

Friday, May 9, 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 88)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 1:45 p.m., on the 9th 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

PATRICK M. RYAN, United States Attorney for the
Western District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma City, Oklahoma, 73102, appearing for the plaintiff.

JOSEPH H. HARTZLER, LARRY A. MACKEY, BETH WILKINSON,
SCOTT MENDELOFF, JAMIE ORENSTEIN, AITAN GOELMAN, and VICKI
BEHENNA, Special Attorneys to the U.S. Attorney General, 1961
Stout Street, Suite 1200, Denver, Colorado, 80294, appearing
for the plaintiff.

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RAMSEY, Attorney at Law, Szlichta and Ramsey, 8 Main Place,
Post Office Box 1206, Stillwater, Oklahoma, 74076, appearing
for Defendant McVeigh.

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PROCEEDINGS

(In open court at 1:45 p.m.)

THE COURT: Be seated, please.

The jury.

(Jury in at 1:45 p.m.)

THE COURT: Next witness, please.

MR. JONES: Your Honor. I was just asked by Kathi to say that my Defense Exhibit No. 1 should be renumbered A1, and I move to admit it.

THE COURT: All right. We already received it as Defendant's 1, so it's just redesignated for the record.

Next witness.

MR. HARTZLER: Eldon Elliott. Mr. Mendeloff will question him.

THE COURT: Thank you.

(Eldon Elliott 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: Eldon Elliott, E-L-L-I-O-T-T.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mendeloff.

MR. MENDELOFF: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MENDELOFF:

Q. Where do you live, Mr. Elliott?

A. My home address is Milford, Kansas.

Q. Milford, Kansas. And is that near any larger town?

A. Next to Junction City, Kansas.

Q. Do you have a family?

A. Yes, I do.

Q. Tell us about your family.

A. I have two sons. One is 41 and one is 32. And I have a

Eldon Elliott - Direct

wife.

Q. Okay. Now, sir, what kind of business do you have?

A. I run a body shop and I have the Ryder truck rental agency there.

Q. All right. And do you have any other business?

A. I have a Montgomery Wards delivery service.

Q. All right. And any other business?

A. I have a snow-pushing business I do in the wintertime.

Q. All right. Anything else?

A. Yes, we have a business up in Estes Park.

Q. Up in Estes Park near Rocky Mountain National Park?

A. Yes, it is.

Q. And what's your business up in Estes Park?

A. It's a rack service, which is the brochures that people pick up in racks in restaurants or motels to see what's going on in that area. We keep them distributed and keep the racks

full.

Q. All right. And do you ever go to Estes Park to visit that business?

A. Yes, we do.

Q. I won't ask you what your favorite business is of all those businesses.

Sir, can you tell us specifically about your body shop and truck rental business. Where is that located?

A. That's located on Goldenbelt Boulevard, about a mile --

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just a little over a mile west of Junction City on the frontage road that runs parallel with I-70.

Q. So El -- what's it called? Excuse me.

A. Elliott's Body Shop.

Q. And Elliott's Body Shop is located on a frontage road?

A. Right.

Q. Let me ask you to look in that sheaf of papers in front of you for Government Exhibits 300 and 301. What are Government Exhibits 300 and 301?

A. Okay. 300 is -- looks like an air picture of my shop.

Q. Okay. And what's 301?

A. 301 is a picture taken of the body shop.

Q. All right. And let me ask you, do those pictures fairly and accurately reflect the way your business looked back in April of 1995?

A. I think so.

MR. MENDELOFF: We move the admission of those exhibits, your Honor.

MR. JONES: No objection.

THE COURT: They are received.

MR. MENDELOFF: May I publish them, Judge?

THE COURT: Yes. It's -- what are they again? 300.

MR. MENDELOFF: 300 and 301, your Honor.

THE COURT: 301, yes.

BY MR. MENDELOFF:

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Q. While we're waiting for this picture to come up on the screen, let me just ask you, Mr. El -- there we go. How many employees did you employ at your body shop back in 1995?

A. I believe it was about six.

Q. All right. Now, we're looking at Government Exhibit 300. Can you tell us what we're looking at?

A. Tell you about that?

Q. Yeah. Tell us about that.

A. Okay. This strip -- along the side there is the frontage road that goes there.

Q. Why don't you draw a line along that frontage road.

That's Goldenbelt Boulevard?

