much.

23 MR. RYAN: That's all I have, your Honor.

24 THE COURT: Do you have any questions?

25 MR. TIGAR: No. No questions, your Honor.
Thank you.

14923

1 THE COURT: All right. You may step down.
You're

2 excused.

3 Next witness, please.

4 MR. MACKEY: Yes, your Honor. We'll call
Jerry

5 Flowers, and Mr. Sengel will present.

6 THE COURT: Thank you.

7 THE COURTROOM DEPUTY: Raise your right hand,
please.

8 (Jerry Flowers affirmed.)

9 THE COURTROOM DEPUTY: Would you have a seat,
please.

10 Would you state your full name for the record
and

11 spell your last name.

12 THE WITNESS: Jerry Flowers, F-L-O-W-E-R-S.

13 THE COURTROOM DEPUTY: Thank you.

14 THE COURT: Mr. Sengel.

15 MR. SENDEL: Thank you, your Honor.

16 DIRECT EXAMINATION

17 BY MR. SENDEL:

18 Q. Would you tell us where you live, Mr. Flowers.

19 A. Oklahoma City.

20 Q. And you're obviously with the Oklahoma City Police
21 Department. Is that right?

22 A. That's right.

23 Q. How long have you been a member of the Oklahoma
City Police

24 Department?

25 A. Be 24 years 1st of November.

Jerry Flowers – Direct

units and
City
1 Q. If you would please tell us briefly some of the
2 assignments you've had in your 24 years on the Oklahoma
3 Police Department.

Division,
I've
4 A. Well, I spent my first six years in the Patrol
5 and after that I was promoted to the rank of detective.
6 been an investigator in robbery, homicide, white-collar
crime,
7 forgery details, vice detail; and I'm currently
assigned to the

drive-by
8 Gang Enforcement Unit, where I'm an investigator on a
9 shooting team and investigating violent crimes
involving street
10 gangs.

would
11 Q. In April of 1995, then, if my math is correct, you
12 have been about 22 years on the force at that time?

13 A. That's right.

rescue
14 Q. Prior to April of 1995, had you had training in
15 operations?

16 A. Yes, I had.

for
17 Q. Had any training or experience you had prepared you
18 April 19, 1995?

19 A. Absolutely no. Nothing.

you 20 Q. The morning of April 19, 1995: Where were you when

21 learned of the bombing?

800 block 22 A. I was at our Police Training Center, which is at

Oklahoma 23 of North Portland, approximately 6 miles from downtown

our 24 City. And we were there doing a training exercise on

the 25 Tactical Response Team. I'm a hostage negotiator for

14925

Jerry Flowers - Direct

1 Oklahoma City Police Tac. Team.

2 Q. How did you become aware of the bombing?

morning, 3 A. We were sitting around a conference table that

activities 4 several of the negotiators, preparing for the day's

when a 5 for training. It was just a couple minutes after 9:00

were in. 6 devastating blast shook the entire building that we

loose and 7 It shook it so hard, the ceiling tiles above us shook

we were 8 dust fell from the ceiling down onto us; and of course,

real 9 all confused. We had no idea what that was. It was a

10 loud bang.

11 Q. After feeling the blast, then, what did you do?

12 A. Several of us ran out into the parking lot. Our
first
13 impression -- what we were looking for, we thought
maybe it was
14 an airliner had crashed because we are kind of right in
the
15 flight line of Will Rogers World Airport. We ran
outside to
16 see if that in fact was what it was; but when we ran
outside
17 which we could see downtown and the high-rise buildings
from
18 where we were at, we could see black smoke billowing
out from
19 the downtown area above the city.

20 Q. What did you do next?

21 A. We ran back into the building; and one of the
division
22 commanders, Major Steve Upchurch, had told us that the
federal
23 building had just blown up.

24 At this point, myself, Sergeant Steve Carson
and
25 Sergeant Don Hull, two of the other negotiators with me
that

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Jerry Flowers - Direct

1 day -- we ran out to my car which was out in the
parking lot,
2 my patrol unit, and we put -- we just had jeans and
regular
3 street clothes, but we put on some jackets that
identified us
4 as police; and we immediately drove to the downtown
area as
5 quick as we could get there.

6 Q. How close were you able to get to the Murrah
Building when
7 you drove downtown?

8 A. When we drove into downtown, the debris and people
9 started -- it was real thick. It was hard to drive in
10 downtown, but I finally worked my way up to about Dean
A. McGee
11 and Harvey, a couple blocks away from the federal
building.
12 That's as close as I could get. The closer I got, the
more
13 rocks, cement, pieces of rock, cement were laying in
the
14 streets; and people started just running everywhere,
injured
15 people.

16 Q. Did you make your way then to the Murrah Building?

17 A. We did. We got out of the car and we started
working our
18 way up there. We ran up to the federal building. And
I got
19 right up to the southwest corner of the building, and

there was

20 an ambulance setting there; and this ambulance
technician was

21 screaming at all the officers -- it was mainly police
officers

22 at that point that were there -- and he was screaming
at us,

23 kept yelling, "Apply pressure to the wounded to stop
the

24 bleeding."

25 It was when I rolled up to that area, I walked
up to

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Jerry Flowers - Direct

1 that area. I remember seeing a young lady, looked --
she was

2 like 25 to 35 years old. She was sitting on the curb
not far

3 from where the ambulance was at; and as I looked at
this lady

4 in disbelief, basically, I saw she had either a shirt
or a

5 sweater or some type of clothing she had pressed up
against her

6 head. She was bleeding profusely. But disregarding
her own

7 injuries, I noticed that she was trying to console this
little

8 eight-year-old girl -- looked to be seven, eight years
old.

