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APPEARANCES

Western

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District of Oklahoma, and RANDAL SENDEL, Assistant U.S.

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Attorney for the Western District of Oklahoma, 210 West

appearing

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for the plaintiff.

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Lincoln

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

15 * * * * *

16 PROCEEDINGS

17 (Reconvened at 1:25 p.m.)

18 THE COURT: Please be seated.

19 (Jury in at 1:25 p.m.)

20 THE COURT: Next, please.

21 MR. THURSCHWELL: Call Diane Walsh.

22 THE COURT: Thank you.

right 23 THE COURTROOM DEPUTY: Would you raise your
24 hand, please.

25 (Diane Walsh affirmed.)

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please. 1 THE COURTROOM DEPUTY: Would you have a seat,

and 2 Would you state your full name for the record

3 spell your last name.

H. 4 THE WITNESS: My name is Diane Walsh, W-A-L-S-

5 THE COURTROOM DEPUTY: Thank you.

6

DIRECT EXAMINATION

7 BY MR. THURSCHELL:

8 Q. Mrs. Walsh, where do you live?

9 A. I live in -- near Ubly, Michigan.

10 Q. And where is Ubly, Michigan, in relation to
Detroit?

11 A. About 90 miles north.

12 Q. Okay. Is it in the Michigan Thumb?

13 A. It's in the middle of the Thumb.

14 Q. Okay. About how far from Lapeer, Michigan, is it?

15 A. About an hour's drive.

16 Q. Okay. Now, what do you do for work?

17 A. I'm a social worker.

18 Q. And what was your relationship to Terry Nichols?

19 A. Terry was married to my husband's sister.

20 Q. Okay. And was that Lana -- now Lana Padilla?

21 A. Correct.

22 Q. So you were -- you were married to Lana Padilla's
brother?

23 A. Right.

24 Q. When did you first meet Terry Nichols?

25 A. I met Terry kind of at a sister-in-law's graduation
party.

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Diane Walsh - Direct

1 Q. And when -- when was that?

1980. 2 A. That was shortly after our marriage, which was

3 Q. Okay. And did you subsequently get to know him?

4 A. Yes, I did.

5 Q. And how did that come about?

6 A. I actually started baby-sitting for Joshua, their
son.

7 Lana and Terry's son.

8 Q. And about what time period were you doing that?

9 A. I would say between 1983 and 1988.

10 Q. All right. And were you doing that on a -- on a
regular

11 basis?

12 A. Yes.

13 Q. Okay. Now, when -- do you know that Josh was
living with

14 Terry and Lana -- when Josh was living with Terry and
Lana,

15 Lana's two sons from an earlier marriage were also
living

16 there?

17 A. Yes, they were.

18 Q. And did you get a chance to observe Terry's
relationship

19 with Troy and Barry, also?

20 A. Yes, I did.

21 Q. Okay. Did -- could you characterize Terry's
relationship

22 with them.

23 A. Terry was a very involved -- he tried to be a good
father,

24 I thought. He tried to -- he actually took care of the

25 household quite a bit because Lana worked out.

15821

Diane Walsh - Direct

1 Q. Okay. He did the cooking?

2 A. Uh-huh.

3 Q. Now, I want to take you to 1987 and ask you, did
there come

4 a time when you had a conversation with Lana Padilla
about --

5 then Lana Nichols -- about Terry going into the Army?

6 A. Yes. Lana had told me that Terry had talked to a
recruiter

7 and was thinking about enlisting in the Army.

8 Q. And did she tell you why he was going to do that?

9 A. Well, subsequently, she told me that he did
actually enlist

10 and that they -- they had together decided that it
might help

11 to improve their relationship.

12 Q. Okay. Now, did -- and do you know that Terry did
then

13 enter the Army?

14 A. Yes.

more 15 Q. After Terry entered the Army, did you begin to see

16 of -- of Josh Nichols?

17 A. I was baby-sitting for Josh. He would get off the school

18 bus at my house daily, and yes, I saw more of him.