THAT'S GOLDENBELT BOULEVARD:

- A. Let's see. I'm figuring out how to do this.
- Q. Just press it and put it right on the screen there.
- A. No.
- Q. Having trouble?
- A. Having trouble.
- Q. All right. Let me try it a different way. See the area that's in yellow?
- A. Right.
- Q. What is that?
- A. The one down in the yellow on the little circle is the frontage road, which is Goldenbelt Boulevard.
- Q. Right. Okay. And let me ask you what's inside the circle there.

Eldon Elliott - Direct

- A. That's my body-shop building.
- Q. All right. And what businesses are incorporated in that body-shop building?
- A. It's where we do our -- our office is in the front corner, and we do our body-shop work and our painting in there.
- Q. All right. Let me ask you to look at Government Exhibit 301. What is that?
- A. That's a picture of the body shop.
- Q. All right. That's the whole building?
- A. Yes.
- Q. All right. Will you show us where the entry for the general public is.

It's not working. Are you putting the light pen right

on the surface of the screen?

- A. Bottom of the screen.
- Q. Let me try -- try our other approach. What is located within that circle?
- A. The door. The entry door going into the office.
- Q. And where is the portion of your business where customers are addressed to come in to rent trucks?
- A. Right in that door and right inside there.
- Q. All right. Now, what about the body-shop area where the workers on the various cars and vehicles that you work on work?
- Where is that?
- A. That's in the -- like in -- where the overhead door is

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there, the white door is in the front of the building, in through there.

- Q. All right. Right through the second circle I put up on there?
- A. Right. Right.
- Q. All right. And does the body shop reach around the corner to the back of the building, as well?
- A. Pardon?

Q. Does the body shop reach around the corner of the back of the building as well, or does the office go all the way to the back?

A. No. The office is just a small portion of it, and the rest of it's all body shop.

Q. All right. Thank you. I believe you testified that your business is located on a frontage road. What's the name of that frontage road?

A. Goldenbelt Boulevard.

Q. All right.

MR. MENDELOFF: Your Honor, I think we're going to want to switch to the ELMO now.

BY MR. MENDELOFF:

Q. Sir --

THE COURTROOM DEPUTY: Wait.

MR. MENDELOFF: I don't believe this next exhibit is in evidence yet, your Honor, so we need to -- all right.

Eldon Elliott - Direct

BY MR. MENDELOFF:

Q. Mr. Elliott, looking at your screen, can you tell us what we're looking at?

A. You're looking at the I -- the two big, wide lines is I-70 highway. The other line that comes up there is Goldenbelt Boulevard.

Q. All right. And does this fairly and accurately depict the way the street looked back in 1995?

A. I think so.

MR. MENDELOFF: I move the admission of Government Exhibit 391, your Honor.

MR. JONES: I don't have any objection, your Honor.

THE COURT: All right. Did you say 391?

MR. MENDELOFF: Yes, your Honor.

THE COURT: All right. Received. And you may publish it.

BY MR. MENDELOFF:

Q. Mr. Elliott, let me ask you, since your pointer isn't working there, what is located right in the bottom right-hand corner -- bottom left-hand corner of this photo?

A. That's where my driveway goes up -- the upper driveway goes in the body shop area.

Q. And Goldenbelt Boulevard street, is that what's running along here through the woods?

A. Yes, it is.

Eldon Elliott - Direct

Q. All right. What is located between the Goldenbelt -- your business along Goldenbelt Boulevard all the way to downtown?

A. About halfway from my place downtown, there's a house with

two different garages on it.

Q. Am I pointing to it right now?

A. You're pointing to it now.

Q. All right.

A. Then down towards town, there starts like an apartment complex and Sirloin Stockade and Country Kitchen, and then we have the Comfort Inn motel. And across the street from it is McDonald's.

Q. And the McDonald's is located right where I'm pointing with my finger here; is that right?

A. Yes.

Q. And what is the distance roughly from that area where the McDonald's is down to your store?

A. Just a little over a mile.

Q. Have you -- how long have you been in the truck rental business, sir?

A. A little over five years.

Q. And how long have you been with Ryder?

A. With Ryder?

Q. Yes.

A. That's how long I've been with them.

Q. The whole time you've been in business, you've been with

Eldon Elliott - Direct

Ryder?