9 She had her arm around this child, and the child also
was
10 bleeding. Her hair was matted up with the -- with
blood and
11 the gray dust that was everywhere down there.

12 And that really touched me.

13 Q. Could you see the front of the Murrah Building?

14 A. We were on the southwest corner, and I could see
the south
15 side of the building where the plaza is at; but as I
looked at
16 that, on the north side of the building, I could see
the black
17 smoke just pouring out of the north side of the
building and
18 coming up and just -- in droves.

19 It was at that point my partner and I for some
reason
20 took off running around to that side of the building.

21 Q. When you went around to the north or front side of
the
22 Murrah Building, could you see the parking lot across
the
23 street?

24 A. As we -- yes, we could. As we -- we got up to 5th
Street
25 on the northwest corner and we both stopped, actually,
the --

Jerry Flowers – Direct

Cars were
the cars
this
setting in

1 what used to be 5th Street was covered with debris.
2 on fire. That's where the smoke was coming from, were
3 in the parking lot. There was a tree setting out in
4 parking lot that was on fire with the hood of a car
5 the top of it.

There
you
thing.
we

6 The -- you couldn't just run down 5th Street.
7 was glass, there was water, there was smoke so thick
8 couldn't hardly see as you started going up into this
9 But we tried to work our way up to the area as close as
10 could get.

Building?

11 Q. Could you see a crater in front of the Murrah

being
was,
pool
our
Sergeant
corner

12 A. Yes, I did. As we got up towards the where --
13 familiar with it, close to where the drive-through area
14 there was a big hole there about the size of a swimming
15 that we noticed. And it was about that time is when
16 attention was caught by one of our robbery detectives,
17 Bob Smart that was standing in a hole on the northwest

18 of the building screaming at us, "Let's get these
people out";

19 and that's where our attention was directed at that
point.

20 Q. So then you went to the northwest corner of the
building?

21 A. Yes.

22 Q. And did you enter the building at that point?

23 A. Yes, I did.

24 Q. What did you do when you entered the building?

25 A. Steve Carson and I went up together. Don had
gotten

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Jerry Flowers - Direct

1 separated from us somewhere. I don't know where he
went. But

2 Steve and I got up to the front of the building. We
started to

3 enter into this -- into this hole into the building
when we

4 were immediately handed a board stretcher of a
gentleman that

5 was laying on the stretcher. We couldn't really tell
much

6 about him because he was covered with this gray dust.

7 Everything was gray because the dust was so thick.

8 But as they handed him to us, you know, the
training

9 about, you know, talking to somebody being in shock --
it was
10 my first thing that I wanted to try to do. But as they
lowered
11 him down to us -- we had a human chain, if you will,
coming out
12 of the building from people behind us, because you
couldn't
13 just walk around because the debris and stuff was so
thick.
14 But as they handed him to me, I brought him down to
tell him
15 that you're going to be okay; but when he did, I
noticed that
16 under the dust there was a laceration going across his
face,
17 looked 4 or 5 inches deep, and he obviously was dead.
18 Q. Now, you mentioned the debris in the building. Did
you
19 actually walk around in the building?
20 A. No. It's kind of a misconception. When you got
inside the
21 building, you more crawled over and over and under and
through.
22 There was still rebar. I can remember that was
protruding from
23 the floor, from the ground; and this stuff was 2 and 3
inches
24 in diameter. You're trying to work your way through
that.
25 There was electrical lines that were flying around
sparking.

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Jerry Flowers - Direct

1 The cement, what used to be floors or used to be
ceilings,
2 whatever it was, was all broken and broken into large
pieces;
3 and you had to crawl up, step up and crawl over stuff
like
4 that.

5 Q. I'd like to show you, if you'd look in front of
you,

6 Mr. Flowers, an exhibit we've marked, a photograph, as
1499.

7 And does that represent the kinds of conditions that
you saw in
8 the building as you entered?

9 A. Yes, it does.

10 MR. SENDEL: Your Honor, I'm going to offer
Exhibit

11 1499.

12 MR. TIGAR: No objection your Honor.

13 THE COURT: It's received, may be displayed.

14 BY MR. SENDEL:

15 Q. The building as you mentioned -- as you enter, I
take it,

16 all the rescuers had to basically crawl around to get
access

17 into the building.

18 A. That's right.

19 Q. Could you see very well as you entered the
building?
20 A. When I first got in there, again, the dust was so
thick --
21 and when I say "thick," it was so thick you could wave
your
22 hand in front of your face and move this dust. It was
very
23 hard to breathe and it was very dark.
24 And we worked our way into this first room;
and it was
25 like a storage room or some type of maintenance room,
the best

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Jerry Flowers - Direct

1 we could tell.
2 That's when there was another one of our
police
3 officers by the name of Sergeant Mike Goodspeed that
was in
4 there; and as we all three were starting to dig, Mike
started
5 screaming at everybody to shut up, everybody be quiet.
And as
6 he did that, we started to hear a faint voice, a
female's
7 voice. And this voice was asking for help, trying to
-- and
8 crying and just kept saying, "Help me, help me."

9 As we would try to pinpoint where we could
hear that,
10 then we would try to go to that area and dig; but as we
started
11 to dig, we would cover up that sound. And again we'd
have to
12 be quiet and try to find it. And unfortunately, it
faded away
13 and we never found her.

