

Monday, May 5, 1997 (afternoon)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Criminal Action No. 96-CR-68
UNITED STATES OF AMERICA,
Plaintiff,

vs.

TIMOTHY JAMES McVEIGH,
Defendant.

REPORTER'S TRANSCRIPT
(Trial to Jury - Volume 78)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 1:48 p.m., on the 5th day of May,
1997,
in Courtroom C-204, United States Courthouse, Denver,
Colorado.

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

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appearing for Defendant McVeigh.

* * * * *

PROCEEDINGS

(Reconvened at 1:48 p.m.)

THE COURT: Please be seated.

(Jury in at 1:48 p.m.)

THE COURT: Next witness, please.

MR. HARTZLER: Special Agent Larry Tongate.

THE COURT: If you will come forward and be sworn.

(Larry Tongate affirmed.)

THE COURTROOM DEPUTY: Thank you. Have a seat, please.

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

THE WITNESS: Larry G. Tongate, T-O-N-G-A-T-E.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. HARTZLER:

Q. Mr. Tongate, how are you employed?

A. I'm a special agent with the Federal Bureau of Investigation assigned to Kansas City, Missouri.

Q. And how long have you worked for the FBI?

A. A little over 24 years as a special agent.

Q. Where were you assigned on April 15 of 1995?

A. I was assigned to the Kansas City office.

Q. And as a result of the bombing in Oklahoma City, were you assigned to investigate that --

A. Yes.

Q. -- incident?

Are you one of the agents that came to be assigned full-time to the investigation of the Oklahoma City bombing?

A. Yes. I'm currently one of the case agents.

Q. As part of your -- part of that investigation, did you

Larry Tongate - Direct

participate in searching the home of Terry Nichols?

A. Yes.

Q. Where was that search conducted?

A. At 109 South 2d, Herington, Kansas.

Q. And we've seen photographs of two different residences.

Can you explain to the Court and ladies and gentlemen of the jury which residence you're referring to?

A. The one that Terry Nichols was residing at at the time that

he was placed under arrest, which was in Herington.

Q. This is the one with the garage out back?

A. That's correct. The detached garage.

Q. And does that residence have a basement?

A. Yes, it does.

Q. When was the first search you participated in?

A. On April 22, 1995.

Q. And under what authority did you conduct a search of that residence?

A. Court-authorized search warrant.

Q. Did you personally seize any items during that search?

A. Yes, I did.

Q. Did you personally seize any explosive items during that search?

A. Yes, I did.

Q. Please tell us what explosives items you seized and where you found them.

Larry Tongate - Direct

A. In the basement of this residence, in a box, I found five rolls of 60-foot Primadet nonelectric blasting caps.

Q. The same sort of orange tubing that we've seen previously when Mr. Radtke testified?

A. Exactly like that.

Q. Did a photographer accompany you during this search?

A. Yes, he did.

Q. And did you direct the photographer to photograph these coils of Primadet blasting caps?

A. Upon finding them, I requested a photographer to come on to

photograph them just as they -- as I found them.

Q. Okay. Describe the look -- the particular location in which you found this -- these blasting caps.

A. I had gone through a series of box -- boxes in the basement

and on the floor, I found a taped box. When I opened the box, lying on top of numerous plastic bottles were the five rolls of Primadet.

Q. Were they photographed in place after you opened the box?

A. They were.

Q. You have in front of you Government Exhibit 140. What is that?

A. That is the photograph as -- that I directed to be taken upon finding the Primadet.

MR. HARTZLER: Your Honor, I'd move the admission of Government Exhibit 140.

Larry Tongate - Direct

MR. JONES: Your Honor, we object under Federal Rule of Evidence 402 and 403.

THE COURT: Overruled. 140 received.

MR. HARTZLER: May we publish?

THE COURT: Yes.

BY MR. HARTZLER:

Q. Just describe what we see, what we're looking at in this photograph, please.

A. Well, this is the box I discussed earlier, and there in the

corner are two groups of the Primadet, one consisting of four rolls of the Primadet and right beside is one additional roll of the Primadet. It's lying on top of numerous small plastic jars that were in plastic packaging.

Q. Those are empty? They appear to be?

A. They were all empty.

A. They were all empty.
Q. And you said that this was a cardboard box that they were in?
A. That's correct.
Q. Just an ordinary cardboard box?
A. Yes.
Q. How was it sealed?
A. It had tape across the top of it, sealing it.
Q. And did you ask the photographer to take pictures of this Primadet after you removed it from the box?
A. Yes, I did.

Larry Tongate - Direct

Q. Look at Government Exhibit 141, if you will. What is that?
A. After having these items photographed where I found them, I took them out, placed them on -- on a clear surface or a surface with no additional background, and had the -- asked the photographer to photograph them at a closer angle or closer view.
Q. You can read the writing on the labels?
A. Yes.

MR. HARTZLER: I move the admission of Government Exhibit 141.

MR. JONES: Same objection, your Honor.

THE COURT: All right. Overruled. 141 received.

May
be published.

MR. HARTZLER: Thank you.

BY MR. HARTZLER:

Q. To your knowledge, Agent Tongate, are there different brands or different manufacturers of blasting caps?
A. I understand there are numerous brands.
Q. Okay. What brand are these?
A. These are Primadet.
Q. Are there different lengths of blasting caps?
A. Yes, there are.
Q. What length are these?
A. 60-foot.
Q. And are there different time delays for blasting caps?

Larry Tongate - Direct

A. Yes, there are.
Q. What is the time delay on these?
A. These are No. 8 delays.
Q. And how do you know that?
A. I read the label.
Q. So you're referring to the little number -- the tag, basically?
A. That's correct.
Q. That says "8" on there?

-
A. That's correct.

MR. HARTZLER: I have nothing further.

THE COURT: Mr. Jones?

MR. JONES: Just a moment, your Honor.

CROSS-EXAMINATION

BY MR. JONES:

Q. Mr. Tongate, the item and photograph in 140 which you found, is that shock tube or det. cord?

A. Well, it's blasting cap. Primadet with shock tube attached to.

Q. Okay. Is there any PETN in that, do you know?

A. I'm not sure. I think it's a different item inside the shock tube.

Q. And was anything like that found at the scene of the Alfred

P. Murrah Building bombing?

A. Was any Primadet found?

Larry Tongate - Cross

Q. Yes.

A. Not to my knowledge.

MR. JONES: Thank you. Nothing further.

MR. HARTZLER: Nothing further. Thank you.

THE COURT: You may step down.

Next, please.

MR. HARTZLER: Government calls Kentall Patel.

Mr. Mendeloff will question.

(Kentall Patel affirmed.)

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

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

THE WITNESS: Patel, P-A-T-E-L.

THE COURTROOM DEPUTY: And your first name?

THE WITNESS: K-E-N-T-A-L-L.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. MENDELOFF:

Q. Mr. Patel, where do you live?

A. Pauls Valley, Oklahoma.

Q. Pauls Valley, Oklahoma?

A. Uh-huh.

Q. Where were you born?

A. Born in India.

Q. And, sir, do you read English?

Kentall Patel - Direct

A. No, sir.

Q. Are you married?

A. Yes, sir.

Q. Do you have any children?

A. Yes, sir.

Q. How many?
A. Five.
Q. How long have you lived in Pauls Valley?
A. 14 to 15 years.
Q. What do you do there?
A. Motel manager.
Q. For what motel?
A. Amish Inn.
Q. What do you do as the manager of the Amish Inn?
A. Rent the motel room.
Q. Were you the manager of the Amish Inn on October 20, 1994?
A. Yes, sir.
Q. Let me ask you to look in front of you and see if you see Government Exhibit 142.
A. Yes, sir.
Q. What is Government Exhibit 142?
A. Registration card.
Q. And did you handle the rental of that room?
A. Yes, sir.
Q. How do you know that?

Kentall Patel - Direct

A. By my handwriting.
Q. Okay. Do you see your handwriting on that card?
A. Yes, sir.
Q. And is all the handwriting on that card yours?
A. No, sir. Part of it.
Q. And part of it is whose?
A. Customer.
Q. Now, did you make that registration card during the course of your normal business?
A. Yes, sir.
Q. Did you keep it in your files along with all the other cards?
A. Yes, sir.

MR. MENDELOFF: We move the admission of Government Exhibit 142.

MR. JONES: Your Honor, I object based on Rule 806 -- I'm sorry 803(6).

THE COURT: Well, the objection is sustained at this time.

BY MR. MENDELOFF:

Q. Was this a business record of your business?
A. Yes, sir.
Q. You maintain it as a business record?

THE COURT: Well you're introducing it for something other than his business record. You're introducing it for the

Kentall Patel - Direct

identification of the registrant, aren't you?

MR. MENDELOFF: Well, for both reasons, your Honor.

THE COURT: Well, the objection is to the registrar

part, I would assume.

MR. MENDELOFF: All right, Judge.

BY MR. MENDELOFF:

Q. Do you remember the customer, sir?

A. No, sir.

Q. And let me ask you, when you rented this room, was it possible for -- excuse me. When you rented this room, did you charge different amounts depending upon how many people stayed in the room?

A. Yeah. If it say one person, will be charged one person rate; and if he has a second person, it will be extra.

Q. Now, at the time you rented this room, was it possible for a customer to come in and rent the room for one person and sneak a second person in without you knowing it?

A. Yes, sir.

Q. And how did that work? How could that happen?

A. They park the car on the side or they will bring the car in the canopy and bend down in the vehicle.

Q. All right. Now, sir, let me ask you, you said you only filled out a portion of this card?

A. Yes, sir.

Q. So the record is clear, the portion you filled out is

Kentall Patel - Direct

located where on the card?

A. Room, dates and days and total amount.

Q. All right. And the other part on the card was filled out by the customer?

A. Yes, sir.

Q. And that would be the part next to name, street, city, etc.?

A. Yeah.

Q. All right. Including the signature? That was the customer's signature?

A. Yes, sir.

Q. Is there an interstate highway near the Amish Inn?

A. I-35.

Q. How far away is I-35 from the Amish Inn?

A. About a half -- less than half a mile.

Q. In what direction is Oklahoma City from the Amish Inn?

A. Oklahoma City is north from Pauls Valley.

Q. North of Pauls Valley. How far?

A. 60 mile.

Q. And what direction is Dallas from Pauls Valley?

A. South.

Q. How far is it --

A. 150 miles.

Q. So the Pauls Valley -- or the Amish Inn are located between Oklahoma City --

Kentall Patel - Direct

A. Yeah.
Q. -- and Dallas?
A. Yes, sir.
Q. In Oklahoma?
A. Yeah.

MR. MENDELOFF: One moment, please, your Honor.
THE COURT: Yes.

MR. MENDELOFF: Nothing further, your Honor. Thank
you.

THE COURT: Any questions?
MR. JONES: No questions.
THE COURT: Is he excused?
MR. MENDELOFF: Yes, your Honor, he is.
THE COURT: You may step down. You're excused.
Next witness.

MR. HARTZLER: Government calls Tim Chambers.

Mr. Mendeloff will question him.

THE COURT: All right.

MR. HARTZLER: Thank you.

(Timothy Chambers affirmed.)

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

THE WITNESS: Yes, ma'am.

THE COURTROOM DEPUTY: Would you state your full name
for the record and spell your last name?

THE WITNESS: Timothy Wayne Chambers, C-H-A-M-B-E-R-

S.

Kentall Patel - Direct

THE COURTROOM DEPUTY: Thank you.

THE WITNESS: Thank you.

DIRECT EXAMINATION

BY MR. MENDELOFF:

Q. Mr. Chambers, where do you live?

A. I live outside of San Antone.

Q. And I need you to speak up a little bit.

A. I live outside of San Antone.

Q. Okay. If you would keep your voice up, you won't have to
lean over. All right.

How long have you lived outside of San Antonio,
Texas?

A. Probably about a couple years.

Q. Do you have a family?

A. Yes, I do.

Q. A wife and --

A. I've got a wife, a little girl that's 6, and another one
on
the way.

Q. All right. Are you employed?

A. Yes.

Q. Where?

A. VP Racing Fuels.

Q. All right. What does VP Racing Fuels do?

A. We manufacture racing fuels and racing products for just
the racing industry.

Q. How many branches does VP Racing have?

Timothy Chambers - Direct

A. In the United States, we've got seven or so.

Q. And how does VP Racing sell its fuel?

A. We sell it off of a tractor-trailer or through the other areas that we have, vendors.

Q. All right. Now, is this the same VP Racing company that employs Glynn Tipton in Manhattan, Kansas?

A. I know a Glynn.

Q. Have you ever met the Glynn in Manhattan, Kansas?

A. No, sir.

Q. Have you ever spoken to the Glynn at VP Racing in Manhattan, Kansas?

A. No, sir.

Q. Do you work in the same branch as he does?

A. No.

Q. Where do you work?

A. I work in San Antonio, Texas.

Q. What do you do for VP Racing in San Antonio?

A. I drive the race truck -- it's a tractor-trailer -- to different races, plus deliver fuel for them, also.

Q. All right. And how long have you done this?

A. About three and a half years.

Q. All right. And in the fall of 1994, were you driving the truck to races and delivering fuel?

A. Yes.

Q. Do you go to all national racing events?

Timothy Chambers - Direct

A. Not all of them.

Q. Did you go to the Sears -- Sears Craftsman event in Topeka, Kansas, in 1994?

A. No, I did not.

Q. How long have you been employed doing this particular thing for VP Racing?

A. Probably about -- I'd say about three years.

Q. All right. Just so we can get our bearings, will you explain to us what your fuel truck looks like.

A. It's an 18-wheeler, big tractor-trailer. It's got two side doors on the side. It's got a rear door on the back with a lift gate.

Q. When you drive your truck to a race, what is the normal procedure from the time you arrive at the track?

A. From the time I arrive to the track, I pull up to the gate, usually escorted in -- into the pits. Once I'm escorted into the pits, they show us pretty much where we park the fuel trailers where we're going to be held at, and we go in and

stop

the truck where they tell us to, and then we set the tractor-trailer up for business.

Q. And how do you set it up for business?

A. First thing I do is once the truck is stopped, I get out, put the ground strap on, open up the two side doors. I've got a set of aluminum steps that I attach to where the side doors are at. Put up signs, flags, open up the back doors, let the

Timothy Chambers - Direct

lift gate down, take the four-wheeler out.

Q. All right. And from which locations do you sell fuel?

A. Excuse me?

Q. From which locations on the truck do you sell fuel?

A. Oh, out the side doors, plus I from time to time sell it out the back door.

Q. When you sell fuel, is it all in barrels?

A. No.

Q. Okay. What sorts of fuels do you sell?

A. I sell probably about just a whole variety. I sell C-12, 13, 14, 15, 16, 18, 19 --

Q. All sorts of --

A. All sorts.

Q. All sorts of different kinds of racing fuel?

A. Yes, sir.

Q. And does that include nitromethane?

A. Yes, it does.

Q. Is nitromethane used in all categories of race cars?

A. No.

Q. Is there only a limited class of cars that use nitromethane?

A. There's probably maybe -- maybe three or four, yeah.

Q. What's the most powerful racing fuel you sell?

A. Nitromethane.

Q. Are you familiar with a drag race named the Chief Auto

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Parts Nationals in Ennis, Texas?

A. Yes.

Q. What sorts of cars race at the Chief Auto Parts Nationals in Ennis, Texas?

A. We have top-fuel dragsters along with the top-fuel funny car class. Also, they have got pro stock, comp. eliminator cars, alcohol cars, both dragster and funny.

Q. Which kinds of cars run on nitromethane?

A. Nitromethane is mainly used for the top-fuel dragsters.

It's used for -- on the top-fuel funny cars. And the alcohol class, you'll have A altered dragsters. What they call A fuel dragster. It runs on nitromethane, also.

Q. Now, is the Chief Auto Parts Nationals held at a particular

time every year?

A. It's usually -- it's usually in October, about the third -

A. It's usually -- it's usually in October, about the third

-
about the third weekend or so of October. Third week.

Q. All right. Let me ask you to direct your attention to 1994.

A. Okay.

Q. Do you recall when the Chief Auto Parts Nationals was held in that year?

A. Pretty much, yes.

Q. And what weekend was that?

A. It would be about the third weekend. It was -- I believe it was the 20th through the 23d.

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Q. And was there four days?