19 Q. Did -- did he begin to spend some nights there with you?

20 A. Yes, he did.

21 Q. Okay. And was that because Lana Nichols was -- was not

22 able to be -- or was not at the house with Josh and Barry and

23 Troy?

24 A. Yes. She was working in Bay City, which is a half-hour,

25 45-minute drive away.

15822

Diane Walsh - Direct

1 Q. Okay. And if you know, is it your understanding that there

2 was another relationship involved at that point?

3 A. Yes. That's correct.

4 Q. Okay. Now, did there come a time when you called Terry to

5 explain the situation to him?

6 A. Yes -- well, I didn't -- yes, I called Terry because Lana

7 was calling and saying, you know, "Either Josh would
stay at
8 your house, or you can take him home and let Barry and
Troy get
9 him on the bus tomorrow or" -- and that happened more
often and
10 more often. And there came a point when it was like
the fourth
11 day in a row, and Josh -- I had to tell Josh that his
mother
12 wasn't coming one more day.

13 And Josh looked at me and said, "I hate my
mom," and
14 that's when I decided I needed to call Terry.

15 Q. Now, you -- can you tell me about that
conversation.

16 A. With Terry?

17 Q. Yes.

18 A. I -- I tried to be delicate. I called Terry and
asked him
19 if there was any way possible that he could take Josh.
And of
20 course, he asked me why. And I said that -- that Lana
wasn't
21 coming home a lot and that I thought she was involved
with
22 somebody else.

23 Q. And --

24 A. And Terry said, "No, I don't think so."

25 And we kind of discussed it a little bit, and
I

15823

Diane Walsh - Direct

is 1 finally said, "No, Terry, I'm sure she is, and his name

2 Allen."

this 3 Q. Were you surprised that Terry was -- was unaware of

4 situation?

5 A. Yes and no.

you -- why 6 Q. Okay. There -- why -- on the yes side, why were

7 were you surprised?

Lana was 8 A. Well, from my perspective, it seemed obvious that

and I -- 9 being unfaithful; but then again, he was out of state

really 10 my sister-in-law is a wonderful person, but she's a

was 11 wonderful salesperson and -- and I knew that what she

different than 12 getting -- what Terry was getting from her was

13 what I was seeing.

your -- 14 Q. Okay. Now, what did Terry do, if you know, after

15 he got your phone call?

him back 16 A. He managed to arrange to go and get Josh and take

17 with him to the air base -- or to the -- to the Army

base.

18 Q. And was that in Kansas?

19 A. Yes.

living

20 Q. And was it your understanding that Josh was then

21 there with Terry --

22 A. Yes.

23 Q. -- as his custodial parent?

to

24 Okay. Now, were you aware when Terry returned

25 Michigan with Josh from the Army?

15824

Diane Walsh - Direct

1 A. Yes.

2 Q. Do you know the terms that he left the Army on?

think of

3 A. I understood it to be like a hardship -- I can't

Josh.

4 the word, but it was because of the situation with

returned?

5 Q. Okay. And where -- where did he live when he

6 A. He went back to the Argyle Road farm.

--

7 Q. Was it where he and Lana had been living with Troy

8 A. Yes.

9 Q. -- and Barry and Josh?

10 Okay. And who was living there with him at

that time?

11 A. I believe Barry went to live first with his dad and
then

12 with Lana, but Troy stayed. He wanted to finish school
in the

13 Cass City school district, so he lived with Terry and
Josh.

14 Q. Okay. And was this in 1989?

15 A. Yes.

16 Q. And was -- was Terry working at that time?

17 A. Yes. Terry was working with Dan Roofing as a
carpenter.

18 Q. And was he -- was he supporting Troy as well as
Josh at

19 that point, to your knowledge?

20 A. To my knowledge.

21 Q. Was he otherwise acting as his parent?

22 A. Yes. He would pick Troy up from sporting events
that Troy

23 was involved in with school and things like that.