14 Q. After attempting to locate that voice, where did
you go
15 next?

16 A. We stayed in that area just a short time and more
people
17 started coming in, so Steve and I decided to try to
work our
18 way on back into the building. We kind of went into a
19 southerly direction, and we kind of got into -- the
best I can
20 describe like a hallway that went drastically down. As
we
21 started to go down, it started getting incredibly dark.
You
22 could see some ray of light in parts of the building,
but we
23 were crawling over these cement slabs and through this
rebar
24 and through this electrical line sparking. And as I
started to
25 go down, the water started coming up; and in fact it
got up

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Jerry Flowers - Direct

1 over the top of my boots that I was wearing that day.

2 We started to get into an area that as we
walked in it

3 looked like a cave -- is what I referred to as the pit
area.

4 And as we got into this area, I could see --

5 Q. Mr. Flowers, before you go on, I want to show you,
if you

6 would, please, a photograph we've marked as Exhibit
1503 and

7 ask you is this a photograph of the pit area you're
referring

8 to?

9 A. Yes, it is. Now, that is not what it looked like
exactly

10 when we were in there because that's uncovered, but
that's the

11 pit because there is a hole. It was just a hole in the
ground

12 inside there. Yes, that is -- reflects the pit.

13 MR. SENDEL: Your Honor, I'm going to offer
1503.

14 MR. TIGAR: No objection, your Honor.

15 THE COURT: Received, may be shown.

16 BY MR. SENDEL:

17 Q. Now, you told us as you entered this area
initially, of

18 course, the water was over your boots. Could you see

in the

19 pit when you first entered it?

but as I 20 A. When I first got in there, it was incredibly dark;

trying 21 started to get in, there was a ray of light that I was

was was 22 to work my way to. And as I got over to that, what it

from the 23 a hole, a pretty good-sized hole that you could see

looked 24 bottom of the pit up; and as I remember, I stood up and

of what 25 up. And as I looked up, I could see about nine floors

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Jerry Flowers - Direct

then 1 used to be floors there that had fallen, and I realized

at; that 2 that they had pancaked right on top of where we were

on top of 3 they were underneath all these floors that had landed

4 each other.

each 5 Q. When you saw the floors that had fallen on top of

6 other, were there anyone -- people between the floors?

brought 7 A. Well, it was about that time that a generator was

could 8 down and I turned the lights onto this generator so we

"Get me 9 see. We could hear people screaming, "Help me," and
10 out of here; don't leave me here to die."

11 And as I flipped the lights on this generator
after 12 being down there for a few minutes -- there was eight
or ten of 13 us in this area, and we all stopped in amazement, in
disbelief, 14 I guess you could say. The floor above us you could
reach up 15 and touch. It was a cement -- cement floors had fallen
above 16 us. What used to be a ceiling now was a floor.

17 These floors, as you looked above your heads,
there 18 were circles about anywhere from 2 to 3 foot in
diameter of 19 blood, and the blood was coming down through the
cracks.

20 And they were everywhere you looked. And we
knew that 21 everywhere we saw that that there was a body that had
been 22 crushed between those floors.

23 MR. TIGAR: Your Honor, may we have a
continuing 24 objection to evidence of -- with respect to resulting
death?

25 THE COURT: You may, yes.

Jerry Flowers - Direct

1 MR. TIGAR: Thank you.

2 THE COURT: You may proceed.

3 MR. SENDEL: Thank you, your Honor.

4 BY MR. SENDEL:

5 Q. As you were in the pit, did you find anyone who was
alive
6 down there?

7 A. As I was working down there, immediately this voice
started
8 screaming, "Get me out of here. Don't leave me here to
die."

9 And I turned and I saw a body of -- later it was -- it
was a
10 lady that was imprisoned in a wall. She looked to be
in a
11 sitting-type position, but all I could see was her back
side.

12 I couldn't see her head. I could barely see her back;
and as I
13 reached through this rebar and this concrete, I touched
her on
14 her back and I told her it was going to be okay.

15 I told her that we were going to get her out,
but
16 there was no way in the world that I could. She kept
screaming
17 to me and trying to talk to me, and I said, "Just bear
with me.

18 We're going to get you out of this thing."
19 And it was about the same time another lady
started
20 screaming down below me, just a few feet below me, and
all I
21 could see was her head above the water. And she was in
a well,
22 what looked like a well; and as her head was sticking
up, she
23 kept screaming, "Don't let me drown." A firefighter
who had
24 come in grabbed her by the head and was holding her
head above
25 the water in an attempt to keep her from drowning; and
I don't

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Jerry Flowers - Direct

1 know how it happened, but the water stopped and crested
just
2 about her chin; and finally, they were able to get her
out.

3 The lady that was in the wall, as I was
talking to
4 her, there was absolutely nothing that I had that I
could use
5 to get this lady out.

6 I later learned that the young lady was Terry
Shaw
7 that worked in the federal credit union; and
fortunately,

8 five-and-a-half, six hours later she was managed to get
out of 9 there alive.

10 Q. When you saw Ms. Shaw down there, did you in fact
have to 11 leave her because of a second bomb threat?

12 A. Yes, I did. What happened was while I was down
there 13 working with her, working with the lady trying to keep
her from 14 drowning, even another lady that we ran into was handed
down 15 this hole that I told you about earlier that we were
looking up 16 through. One of the firefighters had this lady on a
board 17 stretcher and handed her down to us in this pit to get
her out.

18 Again we had a chain of guys, of police
officers and 19 firefighters that we'd lined up to try to get her out.

And as 20 I thought, "Finally, I'm going to be able to get
somebody out 21 of here alive --" but as she was handed down to me, I
looked at 22 her injuries, and she didn't really have any. She was
gray, 23 totally gray with the dust, but later even found out
she was 24 dead.