A. No. I'm sorry. The truck rental, I've been about five years with Ryder with truck rental.

Q. Okay. And you haven't been with any other truck agency; Ryder the whole time?

A. No.

Q. Okay. Can you tell us, are there different phases in the process of renting a truck?

A. You mean like the one-ways or the -- we have one-ways, we have local rentals.

Q. All right. Why don't we focus first on the -- on the process of actually renting a truck.

A. Okay.

Q. How you rent a truck. Are there different steps in renting a truck?

A. Okay. If they come in for a quote or call for a quote, we give them a quote.

Q. All right. And what is a quote?

A. That's what we're get -- we get their name and get the size truck they want, whether they are going one way or whether they are going local.

Q. All right.

A. And -- and go down through it, and it gives the price of the truck. Then if they want a hand truck or furniture pads -

-

Q. All right.

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A. -- or a car dolly or car trailer to tow behind a truck.

Q. And what's the purpose of a quote?

A. So the -- they know how much it's going to cost them.

Q. All right. When a customer calls for a quote, does that lock in that price for any period of time?

A. We can hold that price in with a quote for 24 hours without having a reservation.

Q. All right. So calling -- a customer calls on the phone, arranges for a quote and that locks in the price for a 24-hour period?

A. Right.

Q. How do you lock in a price beyond that 24-hour period?

A. That's when we make a reservation where they put the \$80 deposit down. Then that locks the price in for however long that it needs to be until they pick the truck up.

Q. All right. Let me ask you to -- before we switch to the reservation stage, you mentioned one-way quotes and round trips. Can you tell us the difference.

A. Yes. A round trip is like a local truck. If they want to rent a truck for one day or two days, just to use it and bring it back to our location. A one-way is to go to the destination they are going to and drop it off.

Q. You mentioned that the next phase of the process was reservations.

A. Right.

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Q. What is that?

A. That's when they come in -- they put the reservations down, they come in and we change it from a -- the quote, take the deposit for the reservation, and then it's printed out as a reservation, just like what the quote was unless they want to make any changes.

Q. How long will a reservation reserve that truck for that customer?

A. However long they need it. Two months, three months, wherever -- whatever their time is that they want to put the reservation down for, it'll hold.

Q. All right. Now, what is the next phase in the process?

A. After the quotes would be when they come to pick the truck up for -- picking up the truck then would make the regular res -- the reservation goes out on it then.

Q. When you pick -- when the customer picks up the truck?

A. Right.

Q. Quote sets the price, reservation reserves the truck until the customer --

A. Picks the truck up, and then the regular paperwork goes out

300

that it's going one way.

Q. And that -- that is a rental contract?

A. That's a rental contract.

Q. Finally, what is the last stage of the process?

A. The last stage of the process is when this is done, then we

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have an inspection slip that we inspect the truck, walk around the truck to see if there's any damage on it.

Q. Now, let me ask you a couple of specific questions about two different phases of this process. Let's start with the quote things. As a general matter, how are quotes made at your

store? On the phone or in person?

A. Most of them is made on the phone.

Q. And is your store located a fair distance away from downtown?

A. Yes. It's a little over a mile from downtown.

Q. At the -- for the rental process, the actual picking up of the truck, are there different steps that you follow then?

A. Yes.

Q. Tell us what they are.

A. When they come in then to pick the truck up, we ask them their last name, and all we ever put in the computer is a last name, initial, and it'll pop up that reservation.

Q. What happens then?

A. And then we ask for a driver's license to fill out everything on it and go through and print -- print out the paperwork.

Q. How does Ryder keep track of its trucks?

A. They have a -- we keep track of them on -- there's a six-digit number on the front of the truck and the side of the truck.

Eldon Elliott - Direct

Q. Who assigns that number to the truck?

A. Ryder does.

Q. Is that the same or different from a vehicle identification number or VIN?

A. That's different.

Q. How is it different?

A. I don't know. I don't have anything to do with that. We just go by that, but it's -- they have their number assigned to their serial number, but I have no idea how that works.

Q. All right. In April of 1995, what were your store hours?

A. 8 to 5, Monday through Friday. And on Saturday -- we was open for about two hours on Saturday, from 8 to about 10.

Q. In April of 1995, who manned the store during the Saturday

sessions?

A. I did.

Q. What was the purpose of the store being open on those Saturday sessions?

A. Just to rent trucks out that we had going out or take some reservations or give quotes on -- in the morning.

Q. Now, back in April of 1995, did you do any advertising for your business?

A. Yes.

Q. And did that advertising include the Yellow Pages ad?

A. Yes.

Q. Let me ask you to look at Government Exhibit 533 on your

Eldon Elliott - Direct

screen. On the screen in front of you.