A. Yes.

Q. Are all drag races of national size held over a four-day weekend?

A. Well, I mean, our -- our part is to get there at like on a Wednesday. So I mean, it's a five-day thing for me; but as far

as the racing part goes of it, it usually begins on a Thursday and ends out on a -- on a Sunday.

Q. And in '94, the Thursday was October 20 and the Sunday was the 24th; correct?

A. Uh-huh.

Q. All right. Let me just ask you before we go on, did you work selling fuel at that race from the 20th through 24th of 1994?

A. Yes.

Q. And before we proceed, do you know where Pauls Valley, Oklahoma, is?

A. Yes, I do.

Q. And where in relation to Ennis, Texas, is Pauls Valley, Oklahoma?

A. Pauls Valley would be north of the Dallas-Fort Worth area off of 35.

Q. Roughly how many miles?

A. From Pauls Valley down to the MaryLou (phonetic) racetrack, I'd say probably 170.

Timothy Chambers - Direct

Q. And how long of a drive in a normal car would that be?

A. Normal vehicle, probably three to three and a half hours.

Q. If someone was in Pauls Valley on the morning of the 21st of October and left there for the racetrack, would they have been able to arrive before the races that morning?

A. Yes.

Q. Let me ask you to turn your attention to that morning of Friday, October 21, 1994. Were you working selling fuel at the race that day?

A. Yes.

Q. What did you do when you arrived that morning?

A. When we arrived in the morning there, we go through the pit area, we've got to show our credentials to get inside the track. We go to the race trailer, which is parked there over the course of the race. It doesn't move until the race is over.

Q. That's the one you park it there on Wednesday until the end of the race?

A. Until the end of the race.

Q. So you arrive that morning?

A. Yes. We arrive in the morning, unlock the side doors, unlock the back door, plug in the power, and we're pretty much set out. And at this point, we're ready to go work.

Q. Now, that morning, Friday, October 21, were you working with anybody else from VP Racing?

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A. Yes.

Q. Who was that?

A. A man by the name of Brad Horton.

Q. Okay. Parked nearby your truck, was there another competitive truck?

A. Yes.

Q. And what -- what was the name of this competitor?

A. That would be Larry Coogle. It's Coogle Industries.

Q. All right. And what does Larry Coogle do?

A. He deals with some race gas. Not as much as what we do, but nitromethane, also.

Q. And they sell race -- sell fuels to people at the races?

A. Yes, sir.

Q. All right. Now, after you arrived, did another competitor arrive after you?

A. Yes.

Q. Who was that?

A. That would be Steve LeSeur. That's World Wide Racing Products.

Q. All right. Now, unlike yourself, had Steve LeSeur been there already and left his truck?

A. Excuse me?

Q. Unlike yourselves, had Steve LeSeur already been there and got his truck stationed?

A. No, he was just arriving.

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Q. All right. And tell us what happened.

A. I was sitting on the back of the lift gate of the truck just looking around and I seen his truck come in; and he went to make a right-hand turn to where the rest of our fuel trucks were parked at, and his trailer got stuck in -- in a ditch.

Q. All right. And when it got stuck in the ditch, did he stay
in the truck or get out?
A. He got out of the truck.
Q. What happened then?
A. He just walked around and looked at it and kind of just
shook his head.
Q. All right. About this time, what did you see happen?
A. I saw a gentleman walk up to him; and I don't know if he
said anything to him or not, but Steve just kind of shook his
head and walked off. Walked away from him.
Q. And what did the man do then?
A. He approached my trailer.
Q. And what did he say?
A. He was wanting to buy three drums of nitromethane.
Q. Now, how big are three drums of nitro -- how big are each
of those drums of nitromethane?
A. Well, they are 54-gallon drums.
Q. All right. And at that point after he asked to buy three
drums of nitromethane, who dealt with him?
A. Brad Horton did.

Timothy Chambers - Direct

Q. Do you know what they talked about?
A. I don't know what they talked about.
Q. Do you know whether they established a price?
A. I would assume that they did.
Q. And did the customer immediately take possession of these
three drums of nitromethane?
A. No.
Q. Why not?
A. He needed -- in order for him to take possession of that,
he'd have to get, presumably, a pickup truck into the grounds
there where he could load it up.
Q. And how did he need to do that?
A. We usually -- if somebody is interested in buying
something
like that from us, we'll give them a service pass.
Q. All right.
A. And that -- that gives him the chance to get his truck in
without having any problems.
Q. Now, in return for the service pass, did the man -- did
you
observe the man give Mr. Horton anything?
A. Some cash, yes.
Q. All right. And what did the man do then?
A. Once the -- he did that, Brad gave him the service pass
and
he proceeded to walk on out.
Q. All right. How long was the man at your trailer at this -
-
up to this point?

Timothy Chambers - Direct

- A. Up to the point where he first walked up, I'd probably say 15 minutes.
- Q. All right. Now, at some point, did he return?
- A. Yes.
- Q. How long?
- A. Probably 45 minutes to an hour.
- Q. All right. And when he returned, what was he driving?
- A. A pickup truck.
- Q. All right. Can you describe the truck.
- A. It was a pickup truck with a camper shell that was kind of basically flush with the cab, level with the cab; and it was just a -- it wasn't bright.
- Q. What -- what wasn't bright?
- A. The vehicle. It wasn't bright. It was like faded.
- Q. Do you recall the make of the vehicle?
- A. No, I do not.
- Q. Do you recall the color other than that it wasn't bright?
- A. No.
- Q. Do you recall the color of the camper shell?
- A. Yes.
- Q. What color was that?
- A. It was a kind of a faded white color. White.
- Q. Do you recall the style of the camper shell; in other words, whether it went up over the cab or was flush with the cab?

Timothy Chambers - Direct

- A. It was flush with it.
- Q. Now, when the man arrived in the pickup, what did he do with his pickup?
- A. He got out of his pickup truck, walked to the back, opened up the lift gate of the camper and put the tailgate down; and we directed him back to the lift gate.
- Q. All right. So he backed up to the lift gate?
- A. Yes.
- Q. All right. And at that point, did you help him with anything?
- A. No. He stepped up in the trailer before I put the lift gate up with me also on the lift gate.
- Q. Then what did you do?
- A. I proceeded to -- he dealt with Brad Horton, and I proceeded to get the drums of nitromethane.
- Q. All right. And what did you do with them?
- A. What did I do with them?
- Q. Uh-huh.
- A. One at a time, I put it on the lift gate, let it down and pushed it into his vehicle.
- Q. All right. Now, after you got the drums in, did you ask the man anything about tying down the drums?
- A. Well, I -- as far as the tie-down part, I -- I may have asked him that. I'm not 100 --
- Q. All right. Now, how long was the man there as you were

Timothy Chambers - Direct

loading up the truck?

A. It took me approximately 15 minutes to put them drums inside the -- his vehicle.

Q. All right. And after you got done, did you have a conversation with the man?

A. Yes, I did.

Q. What did you say to him?

A. I asked him what he -- what he does with it, you know, what he planned on doing with it and --

Q. With -- I'm sorry. With what?

A. With the nitromethane. Excuse me.

Q. All right.

A. And he said that him and a bunch of his friends get together and come down once a year and buy this from this particular drag race. He said that they -- they race Harley bikes up in the Oklahoma City area.

Q. All right. And at that point, what did the man do?

A. At that point, he -- the billing was all done with him and Brad. He -- and the drums were loaded up. He got off the lift

gate and proceeded to get in his truck and pulled it forward.

Q. All right. Now, the two times that you saw the man -- once

before he left to get his truck and once when he came back -- what was -- what was the lighting like?

A. It was a beautiful day. Sunshiny day.

Q. And when you talked to the man that day, where did you

Timothy Chambers - Direct

direct your eyes?

A. Direct at his.

Q. Okay. Now, let me ask you to direct your attention to Government Exhibit 143 before you. Do you see that?

A. Yes, I do.

Q. What is Government Exhibit 143?

A. This is a receipt showing a cash transaction.

Q. All right. And do you know which transaction this is for?

A. Yes, I do.

Q. Which one is that?

A. This is the Dallas race for -- in October for three drums of nitromethane paid with cash.

Q. And do you know if this ticket was made and maintained in the normal and ordinary course of your business at VP Racing?

A. Yes, it was.

MR. MENDELOFF: We move the admission of Government Exhibit 143, your Honor.

MR. JONES: Same objection we made earlier, your Honor.

THE COURT: I don't know --

MR. JONES: In chambers. I'm sorry. The motion.

THE COURT: Oh. Well, overruled.
MR. MENDELOFF: Thank you, your Honor.
May we publish this?
THE COURT: Yes.

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BY MR. MENDELOFF:

Q. Mr. Chambers, let me ask you first to explain to us how this ticket is set up. On the date line, what does that indicate?

A. The date there just shows the month and the day that it was purchased, plus the year.

Q. All right. And location is what?

A. Dallas.

Q. And what does that indicate to you about what race this was?

A. That's the only race that we have up there, national event races in Dallas.

Q. At Ennis, Texas?

A. Yes.

Q. And is that on the weekend of October 21?

A. Correct.

Q. All right. Now, underneath that, we see "cash"?

A. Yes.

Q. If this purchase was made with a check, how would that be different?

A. On the -- on the top line up there, it would have the individual's name, his address, driver's license. If the check

number say-so is below 500, we like to get their Social Security number and put it on there.

Q. Now, let me ask you to focus a little further down the

Timothy Chambers - Direct

page, and let me zoom in -- zoom in a little bit. What does the entry regarding the thing purchased indicate?

A. Excuse me?

Q. What does the entry regarding the thing purchased indicate was purchased?

A. You mean the three drums of nitromethane?

Q. That's what I mean.

A. Yes.

Q. Okay. And what is the price?

A. The price is 925.

Q. All right. Now, what was your normal retail price at that time?

A. We usually start off at -- I mean, all of us do it is at \$1,200 is what we normally start off at.

Q. All right.

A. If somebody comes up and wants to buy, you know, a three-drum count like this, I mean, that's -- they are going

to
get a discount, by all means.
Q. All right. And the figure on the outer right-hand side,
\$2,775, is that just three times 925?
A. Correct.
Q. Now, directing your attention a little further down the
page, do you see the entry that I'm marking with my finger
right there?
See that entry?

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A. Yes.
Q. And what is that?
A. That just shows a siphon pump. And underneath it, it says
used. That's a used siphon pump.
Q. What is a siphon pump?
A. A siphon pump is -- will fit inside a -- it's just a
plastic piece of material that will fit inside a 54-gallon
drum. It's got a hard part on the bottom that goes in the
drum, a hose that comes outside the drum, and then a siphon
pump on top, where you probably pump it about three or four
times and it'll pump that material out.
Q. All right. So it's used to empty fuel out of the barrels?
A. Correct.
Q. All right. By the way, one other question about this.
This indicates that this is a cash transaction for \$2,780?
A. Yes.
Q. Is that unusual?
A. Yes, it is.
Q. What are -- what are -- what is your normal method of
sales
for this large amount of fuel?
A. Normal -- normal sales that we would have, I mean,
especially with nitromethane is done by a billing process that
we do.
Q. All right.
A. It's -- we don't -- it's a rarity. I mean, it just
doesn't

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happen as far as three drums of nitro. It's all billed.
Q. All right. So it's billed to whom, usually?
A. To San Antone.
Q. All right. And the people that are purchasing this kind
of
fuel are usually who?
A. Our customers, top-fuel people.
Q. People who actually race in the drag races?
A. Yes. Correct.
Q. Now, do you have a recollection of the appearance of the
man who came and bought the three barrels of nitromethane?
A. Yes.
Q. Can you tell us what that is

Q. Can you tell us what kind is.

A. Pretty much light-complexion; white male; sandy blonde hair, probably a little bit lighter color than my hair; kind of

just medium-built, kind of built like I am. Also his --

Q. Sorry. Sorry to interrupt you.

A. His eyes were close together. I kind -- I call it looked like -- kind of like a possum face, you know, for the simple fact that the eyes are close together and the nose isn't sticking like out and big and round, it's sticking down. It's longer than -- than most.

Q. All right. And what about height?

A. Height would be -- I would say probably 5' 11", give or take an inch on that.

Q. All right. Other than these general features, do you have

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a clear recollection of the details of the man's face?

A. Yes.

Q. You have a clear recollection of the details of the man's face?

A. Not the full details, no. It's just -- I mean, what I can remember, what I've seen.

Q. All right. During the course of your discussions with the Government in this case, did you have occasion to review a photo spread shown to you?

A. Yes.

Q. And was that photo spread shown to you on March 27, 1997?

A. Yes.

Q. And when you reviewed that photo spread, were you able to select anybody?

A. No.

Q. And what was the reason for that?

A. Just general memory.

Q. All right. What do you mean by "general memory"?

A. Just -- I mean it -- it wasn't there. And then again, it could have been there. I just -- I couldn't tell.

Q. All right. Now, during the course of your three years with

VP Racing, can you estimate for us how many customers you've dealt with at drag races?

A. Probably thousands during the course of time that I've been there.

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Q. How is it that you can remember this transaction so long after the event?

A. Well, for one thing, three drums of nitromethane being sold

for cash never happens. That's -- that does not happen. It did not happen to me. Another thing, somebody comes up to you and they are purchasing three drums and they are going to take

it and split it with their friends on nitro, you know, Harley bikes, that just doesn't happen. Harley street bike guys, if they are going to buy gas such as nitromethane from me, they will buy a gallon to five gallons. Now, nitro Harley bikes, you couldn't even afford to even put one of those on the street. That just wouldn't happen.

Q. How fast do nitro Harley bikes go?

A. About 220 miles an hour in a quarter mile.

MR. MENDELOFF: All right. One moment, please, your Honor.

THE COURT: Yes.

MR. MENDELOFF: Nothing further. Thank you, your Honor.

THE COURT: Any questions?

MR. JONES: No questions.

THE COURT: All right. Is he excused, I take it?

MR. MENDELOFF: Yes, your Honor.

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

MR. JONES: Your Honor, before the next witness comes

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in, could we approach the bench?

THE COURT: Yes.

(At the bench:)

(Bench Conference 78B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

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(In open court:)

THE COURT: Please don't talk when we're talking. It seems like you ought to be able to, but we don't let you. I should say I don't let you.

Next witness.

MR. HARTZLER: Lou Hupp. Mr. Ryan will be questioning this time.

THE COURT: Thank you.

(Louis Hupp affirmed.)

THE COURTROOM DEPUTY: Have a seat, please.

State your full name for the record and spell your last name.

THE WITNESS: My name is Louis Gale Hupp. The last name is spelled H-U-P-P.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. RYAN:

Q. Good afternoon.

A. Good afternoon.

Q. Mr. Hupp, you've already been before this Court last week, haven't you?

A. Yes, sir.

Q. And just to -- as a brief reminder to the jury, why don't you identify who you are, where you work, and what you do.

A. I'm Louis Hupp. I'm employed by the Federal Bureau of

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Investigation in the latent fingerprint section in Washington, D.C.

Q. And last week, I believe you testified with respect to your qualifications as a fingerprint examiner.

A. Yes.

Q. You also said something last week about an organization known as ASCID. Would you explain what you -- what that is and what your affiliation with that group is.

A. Okay. I was talking about ASCID. Ms. Merritt had asked some questions about blind testing and proficiency, and we

some questions about blind testing and proficiency, and we kind

of got the feeling after reading my testimony that it might have been a little misleading and we just wanted to clarify that the latent fingerprint section is not presently certified under ASCID. We're working very stringently within their guidelines to become accredited, but we just wanted to make certain that the court understood at this time that we are not certified.

Q. All right. Thank you for making that clarification.

Now, what do you do all day?

A. Mainly, I compare fingerprints of the latent variety with the unknown or the questioned variety in an attempt to make identifications.

Q. All right. Now, we covered the fact last week -- you talked about ink prints; right?

A. That's correct.

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Q. As a reminder to the jury, ink prints are --

A. It would be a reproduction of the friction ridges on the underside of the hand with a thin film of something such as printer's ink and placing it on a contrasting background such as a standard fingerprint card or palm print card.