25 It was about that time when one of the fire
chiefs

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Jerry Flowers - Direct

1 screamed down that everybody in this pit area to get
out, said,
2 "We just found another bomb. This bomb is bigger than
the one
3 that blew this place up. You've got to get out of the
building
4 now."

5 As he said that, Ms. Shaw that was in the
wall, this
6 lady down here that was drowning, there was another
lady even
7 back further under another slab that you could just
barely see
8 her, were all screaming and crying, "Don't leave us."

9 I reached up and I touched Ms. Shaw on the
back again
10 and I told her I'm sorry but I had to go; that I would
be back.
11 But my partner grabbed me and said, "You've got to go,"
so we
12 did.

13 Q. Were you able to reenter the building later?

14 A. It was about a half hour, 20 minutes to a half hour
later
15 we got out of the building and we walked away from the
building
16 and it was cleared to come back. And I came back to

the

but I 17 building trying to find my way back to where I was at,
try to 18 couldn't find my way back to it. It was a puzzle to
19 find anything in that building.

freed 20 Q. But as you told us, you later learned Ms. Shaw was
21 from the wall?

with saws, 22 A. About five-and-a-half, six hours cutting her out
23 she finally got out.

second bomb 24 Q. When you reentered the building then after the

location? 25 warning that you reentered, I take it, a different

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Jerry Flowers - Direct

and I got 1 A. I did. It was at that point I -- Sergeant Carson

Hull. 2 separated and I ran into my other partner, Sergeant Don

plaza 3 He and I walked up together to what I refer to as the

4 area on the south side of the building.

the 5 Q. What did you see as you entered the building from

6 plaza?

7 A. When I first got on up to the plaza, it was at that

point I

with the 8 ran into my brother, Dennis Flowers, who is a trooper
rescue 9 highway patrol. His S.W.A.T. team was there doing the
were 10 efforts as well. And as I ran into him, I remember we
to do 11 talking about this thing and trying to figure out what
building, 12 when we both turned; and on the south sides of the
looked to 13 about two floors up, we saw a man that was setting --
crowd. 14 be setting in some rubble and just looking out over the

But as we 15 So we both started working our way to him.
just 16 got up to him, we could see that in fact that he wasn't
was 17 sitting there looking over the crowd. Half of his body
and he 18 gone, from just below his waist. His legs were gone,
19 was dead.

went his 20 It was at that point that my brother, Dennis,
work 21 way and I turned to go my way; and Don and I started to
up to 22 our way over to the south side, and Don worked his way
up by 23 the building. And as he started to go in, I was held
24 some bomb technicians that were there because a slab on

top of

going to 25 the building started to slip and they thought it was

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Jerry Flowers - Direct

1 fall. And as they held me up, Don turned -- didn't
seem like 2

2 or 3 minutes he was in there -- and he came walking out
3 carrying a blanket with a small baby in this blanket.

4 As he walked up, Don had this look on his face
that

5 was incredible, a real stare, if you will, for lack of
better

6 words. But as I saw him walk out, I walked up to Don
and asked

7 him if he was okay. And we walked together over to
where the

8 children's playground area was, and we opened up the
blanket.

9 And it was a small boy, about six years old. He was a
little,

10 black boy that when we opened the blanket, I asked Don
was he a

11 boy or girl; and he said, "I really don't know." I
first

12 looked at him and saw that he had a brown teddy bear on
his

13 chest, on his shirt that he was wearing, but his head
-- he had

14 been decapitated. His head was gone from his chin to

the back

15 of his head.

16 A nurse came by. She put a tag around the
child's

17 foot. Don picked him up, rewrapped him up in the
blanket, laid

18 him over into the playground area where the children
played.

19 Q. Did you then go into the area where the day care
was?

20 A. I turned from Don at that point, and I ran back to
the area

21 where he had just come out of and wound up on what
looked to be

22 like the 2d floor. I walked through. There was a
hole. I

23 crawled in. There were several officers and other
folks in

24 there that were digging through this rubble. I just
picked an

25 area and I started digging. As I started digging
through these

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Jerry Flowers - Direct

1 cement blocks -- as best I can describe them, about
half as big

2 as this counter is in front of me -- I uncovered a
foot. It

3 was a foot of a baby that had on a pink sock.

4 I screamed out that I found one. Everybody

that was

5 around me that could even hear me jumped in this area,
and we

6 all started moving this rubble. It seemed like 2, 3
feet of

7 it. As we moved it, there was a little, baby girl; and
then

8 the best I can remember is she was wearing a pink
dress. And

9 as I pulled off about the last block of her, one of the
police

10 officers standing beside me grabbed this baby and
pulled her up

11 to his chest and walked out with her.

12 It was in that area we kept digging, and I saw
about

13 five children removed from this particular area, which
later I

14 learned to be the day-care center.

15 Q. Did you find any adults in the area of the day-care
center?

16 A. When I was digging in this area, we had worked our
way back

17 even further into the area. Sometime later in this one
area,

18 there was -- what used to be one of the walls was now a
mound

19 of rubble and dirt and cement blocks. Still, you name
it, it

20 was in there: furniture, baby toys. It was a mound of
it from

21 the ground seemed like two or three stories high.

22 In that area, I was working around a lady that
was a
23 white female that was twisted up in this mound of rebar
and
24 steel. Her body had been broken in half. I remember
that she
25 had beige shoes on and slacks, and her feet and her
head were

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Jerry Flowers - Direct

1 laying side by side, as her body had been broken in
half.