A. Okay.

Q. What is that?

A. That's my advertised ad.

Q. And was your ad in two parts on the same page?

A. This -- this advertisement ad here is the one that Ryder puts in.

Q. All right. Was that an ad to attract business to your location?

A. Right.

Q. And was that put in as part of the normal course of your business?

A. Yes.

Q. Did you maintain a copy of this ad in your files?

A. Did I?

Q. Yes.

A. No.

Q. Were you aware of this ad being run as a -- in the normal and ordinary course of your business, however?

A. Right.

MR. MENDELOFF: We move the admission of Government Exhibit 533.

MR. JONES: No objection.

THE COURT: 533 is received. You may --

MR. MENDELOFF: Publish it, Judge?

Eldon Elliott - Direct

THE COURT: Yes.

BY MR. MENDELOFF:

Q. Mr. Elliott, let me just ask you to focus on two parts of this ad. By the way, what phone book did this appear in?

A. Just this -- this was in?

Q. Yes.

A. I'm not sure which one this top one was in.

Q. All right. What -- to your knowledge, where -- where did your ads run? What phone books?

A. They had it in the Junction City phone book.

Q. All right. And let me ask you, which of the locations listed on your screen is your location?

A. The middle one there that says Ryder Truck Rentals, one-ways, at 1430 Goldenbelt Boulevard, Junction City, Kansas.

Q. And let me ask you also to focus on the bottom portion of the page. Is your business listed in that larger advertisement?

A. Yes, it is.

Q. And tell us where that is listed.

A. That's on the top -- top one where it says Junction City. 1430 Goldenbelt.

Q. There are two Ryder locations listed there?

A. Yes, there are.

Q. Yours is the first; is that right?

A. Right.

Eldon Elliott - Direct

Q. Let me ask you next to look at Government Exhibit 305 on your screen. What is Government Exhibit 305; do you know?

A. That's a --

Q. Why don't you look through the sheaf of papers next to you.

And it might be easier to --

A. That's a quote.

Q. Why don't you get that out of your papers. Do you have it?

A. 305?

Q. 305.

A. Okay.

Q. What is 305?

A. What is 305?

Q. What is it?

A. That's a quote that was given.

Q. On what day?

A. On April the 14th, '95.

Q. And do you know what day of the week April the 14th, 1995, was?

A. It was a Friday.

Q. What was the name of the person who received that quote that day?

A. Bob Kling.

Q. And what is the quote for?

A. For a 20-foot truck.

Q. Was that quote made and maintained in the normal and

Eldon Elliott - Direct

ordinary course of your business at Elliott's Body Shop?

A. Yes.

MR. MENDELOFF: Move the admission of Government Exhibit 305, your Honor.

MR. JONES: No objection.

THE COURT: 305 received.

MR. MENDELOFF: Can we publish it, Judge?

MR. MENDELOFF: Can we publish it, Judge?

THE COURT: Yes.

BY MR. MENDELOFF:

Q. Mr. Elliott, let me ask you -- first, tell us what portion of the page is the date of this quote listed?

A. Was the date listed?

Q. Yes.

A. Of the quote?

Q. Yes.

A. April the 14th of '95.

Q. What portion of the page?

A. Oh, on the right-hand top corner.

Q. Let me ask you to tell us whether or not -- what is within

the circle on your computer screen?

A. Omaha, Nebraska.

Q. And underneath that.

A. April the 14th.

Q. What does that designate?

A. Pardon?

Eldon Elliott - Direct

Q. What does April the 14th right there designate as to this quote?

A. The time -- the date that it was given.

Q. Let me ask you to look a little further up the page.

MR. MENDELOFF: Sorry, your Honor.

BY MR. MENDELOFF:

Q. And tell us -- tell us about the information contained within that full circle. What does that tell us about the quote?

A. Okay. The quote is made at Elliott's Body Shop. It's a one-way quote.

Q. What does that mean? What is a one-way quote?

A. It means the truck was going one way.

Q. From your shop to another city?

A. From our shop to Omaha, Nebraska.

Q. And is that what's listed underneath -- it says from Junction City to Omaha, Nebraska. Is that what you're referring to?

A. Right.

Q. Right?

A. Right.

MR. HARTZLER: Your Honor, I have an objection. Our screens aren't working. I'm going to move to the back table if

that's okay.