Q. So it's when you take somebody and you fingerprint them?

A. That's correct.

Q. Okay. And then we talked about latent prints. And that is what?

A. That is the same basic reproduction of these same friction ridges that I spoke of; however, a latent would be covered with something such as a thin film of perspiration or other foreign substance. And then when that touches a surface, these outlines are transferred, and they are generally invisible to the naked eye. The main separation is a latent print is a mere

chance impression; an ink print is a purposeful reproduction.

Q. Okay. Now, we've had some testimony this morning about a search of a Terry Nichols' home in Herington, Kansas, in the third or fourth week of April 1995, a few days after the bombing.

A. Yes.

Q. What was your role in connection with that search?

A. I was there merely as a -- to be a guide to them on the packaging of fingerprint evidence, how to retrieve it, what to do with it, and how to package it, mainly.

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Q. All right. And did you have any role with respect to keeping track of the evidence?

A. Some of it. After the search was completed and I escorted some of it back to D.C., or was on the plane with it, yes, I

had in that capacity.

Q. Now, we've had some testimony from Mary Jasnowski, who has indicated that she put some of the evidence in some bags and sealed the bags --

MR. JONES: Your Honor, I'm going to object to this summary, leading the witness.

THE COURT: Sustained.

BY MR. RYAN:

Q. All right. Do you have any recollection of some evidence that was obtained in the Nichols' home consisting of a pink piece of paper and some coins?

A. Yes, I do.

Q. Tell us what your recollection is.

A. Upon completing the search, this evidence was locked away in a safe. When it came time for me to proceed back to Washington with other fellow workers, this was recovered, was signed over to people, I witnessed it, was on the plane with it; and once we arrived in Washington, D.C., I took personal possession of it.

Q. All right. Now, who -- who was with you when the possession of this plastic bag containing the pink sheet and

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coins was turned over by Ms. Jasnowski?

A. Ms. Jasnowski and Steven Burmeister, an agent from our laboratory division, was there. And it was turned over to him,

and I was just the witness to the -- to the act.

Q. Okay. Now, you have a folder in front of you, and if you'll turn to Exhibit No. 62, 62A, and 62B. Do you have copies of those exhibits before you?

A. I have 62.

Q. Keep looking. Quit looking. You don't have them. I have them.

Okay. Let me ask they be handed to you.

Now, before we start talking about those exhibits, let's talk -- let's remind the jury what you did with respect to Mr. Timothy McVeigh and his fingerprints before you obtained possession of Exhibit 62.

A. On the afternoon of April 21, 1995, I proceeded to Noble County in Oklahoma for the purpose of what we call major case printing Mr. McVeigh, which included 10-roll impressions, as well as the entire friction ridge area of the palm.

Q. So you had a fingerprint card on Mr. McVeigh?

A. That is correct.

Q. Okay. Now, what did you do with respect to -- well, before

we do that, do you have a copy of Exhibit -- Exhibit 62?

A. Yes, I do.

Q. And you examined the original before coming here today, did

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you not?

A. That is correct.

Q. All right. Can you tell us what condition Exhibit 62, Exhibit 62A, and B were in at the time you obtained them.

A. When I obtained these, Exhibit 62, the receipt, was wrapped around some gold coins, and those gold coins and the receipt were placed into 62A, which is a small, Ziploc-type bag; and they in turn were heat-sealed into a much larger bag. And they were heat-sealed when I received them as a single unit.

Q. Who opened the heat seal on Exhibit 62B?

A. I did.

Q. Had Exhibit 62B been tampered with or been in the custody outside of your vision and control between the time Mr. -- Ms. Jasnowski turned them over to the FBI and the time that you opened them in your laboratory in Washington?

A. Only when they were in the safe and locked away during the evening hours.

Q. But that was when Ms. Jasnowski had them?

A. Actually, once I got them back to D.C., it was very late in the evening -- I took them in and placed them in a safe and locked them to which only a supervisor could open the next day.

Q. All right. And were they there when you went back to pick them up for your examination?

A. Yes.

Q. And can you identify Exhibits 62, 62A, and 62B?

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A. Yes. These were the -- the items that I received. 62 was the item that I actually done. 62A was the plastic bag it was contained in and 62B was the heat-sealed bag, which in turn everything was contained inside of that.

Q. To the best of your knowledge and belief, were these documents in the same condition at the time you examined them in the laboratory in Washington as when Ms. Jasnowski turned them over to you, Mr. Burmeister, and the other FBI men and women from headquarters, Washington?

A. That is correct.

MR. RYAN: Your Honor, we would offer Exhibit 62, A and B.

MR. JONES: Your Honor, may I voir dire the witness just a moment?

THE COURT: Yes.

MR. JONES: Thank you.

MR. RYAN: What I'm offering, for a little clarification, your Honor, is Exhibit 62, 62A and 62B.

THE COURT: Yes. You said that.

VOIR DIRE EXAMINATION

BY MR. JONES

BY MR. JONES:

Q. Mr. Hupp, let's just refer to Exhibit 62 as the object.

A. 62?

Q. Right.

A. Yes. Yes.

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Q. Would you agree with me that that object is readily moveable?

A. Yes, it is.

Q. And would you agree with me, also, that you're not able to tell me under -- the circumstances that the fingerprint, if that's what it is, was placed on it?

A. If you're referring to when it was placed there, no, sir.

Q. Right. Or how it was placed on there?

A. No.

Q. Or how the object came to be in the person's hand whose fingerprints you may testify appear on it; is that correct?

A. That is correct.

Q. And for this particular object, then, what you're saying is

that it's not necessarily so that the fingerprint appeared on it at the time the object was created?

A. I -- yes. I would -- I would conclude that.

Q. And the date on the object is sometime in the last quarter of 1994, isn't it?

A. That is correct, yes.

Q. And you recovered the object in someone's residence in April of 1995?

A. That is correct.

MR. JONES: I have no further questions, your Honor.

THE COURT: Do you have any objection?

MR. JONES: I do, your Honor. I object based upon

the

Louis Hupp - Voir Dire

Tenth Circuit case in Milano and McIntyre.

THE COURT: Objection is overruled. The exhibits are received.

MR. RYAN: Your Honor, may I publish Exhibit 62?

THE COURT: Yes.

DIRECT EXAMINATION CONTINUED

BY MR. RYAN:

Q. Can you see that on your screen, Mr. Hupp?

A. Yes.

Q. Now, can you read it from where you are or do you need me to focus in on parts of it?

A. No. I probably can --

Q. Let's make it easier for you anyway.

A. Okay.

Q. Tell us what this purports to be, Exhibit 62.

A. This purports to be a Mid-Kansas Cooperative Association

... this appears to be a Mid-Kansas Cooperative Association
pink receipt. It carries a patron's account number which
appears to be a 10 to me, dated 9-30-1994, and bearing the
name

Mike Havens.

Q. All right. And what did Mr. Havens purchase on that
date --

A. A --

Q. -- according to this document?

A. Okay. According to this, the quantity of 40/50, and the
description was 34-0-0. And the price was at \$5.40 each for a

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total price of \$216.

Q. And it bears a -- a receipt number of what?

A. M, as in Mary, 95504.

Q. All right. Now, Mr. Hupp, you see these two circles in
the -- on the document?

A. Yes, sir.

Q. What are they from, if you know?

A. That would be where the coins were -- they were wrapped
around the coins, and this would be the ends of the coins.

Q. All right. Now, what did you do in your laboratory at the
FBI in Washington when you obtained possession of Exhibit 62
after you took it out of your safe?

A. After we took it out of our safe and, of course, we
accounted for everything that was in the plastic bag and made
notes to that effect, then it was my duty to process it for
the
presence of latent prints.

Q. All right. And did you do that?

A. Yes, I did.

Q. Tell the jury how you took latent prints from this
document.

A. What I did was I processed it with a series of chemicals,
namely DFO, ninhydrin and physical developer -- in this case,
we didn't do physical developer. We stopped at nin. And
developed two fingerprints.

Q. Do you have -- did you bring with you today a blowup of

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the -- of the latent fingerprint that you took from Exhibit
62,

the -- the Mid-Kansas receipt?

A. Yes, I did.

Q. And is that marked as Exhibit No. 63?

A. Yes.

Q. Would you identify what it is for the Court prior to
showing it to the jury?

A. Okay. This -- this --

Q. To the Judge. Tell the Judge what it is.

A. This is -- this enlargement would be approximately a 12
times photographic enlargement of both the latent print and

the ink print, and it would have red lines and numbers on it depicting the points of identity that I used to effect the identification.

Q. All right. And there are two prints on it, are there not?

A. That is correct.

Q. One print is what?

A. Is a known print of Mr. McVeigh, which I recorded.

Q. Okay.

A. And the other is the unknown print which I developed on this particular item.

Q. All right.

MR. RYAN: Your Honor, we would offer Government's Exhibit No. 63.

MR. JONES: Same objection as before, your Honor.

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THE COURT: Overruled. 63 is received.

BY MR. RYAN:

Q. Now, if you will, Mr. Hupp, please turn to Exhibit 63. If you can display that document to where members of the jury can see it.

I would like for you to explain the comparison you made of the prints off the fert -- excuse me -- off of the Mid-America (sic) receipt and off of the -- compared to the McVeigh fingerprint.

A. All right. In effecting identification, it is my goal to find same or similar points of identity lying in the same relative position in two fingerprint impressions. If I can direct your attention to the Point No. 1 here, this is a ridge that splits or divides to form two ridges and continues downward in this direction.

Coming down a short distance in that diversion, here's an end of a ridge that just ends there. This is Point No. 2.

Now, if I continue on down this -- this dividing -- this ridge that picks up here, we come to a point where there's

an ending ridge on either side, which are Points 9 and 10.

Now, looking for these same or similar points of identity lying in the same relative position, let me direct your attention to the one marked H fingerprint. Here's a ridge

that comes across and divides to form two. Where it divides, Point No. 1. Continuing down between these two ridges, here's

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an end of a ridge that ends. I designated this Point No. 2.

Continuing down a short distance further, there are two ending ridges here which suddenly end on either side of that ridge. These are Points 9 and 10. It is with these four points that I have demonstrated to you, plus others that are

illustrated in both the latents and the ink print, that caused me to form my opinion that the latent print that I developed on

Government's Exhibit 62 was made by one and the same finger as the right index finger of the defendant, Mr. Timothy McVeigh.

Q. Do any two people have the same fingerprints?

A. No, sir.

Q. Now, Mr. Jones asked you some questions a moment ago with respect to when this fingerprint would have been placed on the receipt. I understand from what you told him that sometime between the date of this receipt and the time of the search of the Nichols' home is when Mr. McVeigh placed his fingerprint on

this document.

A. That would be correct.

Q. And you don't know exactly when?

A. Have no idea.

Q. All right. I'm going to show you an exhibit that is already in evidence, which is Exhibit No. A8, and I'm going to ask you if you have examined this -- this document.

A. Yes, I have.

Q. And what does this document purport to be?

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A. This document reads to be a storage unit lease agreement year to year dated September 22, 1994, and bears the lessee name of Shawn Rivers, showing an address of R. 3, Box 83, Marion, Kansas.

Q. Now, Mr. Hupp, did you examine this document for latent prints?

A. Yes, I did.

Q. And tell us what you did.

A. Here again, I used the three main chemicals of DFO, ninhydrin, and physical developer. And I developed ten fingerprints of value for identification purposes on this particular document.

Q. And did you bring a blowup of those fingerprints with you?

A. Yes, I did.

Q. And those are marked as Exhibit No. 89, are they not?

A. That is correct.

Q. I'm not going to ask you to go through that with the jury at this time.

A. Okay.

Q. But you have them available for counsel for the defense if they wish to examine you on them?

A. That is correct.

MR. RYAN: All right. Your Honor, we would offer Exhibit No. 89. This is the blowup comparison.

MR. JONES: No objection, your Honor.

Louis Hupp - Direct

THE COURT: 89 is received.

RV MR RYAN.

DI FR. NIAN.

Q. Now, what did you find when you searched this document for latent prints?

A. 89?

Q. Yes, sir. I'm sorry.

A. Okay. I found --

Q. No. Document No. 88.

A. 88. I'm sorry.

Q. The storage unit lease for Shawn Rivers for Unit No. 2 in Herington, Kansas.

A. When I examined it, I developed 10 fingerprints which were suitable for identification purposes. Then I compared those with the fingerprints that I had recorded of Mr. McVeigh and, in fact, identified eight of those fingerprints as belonging to

Mr. McVeigh.

Q. These would be eight different fingers, or eight prints?

A. Well, there were some duplications, but there were -- to be

exact, I identified the left -- right index twice, the right thumb -- the left thumb twice, the left index once, the left middle, left ring, and left little fingers one time each.

Q. And what conclusion did you draw from your examination and fingerprint comparison?

A. That these fingerprints were the fingerprints of Mr. McVeigh to the exclusion of all others.

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Q. We're talking about the fingerprints on the storage unit in the name of Shawn Rivers?

A. That is correct.

Q. Now, let's turn to Exhibit No. 21, which is also in evidence. With the Court's permission, we'll show this to you and the jury. There was -- there's been some testimony about this from a man from Paladin Press -- and did you have occasion to examine this --

A. Yes, I did.

Q. -- document? And what does it purport to be?

A. This purports to be an order form bearing the return address of Timothy McVeigh. It also requests a quantity of one

Homemade C-4 book, and it lists a price of approximately \$12.

Q. All right. Now, what is the book that was purchased?

A. Homemade C-4.

Q. All right. Now, did you examine this document for fingerprints?

A. Yes, I did.

Q. And tell the jury what you did.

A. Again, I processed it with DFO, ninhydrin, and physical developer, in an attempt to develop fingerprints suitable for identification purposes.

Q. And were you able to do that?

A. Yes, I was.

Q. And what conclusions did you draw?

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A. I concluded that the two fingerprints which I developed on Government's Exhibit No. 21 were the fingerprints of Mr. McVeigh to the exclusion of all others.

Q. All right. So let me go back, if I might, to the -- to the

storage lease in the name of Shawn Rivers where you found the McVeigh prints, Exhibit No. 88. You said that there were two patent fingerprints developed? Did I understand that correctly?

A. No. There -- there, in fact, were 10 prints developed.

Q. Were they all from the same person?

A. No. Eight of them were from the same person. Two of them were not identified with anybody.

Q. And did you ever identify who those other two prints belonged to?

A. No, sir.

MR. RYAN: Excuse me just a moment, your Honor.

BY MR. RYAN:

Q. Let me again return to Exhibit No. 63, which was the fertilizer receipt from Mid-Kansas. How many fingerprints did you find on this document?

A. There were, in fact, two fingerprints developed on that document.

Q. And did both of them belong to Mr. McVeigh?

A. Yes, they did.

Q. All right. Now, let's turn to Mr. Terry Nichols. Did you

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have occasion to ever fingerprint Mr. Nichols?

A. Yes, I did.

Q. And when did you do that?

A. I fingerprinted him on the afternoon of the 22d, in Abilene, Kansas.

Q. All right. And what was the occasion for that?

A. There again, I was directed by headquarters to proceed to Abilene to again obtain the major case prints of the entire friction ridge areas of the palms and the hands.

Q. And did you do that?

A. Yes, I did.

Q. And do you have a copy of Exhibit 1290 before you?

You don't have it. I have it.

Can you tell -- tell us what Exhibit 1290 is.

A. Government's Exhibit 1290 is a photograph of a set of fingerprints that I recorded on the 22d of April, 1995, in Abilene, Kansas, of an individual who was introduced to me as Mr. Terry Nichols.

Q. And that is the individual who has been in custody since that day in connection with this case?

A. That is correct.

MR. RYAN: Your Honor, we would offer Nichols' prints, Exhibit No. 1290.

MR. JONES: No objection, your Honor.

THE COURT: 1290 received.

Louis Hupp - Direct

BY MR. RYAN:

Q. Now, Mr. Hupp, I'm going to put on the ELMO Exhibit No. 83,

which has already been admitted into evidence as a registration

card from the Starlite Motel under the name of Terry Havens.

Do you see that?