2 We couldn't even move her out of there because
she was
3 covered up with this steel rebar and these cement
blocks that
4 weighed 5- and 600 pounds.

5 In that area -- we attacked that area because
we
6 thought there could have been somebody there.

7 The best that we found in that area was just a
jacket
8 of one of the law enforcement agencies that was in that
9 building; but at that point, I didn't find any other
bodies
10 there.

11 Q. How long were you in the Murrah Building on April
19?

12 A. Somewhere between 5 and 6 hours.

13 Q. And when you left that day, did you head home?
14 A. Yes, I did.
15 Q. Did you find out whether you knew anyone who had
died in
16 the Murrah Building?
17 A. I knew that there was a lot of people there that I
knew and
18 personal friends, but it was on the way home that I
found that
19 there was a neighbor that I had lived beside for 19
years. Her
20 name was Oleta Biddy, a dear friend of mine, as well as
her
21 husband and her kids that lived right beside me, in the
country
22 where I lived.
23 As I found out that she was in there -- she
worked in
24 Social Security -- I felt compelled to stop by and talk
to her
25 husband, Henry, on the way home, who lived just down
the road

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Jerry Flowers - Direct

1 from me.
2 I still had my stuff on. I was filthy dirty.
I had
3 dust all over me. I -- blood. But nevertheless, I
stopped to

4 talk to Henry.

family 5 As I got out of the car, Henry and his son and

me out 6 came out and they met me, and Henry put his arms around

sorry that 7 in the driveway and I apologized. I told him I was

But I 8 I couldn't find Oleta; that I did everything I could.

9 told him, "Henry, I didn't even know she was there."

told me 10 He cried and he cried and he held me, and he

11 it was okay; and then I went home.

12 Q. And you found out Oleta had died?

13 A. Oleta was found the last day just before midnight.

Honor. 14 MR. SENDEL: I have no further questions, your

15 THE COURT: Do you have any questions?

16 MR. TIGAR: We have no questions, your Honor.

You're 17 THE COURT: All right. You may step down.

18 excused.

19 MR. MACKEY: We'll call Mr. Roy Sells.

20 THE COURT: All right.

right 21 THE COURTROOM DEPUTY: Would you raise your

22 hand, please.

23 (Roy Sells affirmed.)

please. 24 THE COURTROOM DEPUTY: Would you have a seat,

and 25 Would you state your full name for the record

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1 spell your last name.

2 THE WITNESS: Roy Sells, S-E-L-L-S.

3 THE COURTROOM DEPUTY: Thank you.

4 THE COURT: Mr. Mackey.

5 MR. MACKEY: Thank you, your Honor.

6 DIRECT EXAMINATION

7 BY MR. MACKEY:

8 Q. Mr. Sells, I'd like to spend a little time this morning

9 talking about you and about your wife, Lee. Would you share

10 some information about yourself and your wife?

11 A. Myself, I was born in Oklahoma City -- well, Oklahoma, in

12 the western part on a farm.

13 Q. What was the name of the town you grew up?

14 A. Granite. It's right down in the southwestern part of the

15 state.

16 Q. How many children were in your family?

17 A. I had eight brothers and sisters.

18 Q. What did you and those brothers and sisters and

family do

19 for a living?

20 A. We done sharecropping with my dad.

21 Q. You attended high school in Granite?

country
22 A. Well, I attended high school in a consolidated

Granite.
23 school called Lake Creek, which is about 8 miles from

24 That is all consolidated now.

25 Q. When did you graduate from high school?

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Roy Sells - Direct

1 A. 1952.

your class?
2 Q. And I hear that you graduated in the top six in

3 A. Yes, sir.

4 Q. Why is that?

5 A. There was only six in the class.

shortly
6 Q. After high school, you went off to the military

7 thereafter, did you not?

8 A. Shortly thereafter, about -- I was -- I worked in
9 construction for about, oh, six or eight months and

then went

10 into the military.

11 Q. And what branch did you serve in?

12 A. Air Force.

13 Q. How many years were you in the Air Force?

14 A. Almost -- lacked about a month being nine years.

15 Q. Did that assignment take you to the great state of
16 Nebraska?

17 A. I got to see a lot of Texas and Nebraska in those
nine
18 years. Eight years was spent in Nebraska.

19 Q. And while you were serving in the Air Force in
Nebraska,
20 did you meet a woman who later became your wife?

21 A. Yes, I did. In 19 and 57, early 1957, I met my
wife.

22 Q. Mr. Sells, let me show you an exhibit I've marked
as
23 No. 1129B.

24 MR. MACKEY: Your Honor, we'd offer this
photograph of
25 Lee Sells.

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Roy Sells - Direct

1 MR. TIGAR: No objection.

2 THE COURT: Received, may be shown.

3 THE WITNESS: Yes, sir. That's my beautiful
wife.

4 BY MR. MACKEY:

5 Q. Tell the jury, Mr. Sells, when you and Lee were

first

6 married.

7 A. We were married in -- September 8, 1958, in Seward,
8 Nebraska.

she

9 Q. How many total years was Lee Sells your wife before
10 died?

11 A. 37 1/2 years.

Sells,

12 Q. In the course of that lengthy relationship, Mr.

from her?

13 what's the longest time that you had ever been away

14 A. 32 days.

15 Q. When was that?

to

16 A. It was in 1970. I had to go to Ogden, Utah, to go
17 school for F4 aircraft.

18 Q. Tell the jury where Lee Sells was born.

19 A. Lee was born in Seward, Nebraska, in 1938.

begin

20 Q. After graduation from high school, where did she
21 work?

for the

22 A. She got her job right out of high school and worked
23 University of Nebraska and was also going to school

there.

you're

24 Q. Now, you're from Oklahoma, she's from Nebraska, and
25 living in Nebraska. Do you pick some college sports to

follow?