24 Q. Okay. Now, did you get a chance to observe his

25 relationship with Troy at that time?

15825

Diane Walsh - Direct

1 A. Yes, I did. Yes.

2 Q. And was there any change from before when he had
been --

3 they had been living together with Lana as a family?
4 A. Not that I observed, no. He continued to be a
father
5 figure to him.
6 Q. Okay. Now, after Mr. Nichols' separation from
7 Mrs. Nichols, do you know that they were -- they were
divorced
8 thereafter?
9 A. I understood that they were divorced thereafter,
yes.
10 Q. And did Mr. Nichols continue a relationship with
the Walsh
11 family after that?
12 A. Yes. Because I continued to baby-sit for Josh.
He'd still
13 get off the school bus there. Terry also worked with
my
14 father-in-law and -- and occasionally helped him on the
farm
15 when they needed help, and I know they had business
dealings
16 with him as far as selling houses and land contracts
and things
17 like that. And -- and I know that Terry also helped my
18 brother-in-law, which would be Brian Walsh, finish the
inside
19 of a house.
20 Q. Okay. Did he do any work on your house during that
period?
21 A. Yes, he did.
22 Q. What did he do?

light 23 A. He put new countertops in my kitchen. He built a
24 fixture for me. He built a porch roof for our entry.
25 MR. THURSCHELL: No further questions.

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This 1 MR. MEARNS: We have no questions, your Honor.

2 witness may be excused.

3 THE COURT: All right. You may step down.

4 MR. THURSCHELL: Call Donna Carino.

5 THE COURT: Thank you.

right 6 THE COURTROOM DEPUTY: Would you raise your
7 hand, please.

8 (Donna Carino affirmed.)

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

and 10 Would you state your full name for the record
11 spell your last name.

0. 12 THE WITNESS: Donna Beverly Carino, C-A-R-I-N-

13 THE COURTROOM DEPUTY: Thank you.

14 DIRECT EXAMINATION

15 BY MR. THURSCHELL:

16 Q. Mrs. Carino, where do you live?

17 A. I reside in South -- in Clarkson, Michigan.

18 Q. Okay. And where is Clarkson in relationship to
Detroit?

19 A. It's about maybe 35 minutes north of Detroit.

20 Q. Okay. Is it -- is it in the Michigan Thumb area?

21 A. No.

22 Q. Okay. South of the Thumb?

23 A. Yes.

24 Q. And what do you do?

25 A. I'm a midwife and also a mother and a wife.

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Donna Carino - Direct

1 Q. Okay. That was a broad question. How long have
you been a
2 midwife?

3 A. I began my practice in January of '93.

4 Q. Now, did you -- did there come a time when you got
to know
5 Terry Nichols?

6 A. Yes, there was.

7 Q. Okay. And when was that?

8 A. I met Terry in the spring of '93. I'd say maybe
about

9 April or May.

10 Q. All right. And how did that come about?

cards 11 A. Actually, I believe his son got one of my business
working there 12 from a health expo in Farmington Hills when I was
13 managing a catering company.

14 Q. Okay. And he -- and he called you?

cleaning his 15 A. No. Actually, Marife found it when she was
I'd say, 16 room, and she found this card and she gave me a call,
17 about April, or May.

18 Q. All right. And what was the purpose of the call?

19 A. She was looking for a midwife to deliver her baby.

20 Q. She was pregnant?

21 A. Yes, she was.

22 Q. About how many months pregnant was she at the time?

23 A. I'd say maybe about five.

24 Q. Five months?

25 A. Uh-huh.

15828

Donna Carino - Direct

meet with 1 Q. Okay. Now, did you thereafter have occasion to

2 Mr. and Mrs. Nichols?

were 3 A. Yes. They came out to my home -- at that time we

4 living in Southfield, which is still Michigan -- for a
5 consultation. And we sat together for quite some time
going
6 over questions and answers on home birthing and that
nature.