A. Yes.

Q. Let me see if I can make it a little clearer. Do you see that?

A. It's a little blurry; but I can make it out, yes.

Q. All right. Did you examine this document?

A. Yes, I did.

Q. And where did you examine this document?

A. In Washington, D.C. in my office.

Q. What did you do with this document?

A. This, like the other documents, I processed for the presence of latent prints using DFO, ninhydrin, and physical developer.

Q. And what fingerprints did you -- did you find latent prints

on this fingerprint -- excuse me -- did you find latent fingerprints on this registration card at the Starlite Motel?

A. Yes, I did.

Q. And how many prints did you find?

A. I found four prints that were suitable for identification purposes.

Q. Were you able to identify those prints?

Louis Hupp - Direct

A. Yes, I was.

Q. And whom do those prints belong to?

A. All four of those prints belonged to the individual that I had come to know as Terry Nichols.

Q. Now, did you bring a blowup of that exhibit that compares the latent prints taken off Exhibit 83 with the known prints of

Mr. Nichols on Exhibit 1290?

A. Yes, I did.

Q. And that exhibit is marked Exhibit No. 84.

A. That is correct.

MR. RYAN: All right.

Your Honor, we would offer Exhibit No. 84.

MR. JONES: May I look at that just a moment, please?

THE COURT: Yes.

MR. JONES: And could I also ask to see 83?

MR. JONES: AND COULD I ALSO ASK TO SEE 83?

THE COURT: All right.

MR. JONES: Thank you.

Thank you, your Honor.

THE COURT: Is there any objection to 84?

MR. JONES: No, your Honor.

THE COURT: 84 is received.

BY MR. RYAN:

Q. Mr. Hupp, if you would take Exhibit No. 84 and explain to the jury why it is you concluded that the fingerprints on the registration card in the name of Terry Havens contained the

Louis Hupp - Direct

fingerprints of Mr. Terry Nichols.

A. Okay. These, again, are photographic enlargements from 12 to 13 times. One, the latent prints that I developed on Government's Exhibit No. 83; the other is an impression of the right index finger of Mr. Terry Nichols.

Q. All right. Show -- show the exhibit to the jury and explain to them how you made this conclusion.

A. All right. Again, bearing in mind that we're looking for these same or similar points of identity lying in the same relative position, let me direct your attention to Point No. 1.

Point No. 1 is an end of a ridge that comes up and ends right there. Now, if you would come down this ridge a short distance, you'll see that it splits or divides in that direction, also, which is Point No. 10.

Let's go back to Point No. 1 and count across one, two -- two intervening ridges; and there's a very short ridge in there which we call a dot. That is Points No. 2 and Points No. 9.

Let me direct your attention back to the photographic enlargement marked "ink fingerprint." Point No. 1 is an end of a ridge that comes up and ends in this direction right here.

Coming down a short distance, it splits or divides in the same direction to form Point No. 10.

And from Point No. 1, counting across one, two ridges, we have this short ridge in there that we call a dot, which is

Louis Hupp - Direct

Points 2 and 9.

Here again, it's with these points that I have demonstrated to you, plus the other ones that are illustrated, plus numerous others which are present in both the latent and the ink print that caused me to form my opinion that the fingerprint I developed on Government's Exhibit No. 83 was one and the same finger, which is Mr. Nichols' right index finger to the exclusion of all others.

Q. Now, Mr. Hupp, take your exhibit back out again, No. 84. And is there a difference in the clarity of the ridges with

.....
respect to the print that we knew -- we know of, we call the known print, the one that you very carefully placed on the fingerprint card, versus the latent prints that you took off of

the motel registration?

A. Yes, there is.

Q. Why is that?

A. Well, again, as I spoke earlier, a latent print is a mere chance impression. It's not meant to be left there. It's quite accidentally left, where these are recorded with care and

great detail in an attempt to get the best possible fingerprints that we can possibly obtain to compare with the unknowns that we may develop.

Q. So the knowns are almost always going to be a better quality than the latents; is that fair?

A. That's correct, yes.

Louis Hupp - Direct

Q. All right. Now, let's turn to Exhibit No. 113, which has been identified as a storage shed lease for shed No. 37, at Boots U-Store-It in the name of Ted Parker. This has already been admitted into evidence. Can you see the document on your screen?

A. Yes, I can.

Q. Now, did you have occasion to examine this document?

A. Yes, I did.

Q. And what did you do with it?

A. Here again, I used the three chemicals, DFO, ninhydrin, and

physical developer, in an attempt to identify or develop latent

prints that might be on the item.

Q. All right. Explain what you found.

A. I found two latent prints which I felt were of value for identification purposes developed on this particular item.

Q. And whose were they?

A. And I compared those with the fingerprints of Mr. Nichols and, in fact, identified both of those prints to the exclusion of all others.

Q. Now, sir, if you -- if you would, turn to -- turn to Exhibit No. 484, which, again, is in evidence. It's the Spotlight prepaid telephone card in the name of Darrell Bridges. Do you see this exhibit?

A. Yes.

Q. Can you make out the name?

Louis Hupp - Direct

A. Yes, I can. Darrell Bridges, 3616 North Van Dyke Road, Decker, Michigan, 48426.

Q. Now, did you have occasion to examine this document in the FBI laboratory?

A. Yes, I did.

Q. Now, what did you do?

A. Here again, I used the same processes of DFO, ninhydrin, and physical developer in an attempt to develop latent prints which were suitable for identification purposes.

Q. Now, did you do that?

A. Yes, I did.

Q. What did you find?

A. I developed three fingerprints which I subsequently identified were the fingerprints of Terry Nichols.

Q. All three?

A. All three.

Q. Now, let's turn to Exhibit No. 142. Strike that.

Let's turn to Exhibit 572. Again, this is a -- a document that's been -- that's in evidence. Can you see the document on your screen?

A. Yes, I can.

Q. This is the Marion National Bank note pad?

A. That is correct, yes.

Q. All right. Now, did you have occasion to examine this document in your laboratory?

Louis Hupp - Direct

A. Yes, I did.

Q. And what did you do?

A. Here again, we used chemicals of physical -- or ninhydrin, and DFO. In this instance, we skipped the physical developer because it was, in fact, a book, which would have required me to totally destroy the book in order to apply the third process to it.

Q. All right. Were you able to lift latent fingerprints from this book?

A. Yes, I was.

Q. Did you determine whose prints were on it?

A. Yes, I did.

Q. How many prints were you able to raise?

A. I raised 20 fingerprints and two palm prints on this booklet and the pages of it.

Q. Of those 20 fingerprints and palm prints, how many were you able to identify?

A. Actually identified 18 fingerprints and one palm print with Mr. Nichols, and I identified two fingerprints with his wife, Marife.

Q. Now, do you have a --

MR. RYAN: Excuse me just a moment, your Honor.

BY MR. RYAN:

Q. In one of the folders you have on your desk there, Mr. Hupp, you should find a copy of Exhibit No. 142, if you'll

Louis Hupp - Direct

please try to locate that. It's in Mr. Patel's folder.

A. I don't have that folder on my desk.

Q. Did you take it off? Thank you.

Do you see what has been marked as Exhibit No. 142?

A. Yes, I do.

Q. It's a -- a --

MR. JONES: Your Honor, I'm going to object. This exhibit hasn't been introduced into evidence, and it's not on the exhibit list given to me for this witness.

THE COURT: Well, it hasn't been introduced in evidence; but that doesn't mean it can't be used. So if there's an objection to what Mr. Ryan is doing, it's overruled.

BY MR. RYAN:

Q. Now, Mr. Hupp, did you have occasion to examine Exhibit 142?

A. Yes, I recognize I do. However, I'm not sure that I have those results with me on the stand at this time.

Q. Where are those results?

A. They could very well be in my briefcase.

Q. Where is that?

A. In the next room.

MR. RYAN: I don't want to get out of order, your Honor. We could -- I can come back to this at another time.

THE COURT: Come --

MR. RYAN: I'm almost through with this witness,

Louis Hupp - Direct

though.

THE COURT: Well, is this something that has been disclosed to defense counsel?

MR. RYAN: Yes, your Honor.

THE COURT: This examination?

MR. RYAN: Yes, your Honor. Defense is aware of the fact that Mr. Hupp did a fingerprint examination of this document.

THE COURT: Okay. Well, go get it.

The witness can go step down and get the briefcase, bring it in here, and continue to testify, yes.

MR. RYAN: I apologize, your Honor. I know this is not what you like.

THE COURT: I don't always get what I like.

MR. RYAN: I'm trying to deliver what you like.

I don't see a briefcase.

THE WITNESS: I don't have it with me.

BY MR. RYAN:

Q. Do you recall conducting a fingerprint analysis with respect to the --

A. I recall -- I recall the document. I don't recall exactly the results that I achieved.

Q. Well, we'll just leave it for another day, then.

A. Okay.

MR. RYAN: May I have just a moment, your Honor?

Louis Hupp - Direct

THE COURT: Yes.

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

THE COURT: All right. Mr. Jones?

CROSS-EXAMINATION

BY MR. JONES:

Q. Mr. Hupp, as I understand your testimony here today, this exhibit which is the registration card from the Starlite Motel in Salina, Kansas, which is Exhibit 83, you identified as having the imprint or the fingerprint of Mr. Terry Nichols; is that correct?

A. That is correct.

Q. Now, did you find any fingerprints of Mr. McVeigh on that Exhibit 83, the registration card?

A. No, sir.

Q. Did you check for his fingerprints?

A. Yes, I did.

Q. And you found none?

A. I found none.

Q. All right. Now, did you -- as I understand it, also there is Exhibit No. 484, which is a Spotlight debit card.

A. That is correct, yes.

Q. And you testified that you found Mr. Terry Nichols' fingerprints on that instrument, also; is that correct?

A. That is correct.

Q. Did you test for Mr. McVeigh's fingerprints?

Louis Hupp - Cross

A. None were found.

Q. So you tested, but none were found?

A. Yes.

Q. And on 572, the Marion National Bank note pad, you found Mr. Nichols' prints, as I understand it?

A. That is correct.

Q. Did you test for Mr. McVeigh's?

A. Yes.

Q. And did you find any?

A. I did not.

Q. All right. Now, with respect to the Exhibit 83 and -- and 83A, which is a copy of the registration card which you said was Mr. Nichols' right index finger, I believe --

A. That is correct, yes.

Q. All right. Now, did anybody in the FBI ever think that that right index finger was Mr. McVeigh's?

A. No, sir.

MR. JONES: May I hand this document to the witness, your Honor?

THE COURT: Yes.

BY MR. JONES:

Q. Now, that purports to be some fingerprint impressions, does it not?

A. That is correct.

Q. All right. And would you -- can you tell me what that is.

Louis Hupp - Cross

A. This is a copy of a set of enlargements that I forwarded out sometime ago.

Q. All right. So you prepared that?

A. Yes, I did.

Q. And that's for Q3039?

A. That is correct.

Q. And that came from you after you did your analysis?

A. That is correct.

Q. Well, doesn't that say -- what does it say the fingerprints to --

A. It says individual identified was Mr. T. McVeigh.

Q. And was that in error?

A. That was a typographical error.

Q. All right. Did you review it before it was sent out?

A. It was reviewed and retyped and it got out. There's nothing else I can say, sir.

Q. Now, these exhibits that you've identified here today, do you know, Mr. Hupp, whether they were also examined by the folks in the handwriting analysis section of the lab?

A. Some of the documents -- well, most of them, were, in fact, examined in the document section. I'm not sure to the extent of the examination of the receipt; but the other documents were, in fact, reviewed down there.

Q. Right. Because there's no handwriting on the receipt?

A. That's correct.

Louis Hupp - Cross

Q. And by "the receipt," we're talking about, just to clarify -- we're talking about Exhibit 62.

A. That is correct, yes.

Q. All right. But the other exhibits that have handwriting on

them, particularly unknown handwriting, you think were also examined by ladies and gentlemen down in the -- whatever section it is that deals with handwriting analysis?

A. That would be a fair assessment, yes.

Q. All right. And is Special Agent Williams one of those individuals?

A. He would not be a member of the document section, no, sir.

Q. All right. Now, the -- do you know from your recollection whether any of these exhibits that you've identified here today which contain handwriting first went to your section or to the document section?

A. Through the normal course of business, they would go to the

document section first.

Q. Well, I understand that's the normal course of business. But do you know specifically in this case?

A. I have no personal knowledge. I know that I received them from a central point, and they were forwarded to me; and I took them back to that individual.

Q. All right. On the chain of custody, would that show where they went first?

A. Yes.

Louis Hupp - Cross

Q. And is the chain of custody sheet for a series of exhibits, or only for one?

A. It would depend on what the listing -- there could be a listing at the top that could cover more than one document.

Q. All right. Well, let me just hand you this and -- if I may, and perhaps you can explain the protocol. And incidentally, I didn't mean to confuse you; and I might have done it when I said Special Agent Williams. You might have thought I was talking about Dave Williams. I'm talking about R. Williams. Does that ring a bell?

A. Well, there has been more than one document examiner examining some of this stuff.

Q. All right. Well, if you don't remember, that's fine.

Well, in just looking at that, can you tell me whether, for example, Q3039 which is the registration card, and

Q0770, which is Exhibit 88, and 572 which is the Marion National Bank -- whether those went to you first, or went to Handwriting?

A. The only thing that I can testify even -- even looking at this is that with the destruction that I place on the document, they do normally go down there; and I'd have to assume in this instance, they went there, also.

Q. All right. Well, that's fine. Now, you did just say, though, that -- and it's true, isn't it, that the materials and chemicals that you use on some of these exhibits, particularly

Louis Hupp - Cross

where there is handwriting, can be destructive?

A. That is correct, yes.

Q. Now, what do you do when there is something that you are examining and there's handwriting on it? Do you take any special precautions?

A. No, sir.

Q. So you don't place some kind of little protective seal over the ink?

A. No, I do not.

A. NO, I DO NOT.

Q. And the reason you don't do that is because you assume that it's already been to the handwriting section and they are through with it?

A. That is correct.

Q. Now, one of these document chemicals or -- not document chemicals. One of these chemicals you use in your work is a solvent for some inks, isn't it? Ninhydrin?

A. Ninhydrin.

Q. Yes.

A. It does have a carrier that is a solvent for ink.

Q. And it can cause ink to run, can't it?

A. It can, yes.

Q. And do I understand that with the exception of -- well, actually, with no exceptions, you used this chemical on all of the documents or objects or things that you were checking for fingerprints?

Louis Hupp - Cross

A. That is correct.

Q. Including those that had ink or handwriting on them?

A. Well, if I may clarify just one little point here.

Q. Sure. Of course.

A. When we processed this with the chemical ninhydrin, there are two base carriers that we use. One of them is an acetone, which is a solvent for ink; and the other one we try to use when there's handwriting that we'd like to preserve in the best possible condition, then we try to use petroleum ether on it, which limits the ink run. It doesn't stop it, but it tries to control it quite a bit.

Q. Well, is that a ninhydrin, or not?

A. That's a ninhydrin, yes.

Q. All right. Now, do you have any recollection of which you used here?

A. In this instance, we used the petroleum ether to try to preserve all handwriting if possible.

Q. Now, how -- how do you know that you did that?

A. Because in most of the instances, I applied the chemicals, or it was at my instruction that we use the petroleum ether.

Q. So you're relying upon the usual and customary practice?

A. That's correct.

Q. All right. Is that any better than using some type of plastic sealant to cover over the ink?

A. Well, in bearing in mind that by the time Documents have

Louis Hupp - Cross

conducted their examinations, they have photographed this for -- for future use if need be, and it -- just generally, when it comes to the latent section -- we apply the chemicals in an attempt to develop as many latent prints as we possibly can and the best quality.

Q. And again, because you assume it's already been to Documents?

A. That is correct, yes.

Q. Now, if I could talk to you just a moment about this receipt from -- which I believe is Exhibit No. 62.

A. All right.

Q. Got it?

A. Yes.

Q. All right. Now, just so that we're clear, Exhibit 62 is the receipt from the co-op down there, the Mid-Kansas Cooperative sales receipt 95504. Is that right?

A. That is correct, yes.

Q. Dated 4-22 -- I'm sorry. Dated 9-30-94?

A. Yes.

Q. All right. Now, did you test that receipt for other fingerprints?

A. When I -- when I process an item for the presence of latent prints, I try to develop as many latent prints as I possibly can.