THE COURT: Sure.

Eldon Elliott - Direct

MR. HARTZLER: Thank you.

THE COURT: Is that one working?

MR. HARTZLER: Thank you.

THE COURT: It's not something I did.

MR. RYAN: No, your Honor.

MR. MENDELOFF: Was he objecting to me, Judge? I've never had that happen before.

BY MR. MENDELOFF:

Q. Mr. -- Mr. Elliott, you mentioned that the destination for this truck was Omaha?

A. Right.

Q. Who would provide that information?

A. Who would provide that information?

Q. Yes.

A. The gentleman that -- the person that rents the truck.

Q. All right. And let's turn to that. Let me ask you to focus now on the portion of the page that I'm zeroing in on here. Do you see a name listed?

A. Yes.

Q. Whose name is listed in that portion of the page?

A. Bob Kling.

Q. Whose name is that, based on your business records?

A. Bob Kling.

Q. When -- when a customer comes in and they ask for a quote, where does their name go on the quote?

Eldon Elliott - Direct

A. On the top left-hand corner.

Q. Where we're looking?

A. Where we are looking.

Q. Now, there's a phone number listed beneath that?

A. Right.

Q. Whose phone number is normally placed in that location?

A. The customer's phone number unless they don't have a phone number. Then we can put any phone number on there so the computer will go on.

Q. Tell us about that. What do you mean, "so the computer will go on"?

A. If you don't have a phone number on there, it won't let you go on down the screen.

Q. Okay. What phone number is listed on this quote sheet --

A. That is --

Q. -- for the customer's phone number.

A. That is our body shop phone number.

Q. Let me ask you to go through the details regarding this quote and explain to us what we see here line by line.

A. Starting at the price of the truck --

Q. What kind of truck is requested by this customer?

A. A 20-foot truck.

Q. Okay. And the next -- the next line?

A. The next line is a 10 percent discount we give on it.

Q. For what purpose do you give 10 percent discounts?

Eldon Elliott - Direct

A. When they are military, or they say they are military.

Q. Why don't you go to the next line. What does that indicate?

A. Extra days.

Q. And how many extra days are given free on this quote? Why don't you look at the piece of paper in front of you. It'll be

easier to read.

A. Okay. There was two days given free.

Q. The next line?

A. Extra miles.

Q. Are there any extra miles given free?

A. No, there was not.

Q. What is the next line?

A. Full value of insurance -- full value of the truck.

That's

where insurance goes in. If you don't take insurance, it's full value of the truck.

Q. All right. And the line is listed as "0." What is the reason for that?

A. The customer didn't want insurance.

Q. Next line after that?

A. That's a -- the minimum on insurance, if they're going on over extra days, you charge them extra charges for.

Q. If they are not taking insurance, would that be a 0?

A. That would be a 0.

Q. What do we have here?

Eldon Elliott - Direct

A. 0.

Q. Please go to the next one.

A. A hand truck.

Q. Do you charge for hand truck rentals?

A. Yes.

Q. What do you charge?

A. \$15.

Q. Does this quote sheet indicate as to whether or not when

Mr. Kling called, he wanted a hand truck rental?

A. It had a hand truck on it.

Q. What are the next lines of the quote?

A. The next line of the quote is a sales tax.

Q. And is there a bottom-line charge for the quote?

A. Bottom-line charge is 2 -- is price of the truck.

Q. What is the total charge for the rental from Junction City to Omaha for Mr. -- Mr. Kling?

A. \$200.32.

Q. Beneath that, we see an entry, "Refundable Deposit."

What's that?

A. That's the \$80 deposit that when it's put down, when they turn the truck in at the other end, they get the \$80 deposit

back.

Q. Does that come into play at the reservation stage of the

process?

process:

A. Right.

Eldon Elliott - Direct

Q. Is it the reservation stage or the quote stage?

A. This is the quote stage.

Q. Once a customer pays that \$80 deposit, the truck is reserved for them until the date they want it?

A. Right.

Q. Is there a portion of this document which indicates when the customer wanted to pick up the truck?

A. It showed up here at the -- on the top in the center.

The

pickup day should be April the 17th, at 1600 hours.

Q. Let me try that again. What's located within the circle?

A. Okay. April the 17th of '95.

Q. So that indicates that the truck was scheduled to be picked

up on Monday, April 17th, at 1600 hours?