7 Q. Okay. About how many times did you meet with them,
would
8 you estimate, between your first meeting and your --
the birth?

9 A. I would say between eight and ten. Maybe a little
more.

10 Q. Okay. Now, how many -- about how many deliveries
have you
11 been involved in?

12 A. About 100.

13 Q. And have you had a chance to observe the fathers'
14 involvement in the prenatal and birth process during
that time?

15 A. Very much so.

16 Q. All right. Now, on a scale of 1 to 10 -- where 1
is the
17 least involved and 10 the most -- where would you put
18 Mr. Nichols in terms of his involvement prior to and
during the
19 birth of Nicole Nichols?

20 A. I would put him at a 10-plus.

21 Q. Okay. Why do you say that?

22 A. Terry was very involved with her care and her well-
being.

23 He was always at all the prenatals. He was just a very

24 involved and concerned husband and father.

25 Q. Okay. Did he ask you questions about the kinds of
advice

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Donna Carino - Direct

1 you were giving her?

2 A. Yes. Yeah. He would -- he would ask me questions.

3 Q. About nutrition?

4 A. Nutrition, some of the homeopathy, vitamins, her
weight,

5 blood pressure. Anything that we were doing, he was
very

6 involved in.

7 Q. Okay. And was it your observation that this was
all out of

8 concern for Marife?

9 A. Oh, yeah. He enjoyed it. He enjoyed being
involved. They

10 had a nice relationship.

11 Q. Okay. Now, at some point, were you called and told
that --

12 that Marife had begun -- the delivery process had
begun?

13 A. Yes. I got a phone call late -- or I'd say early
August 1,

14 I believe the date was. My husband called me. I was
-- I was

15 working, and I returned the phone call to Terry about
1:00 that

16 morning.

17 Q. So this was 1 in the morning?

18 A. About 1 in the morning.

19 Q. Okay. What did you -- was it Terry who called?

20 A. I -- I spoke to Terry when I returned my phone
call, yes.

21 Q. Okay. And did you tell him what to do?

22 A. I'm -- pretty much so. I just told him to keep
notes of

23 what's going on, that I'm on my way, to keep her -- to
keep her

24 calm and, you know, stay with her. And that was no
problem.

25 He was -- he was more than willing to do all that.

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Donna Carino - Direct

1 Q. Okay. Let me -- let me show you what's been marked
as

2 Defense Exhibit M8. Ask you if you recognize this --

3 A. Yes, I do.

4 Q. -- copy. What -- what is it --

5 MR. THURSCHELL: Well, we move the admission
of M8.

6 MS. WILKINSON: No objection.

7 THE COURT: Received.

8 BY MR. THURSCHELL:

9 Q. What is M8?

10 A. It's Terry's notes on contractions, when he started
jotting
11 down what started happening from 12:38 a.m. when her
water
12 broke, and then he progressed to write down the
contractions, 1
13 minute, 2 minutes, sometimes 2 minutes apart, pretty
much until
14 I got there.

15 Q. Now, I want to turn -- turn this page over. Do you
16 recognize this handwriting?

17 A. Yes, I do.

18 Q. Whose handwriting is it?

19 A. Marife's.

20 Q. Okay. And do you see that this is a letter that
was
21 written -- his notes were written on the back of a
letter that
22 she had not completed?

23 A. Correct. Yes.

24 Q. Did you -- did you immediately go to the Nichols'
house for
25 the delivery?

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Donna Carino - Direct

1 A. Yes. As soon as I got the phone call and got my
supplies

2 and my bag together.

3 Q. Okay. And when you arrived there, tell us what
happened.

4 A. When I arrived there, I went upstairs. Marife was
in -- in

5 complete efface. She was pretty much crowning. Terry
was with

6 her on the bed. And he was coaxing her through
contractions.

7 Within a matter of 10 minutes, you know, the baby was
born.

8 And pretty much Terry was the main force in this whole
-- in

9 the whole birth before I got there.