Q. So my answer to my question is yes?

Louis Hupp - Cross

A. Yes.

Q. All right. And did you find any other fingerprints on there, other than Mr. McVeigh's?

A. No, sir.

Q. So it was not a question that you couldn't match them up; you just didn't find any other fingerprints?

A. There were only two developed, yes.

Q. All right. Now, if the trier of fact in this case concludes after hearing all the testimony, particularly the people from Midwestern Co-op -- or Mid-Kansas Co-op that Mr. McVeigh was not present when this receipt was created and handled, that would mean that whoever handled it was wearing gloves or doing something so that he or she wouldn't leave fingerprints, wouldn't it?

A. I don't believe so.

Q. You think somebody could have handled it without gloves or handkerchief and still left a print?

A. I think it would be possible to handle it in the absence of gloves or cloth or anything and not leave latent prints that are developable.

Q. All right. And tell me how that might happen, sir.

A. There are several -- several solutions to this. One, we spoke of, he could have been wearing gloves. He could have wiped his hands off -- or she. I don't mean to be genderized. Could have dried their hands. It could have been a very dry

Louis Hupp - Cross

type of climate where there was not a lot of perspiration.

There's many factors involved. Whether it's one or just not having something transferable at that time on your fingers would be another.

Q. Okay. But we're talking about something that was created in September in Kansas; right?

A. That's correct.

Q. And found by you in April?

A. That's correct.

Q. So whenever Mr. McVeigh touched it, it had to be sometime between September and April?

A. That would be a fair assumption, yes.

Q. So the chances that, as you said -- that there wasn't much perspiration, that would also apply to the person that initially handled it, if it was somebody other than Mr. McVeigh?

A. That would be possible, yes.

Q. All right. But one thing we know for sure, and that is that if somebody was wearing a glove, their fingerprints aren't

on that receipt, are they?

A. That would be correct, yes.

Q. Now, tell me, please, where on the receipt you found Mr. McVeigh's fingerprints.

A. They were both found on the reverse side of the receipt, and it would be -- if you got on the reverse, it would be

Louis Hupp - Cross

approximate to the middle side section on the reverse side.

Q. All right. Do you have the original receipt there in front of you?

Mr. Ryan has got it. If I may just hand it to you.

THE COURT: All right.

BY MR. JONES:

Q. Now, do you have a pencil there?

A. Yes, sir.

Q. And do you have a blank sheet of paper? White?

A. No.

Q. Well, let me get you one. Let's just take a white sheet off there.

MR. JONES: Kathi, this is better.

BY MR. JONES:

Q. Could you just -- don't take it out of that plastic folder.

Could you just draw on the plain white sheet of paper the dimensions of the receipt.

A. All right.

Q. All right, sir. I can't see it very well. Maybe if you'd just kind of hold it up again.

All right. So you've drawn it there so the two edges

of the receipt are on the edge of the paper?

A. Yes.

Q. All right. Now, would you take a pencil there and just

snow me -- or not snow me. Just write on the sample there

Louis Hupp - Cross

where Mr. McVeigh's prints were found.

X or draw the print, or however you are comfortable doing it.

All right. And which finger was that?

A. Right index finger.

Q. All right. And is that on the front side or the back side?

A. It's on the back side.

Q. Of the sheet of paper?

A. Yes. As a matter of fact, the prints are still visible.

Q. All right. Okay.

Now, is there anything from Mr. McVeigh on the front side?

A. No, sir. There were only two prints developed.

Q. And where is the other print?

A. One print lies in this position here. The other print would lie up here in this position right here.

Q. All right. And they are both of the same finger?

A. That is correct.

Q. Fair enough.

MR. JONES: Your Honor, may I have that little diagram

that Mr. Hupp drew there marked as an exhibit?

THE COURT: Sure.

MR. JONES: I have nothing further. Thank you, Mr. Hupp.

THE COURT: This is Exhibit 62 that he's been working with; right?

MR. JONES: Yes. Could we just make this 62A or B?

THE COURT: 62C.

MR. JONES: 62C. I offer 62C, your Honor.

MR. RYAN: No objection.

THE COURT: 62C is received.

Do you have any follow-up?

MR. RYAN: I do have a few more questions. Would it be possible to take our break now --

THE COURT: No. I want to finish this witness.

MR. RYAN: Okay. Could I approach Ms. Hasfjord?

THE COURT: All right.

MR. RYAN: May I examine while she searches, your Honor?

THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. RYAN:

Q. Now, Mr. Hupp, all the fingerprints that you have testified

about today, did you photograph?

A. Yes, I did.

Q. And did you bring those photographs with you?

A. Yes. They are in my briefcase.

Q. And where is your briefcase?

A. Back out in the witness room.

... back out in the witness room.

Q. All right. Now, if Mr. Jones wants to or anyone on the

Louis Hupp - Redirect

defense wants to look at any of your fingerprints or photographs of those fingerprints, are they available for their inspection?

A. Yes, they are.

Q. All right. And you'll make them available?

A. Yes, I will.

Q. Now, you were asked a number of questions about this fertilizer receipt from the Kansas feed store. Do you recall that?

A. Yes.

Q. And you indicated that other people could have touched this document? Did I understand that correctly?

A. That's correct.

Q. They may have, may not have, probably did. You didn't find latents?

A. That's correct.

Q. One -- one person for sure touched it?

A. One person touched it at least on two occasions. At least two fingers were pressed on it.

Q. And that was the Defendant McVeigh?

A. That is correct.

Q. Now, I want to show you what has already been received in evidence as Exhibit 427. I can put it on the ELMO, please.

Do you see this as a driver's license of Mr.

McVeigh?

A. Yes, I can.

Louis Hupp - Redirect

Q. And what would -- would you read into the record what the address is on this driver's license of Mr. McVeigh?

A. 3616 North Van -- or N. Van Dyke Road, Decker, Michigan.

Q. Now, I want to turn your attention to the Spotlight credit card taken out of Mr. Nichols' house on which you found Mr. Nichols' prints. Do you remember that?

A. Yes.

Q. Exhibit No. 484. Read the address on this document, please.

A. 3616 N. Van Dyke Road, Decker, Michigan, 48426.

Q. That's the same address as on Mr. McVeigh's license, isn't it?

A. That is correct.

Q. Now, let me show you a document you testified about earlier, Exhibit No. 113, which is the storage shed in the name

of Ted Parker?

A. Yes.

Q. You found Mr. Nichols' prints; correct?

A. Yes.

Q. Would you read into the record the address listed on this document?

A. 3616 N. Van Dyke, Decker, Michigan.

Q. Same address on the two documents which Mr. Nichols touched

that were found in his home as the address on Mr. McVeigh's driver's license?

Louis Hupp - Redirect

MR. JONES: I object to this as leading.

THE COURT: Sustained.

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

THE COURT: Do you have any cross on the redirect?

RE-CROSS-EXAMINATION

BY MR. JONES:

Q. James Nichols lives there, doesn't he?

A. I have no idea who lives there, sir.

MR. JONES: Nothing further.

THE COURT: You may step down.

THE WITNESS: Thank you.

THE COURT: He may be recalled, as I understand it.

MR. RYAN: Yes, your Honor.

THE COURT: All right. Well, we'll take our mid-afternoon recess at this point, then, for the usual 20-minute period, members of the jury. And of course, with the usual cautionary instructions of don't discuss anything about the case during the time of the recess and stay away from anything affecting this case. Only you decide on the evidence that's presented in the courtroom.

You're excused now. 20 minutes.

(Jury out at 2:24 p.m.)

MR. HARTZLER: Could Ms. Wilkinson address you regarding the next witness?

THE COURT: All right.

MS. WILKINSON: Your Honor, about the earlier motion that we discussed, we don't need to argue it. We're not going to offer any of that information and we're prepared to call the next witness.

THE COURT: All right. 3:45 is when we'll do it.

MR. HARTZLER: Thank you.

(Recess at 3:25 p.m.)

(Reconvened at 3:45 p.m.)

THE COURT: Be seated, please.

(Jury in at 3:45 p.m.)

THE COURT: Next witness, please.

MR. HARTZLER: Government calls Jennifer McVeigh. Ms. Wilkinson will question her.

THE COURT: Thank you.

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

(Jennifer McVeigh affirmed.)

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

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

THE WITNESS: Jennifer Lynn McVeigh, M-C-V-E-I-G-H.

THE COURT: Thank you.

Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

DIRECT EXAMINATION

Jennifer McVeigh - Direct

BY MS. WILKINSON:

Q. Good afternoon, Ms. McVeigh. How are you doing?

A. Pretty good.

Q. Okay. Why don't you start by telling us how old you are.

A. I'm 23.

Q. And where do you live?

A. Lockport, New York.

Q. And where -- or what city is near Lockport, New York?

A. Buffalo.

Q. And have you lived in Lockport your whole life?

A. Yes.

Q. And whom do you live with?

A. I live with my father.

Q. Is anyone else there with you right now?

A. No.

Q. And has your father lived in that house virtually your whole life?

A. We lived in one other house when I was younger.

Q. Where was that located?

A. Meyer Road, same town.

Q. Okay. Now, what are you currently doing for your occupation?

A. Right now, I work at a bar on the weekends and I go to school during the week.

Q. Where do you go to school?

Jennifer McVeigh - Direct

A. Buffalo State College.

Q. And how long have you attended Buffalo State College?

A. It will be one year.

Q. Can you tell us what you're studying?

A. Elementary education.

Q. Now, can you tell the jury your relationship with the defendant, Timothy McVeigh?

A. He is my brother.

Q. And do you have any other siblings other than Mr. McVeigh?

A. Yes. I have an older sister, Patty.

Q. And what is the age difference between you and your brother?

A. Six years.

Q. Did you ever attend the same school?

A. We did, but not at the same time.

A. we did, but not at the same time.

Q. What school was that?

A. Star Point Central School.

Q. Is it a high school?

A. It goes from -- all the way from elementary to high school.

Q. Did you graduate from Star Point?

A. Yes.

Q. Did your brother graduate from Star Point?

A. Yes.

Q. Can you tell us a little bit about how you grew up in your family? Do you want me --

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A. Yeah, could you --

Q. Ask you something more specific?

A. Yes.

Q. Sure. Did all three of your siblings live with your mom and dad the entire time you were growing up?

A. No. Around fourth grade, my parents divorced.

Q. When you were in fourth grade?

A. When I was in fourth grade.

Q. How old were you then?

A. About 10.

Q. How old was your brother at that time?

A. I'd say about 16.

Q. And what happened after the divorce? Where did you live?

A. I moved to Lockport with my mother and my sister, and my brother stayed with my father in Pendleton.

Q. Now, tell us the difference between Pendleton and Lockport.

A. Pendleton is just like a small suburb of Lockport. It's a more rural area, more countryish.

Q. How long did you and your sister and your mother live in Lockport?

A. My sister moved out when I was probably in elementary school, and I was there up until after ninth grade.

Q. Where did you go after ninth grade?

A. My mother and I moved to Florida.

Q. How long did you live with your mother in Florida?

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A. Up until, I'd say, the middle of my eleventh-grade year.

Q. Where did you go after that?

A. Moved back to Pendleton -- I moved back by myself to Pendleton with my father to attend school here.

Q. Where was your brother at the time that you were living with your father?

A. He was in the Army.

Q. And did you complete high school while you were living with your father in Pendleton?

A. Yes.

Q. And that's when you graduated from Star Point?
A. Yes.
Q. What year was that?
A. 1992.
Q. Now, in 1992, when you graduated, was your brother at home at any time during that year?
A. Not that I can remember.
Q. Okay. Do you recall what years he was in the Army?
A. Not exactly.
Q. Do you recall whether he was in the Army during the Persian Gulf War?
A. Yes, he was.
Q. In 1991?
A. Yes.
Q. Now, after you graduated from high school, did you

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correspond with your brother?
A. Yes, I did.
Q. How did you correspond with him?
A. Usually by letter.
Q. And did he write you while he was in the Army?
A. Yes, he did.
Q. Did he write you after he left the Army?
A. Yes.
Q. Did you write him?
A. Yes.
Q. Did you also keep in contact with him by phone?
A. Yes, I did.
Q. How often do you think that your brother wrote you after you graduated from high school?
A. Could you --
Q. Do you think he wrote you once a month, once every couple weeks?
A. I'd say maybe closer to once a month.
Q. And did you read all of those letters that he wrote you?
A. Yes, I did.
Q. And did he correspond with you up until April of 1995?
A. Yes, he did.
Q. And by reading and reviewing those letters, did you become familiar with his handwriting?
A. Yes, I did.

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Q. Did you also see his handwriting when you were growing up at home by reviewing notes that he wrote to you and your family members?
A. Yes. We used to have notes on the kitchen table.
Q. Can you tell the jury what are the distinctive factors about your brother's handwriting?

A. He writes -- he usually prints from what I've seen, and he prints with a backwards slant, kind of opposite what normal people do, this way. He has a backwards slant.

Q. And what size are the letters?

A. He wrote kind of small.

Q. Do you have any difficulty in recognizing the hand printing that he does?

A. No.

MS. WILKINSON: Your Honor, at this time I'm going to show Ms. McVeigh a series of exhibits. Some are in evidence, some are not; and I'd like to offer those that are not, subject to connection, so Ms. McVeigh does not have to return to the stand.

THE COURT: Any objection to that procedure?

MR. NIGH: It's going to depend on each of the exhibits, your Honor. The ones that I've seen cover a broad range of time periods and topics.

THE COURT: All right.

MS. WILKINSON: That's no problem, your Honor. I'll

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announce before which one is in evidence.

THE COURT: Thank you.

BY MS. WILKINSON:

Q. Okay. Ms. McVeigh, I'm going to show you on the screen Government's Exhibit No. 3, and I'd also like to hand up the originals to you.

MS. WILKINSON: Could I approach, your Honor?

THE COURT: Yes.

THE WITNESS: Thank you.

BY MS. WILKINSON:

Q. Now, this isn't -- has not been moved into evidence, Government's Exhibit 3; but have you reviewed this prior to coming to court today?

A. Yes, I have.

Q. And did you identify the handwriting in this document?

A. Yes, I did.

MR. NIGH: I'm going to object, your Honor, until I have an opportunity to voir dire Ms. McVeigh about this particular document.

THE COURT: Well, Ms. Wilkinson just asked if she can recognize the handwriting, as I understand it.

MR. NIGH: My voir dire would go to that question, your Honor.

THE COURT: Well, it isn't appropriate to voir dire on that question.

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MR. NIGH: Thank you, your Honor.

MR. NICH: Thank you, your honor.

THE COURT: The question is can you recognize the handwriting on this document.

THE WITNESS: Yes.

BY MS. WILKINSON:

Q. And can you tell the Judge just briefly what this document is?

A. It's a letter to Steve.

Q. Who is Steve?

A. A friend of Tim's.

Q. Do you know his last name?

A. Hodge.

Q. And do you know how friendly Steve Hodge and your brother were while they were growing up?

A. When they were younger, they were real good friends.

Q. How close did Steve Hodge live to you and your brother?

A. He lived kitty-corner, across the street.

Q. And how often do you think your brother and Steve Hodge saw

each other on a weekly basis during high school?

A. During high school? Honestly, I wasn't around Tim much in high school, but I know when they were younger.

Q. I'm sorry. I didn't hear you.

A. I wasn't around Tim much in high school, but when they were younger.

Q. You saw them together frequently?

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A. When they were younger, yes.

MS. WILKINSON: Your Honor, we'd offer Government's Exhibit 3, subject to connection.

THE COURT: Well, I don't think that's appropriate here.

MS. WILKINSON: Could I just have her identify the handwriting, then we'll introduce it later?

THE COURT: Yes, ma'am. No need to offer it, though.

BY MS. WILKINSON:

Q. Ms. McVeigh, do you recognize the handwriting in Government's Exhibit 3?

A. Yes.

Q. Whose handwriting is that?

A. Tim's.

Q. Now, if you could go to the next document -- well, to the next page of the same document, Government's Exhibit 3. See that, the second page in there? You can pull it out of the plastic sheet.