A. At 1600 hours.

Q. That would be what time during the day?

A. 4:00.

Q. And when was the truck due considering the two extra days of rental?

A. It would be on April the 21st of '95 at 1600 hours.

Q. 4:00 in the afternoon?

A. Right.

Q. Underneath that, we see miles included. How was that calculated?

A. The computer just calculates so many miles for where it's going.

Eldon Elliott - Direct

Q. Now, Mr. -- Mr. Elliott, let me ask you whether or not you know the time that this quote came in.

A. Do I know what time it come in?

Q. Yes.

A. No.

Q. Let me ask you to look at what -- what has been marked as Government Exhibit 58.

MR. MENDELOFF: Your Honor, I'm going to need the

ELMO

for this.

THE COURT: All right.

MR. MENDELOFF: This is already in evidence.

BY MR. MENDELOFF:

Q. Mr. Elliott, let me ask you to focus your attention on the billable time section of this -- of these phone records and ask

you to look at the length of times of the various calls I'm going to show you. All right?

A. All right.

Q. Top call, 39 seconds, at 2:00 -- 2:00 or 2:41 in the

afternoon. Next call, 9:54 in the morning, 7 minutes and 34 seconds. Right?

A. Right.

Q. Next page of this exhibit, again under billable time, you see the various times of calls coming in and you see the place that these calls are coming in. By the way, what number is that?

Eldon Elliott - Direct

A. That number is our number, the body shop number.

Q. All right. And do you see the various times of the calls?

A. Right.

Q. Show you the last page of the exhibit. Calls coming in to this number. What number is 238-7103?

A. That's our second line in the body shop.

Q. And the connect time, 8:44 in the morning for 52 seconds; right?

A. Right.

Q. Now, of all those phone calls, can you tell us which of those calls could have been a quote call?

A. It takes 5 to 10 minutes to give a quote.

Q. All right.

A. And so the one at 7 minutes and something would be the one for a quote.

Q. Let me direct your attention to the first page of the exhibit. Phone No. 238-8534: What number is that?

A. That is a Ryder phone line.

Q. And that call came in at what time?

A. Came in at 9:54 in the morning.

Q. Could any of the other calls have been a call for a quote?

A. No.

Q. Let me show you what's been marked as Exhibit 306A. I believe you just testified that the Kling quote was for a 20-foot Ryder truck.

Eldon Elliott - Direct

A. Right.

Q. Examine this exhibit and tell us if you can see which of those trucks is the 20-foot truck.

A. The third one down from the top.

Q. That's this exhibit.

A. That's the one right there with the side door.

Q. Let me show you an exhibit that's been reviewed by an earlier witness and ask you whether or not this -- Government Exhibit 306B -- whether or not this exhibit accurately circles the 20-foot truck that you just referenced.

A. Yes, it does.

Q. Okay. Now, April 14 was a Friday in April; is that right?

A. That's right.

Q. The next morning, April 15, did you go to work?

A. Yes, I did.

Q. What time did you arrive at work?

A. About 7:30.

Q. At some point that morning, did a customer walk through the door?

A. Yes, they did.

Q. About what time?

A. I would say about 9:00.

Q. And at the time the customer walked through the door, where

were you seated?

A. I was seated at the -- on the chair at the desk right

Eldon Elliott - Direct

behind the counter.

Q. In the office portion of the store or in the shop?

A. In the front office portion.

Q. The man that walked in, where did he go?

A. When he walked in, I was busy. When I looked up, he was right at the counter.

Q. Let me ask you to look -- look in your sheaf of papers at Government Exhibits 302, 303, and 304.

A. Okay.

Q. Tell us what those are.

A. They are pictures of the inside of my office.

Q. And do they all fairly and accurately depict the way your office looked back in April of 1995, that morning when the man walked through the door and walked up to the counter?

A. 303 does. 304, we didn't have the hand truck setting (sic)

in there or the boxes in there at that time.

Q. Just on the corner of the photo?

A. Right.

Q. Other than that, does the photo fairly and accurately depict the appearance of the store?

A. Other than that, it's the same.

Q. And what about 302? The same thing? Does 302 fairly and accurately depict the appearance of the store?

A. Yes.

MR. MENDELOFF: Move the admission of those exhibits,

Eldon Elliott - Direct

your Honor.

MR. JONES: No objection.

THE COURT: They are received and may be shown.