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Roy Sells - Direct

1 A. Every college sport that there is: football,
basketball,
2 baseball. Everything that you could imagine in college
sports,
3 we went to.

4 Q. When did you leave Nebraska?

5 A. I got out of the service in 1962, and we moved to
Oklahoma
6 City that year.

7 Q. And until the time of her death on April 19, did
you and
8 Lee reside in Oklahoma City?

9 A. We resided -- except for the first probably six
months that
10 we were there while our house was being built, we lived
in a
11 duplex and moved into the house in '63 and have resided
there
12 ever since.

13 Q. Would you take just a moment, Mr. Sells, and tell
the jury
14 how it was that you came to meet your wife.

15 A. It was like an accidental blind date. I guess
that's the
16 way you would call it. I had bummed a ride with a
friend of

me if 17 mine; and he was late picking up his date, and he asked
sure. 18 he could go by and pick up Mary Jo first, and I said

and was 19 And at that time, when his girlfriend came out
didn't have 20 introduced to me, she indicated that her roommate

double date 21 nothing to do that evening, would I mind going on a
22 with them.

Lee? 23 Q. And that was the start of your relationship with

start 24 A. Yes. It was a little rocky start, but that was the
25 of it.

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Roy Sells - Direct

proposed 1 Q. Tell the members of the jury, Mr. Sells, when you
2 marriage to Lee Sells.

3 A. I proposed marriage to her on February 14, 1958.

4 Q. Did that happen to be Valentine's Day?

happened to be 5 A. It happened to be Valentine's Day. It also
6 her birthday.

did the 7 Q. In the course of your marriage to Lee, Mr. Sells,
8 two of you have children?

9 A. No, we didn't.

10 Q. She was the only other person in your life?

11 A. She was the only person in my life, yes.

12 Q. When you moved back to Oklahoma in the early 60's,

13 Mr. Sells, tell the jury how you made your living.

14 A. I had submitted applications to the FAA center and
also to

15 Tinker Air Force Base, which is an overhaul depot for
military

16 aircraft. And that's -- was my love, the love of
aircraft and

17 working on them. That's what I wanted to do; and
Tinker called

18 me first, and that's where I went to work.

19 Q. How many total years did you devote yourself to
maintenance

20 work on aircraft?

21 A. Altogether, 34 years.

22 Q. And in the early years of your marriage to Lee,
what did

23 she do for a livelihood?

24 A. She worked at the University of Nebraska until from
'58,

25 from the time -- or really from the time that she got
out of

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Roy Sells - Direct

1 school until we moved to Oklahoma City in 1962. And
she went
2 to work for a plumbing supply company and worked there
for not
3 quite a year and then went to work for an oil field
supply
4 company, which she worked for for 21 years.
5 Q. And after that oil company left Oklahoma City, did
she take
6 work at the HUD office in downtown Oklahoma City?
7 A. Yes, she did. She worked for a few months for a
dental
8 supply insurance company, which she was just going to
work as a
9 temporary employee at first. She didn't think she
wanted
10 another job after she had left Republic; so she decided
to do
11 temporary work. And she worked there for a week, and
they
12 hired her on permanent. So she worked there for a few
months
13 until she got a call from the HUD office, and then she
went to
14 work there.
15 Q. Was she working then for HUD at the time of her
death?
16 A. Yes, she was.
17 Q. Mr. Sells, let's tell the jury a little bit about
the other
18 part of Lee's life. Was church important to her?
19 A. You could -- when you first met her, you could tell

that

20 God was first in her life. Family was second. She was
very

21 dedicated to those roles.

22 Q. You and Lee had been early members of a church in
Oklahoma

23 City; is that correct?

24 A. We had -- we had joined this church one week after
its

25 establishment, so there was not very many members
there. And

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Roy Sells - Direct

1 we weren't charter members, but we missed it by one
week; but

2 we have been in that church ever since and held just
about

3 every position that there was to hold in it since there
wasn't

4 that many people there.

5 Q. Tell the jury a few examples of how Lee contributed
to the

6 life of that particular church.

7 A. Well, she -- she started out as a Sunday school
teacher.

8 We sing in the choir. Of course, you have to realize
that when

9 one of us volunteered for a position, they always had
to take

10 two because we were there to help each other out. If
she was a
11 Sunday school teacher, I was there to help her out. If
I was
12 on a board of education, she was -- she was just
another board
13 member.

14 So that's the way we worked it. We sang in
the choir
15 from the day that we joined the church until the day
she was
16 killed. So we were very -- we were youth counselors.
We --
17 she was president of the ladies' association, LWML, in
that
18 church. She was secretary. We had been treasurers of
the
19 church. So we had virtually held probably almost every
job in
20 that church except being a minister.

21 Q. Mr. Sells, tell the jury a little bit about her
career with
22 HUD, what assignments did she have and the work that
she
23 performed for that agency.
24 A. I think the first job that she held with the agency
was
25 working in the Indian department, and she didn't work
there

Roy Sells – Direct

1 long till they moved her up to the front office, to the
2 manager's office. And she stayed there until about
four years
3 ago, and she went into the legal office as a legal
secretary.