Did you also view that second page before you came to court today?

A. Today, you mean?

Q. Yes.

A. Yes.

Q. Whose handwriting is that?

A. Tim's, also.

--- --- -, -----
Jennifer McVeigh - Direct

Q. And do you see an envelope there attached to that letter?

A. Yes.

Q. Have you determined whose handwriting that is on the front of Government's Exhibit 3, the envelope?

A. That's also Tim's.

Q. Now, could you turn to Government's Exhibit No. 4, which should be the next letter.

MS. WILKINSON: Your Honor, could I ask that these documents just be displayed on the attorney's screen so the defense knows what we're talking about?

THE COURT: Yes.

MS. WILKINSON: Thank you.

BY MS. WILKINSON:

Q. Ms. McVeigh, do you see Government's Exhibit No. 4?

A. Yes.

Q. Have you reviewed that prior to coming to court today?

A. Yes.

Q. And is that also a letter to Steve?

A. Yes.

Q. Do you recognize the handwriting in that letter?

A. Yes.

Q. And have you reviewed all the pages, page 2 -- if you could

take that out and take a look at it -- page 3. Have you reviewed that?

A. Yes.

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Q. Do you recognize the handwriting on all three pages?

A. Yes.

Q. Whose handwriting is that?

A. It's Tim's.

Q. Do you see the envelope there attached to the Government's Exhibit 4?

A. Yes.

Q. And can you recognize the handwriting on that envelope?

A. It's also Tim's.

Q. Are you talking about the printing that is for the addressee there right in the middle of the envelope?

A. Yes.

Q. Now, could you turn to Government's Exhibit No. 5. Did you

review that letter before you came to court today?

A. Yes, I did.

Q. It has quite a few pages, doesn't it?

A. Yes, it does.

Q. Did you review all of those pages?

A. Yes.

Q. And did you recognize all the handwriting on the pages and the handwritten notes on the attachments?

A. Yes, I did.
Q. And whose handwriting was that?
A. It's Tim's.
Q. Now, I'm going to show you on your screen -- and you can

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also look at the original -- Government's Exhibit 14B, which has previously been admitted into evidence.

MS. WILKINSON: If we could publish that to the jury, your Honor?

THE COURT: All right.

BY MS. WILKINSON:

Q. Do you see that?
A. Yes.
Q. Paulsen's Military Supply card?
A. Yes.
Q. Now, could you turn over that card?

THE COURTROOM DEPUTY: Your Honor, I don't have 14B as an admitted exhibit.

THE COURT: Well, the clerk says it isn't admitted, but I remember it being admitted.

MS. WILKINSON: This is just another copy of 418, your Honor. I'll move 418B into evidence.

THE COURT: You said 14B. I think --

MS. WILKINSON: I apologize. I meant 418B.

THE COURTROOM DEPUTY: Okay.

THE COURT: Yes. 418 is the correct designation.

MS. WILKINSON: Could I go back to the front, your Honor, just because it wasn't displayed to the jury?

THE COURT: Yes.

BY MS. WILKINSON:

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Q. Ms. McVeigh, I'm going to go back to the front of the exhibit. This is the card we've been talking about, Paulsen's Military -- is that correct?

A. Yes.

Q. Now, turning it over to the back. Do you see the card there?

A. Yes.

Q. Can you take your -- have you reviewed this card before you came to court today?

A. Yes, I did.

Q. Have you identified some of the handwriting on this card?

A. Yes, I did.

Q. Can you take your pen up there and circle for the jury the handwriting that you recognize? Start at the top, please.

And could you read that into the record?

A. It says, "TNT," then it has a little A with a circle, "5/stick, needs more," underlined.

Q. Okay. And whose handwriting is that?

A. Tim's.

Q. And is there any other handwriting on this card that you recognize?

A. Yes. At the bottom.

Q. Could you circle that, please.

Would you read that into the record.

A. It says, "Call after 1st of May. See if I can get some

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more."

Q. And whose handwriting is that?

A. That's also Tim's.

Q. Could you erase your markings there.

Can you find Government's Exhibit 447 --

A. Yes, I have it.

Q. -- in front of you.

And this has been previously entered into evidence, if

I can get it to come up here. There we go.

Did you review that document prior to coming to court today?

A. Yes, I did.

Q. And do you recognize the handwriting on that?

A. Yes.

Q. Can you see that on your screen clearly as well as on the original?

A. I can see it on the screen, but it's better on the original.

Q. Okay. Can you circle for the jury with a pen the handwriting that you recognize, or do you recognize all the handwriting on there?

A. Actually, all the handwriting.

Q. Okay. Can you read that into the record, please.

A. It says, "Not abandoned," underline. "Please do not tow. Will move by April 23," and in parenthesis, "(needs battery and

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cable)."

Q. Whose handwriting is that on Government's Exhibit 447?

A. It's Tim's handwriting.

Q. Please take a look at Government's Exhibit 451, which has also been entered into evidence. Do you recognize the handwriting on that document?

A. Yes.

Q. Do you also recognize that quote?

A. Yes, I do.

Q. Have you seen it before?

A. Yes, I have.

Q. Where have you seen it?

Q. Where have you seen it.

A. Tim has sent me some political literature that had this quote handwritten on it.

Q. And is this Tim's handwriting here on Government's Exhibit 451?

A. Yes, it is.

Q. Could you go to Government's Exhibit 454, please.

Did you review that before you came to court today?

A. Yes, I did.

Q. And do you recognize some of the hand printing on Government's Exhibit 454?

A. Yes.

Q. Could you take your pen and circle for the jury those marks that you recognize.

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Please read that into the record.

A. "Maybe now," comma, "there will be liberty."

Q. Whose handwriting is that?

A. That's also Tim's.

Q. Turn to your next document, which is Government's Exhibit 456, also previously admitted into evidence. Could you clear your screen for me.

Do you see that document in front of you and on your screen?

A. Yes.

Q. And do you recognize some of the handwriting on this document?

A. Yes.

Q. Which portion of the document do you recognize the handwriting?

A. The same quote.

Q. The John Locke quote there in the middle of the document?

A. Yes.

Q. And is that all Timothy McVeigh's handwriting?

A. Yes, it is.

Q. Do you have Government's Exhibit 461 in front of you?

A. Yes.

Q. Have you seen that before?

A. Yes.

Q. Where have you seen that?

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A. Tim sent this to me, a page like this. And I've also seen it on other documents I've been shown. Same quote.

Q. All right. And it's that same quote that you've identified earlier?

A. Yes.

Q. Is that also Tim's handwriting?

A. Yes, it is.

Q. Let's move on to Government's Exhibit 462. This has

previously been admitted into evidence, and it's a copy of the Declaration of Independence. Do you recognize that?

A. Yes, I do.

Q. Let's turn it over to 462 to the back side. Do you see that handwriting? Let me try and bring it up a little bit.

Can you see it better now?

A. Yes.

Q. Do you recognize that handwriting?

A. Yes, I do.

Q. Could you read it into the record, please.

A. "Obey the Constitution of the United States and we won't shoot you."

Q. Who wrote that, Ms. McVeigh?

A. It's Tim handwriting.

Q. Could you please pick up Government's Exhibit 464, which has also previously been entered into evidence.

MS. WILKINSON: I'm sorry, your Honor. 464 has not

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been in evidence. It's a similar document, but this version has not.

You know what, your Honor, I can just skip that one. We don't need that one. We'll move on.

THE COURT: All right.

BY MS. WILKINSON:

Q. Can you turn to Government's Exhibit 21? Do you have that?

Or have you run out of exhibits up there?

A. I've run out.

MS. WILKINSON: Let me hand up some more.

BY MS. WILKINSON:

Q. Now, those are in numerical order for you, Ms. McVeigh, so I'll call out the number and if you could just pull it out, lowest number at the top.

Look for Government's Exhibit 21. It might help if you pull them all out of that envelope and you'll be able to see the exhibit stickers a little bit easier.

A. Okay. I have it.

MS. WILKINSON: Your Honor, may I publish this to the jury?

THE COURTROOM DEPUTY: It's admitted.

THE COURT: 21 is admitted, yeah.

MS. WILKINSON: Thank you.

BY MS. WILKINSON:

Q. Ms. McVeigh, did you review this document before you came

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to court today?

A. Yes, I did.

Q. Let me see if I can again bring up a closer version.

Can you see the handwriting there?

A. Yes.

Q. Did you identify that handwriting?

A. Yes, I did.

Q. What does it say? Can you read it?

MR. NIGH: Your Honor, I'm going to interpose an objection to identification and reference of this series of exhibits under 402 and 403.

THE COURT: Overruled.

You may answer.

BY MS. WILKINSON:

Q. Why don't you start -- instead of reading it, why don't you

circle with your pen again the portion that you recognize.

Okay. Now, can you read that into the record, please.

A. It says, "Homemade C-4 --" I can't read the next word, and it says " -- book."

Q. Whose handwriting is that, Ms. McVeigh?

A. It's Tim's.

Q. Can you erase your markings there on the screen, please.

The next exhibit is Government's Exhibit 23, which has previously been admitted into evidence. It's a money order. Do you see that?

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A. Yes.

Q. Can you recognize the handwriting on this document?

A. Yes.

Q. Can you circle those portions which you recognize.

Starting on the left side, could you read to the jury the portions that you recognize.

A. It says, something "Press, P.O. Box 1307, Boulder, Colorado, 80306." I don't know what the bottom word is. "Tim McVeigh, 42 --" some number "-- 5 Miller Road, No. 146, Flint, MI, 48507."

Q. Whose handwriting is that?

A. That's Tim's, also.

Q. Now go on to Government's Exhibit 24. It has been previously admitted into evidence. Do you recognize that?

A. Yes.

Q. Do you recognize a portion of it?

A. Yes.

Q. Tell me which portion of the document you recognize.

A. Tell you?

Q. Tell me first, and then I'll enhance it for you so we can get a close-up.

A. The signature. It's kind of a scrawl.

Q. Let me see if I can get that. Is that it? Let me try one

more time.

Can you circle for the jury what you -- the

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handwriting that you recognize.

A. All of it, or just the signature?

Q. All of it -- whichever you recognize.

Okay. Let's start there with the top line you recognize, the customer's signature. Whose signature is that?

A. That's Tim's signature.

Q. Now, do you consider that hand printing, or cursive, or a combination of both, or just his unique signature?

A. That's just his signature, yeah.

Q. Because you told us normally he doesn't use cursive writing, or you're not familiar with this cursive writing. Is that true?

A. Yeah.

Q. But you are familiar with this signature?

A. Yes.

MR. NIGH: I'm going to object as leading.

THE COURT: Overruled.

BY MS. WILKINSON:

Q. Go ahead and read the rest that you recognize, please.

A. Okay. "Timothy J. McVeigh, 6592 Dysinger,"
D-Y-S-I-N-G-E-R, "Road, No. 17, Lockport, New York, 14094,
N/A,
friend."

Q. Now, I -- I'm going to ask you to look at Government's Exhibit 26B, which has not been introduced into evidence. Do you find that there up on your series of exhibits?

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A. Yes.

Q. All right. That's also another long letter, isn't it?

A. Yes.

Q. Who is the letter addressed to?

A. Gwenn.

Q. Did you review that letter to Gwenn before you came to court today?

A. Yes, I did.

Q. Did you review all the pages?

A. Yes.

Q. And the attachments?

A. Yes.

Q. And did you recognize -- and the envelope? Excuse me.

Did

you also review the envelope?

A. Yes.

Q. And did you recognize all the handwriting on the -- in the letter, on the attachments and on the envelope?

A. Yes.

Q. Whose handwriting is that on the letter to Gwenn?

A. Tim's.

Q. Now, the next exhibit I want you to take a look at is 195.

MS. WILKINSON: Your Honor, this has not been admitted

into evidence.

BY MS. WILKINSON:

Q. Do you recognize some of the handwriting on this document,

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Ms. McVeigh?

A. Yes, I do.

Q. Do you recognize all the handwriting?

A. Yes.

Q. And whose handwriting is it on the front of Government's Exhibit 195?

A. Tim's.

Q. Now, could you move on to Government's Exhibit 211.

MS. WILKINSON: I believe this was moved into evidence this morning, your Honor.

No, I'm sorry, your Honor. I'm wrong. This is also not in evidence.

BY MS. WILKINSON:

Q. Ms. McVeigh, did you examine this document? Do you see it?

Government's Exhibit 211?

A. Yes.

Q. Do you recognize the handwriting on that?

A. Some of it.

Q. Okay. On which side of the document do you recognize the handwriting?

A. On the left side.

Q. And there is also handwriting going down the right side. Is that correct?

A. Yes.

Q. And you don't recognize that handwriting. Am I right?

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A. That, or the number at the bottom, where it says, "Amount paid."

Q. Just referring to the handwriting on the left that starts with "name" and "street," can you tell us whose handwriting that is?

A. That's Tim's.

Q. Next, pick up Government's Exhibit 226, please.

That's also not in evidence, so don't describe the document in detail, Ms. McVeigh.

Do you see Government's Exhibit 226?

A. Yes.

Q. Do you recognize some of the handwriting on that document?

A. Yes.

Q. Which portion of the document contains handwriting that you recognize?

A. The top.

Q. Okay. Would it be everything above the statement that

says, "Please pay in advance"?

A. Yes.

Q. And whose handwriting is that at the top half of this document?

A. Tim's.

Q. Please turn to Government's Exhibit 227, also not in evidence yet.

Do you recognize the handwriting on this document?

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A. Yes.

Q. All of it?

A. No.

Q. Okay. Describe for us what portion of the document contains handwriting which you recognize.

A. The top left.

Q. Okay. Again, where it says name and address, those items?

A. Yes.

Q. And whose handwriting is that on those -- that portion of the left side of the document?

A. That's also Tim's.

Q. Now, if we could move on to Government's Exhibit 260, which

is also not yet entered into evidence.

See 260?

All right. Take a look at that for a moment.

Now, there is handwriting on the left side of that document and on the right side of that document. Do you recognize all the handwriting, or only certain handwriting?

A. Only the writing on the left.

Q. Okay. That starts with "first name"?

A. Yes.

Q. Whose handwriting is that on the left side of the document?

A. That's Tim's.

Q. Please pick up Government's Exhibit 294 and take a look at that.

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MS. WILKINSON: Again, this isn't in evidence, your

Honor.

BY MS. WILKINSON:

Q. See that?

A. Uh-huh.

Q. Okay. Now, tell us if you can recognize all the handwriting on that document.

A. Only the top again.

Q. Okay. Again, the portion that says "name" and "city," going on down to that dark heavy line. Is that right?

A. Yes.

Q. Referring to the top portion of Government's Exhibit 294, whose handwriting is that?

A. Tim's.

Q. Now, see if you can find Government's Exhibit 423. This isn't in evidence yet. And I'm going to direct your attention to the signature. Do you see that there?

A. Yes.

Q. Down at the bottom?

A. Yes.

Q. Do you recognize that signature?

A. It looks like Tim's.

Q. And does it -- what type of signature is it? Is it like the one that you described for us earlier?

A. Yeah. It's his original signature.

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Q. Now, find Government's Exhibit 482, would you, please.

A. I have it.

Q. Have you reviewed Government's Exhibit 482 before you came to court today?

A. Yes, I have.

Q. Okay. Now, again, this isn't in evidence; but can you tell

us if you recognize the handwriting on this document?

A. Yes.

Q. Do you recognize --

A. It's Tim.

Q. It's Tim's? Is the handwriting on both sides his handwriting, meaning on the right side and the left side of the document?

A. Yes.

Q. If you could find Government's Exhibit 492 and also examine that, please. It's not in evidence, so don't refer to what the actual document is.

A. Okay.

Q. But tell me if you recognize the handwriting on that document.

A. Yes, I do.

Q. And is all the handwriting, both that on the right and on the left, handwriting you recognize?

A. Yes.

Q. Whose handwriting is it?

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A. Tim's.

Q. Now, look at 494. See that envelope?

A. Yes.

Q. Also not in evidence yet.

Let me focus -- whoops. Let's see if I can get it.

See that handwriting in the upper left-hand corner?

A. Yes.

... 100.