10 Q. Now, about what time was she born?

11 A. I would say about 3 a.m.

12 Q. All right. And did you spend the remainder of the
night

13 and morning there?

14 A. Oh, yes.

15 Q. Did Terry do something in the morning that morning
-- later

16 that morning to celebrate?

17 A. Well, Terry made us a huge, wonderful breakfast
that

18 morning. I'd say between a quarter after 6 and 6:30,
we all

19 went down into the kitchen after Marife and the baby
got

20 cleaned up and had their bath and vitals were checked.
Blood

21 pressure, pulse, heart rates were all fine. And Terry
had been
22 cooking up a storm. Pancakes, sausage, juice, toast,
fruit.
23 We all sat around the table and enjoyed this elaborate,
24 wonderful breakfast together.

25 Q. Okay. I want to show you what's been marked as --
I want

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Donna Carino - Direct

1 to show you what's been marked as Defense Exhibit M7.
Do you
2 recognize this photograph?

3 A. Yes, I do.

4 MR. THURSCHELL: We move the admission of M7.

5 MS. WILKINSON: No objection.

6 THE COURT: Received.

7 BY MR. THURSCHELL:

8 Q. What is the jury looking at here?

9 A. Oh. They are looking at us and the -- in their
home in
10 their kitchen, sitting down for breakfast. Myself,
Terry,
11 Marife, baby Nicole and his older son, Josh.

12 Q. Show you what's been marked as Defense M223. Ask
you if
13 you recognize this picture.

14 A. Yes, I do.

15 MR. THURSCHELL: We move M223.

16 MS. WILKINSON: I'm sorry, your Honor.

17 THE COURT: M223.

18 MS. WILKINSON: We have no objection.

19 THE COURT: Received.

20 BY MR. THURSCHELL:

21 Q. And what's this?

22 A. Marife sent me this picture a few weeks after the
birth.

23 It's a picture of Terry and the baby in their living
room on

24 one of the mornings, him with the baby. He was always
with the

25 baby. He loved the baby.

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Donna Carino - Direct

1 Q. Now, after Mr. Nichols' arrest, did you receive a
letter

2 from him?

3 A. I did.

4 Q. I want to show you what's been marked as Defense
Exhibit

5 M9A, which is a redacted version of -- it was
previously marked

6 as M9. And ask you if you recognize that document.

7 A. Yes, I do.

8 Q. Do you recognize the handwriting?

9 A. Yes, I do.

10 MR. THURSCHELL: We move M9A.

11 MS. WILKINSON: No objection.

12 THE COURT: Received. M9A.

13 MR. THURSCHELL: Leave that with the witness.

14 BY MR. THURSCHELL:

15 Q. Without reading the entire letter or -- or without
reading

16 it verbatim, can you just tell the jury what the
substance of

17 that letter from -- well, let me back up and ask: Who
is that

18 letter from?

19 A. It's a letter from Terry.

20 Q. And is it to you?

21 A. It's to me.

22 Q. And what's the date on it?

23 A. July 12 of '95.

24 Q. Okay. And can you just tell us the substance of
what he

25 says in the letter to you.

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Donna Carino - Direct

1 A. Well, he responded to my letter. I had written him

a

2 letter. And he was thanking me for my friendship, for
all the
3 support and kindness that I had given to his family
during the
4 time of their daughter's birth. And basically, he was
saying
5 in the letter how I could -- if I could be of help, and
I
6 volunteered my help to Marife because she was just
pregnant
7 with their other child; that it would be appreciated
and if --
8 anything that I could do to support her would be
appreciated,
9 because I offered it in the beginning. And it's just a
letter
10 stating how concerned he was about Marife and the well-
being of
11 his family.

12 MR. THURSCWELL: We have no further
questions.

13 THE COURT: Any questions?

14 MS. WILKINSON: Yes, just a few, your Honor.

15 CROSS-EXAMINATION

16 BY MS. WILKINSON:

17 Q. Good afternoon, Mrs. Carino.

18 A. Hello.

19 Q. Could you just tell us a little bit about your
training as

20 a midwife? Do you have any formal training as a nurse?