4 Q. And how many lawyers did Lee support as an
Executive
5 Secretary for that division?

6 A. There was three lawyers and a legal aide and
herself, so
7 there was five of them in that office altogether.

8 Q. And over time, did you get to meet each of those
people
9 that she worked with day by day?

10 A. I did get to meet all of them personally, one on
one, and
11 got to know them really well.

12 MR. MACKEY: Your Honor, I'd like to offer
into
13 evidence a photograph marked 2217.

14 MR. TIGAR: No objection, your Honor.

15 THE COURT: 2217 is received, may be shown.

16 BY MR. MACKEY:

17 Q. Mr. Sells, the members of the jury are now looking
at the
18 same photograph that you can see below you. I want you
to take
19 just a moment, if you wouldn't mind, and introduce by
name each

20 of the people that appear in that photograph.

21 A. Okay. Starting on the left, the tall black man was
Lee's
22 boss. His name was Clarence Wilson.

23 And the lady standing next to him was Kimberly
Clark.
24 She was the legal aide in the office.

25 And the blond-headed lady standing next to her
is

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Roy Sells - Direct

1 Susan Ferrell. She was a lawyer in that office.

2 And the gentleman with the mustache and the
red tie
3 was Mike Weaver. He was a lawyer in the office.

4 And then, of course, my wife.

5 Q. Mr. Sells, tell the members of the jury how many of
the
6 people shown in that photograph died on April 19.

7 A. All of them.

8 Q. Mr. Sells, do you remember where you were on the
morning of
9 April 19 and when you last saw your wife?

10 A. Yes. I remember exactly. The last I saw her, she
left
11 about 6:30 to go to work.

12 Q. What were the last words that you exchanged with
your wife?

13 A. She -- I was sitting in the big chair reading the
paper
14 having a cup of coffee; and when her ride came, she
come by,
15 give me a kiss, and she said, "See you this evening.
Hit 'em
16 straight today; have a good game."

17 Q. All right. were you at 9:02 on April 19?

18 A. At 9:02 I was sitting at the Old Orchard Restaurant
having
19 breakfast with the people I was going to go play golf
with.
20 That day, we had a 10:30 tee time at Surrey Hills.

21 Q. Tell us how you came to know about the bombing that
had
22 taken place in Oklahoma City.

23 A. We were sitting there, and the waitress had just
brought my
24 breakfast, set it down, filled my coffee cup up with
coffee;
25 and I thought we had an earthquake. In fact, I looked
at Becky

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Roy Sells - Direct

1 and said, "Becky, what was that? An earthquake?"
2 And she said, "No, this is Oklahoma. It can't
be an
3 earthquake."

4 And about 5 minutes later, she come back by
and she

5 said, "Do you know what the noise was?"

6 And I said, "No, I don't."

7 And she said, "Well, the Federal Courthouse
blew up in

8 downtown Oklahoma City."

9 I said, "You've got to be kidding."

10 She said, "No, it's on TV in the office."

11 So a friend of mine and myself got up and
walked in

12 the office and looked; and just as we got there, there
was a

13 news reporter helicopter that flew over and was showing
the

14 picture of it.

15 And I said, "No, no. That's not the Federal
16 Courthouse. That's the federal building, and Lee is in
there."

17 Q. What did you do when you understood that?

18 A. Left the restaurant, headed downtown with Mr.
McCraw

19 driving for me. We went down there to see if I could
help get

20 her out.

21 Q. How close were you able to get to the building that
22 morning?

23 A. We drove, probably, the car within about five or
six blocks

24 of the building; and there was so much glass and debris

on the

25 streets that we couldn't go any further. So we got out
and

14952

Roy Sells - Direct

1 started running.

2 And we got about probably a block and a half
when the

3 police stopped us, told us we couldn't go any further;
that we

4 couldn't go any further.

5 Q. From the place where you were stopped, were you
able to see

6 the 5th Street side of the building?

7 A. No, I was not.

8 Q. Did you have any idea at that point in time what
had

9 happened to your wife?

10 A. No, I had not.

11 Q. What did you do after you were stopped?

12 A. Well, I just -- probably like anyone else did, I
tried to

13 go a different way to get to the building because I was

14 determined to go there; but the police still stopped us
and

15 wouldn't let us go any further and told us the best
thing to do

16 was to go someplace where my wife knew that she could

get a

17 hold of me when she could get to a telephone.

18 Q. And what did you do then?

19 A. I turned around and went back home.

20 Q. Mr. Sells, tell the members of the jury how long
you waited

21 until you were notified that your wife had died in the
bombing.

22 A. I waited 10 days. 10 of the worst days of my life,
I

23 waited.

24 Q. Mr. Sells, could you in your own words tell this
jury who

25 Lee Sells was and what was lost with her death.

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Roy Sells - Direct

1 A. Well, I think that they could see on the monitor
here that

2 she was a beautiful lady; but her beauty came from
inside, from

3 her heart. She was absolutely the most loving,
generous,

4 kind-hearted, thoughtful, loving -- the best friend I
ever had.

5 I don't think there is -- maybe her sister put
it

6 better than maybe I could. She -- her sister said she
was

7 as -- probably as close to an angel as anyone would

ever see

8 here on earth. And I really and truly believe that.

9 Q. Can you describe to the jury the impact of her
death on

10 your life since April 19?

11 A. Well, when they found her 10 days later, that's
when my

12 life ended. It only took a second to kill her; but me,
it took

13 10 days to take my life away. And my life has
absolutely come

14 to a halt. I've lived in a vacuum ever since. I've
not been

15 able to do anything, go anyplace except concentrate on
what was

16 going on here in Denver.

17 Q. Mr. Sells, today is not the first day that you've
been in

18 this courtroom, is it?