Q. Do you recognize that handwriting?

A. Yes.

Q. Whose handwriting is that on the upper left-hand corner of Government's Exhibit 494?

A. That's Tim's handwriting.

Q. Now, I'd like to direct your attention to Government's Exhibit 1283. Do you see that check?

A. Yes.

Q. Turn it over to the back, please. And do you recognize any of the handwriting on this document?

A. The signature at the top looks like Tim's.

Q. There is another check marked Government's Exhibit 1284. Do you see that?

A. Yes.

Q. Turn that over on the back, also, please. Do you recognize the signature on that check?

A. Yes.

Q. Whose signature is it?

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A. Tim's.

Q. And the next exhibit is the next one -- next in numerical order, 1285?

MR. NIGH: Your Honor, I'm sorry. Can we go back to 1284 for a moment? There appear to be two signatures on the back of that check.

THE COURT: Yes. Let's go back.

MS. WILKINSON: Okay.

BY MS. WILKINSON:

Q. Ms. McVeigh, do you see 1284 on the screen? I'm going to try and enlarge it there. Do you see it?

A. Yes.

Q. There is one signature at the top. Do you see that?

A. Yes.

Q. Whose signature is that?

A. The one at the top is Tim's.

Q. Then the next words there -- do you recognize those?

A. Yes.

Q. Who do you believe wrote those three words there?

A. Tim.

Q. And then the next signature after that: Do you recognize that signature?

A. No.

MS. WILKINSON: Is that clear, your Honor?

MR. NIGH: Thank you, your Honor.

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THE COURT: Yes. All right.

BY MS. WILKINSON:

Q. Now let's go back to 1285.

Hold on. I'll clear the screen for you.

Do you see that?

A. Yes.

Q. That's a check that's not yet been moved into evidence.

Do

you recognize any of the handwriting on that?

A. Some of it.

Q. What portion of the handwriting do you recognize?

A. Read the parts, or --

Q. Just tell me where it is and then I'll put it up on the screen so the defense and everyone can see it.

A. The date, "pay to the order of."

Q. What about the signature?

A. And the signature.

Q. Okay. Do you see Government's Exhibit 1286 up there?

A. Yes.

Q. And do you recognize the signature on this document, this receipt?

A. That looks like Tim's.

Q. Now, 1286 also contains several writings. Do you see those, log sheet type of things?

A. Yes.

Q. Do you recognize some of the handwriting on those?

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A. It all looks like Tim's.

Q. All of it on the whole front of the document?

A. Yes.

Q. Okay.

A. Except for that little scribble.

Q. Okay. And the signature there, see, going down the middle of the document: Does that look like his signature?

A. Yes.

Q. Now please go on to Government's Exhibit 249. Do you see that check, which is also not yet in evidence?

Find it?

A. I'm still looking.

MS. WILKINSON: I'm sorry. It is in evidence, your Honor, if I could publish it for the jury.

THE COURT: 249, this is?

MS. WILKINSON: Yes.

THE COURT: All right. Yes.

MS. WILKINSON: Check to Mr. McVeigh.

THE WITNESS: Here it is.

BY MS. WILKINSON:

Q. See that?

A. Yes.

Q. See the front? Turn it over to the back, please. Do you see the signature there and the "for deposit only"?

A. Yes.

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Q. Do you recognize that?

A. That looks like Tim's.

Q. His handwriting?

A. Yes.

Q. Could you circle that on the exhibit, or on the computer, please.

MS. WILKINSON: Your Honor, so we have a record of this, could we ask that it be printed?

THE COURT: Yes.

MS. WILKINSON: Thank you.

BY MS. WILKINSON:

Q. Ms. McVeigh, please look for Government's Exhibit 1287, which is not yet in evidence.

Did you see that document before you came to court today?

A. Yes, I did.

Q. Do you recognize -- let me enhance it for you -- some of the handwriting on this document?

A. Yes.

Q. What do you recognize?

A. Everything except the signature.

Q. And why can't you recognize the signature?

A. I've never seen Tim write in cursive.

Q. Could you circle those portions that you recognize?

MS. WILKINSON: Your Honor, could we print that, and

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we'll mark it as 1287A for identification purposes?

THE COURT: All right.

THE COURTROOM DEPUTY: Can you hold just one minute?

MS. WILKINSON: Sure.

THE COURTROOM DEPUTY: That's fine.

BY MS. WILKINSON:

Q. Ms. McVeigh, we only have three more documents for you to look at.

A. That's good.

Q. See if you can find Government's Exhibit 27.

A. I have it.

Q. Do you see it?

A. Uh-huh.

Q. It's not in evidence yet, but do you recognize the handwriting there in the middle of the document?

A. Yes.

Q. Whose handwriting is that?

A. It's Tim's.

Q. And do you recognize that quotation?

A. Yes. It's the same John Locke quote.

Q. Now, turn to Government's Exhibit 169, please.

Did you review this document before you came to court today?

A. Yes, I did.

Q. Have you identified some of the handwriting?

Jennifer McVeigh - Direct

A. Yes.

Q. Do you recognize all of the handwriting on the front of this document?

A. Yes.

Q. Whose handwriting is it?

A. It's Tim's.

Q. And finally, if you could look at Government's Exhibit 170, which is not yet in evidence.

Do you recognize any of the handwriting on that document?

A. The signature looks like Tim's.

Q. Let me see if I can enhance it for you here on the screen.

Is that it there down at the bottom left-hand corner?

A. Yes.

Q. Could you circle that on your screen, please.

MS. WILKINSON: Your Honor, could we have that printed and marked as 170A for identification?

THE COURT: All right.

BY MS. WILKINSON:

Q. Okay. You can put down the exhibits for a while, go back to some of the questions.

You told us that your brother wrote to you while he was in the Army and after he left the Army; is that right?

A. That's right.

Q. Did he live at home for a while after he was out of the

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Army?

A. Yeah, he did.

Q. And did there come a time when he moved out of your home and moved into an apartment in the nearby area?

A. Yes.

Q. Did he continue to write you notes during that time?

A. Not while he lived in the apartment.

Q. Once -- did there come a time when he left the New York area altogether?

A. Yes.

Q. Do you know where he went?

A. No, I don't.

Q. Did he tell you where he was going?

A. No.

Q. Did he tell you what he was doing?

A. No.

Q. Did he give you an address where you could contact him?

A. Yes. He gave me two addresses.

Q. What addresses did he give you?

A. A P.O. box in Arizona, and one was Stockton Hill Road.

Q. Did he ever give you an address in Michigan?

A. I don't think so.

Q. And were you able to send him letters at those addresses?

A. Yes.

Q. Did he also call you when he was out at those addresses and

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in other locations outside of the Buffalo area?

A. Occasionally.

Q. Now, when he sent you letters after he left New York, was that in approximately 1992? Do you recall?

A. Could you ask that again?

Q. Do you recall when he left the New York area and went on the road and gave you these other addresses?

A. Not exactly.

Q. Was he gone from the New York area in 1993?

A. Yes, I think he was.

Q. Did he come home for short visits during that time period?

A. Yes.

Q. When he was away and he was sending you letters, did he send you anything else with those letters?

A. He would send political literature.

Q. What type of political literature?

A. Things from various magazines, like underground magazines, things -- not common magazines.

Q. And generally, what were the topics of the articles and the

political literature that he sent you -- just generally?

A. Gun control, Ruby Ridge, Waco, constitutional things.

Q. Did he ever make any markings on those documents that he sent you with the letters?

A. Yes. He would highlight.

Q. And how would he highlight the documents?

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A. I'm -- what do you mean "how"?

Q. Well, would he highlight the entire document? Would he highlight portions of it?

A. Some things, he highlighted a lot. I think he highlighted what he thought was important.

Q. And did he ever discuss with you during your telephone calls or his visits that literature that he had been sending you?

A. Yeah.

Q. Did he inquire whether you had been reading the literature?

A. Yes.

Q. And did he ever discuss with you books that he had been reading or books he wanted you to read?

A. Yes.

Q. What books did he discuss with you?

A. He discussed The Turner Diaries.

Q. Do you see Government's Exhibit No. 1 up there, a copy of The Turner Diaries?

A. Yes.

Q. That's been admitted into evidence, so you can hold it up. Is that the book that you're referring to?

A. Yes.

Q. And tell us what you and your brother discussed about The Turner Diaries.

A. In a letter, he had told me to -- I think he had sent me

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the book, and he told me to read the back cover first; and he kind of put a little quote, "and he saw," which I believe is how the back cover started.

Q. Did you read the book?

A. Yes, I did.

Q. In its entirety?

A. Yes.

Q. And did there ever come a time when you actually talked to your brother face to face about the book? Did you ever discuss

the contents of the book?

A. I don't think so.

Q. Now, when your brother was away, did he tell you how he made a living?

A. No.

Q. You don't have any idea how he earned money to take care of himself?

A. I think he worked -- he worked gun shows. I know he worked

gun shows, and at one time I know he was employed -- something stocking things or --

Q. Now, when he was out on the road, did he ever tell you about any of his friends or persons that he kept in contact with?

A. He mentioned Mike, Lori, Terry.

Q. At that time, did you know their last names?

A. No.

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Q. Did you later come to learn their last names?

A. Yes.

Q. And who are Mike and Lori?

A. Mike Fortier. I don't know if that's how you pronounce it.

Lori Fortier.

MR. NIGH: I'm going to object unless it can be established how she came to learn this.

MS. WILKINSON: We are going to introduce a letter, your Honor, that has the last names.

THE COURT: Well, I think it ought to be clear, though, what she's testifying from, her recollection, or conversation, or what and when.

MS. WILKINSON: Sure

MS. WILKINSON: Sure.

BY MS. WILKINSON:

Q. Did there come a time when you received a letter from your brother about contacting Michael and Lori Fortier?

A. Yes.

Q. And in that letter, did he tell you their last names?

A. Yes.

Q. Now, you were never informed of Terry's last name; is that correct?

A. I don't think so.

Q. Did he ever mention to you the phrase "network of friends"?

A. Yes.

Q. When did he tell you about network of friends?

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A. I believe it was in a letter.

Q. And in what context was he telling you about his network of friends?

A. I think he meant he had people he knew around the country who he could rely on.

Q. And did he mention the people you just named: Terry, Lori, and Mike?

A. Yes.

Q. Did there come a time when your brother was corresponding to you when he wrote to you about the events at Waco? Did you ever receive any letters from him about Waco?

A. I know I received political literature.

Q. Do you recall whether you received any handwritten letters from him about Waco?

A. Not really.

Q. Okay. Did you ever have any conversations with him about Waco?

A. Yes.

Q. Okay. I want to turn your attention to the fall of 1994. Did your grandfather pass away sometime during the fall of 1994?

A. Yes.

Q. And do you recall the date?

A. October 16.

Q. And was your brother home in New York at that time?

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A. No, he wasn't.

Q. Did you or your father attempt to contact him?

A. My father tried to get a hold of him, but he couldn't reach him.

Q. And did there come a time when your brother returned home after your grandfather's funeral?

A. Yes.

--- ----

Q. And when was that?

A. I'd say early November, '94.

Q. And do you recall how long he stayed home?

A. About a month.

Q. And during that time, did you have a series of conversations with him?

A. Yes.

Q. And during those conversations, did you discuss his views on Waco?

A. Yes.

Q. Did you discuss his views on other political events?

A. Yes.

Q. Tell the jury about a time when you watched a videotape of Waco with your brother. Where were you?

A. We watched in our living room at my father's house.

Q. And do you recall what time of day it was?

A. No, I don't.

Q. Who was there?

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A. Just Tim and I.

Q. And what did the video depict?

A. It was called "Day 51." It was about -- it depicted the government raiding the compound, and it implied that the government gassed and burned the people inside intentionally and attacked the people.

Q. After you watched the videotape, did you have a conversation with him about Waco and what the videotape depicted?

A. I think while we were watching it, yes.

Q. And were you also familiar with your brother's views based on the documents that he had sent you?

A. Yes.

Q. Based on those conversations and the documents, what did you understand your brother to believe about the -- what occurred at Waco?

A. He was very angry. I think he thought the government murdered the people there, basically gassed and burned them.

Q. And did he tell you who he thought was responsible for that? Which agency?

A. ATF, FBI, whoever was involved in it, the ones involved in it.

Q. Did he tell you what he thought should have happened to those agents that he believed were responsible?

A. I think he felt that someone should be held accountable.

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Q. And did he believe that the government would hold those agents accountable?

A. No.

Q. Did he tell you whether he believed that it was justified for citizens to hold those agents accountable?

MR. NIGH: I'm going to object as to the leading.

THE COURT: Sustained.

MS. WILKINSON: I'll rephrase it.

BY MS. WILKINSON:

Q. What did he tell you about who could hold those agents accountable?

MR. NIGH: I'm going to object as assuming that he told her anything about it, your Honor.

THE COURT: Overruled.

THE WITNESS: I'd say based on the literature -- I don't know that he told me, but based --

THE COURT: Well, the question is what did he tell you.

THE WITNESS: Okay. I can't be sure.

BY MS. WILKINSON:

Q. Now, during this same November time period, November-December time period when your brother was home, did he use your word processor?

A. Yes, he did.

Q. What type of word processor do you have?

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A. It's a Brother word processor.

Q. And how do you know that he used it?

A. I was there when he was typing a letter to the American Legion on it.

Q. Did you see the letter that he drafted?

A. Yes.

Q. Did you read it while he was writing it, or after he completed it?

A. Yes.

Q. And do you know whether he sent it to the American Legion?

A. Yeah. He did, I think.

Q. Let me turn your attention -- if you can find Government's Exhibit No. 8.

MS. WILKINSON: Your Honor, I just need a moment to find it on the computer.

THE COURT: All right.

MS. WILKINSON: Excuse me for a moment, your Honor.

Your Honor, could I retrieve the original? We don't have it in the computer, and I could show it on the ELMO. Excuse me.

THE COURT: All right.

MS. WILKINSON: I don't know how it worked, your Honor, but it's on the screen now, Government's Exhibit No. 8.

BY MS. WILKINSON:

Q. Do you see that on the screen?

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THE COURT: Well, it isn't on the jury's screen.

MS. WILKINSON: No. It shouldn't be. It's not

moved

into evidence yet.

BY MS. WILKINSON:

Q. Do you see Government's Exhibit No. 8?

A. Yes.

Q. And could you read that to yourself and see if you recognize that document.

A. Yes, I do.

Q. Is that the letter that your brother wrote to the American Legion?

A. Yes.

MS. WILKINSON: Your Honor, we offer Government's Exhibit No. 8.

MR. NIGH: Your Honor, I object under Rules 402, 403 and 404(b).

THE COURT: Be specific. I don't know how you're citing these rules.

What's the specific objection?

MR. NIGH: Relevance, and then prejudice under 403; and 404(b) --

THE COURT: Well, do you have any objection to the source?

MR. NIGH: No.

THE COURT: All right. Those other objections are

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overruled. 8 is received.

MS. WILKINSON: May we publish, your Honor?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Ms. McVeigh, can you read this letter in its entirety into the record.

A. "Constitutional Defenders. We members of the citizen's militias do not bear our arms to overthrow the Constitution, but to overthrow those who PERVERT the Constitution; if and when they once again, draw first blood (many believe the Waco incident was 'first blood').

"Many of our members are veterans who still hold true to their sworn oath to defend the Constitution against ALL enemies, foreign AND DOMESTIC. As John Locke once wrote 'I have no reason to suppose that he who would take away my liberty, would not, when he had me in his power, take away everything else; and therefore, it is lawful for me to treat him as one who has put himself into a "state of war" against me, and kill him if I can, for to that hazard does he justly expose himself, whoever introduces a state of war, and is aggressor in it.'

"The (B)ATF are one such fascist federal group who are infamous for depriving Americans of their liberties, as well as other Constitutionally-guaranteed and INALIENABLE rights, such as one's right to self defense and one's very LIFE. One need

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only look at such incidences as Randy Weaver, Gordon Kahl, Waco, Donald Scott --" it says "(et ILL)" -- those are capital letters "-- to see that not only are the ATF a bunch of fascist tyrants, but their counterparts at the USMS," comma, "FBI, and DEA (to name a few), are, as well.