21 A. No. I'm not a nurse.

22 Q. What kind of training did you have as a midwife?

I

23 A. I was in an apprenticeship program for many years.

24 personally myself have been involved in midwifery and

five

25 homeopathy and herbs for most of my life. I myself had

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Donna Carino - Cross

1 children at home. But I practiced under -- under a
midwife and

2 in some home schooling and various other things to get
my -- my

3 certificate.

4 Q. You told us, I believe, that you have participated
in

5 almost 100 births or approximately 100 births; is that
right?

6 A. Correct.

7 Q. And how many of those had you done by the time you
8 delivered Mr. Nichols' child in January of 1993?

9 A. I'd say about maybe between 20 and 30.

10 Q. And of those 20 and 30, were they all at-home
deliveries,

11 or were any in the hospital?

12 A. They were home births.

13 Q. You've never delivered as a midwife for a hospital

14 delivery?
15 A. No. I'm a lay midwife.
16 Q. I want to show you Defense Exhibit M11, if I could.
Do you
17 recognize that?
18 A. Yes, I do.
19 Q. What is that?
20 A. It's a worksheet for -- to get your house -- to get
your
21 birth certificate. You fill this out. You take it
down to
22 your county or city, depending on where you live, and
then they
23 process a birth certificate.
24 Q. Is that a form that you filled out for the delivery
of
25 Nicole Nichols?

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Donna Carino - Cross

1 A. It's my writing, yes.
2 Q. And the second page, is that also your writing?
3 A. Yep. That's my checkmarks.
4 MS. WILKINSON: We offer M11, your Honor.
5 THE COURT: M11?
6 MS. WILKINSON: Yes. It's a defense exhibit.
7 MR. THURSCHELL: No -- no objection.

8 THE COURT: All right. It's received.

9 MS. WILKINSON: Thank you.

10 BY MS. WILKINSON:

11 Q. Mrs. Carino, in this form, on the second page is a
list of
12 medical risk factors for the pregnancy; isn't that
right?

13 A. I would have to look it over again, but I believe
so.

14 Q. Let me show you on here on the left-hand corner is
"medical
15 risk factors"; correct?

16 A. Correct.

17 Q. And down here at the bottom, little tough to read,
but it
18 says -- do you see this right here? "Anomalies of
child"?

19 A. Uh-huh. Yes.

20 Q. And this includes some diagnoses, doesn't it, like
down
21 here at the bottom, "Other chromosome anomalies"?

22 A. Correct.

23 Q. And you checked "none"; correct?

24 A. Correct.

25 Q. Now, you are not a doctor or nurse; correct?

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Donna Carino - Cross

1 A. Correct.

2 Q. And you have no way of determining chromosomal
anomalies
3 other than looking at the child; is that right?

4 MR. THURSCHELL: Your Honor, I object at this
point.

5 THE COURT: Well, I don't know where you're
going with
6 it.

7 MS. WILKINSON: That's my only question in
this area,
8 your Honor. Just whether she was able to do any other
9 diagnosis other than just looking at the child to make
these --
10 these representations.

11 THE COURT: All right. Overruled.

12 THE WITNESS: Ask the question again, please.

13 BY MS. WILKINSON:

14 Q. I'm sorry. Did you make these diagnoses or these
--

15 A. Yes, I did.

16 Q. -- representations just based on your observations
of the
17 child?

18 A. Through intensive baby exams, yes. No, I did not
draw
19 blood to determine chromosomes. The baby was fine and
healthy.

20 Q. Now, after January of 1993, did you ever hear from
Terry

you 21 Nichols again other than the letter you received after

22 wrote to him in prison?

23 A. You have to repeat the question.

the 24 Q. I'm sorry. In 1993, you delivered or assisted with

25 delivery of their child; correct?