BY MR. MENDELOFF:

Q. What are we looking at in Government Exhibit 302?

A. That's the front desk there where we rent the Ryder Trucks.

Q. Does this depict where you were seated that Saturday morning?

A. I was seated at that chair right there at the desk.

Q. Is that enclosed in the circle I've drawn on the screen?

A. Right.

Q. I believe you testified that a man walked up and stood in front of the counter.

A. Right.

Q. Can you tell us where he was when you noticed him?

A. Just right in front of where that circle is on the other side of that counter.

Q. Does that accurately depict where the man stood?

A. Yes.

Q. Before we go on to the transaction, let's just acquaint ourselves with the rest of the office area. Let me show you Government Exhibit 303. What is this?

A. 303, that's just at the end of the desk and the end of the counter where you can walk around the front and around the side

to go back into the shop.

Eldon Elliott - Direct

Q. And you would be seated on the left-hand side behind the counter, and the man was standing on the right-hand side; is that right?

A. Right.

Q. Finally, let's look at Government Exhibit 304. What -- what does this depict?

A. That's at the end of the counter and where the chairs set (sic).

Q. Now, you said that there was something here in this picture

that wasn't there that day, and I believe you referred to a hand truck and some boxes. Are they enclosed in that circle that I've just drawn?

A. Right. There was another chair setting (sic) in there.

Q. There was a chair instead of the hand truck and boxes?

A. Right.

Q. And let's direct your attention back to Government Exhibit 302. You were seated in the chair and the man walked in at about 9:00 in the morning. Can you tell us when he walked in, what was the lighting like in the room?

A. Had -- fluorescent lighting was in the room.

Q. Could you see clearly in the room?

A. Yes, you could.

Q. Was there anyone else there other than you and this man?

A. No, there was not.

Q. Was the phone ringing or were you working on any other

Eldon Elliott - Direct

business to distract your attention?

A. I was working on some paperwork when he walked in.

Q. When he walked in, did you shift your attention from the paperwork to him?

A. Yes, I did.

Q. When you first noticed him, how far away was he from you?

Q. When you first noticed him, how far away was he from you.
A. He was probably about -- I was setting (sic) on the chair, so he was probably about approximately 4 foot from me.
Q. Did you have a conversation with him at that time?
A. I said, "Can I help you?"
Q. And what did the man say?
A. He said, "Yes." He said, "I got a quote from Vicki yesterday, and I want to make a reservation."
Q. Who is Vicki?
A. Vicki is my secretary.
Q. What is her name?
A. Vicki Beemer.
Q. Did she handle the -- the quotes over the phone as well as other ways?
A. Right.
Q. And after he said that, did you ask him any -- any questions?
A. I said okay. I said, "I'll need your driver's license." And then I proceeded to change it from a quote to a reservation.

Eldon Elliott - Direct

Q. And when you got his driver's license, was there a name on the driver's license?
A. Yes, there was.
Q. What name was that?
A. Bob Kling.
Q. Look around the courtroom and see if you can tell us if you see the man who gave you the driver's license with the name Bob Kling.

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

THE COURT: Yes. That's overruled.

BY MR. MENDELOFF:

Q. Do you see him here?
A. Yes.
Q. Can you identify him?
A. Yes.
Q. Point him out. Tell us what he's wearing.
A. Right over there. Blue shirt.

MR. MENDELOFF: May the record reflect the identification of the defendant, Timothy McVeigh?

THE COURT: Yes.

BY MR. MENDELOFF:

Q. After Mr. McVeigh gave you the driver's license with the name Bob Kling on it, what did you do with the information off the driver's license?

Eldon Elliott - Direct

A. Typed it in the computer.
Q. And what did that allow you to do?

A. That allowed me to go on and finish it into a quote.

Q. When you put the name in the computer, what document came up on the computer?

A. The quote document came up for me to put -- put his name --

the name was already on the quote, and it's already there, and then I just put the address in.

Q. All right. Now, the document that came up, you said was the quote document. Is that Government Exhibit 305 that we're looking at?

A. Yes. No. The quote is 305.

Q. Right. Is that -- is that what appeared on your computer screen?

A. It would appear on the -- it would be the same thing on the screen until you get done and mark it "Quote."

Q. All right. Now, after you pulled the quote up on the screen, did you take any information off the driver's license and transfer it onto the document?