"Citizen's militias will hopefully ensure that violations of the Constitution by these power-hungry stormtroopers of the federal government will not succeed again.

After all, who else would come to the rescue of those innocent women and children at Waco?!? Surely not the local sheriff or the state police! Nor the Army - whom are used overseas to 'restore democracy', while at home, are used to DESTROY it (in full violation of the Posse Comitatus Act), at places like Waco.

"One last question that every American should ask themselves: Did not the British also keep track of the locations of munitions stored by the colonists; just as the ATF has admitted to doing? Why???....Does anyone even STUDY history anymore???"

Q. And after you saw this letter that your brother wrote to the American Legion, Government's Exhibit No. 8, did you discuss it with him?

A. His sentence structure.

Q. Did you make some corrections for him?

A. I tried.

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Q. So you're sure this is the same letter that he wrote on the computer back in November of 1994; correct?

A. Yes.

Q. All right. During the time he was home in November-December of 1994, did you have a conversation with him about explosives?

A. Yes, I did.

Q. Do you recall when that was?

A. Sometime in November, '94.

Q. Do you remember where you were when you talked to him about explosives?

A. We were in his car.

Q. What type of car did your brother have at that time?

A. It was a silver Chevy turbo.

Q. Okay. And did he have that the entire time he was home with you and your dad in November-December of 1994?

A. Yes, he did.

Q. And was anyone else in the car with you other than you and your brother?

A. No.

Q. Tell us how the conversation began.

A. I think we were talking about like traffic jokes, near accident jokes, things like that. And Tim brought up -- do you

want me to tell the whole conversation?

Q. Sure.

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A. A time when he was traveling with explosives and nearly got

into an accident. That's basically how it went.

Q. All right. Let me ask you some specific questions: Did he

tell you if he was traveling alone or if he was traveling with someone else?

A. I can't remember.

Q. Did he tell you if there was one car or two cars?

A. I think there was more than one.

Q. Did he tell you that he was caravanning with someone else?

MR. NIGH: I object as leading.

THE COURT: Sustained.

BY MS. WILKINSON:

Q. Did he tell you whether there were one car -- that he was by himself in one car or whether there were two cars?

MR. NIGH: I believe she already answered that, your Honor.

THE COURT: Overruled.

You may answer.

THE WITNESS: Okay. I think there was two cars.

BY MS. WILKINSON:

Q. Did he tell you which car he was driving?

A. No.

Q. In other words, was he driving his own car, or was he driving some other car?

A. I don't -- I don't know.

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Q. Did he tell you what type of car the other vehicle was?

A. No.

Q. Did he tell you how much explosives he was carrying?

A. I really don't remember. He implied it was a large amount.

Q. Ms. McVeigh, after the bombing in Oklahoma City, you cooperated with the FBI and made sworn statements, didn't you?

A. Yes.

Q. And do you recall making a sworn statement on May 2?

A. Yes.

Q. And in that statement, did you tell agents of the FBI how much explosives your brother had told you he was carrying that day?

A. Yes, I did. In the statement, I have "up to a thousand pounds."

Q. Now, did he tell you how he almost got in an accident?
A. I think they were going downhill. There was a traffic light, couldn't stop in time, almost ran into each other or ran into something else. It's vague, but it was something like that.
Q. But he and the other vehicle did not get in an accident; is that correct?
A. That's true.
Q. Did he tell you why he was carrying a large quantity of explosives?
A. No.

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Q. Did he tell you what he was going to do or what he had -- excuse me -- what he had done with those explosives?
A. No.
Q. Did you ask him why he was carrying those explosives?
A. No.
Q. Why not?
A. I don't think I wanted to know.
Q. Did he ever mention explosives to you ever again?
A. No.
Q. Had you ever heard him discuss explosives before that time?
A. No.
Q. When he was home during that time, did he also discuss with you the use of aliases and disguises?
A. Yes.
Q. What did he tell you?

MR. NIGH: I object to this, your Honor, under Rule 402 and 403.

THE COURT: Overruled.

MR. NIGH: Relevance.

THE COURT: You may answer.

THE WITNESS: It was just in relation to a picture I had of him. It was his picture, actually. And he was dressed up like a biker; and I asked him what that was. And he replied one of his disguises.

BY MS. WILKINSON:

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Q. Could you describe for us what the picture showed? How was he dressed, exactly?
A. Just biker garb. I can't -- I couldn't tell you exactly.
Q. Did he tell you why he needed to use a disguise?
A. No.
Q. Did he ever tell you or are you aware of him ever using an alias, false name?

alias, false name:

A. Yes.

Q. And what name did he use?

A. Tim Tuttle.

Q. And how do you know that he used that false name?

A. He had written me a letter and asked me to send some political literature to a few other people. And next to each name, there was an address to send it to and then a return address. And some of the return addresses -- not some -- there

were only a few, but at least one of them had Tim Tuttle as a return address.

Q. So Tim Tuttle was a name he gave for you to use to send literature on his behalf. Is that correct?

A. Yes.

Q. On how many occasions did you do that?

A. I think I sent things for him about three times.

Q. When he was home in November-December of 1994, did you ever

discuss with him why he used a false name?

A. No.

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Q. Now, before he left -- well, let's go to that. Do you remember when he left home in 1994?

A. I think it was at the end of November, beginning of December.

Q. He wasn't -- he didn't spend Christmas with you and your father in 1994. Is that right?

A. No, he didn't.

Q. Do you recall before him leaving a conversation with him about leaving the propaganda stage?

A. Yes. At one point -- I'm not sure if it was in a letter or

conversation -- he indicated that he was not in the propaganda stage, which is like passing out papers; that he was now in the action stage.

Q. Did he explain what he meant when he said he was now in the action stage?

A. No.

Q. Did you ever ask him about that?

A. No.

Q. Now, once your brother left in December of 1994, did you ever see him again until after the bombing in Oklahoma City?

A. No.

Q. Did you keep in contact with him?

A. Yes. I received some letters.

Q. Okay. Did you have telephone conversations with him during

that time period from January to April of 1995?

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A. Maybe a couple.

Q. Let's start with January of 1995. Did he ask you to forward any packages or literature for him during that time period?

A. Yes. He had sent something to my house and -- do you want me to explain it?

Q. Sure. Go ahead.

A. And I don't know what it was, because I wasn't there. I was on vacation; so I had my friend Rose mail it for me. I think it was just a letter or something.

Q. Tell the jury who Rose is.

A. My best friend. Her name is Rose Woods.

Q. Where does she live?

A. She lives in Lockport, also.

Q. And while you were going to Florida in January, did you -- what did you have her do?

A. I had her mail the letter that he sent because she was taking care of my house for me, taking care of my cats.

Q. While you were in Florida -- I take it it was on vacation. Is that right?

A. Yes.

Q. Did your brother contact you to determine whether you had had that package forwarded?

A. I did -- yeah.

Q. And did you contact Rose to make sure she had mailed that

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package?

A. Yes.

Q. Now, did there come a time when your brother sent you some personal materials, or memorabilia that he had?

A. Yes.

Q. Do you recall when that was?

A. It was sometime early '95.

Q. Okay. Look on your screen and see if you see Government's Exhibit 16B, which has not yet been offered into evidence. Do you see that?

A. Yes.

Q. Do you recognize that?

A. Yes.

Q. Do you recognize the handwriting on that?

A. Yes.

Q. Whose handwriting is that?

A. Tim's.

Q. Who is that note addressed to?

A. Me.

MS. WILKINSON: Your Honor, we offer 16B.

MR. NIGH: No objection, your Honor.

THE COURT: 16B is received.

MS. WILKINSON: May we publish?

THE COURT: Yes.

BY MS. WILKINSON:

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Q. Ms. McVeigh, could you read that into the record, please.

A. It says, "Jennifer: Go ahead and read all the paperwork that is in the priority envelope here on top. It's not priority reading, so go" then "it whenever you have time. Save

it along with everything else in this box."

Q. Do you recall when you received that note from your brother?

A. It was sometime in early '95.

Q. Now look at Government's Exhibit 15, which I'm going to display for you, which is not yet in evidence. Do you recognize this note?

A. Yes.

Q. Whose handwriting is that?

A. Tim's.

Q. Who is the note addressed to?

A. Me.

Q. And do you recall when you received this note?

A. This was also in early '95.

MS. WILKINSON: Your Honor, we move in Government's Exhibit 15.

MR. NIGH: Same objections I previously made, your Honor.

THE COURT: All right. Overruled. 15 received.

BY MS. WILKINSON:

Q. All right, Ms. McVeigh. I'm going to try to enhance the

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top portion of the letter while you read it and then do the bottom, so bear with me here.

You see that top half of the letter?

A. Yes. Do I have that up here?

Q. You should have it. Will it be easier for you to read Government's Exhibit No. 15? You don't have it?

A. Well, probably somewhere.

Q. It should be -- go ahead. Take your time and look for it.

A. Okay. I have it.

Q. Do you see it?

A. Yes.

Q. Do you have the original up there?

A. Yeah.

Q. Okay. Could you read it for the jury, please.

A. It says, "Ok, Jenny, same thing -

"Read" all the "stuff in" the "envelope first, all else is reference/memorabilia.

"In case of 'alert,' contact Mike Fortier. Day --"

Do you want me to read the numbers?

Q. Yes, please.

A. "602-757-4018 (or Lori is trustworthy) Evening 692-9445. Let him know who you are & why you called."

Q. Okay. Stop right there. Could you read just a little

slower, Ms. McVeigh. Mr. Zuckerman has reminded me and others to slow down. He's trying to get every word you say, so just

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read a little bit slower.

Let me bring up the document again and see if I can enhance the bottom part and you can continue reading.

Go ahead.

A. Okay. "Note - Forgot to tell you on the phone -

"If you must call him, Jenny, this is serious, No being lazy -

"Use a pay phone, and take a roll of quarters with you!

"They will, w/out a doubt, be watching you and tapping

the phone - use a pay phone!

"Note: Read back cover of Turner Diaries before you begin."

Then it has a little "C" with a circle "1978, and he saw."

Q. Let me put it back up to the full screen here.

Is this the letter which you received in which you learned the last name of Mike and Lori?

A. I believe so.

Q. Now, did you ever contact Mike or Lori?

A. Did I ever?

Q. Did you ever --

A. No.

Q. -- follow through on these instructions?

A. No.

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Q. There was never any alert for you to contact them; is that correct?

A. No.

Q. Okay. Look at Government's Exhibit No. 14, which you should also have up there, the original. Do you see that?

A. Yes.

Q. Do you recognize that document?

A. Yes.

Q. And what is this?

A. It's a letter to me from Tim.

Q. Do you recognize the handwriting?

A. Yes.

Q. Is it your brother's handwriting?

A. Yes.

Q. And do you recall when you got this note from your brother?

A. Had to be early '95.

MS. WILKINSON: Your Honor, we offer or move into evidence Government's Exhibit 14.

MR. NIGH: Same objections, your Honor.

THE COURT: Overruled. 14 received.

THE COURT: Overlaid. It received.

MS. WILKINSON: May we publish?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Ms. McVeigh, I'm going to try it again. I've enhanced the top half. If you could read it slowly into the record for the

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jury.

A. "Jenny, Here's the originals back (yellow highlight) plus 2

new add-ons. Read the yellow-highlighted (double-sided) stuff, in page order.

"Pics enc. of Turbo. Boo-hoo, I loved that car.

(It still runs - the warrior!)

"Won't be back for . . ." dot dot dot "ever. Keep an eye out for P.I., (Private Investigators) - they will more likely be looking for me than cops - and remember - they could be anybody, and they don't follow the rules. Be especially careful at bars, etc., where they will try to get you to talk.

"A female friend was caught by one at a bar - another female who 'confided' in her, and got a lot of info in return).

"Tell Dad Hi.

"Seeya, Tim."

Q. I think you went faster than I enhanced it for the jury, but let's go back up to the top for a minute.

Okay. You see that first paragraph, where he's referring to "Here's the originals back (yellow highlights) plus 2 new add-ons"?

A. Yes.

Q. What did you understand him to mean when he said "(yellow highlights)"?

A. The highlighted literature.

Q. That's what you were telling us about earlier that he would

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mark certain portions of the documents that he wanted you to read with yellow highlighting?

A. Yes.

Q. Now go to the next paragraph, and you have "Pics enc. of Turbo. Boo-hoo, I loved that car."

What did you understand he was referring to there?

A. His silver car.

Q. Now, he tells you in here, does he not, that there is some other materials that he is sending you.

A. Yes.

Q. Let me show you Government's Exhibit No. 220, which is not

yet in evidence.

Do you recognize this photograph?

A. Yes.

Q. And that is a fair and accurate depiction of your brother's vehicle?

A. Yes.

MS. WILKINSON: Your Honor --

BY MS. WILKINSON:

Q. Did you receive this picture from your brother, Ms. McVeigh?

A. Yes.

MS. WILKINSON: We offer Government's Exhibit 220.

MR. NIGH: Your Honor, I'd make the same objections I previously made; and also, I believe the photograph contains

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matters other than the car.

THE COURT: I couldn't hear you.

MR. NIGH: I'm sorry, your Honor.

I make the same objections I previously made, plus I believe the photograph contains items other than the car.

THE COURT: Well, it does, but --

MS. WILKINSON: We're only offering it -- this is a photo she received from him, your Honor.

THE COURT: I understand that testimony.

When did you get this photograph?

THE WITNESS: It was early '95.

THE COURT: All right. Objection is overruled.

It's

being received only as a photograph she received and that she recognizes a car in.

MS. WILKINSON: Okay. May we publish it?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Now, let's focus on the car on the left hand, Ms. McVeigh -- do you see that on the left-hand side?

A. Yes.

Q. Is that the car that you recognize?

A. Yes.

Q. Whose car is that?

A. That's Tim's car.

Q. And there is some damage to that car; is that right?

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A. Yes.

Q. Was that the same car that he had back in 1994 when he was home with you and your father?

A. Yes.

Q. Was the car in that condition at that time?

A. No.

Q. There was no damage to the back of the car when he was

driving it around in November of 1994?

A. No.

Q. So was it your understanding from this letter and the second paragraph where he says "Pics enc. of the Turbo. Boo-hoo," that he had been involved with some accident, there was some damage to his car since he left you?

A. Yes.

Q. I'm going to show you the next photo, which is Government's

Exhibit No. 221. I think I'm going to.

Maybe not.

MS. WILKINSON: Your Honor, I'm having a bit of a difficulty again with the computer, if I could just have a moment.

THE COURT: Well, I think we'll recess and you can have a lot of moments.

MS. WILKINSON: Thank you.

THE COURT: We'll ask you back at 9:00 tomorrow morning. You're excused for the day.

THE WITNESS: Okay.

THE COURT: You can step out.

THE WITNESS: I can go? All right.

THE COURT: Members of the jury, we'll excuse you as well, of course, until 9:00 tomorrow morning, with the often repeated cautions -- and of course, they are important -- that you've heard a lot, you're going to hear a lot more. Keep open

minds, remembering that it isn't until you've heard all of the evidence in the case and indeed not just the evidence but the arguments and the instructions, all being a part of the trial; that until that point, you shouldn't even in your own minds think about what has or hasn't been proven or what the -- what you have heard means. Please be patient. Wait till you've heard it all.

And also, of course, during this and all recesses, continue to be very careful about the things that you read and watch on television or listen to on the radio, and of course stay away from anything at all that could relate not only to the trial but the issues being presented to you.

As I've told you before, it's not the -- the cautionary instructions go not just to whatever may be reported

about this trial that you're hearing or things related to it but also subject matter about the things that you've heard about here, like fingerprints, explosives and the rest.

As the trial goes on, of course and more information comes in, more evidence comes in. The scope of what you have to stay away from gets broader and wider, so I'm sure you'll recognize the importance of that.

And with that, you're excused till 9:00 tomorrow morning.

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

THE COURT: Announce recess.

(Recess at 5:00 p.m.)

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Exhibit	Offered	Received	Refused	Reserved	Withdrawn
3					
8	6997	6997			
14	7011	7011			
15	7008	7008			
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141	6877	6877			
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1290	6926	6926			

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REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated

at Denver, Colorado, this 5th day of May, 1997.

Paul Zuckerman

Bonnie Carpenter