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Donna Carino - Cross

1 A. Correct.

you did 2 Q. And I believe you've told the FBI in the past that

right? 3 not hear from Mr. Nichols again after that; is that

services 4 A. I'm -- not personally from Terry. Not after my

5 were rendered.

6 MS. WILKINSON: We have no further questions.

7 MR. THURSCHELL: Nothing further, your Honor.

excused. 8 THE COURT: You may step down. You're

9 MR. THURSCHELL: We rest.

10 THE COURT: All right. The defense rests.

11 Is there any rebuttal?

12 MR. MACKEY: No, your Honor. Thank you.

you've 13 THE COURT: Members of the jury, that means

14 heard from the witnesses with respect to this phase of
the
15 matter and the information provided; so as I told you
before
16 the noon recess, we will now recess until Monday and
again do
17 so because there would not be enough time available yet
this
18 afternoon to complete this matter with arguments,
instructions,
19 and provide any reasonable amount of time to
deliberate. So
20 that's why we're going to recess and come back to it on
Monday.

21 During the time of this recess, of course, an
extended
22 time, the weekend and a little more, it is your
obligation
23 under your oath to keep open minds, avoid discussion
with
24 anybody, other jurors, family members, friends, anybody
at all
25 about anything connected with this case. Also, now, to
be very

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1 careful about anything that you might encounter in
watching
2 television, listening to the radio, reading newspapers,
books,

not been 3 magazines, whatever. Make sure that nothing that has
affect 4 presented to you in the courtroom could influence or
5 your deliberations and decision to be made.

6 And I want you, once again, to consider that
very 7 broadly because, obviously, as you know, the questions
to be 8 decided here are matters that involve your judgment,
your moral 9 response. And you know, this, of course, is a time
when I 10 don't know what's going to be out there and that you
might 11 encounter, but matters concerning punishment in
criminal cases, 12 generally speaking, or stories or articles or comment
about 13 other cases that have been tried or that may be on
trial, all 14 of these things could conceivably influence or affect
you. And 15 of course, your obligation here under your oath is to
avoid 16 that.

17 So I'm asking you to be extremely careful,
knowing 18 what your responsibility is in this case. And I will,
on -- 19 after the completion of the arguments, which, of
course, will 20 be an important part of this matter, as well, instruct

you in

21 some detail with respect to how you approach the
analysis and
22 the decisions that you have to make with respect to
what is a
23 just and appropriate sentence. So be careful. Be
open-minded.

24 The best thing that you can do, of course, is
to turn
25 your attention to other matters and to let this rest
until

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1 you're back with us again on Monday morning and we
resume. And
2 I want you to really let the matter rest in your own
minds
3 individually because you've heard a lot during this
week and we
4 want you to recognize that in addition to all of the
things
5 that I said to you in the course of the presentation of
this
6 information, I have more to say to you about how you
should
7 approach the questions before you.

8 So we will resume at 8:45 on Monday morning.
And

9 until then, you're excused, and we hope that you have a
10 pleasant weekend.

11 (Jury out at 1:53 p.m.)

12 THE COURT: Mr. Tigar.

13 MR. TIGAR: We renew the motion that we made
this
14 morning at the close of the Government's evidence now
that all
15 of the evidence of this phase is closed.

16 THE COURT: All right. Motion is -- renewed
motion is
17 denied.

18 I do want to meet with counsel to discuss the
19 instructions and the remaining matters before we submit
this.

20 What time do you suggest? 20 minutes? Something like
that,
21 you'll be ready?

22 MR. MACKEY: That will be fine.

23 THE COURT: All right. So meet with counsel
in
24 chambers and the defendant in 20 minutes. Recess.

25 (Recess at 1:54 p.m.)

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9 * * * * *

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17 * * * * *

18 REPORTER'S CERTIFICATE

19 I certify that the foregoing is a correct
transcript from

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

21 at Denver, Colorado, this 2d day of January, 1998.

22

23

Carpenter

Bonnie

24