19 A. No, sir.

20 Q. In fact, have you attended each of the public
sessions in

21 both in trial and the trial of Timothy McVeigh?

22 A. Yes, sir, I have. Every day that the courtroom has
been

23 open.

24 Q. Mr. Sells, would you tell this jury why?

25 A. There is really two reasons why I was here. One is
that I

14954

Roy Sells - Direct

grave
the
of the
wanted
did this

1 made a promise to my wife's family and my family at her
2 site that I would follow this trial through and be like
3 19th jury (sic) in this courtroom. I wanted to see all
4 evidence, and I wanted to hear all the testimony and I
5 to make up my mind whether I thought the people that
6 were guilty or not.

been
a bomb
pencil
that bomb

7 The other reason is a question that hasn't
8 answered; and that is why, why anyone would want to put
9 that close to a building where children, little babies,
10 infants, men and women, were working, armed with only
11 and paper and typewriters and computers and would set
12 off and take their lives.

13 That question hasn't been answered yet.
14 Q. Will you carry that question, then, Mr. Sells, with
you
15 outside this courtroom?

16 MR. TIGAR: Objection, your Honor.

17 THE COURT: Sustained.

18 MR. MACKEY: I have no other questions, Mr.

Sells.

19 Thank you for coming in this morning.

Tigar?

20 THE COURT: Do you have any questions, Mr.

21 MR. TIGAR: Briefly.

22 CROSS-EXAMINATION

23 BY MR. TIGAR:

24 Q. Mr. Sells, we've met before. I'm Michael Tigar.

25 A. Yes, sir.

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Roy Sells - Cross

1 Q. We've met as you've come and gone during this
trial, sir.

2 I just -- I don't want to intrude on what you
said,

3 but are you aware that there was a dispute for a time
over

4 whether or not people who had lost folks in the bombing
would

5 be able to attend this trial?

6 A. I was here that day when that decision was made,
sir.

7 Q. And do you know what Mr. Nichols wrote to the Court
of

8 Appeals about his view about whether people should be
able to

9 attend the trial?

10 A. Yes, I did. I read that.

11 Q. And you know that he -- it was his view that
regardless of
12 what the rules might be about who could and couldn't
that
13 everybody should be able to attend even if they were
going to
14 be witnesses. You read that?
15 A. That was what was written in the paper, yes, sir.
16 Q. And you have been -- you have attended the trial --
I
17 guess -- well, we've seen each other. You've been here
every
18 day. Is that right, sir?
19 A. Yes, sir.
20 MR. TIGAR: Thank you very much. I have no
further
21 questions. Thank you, sir, for coming.
22 THE COURT: Mr. Sells, you may step down.
You're
23 excused.
24 We'll take the noon recess now, members of the
jury.
25 And again, of course, I must caution you to avoid
discussion

14956

1 about the case in any respect now. And with respect to
the

2 last witness here who testified that he had been
present
3 here -- I think he said something like the 19th juror
-- you
4 must, of course, not speculate on what that -- Mr.
Sells thinks
5 about the case or about your verdict. We're not going
to
6 receive in evidence here or in the information, as we
call it,
7 that is being presented the opinions or views or
conclusions
8 about -- of people who are testifying here with respect
to what
9 should be done in this case, what the jury should do or
what
10 the jury has done. I emphasize that again. It's not a
matter
11 for you to speculate on as to what Mr. Sells or anyone
else may
12 think about the verdict that's been reached in this
case. The
13 verdict is in; and as has been said here by counsel, we
accept
14 it and do not question it.

15 Now, also, of course, during the time of this
recess,
16 I just remind you -- the 12 of you have been
deliberating in
17 the case -- that you're not deliberating during these
recesses.
18 We're really back to where we were before; and although
you

19 selected a foreperson to preside over your
deliberations, that

20 person has no role to play now and will not until it is
time

21 for you to deliberate again on the questions to be
presented to

22 you.

23 So, you know, all 18 of you are here together
now; and

24 in the course of the recesses, we -- one of the reasons
to have

25 these recesses is so that you can have some relaxation
and be

14957

1 away from this courtroom for a while and have this
matter rest.

2 And in addition to not discussing what you're hearing,
of

3 course, we'll ask you again, as I did throughout the
trial when

4 we were hearing evidence with respect to the events and
the

5 charges: You should keep open minds. Wait till you've
heard

6 it all. You will hear a good deal, as you've already
been told

7 in the opening statements, on both sides in the case;
so please

8 wait. And I'm sure you will.

with 9 And also, of course, how the jurors may feel
you 10 respect to this testimony, any emotional feelings that
that 11 might have, you know you're going to have to separate
again. 12 ultimately, as I already had mentioned to you and will

well: How 13 And that's a part of what shouldn't be discussed as

about what 14 did you feel about this witness? How did you feel

presented here, 15 was said? That's really a part of what's being

discuss 16 and that's included in my caution that you should not

about it. 17 your feelings in the case any more than your thinking

for me to 18 So, you know, it's contrary to human nature

contrary to 19 tell you these things and for you to do them. But

under your 20 human nature or not, it's what you are obliged to do

decisions that 21 oath and meeting your responsibility to make the

22 you have to make.

You're 23 So we're going to be in recess now until 1:45.

24 excused until then.

25 (Jury out at 12:17 p.m.)

1 THE COURT: We'll be in recess, 1:45.

2 (Recess at 12:18 p.m.)

3 * * * * *

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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct
transcript from

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

4 at Denver, Colorado, this 29th day of December, 1997.

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Paul Zuckerman

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Bonnie

Carpenter

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