A. Yes, I did.

Q. What information was that?

A. The address.

Q. What address -- do you remember the street address?

A. I don't remember the street address.

Q. Do you remember the city address?

Eldon Elliott - Direct

A. It was Redfield, South Dakota.

Q. Now, after you put the information from the driver's license into the computer, did you continue to have a conversation with Mr. McVeigh?

A. Yes, I did.

Q. What did you tell him?

A. I -- when I put that in there and stuff, I finished it out and then I changed it to a quote. Oh, and -- and I said that would be \$80.

Q. All right. And why -- what were you referring to when you said it would be \$80?

A. For the reservation.

Q. Okay.

A. And he says, "Can I just pay for the whole thing today while I got the money and I won't spend it?"

And I said, "Yes, you can."

Q. Did he indicate when he wanted to come pick up the truck?

A. Yes. After I put that in and everything, he wanted to know

if it would be ready for him on Monday, the 17th, around 4:00.

Q. All right.

A. And I said, "Yes, it will."

Q. Did you discuss anything else about the transaction at that time?

A. I would -- I discussed that I noticed there was no

insurance on the truck. And I said -- he says, "No, I didn't

Eldon Elliott - Direct

want insurance."

And I said, "Well, at this time, I just -- doesn't make any difference to me, but I just have to tell you if you don't take insurance, you're liable for the truck if there's any damage on it, for whatever damage is on it."

Q. When you said he'd be liable for the truck, did he respond in any way?

A. He says that "I'm" -- "I won't need any" -- "didn't want no insurance. I'm not going very far." And he said, "I'm a good driver." He says, "I drive these deuce and a halves out at Fort Riley." He said, "I don't want no insurance."

Q. Did he say where he was going?

A. He said he was just going up to Nebraska and over to Iowa for a short distance and back.

Q. Now, when he said he was going to Nebraska, Iowa for a short distance and back, did you say anything?

A. I said, "Well, do you need any extra miles then?"

And he said, "No. The miles will be enough. I just need it a couple extra days."

Q. Did you give him those extra days for free?

A. Yes.

Q. Is that a normal practice in your business?

A. Yes, it is.

Q. Now, you mentioned deuce and a halves in the military. What's a deuce and a half?

Eldon Elliott - Direct

A. Big trucks.

Q. And did -- did you indicate at that point in the transaction how much the man owed?

A. Yes, I told him it would be 200 -- \$280.32.

Q. After you told the Defendant McVeigh that, did you do anything with your computer to produce a document?

A. Yes. I -- I printed it out that he was -- he said he was paying it in cash. I printed it out, the \$280.32 in cash.

Q. And what document would this be?

A. Then it printed -- it printed off as a quote -- or as a reservation. I'm sorry.

Q. When you obtained that document, what did you do with it?

A. I laid it up on the counter, turned it facing him and explained everything on there, how the -- the price of the truck, the insurance -- the price of the truck, the discount, the hand truck, the sales tax.

Q. Now, when you went through the reservation with Defendant McVeigh, can you tell us, was he standing or sitting?

A. He was standing, kind of leaning on the counter just a little bit.

Q. You weren't leaning on the counter?

Q. You weren't leaning on the counter?

A. He was leaning on the counter.

Q. I was asking you what you were doing.

A. When I handed him this contract -- is that what you're referring to?

Eldon Elliott - Direct

Q. Yes.

A. I was standing up then right in front of him.

Q. And he was leaning on the other side of the counter?

A. Right.

Q. At the time that you were going through the reservation form with him, how far away were you from Defendant McVeigh?

A. Probably 18 inches to 2 foot.

Q. Where were your eyes directed?

A. Right at him.

Q. Now, let me ask you to look in your papers for Government Exhibit 308. What is Government Exhibit 308?

A. This is a reservation.

Q. Is that the reservation that you printed off your computer that day and showed to Defendant McVeigh?

A. Yes, it is.

Q. All right. Was it made or maintained in the normal and ordinary course of your business at Elliott's Body Shop?

A. Yes.

MR. MENDELOFF: Move the admission of Government Exhibit 308, your Honor.

MR. JONES: No objection.

THE COURT: 308 received and may be shown.

MR. MENDELOFF: Your Honor, we'd also like to move in 308A, which is just a clean copy of 308.

THE COURT: All right. You may do so.

Eldon Elliott - Direct

MR. MENDELOFF: Thank you, your Honor.

BY MR. MENDELOFF:

Q. Let me direct your attention first, Mr. Elliott, to the computer screen in front of you and to the portion that is depicted there. Under the name Bob Kling, is there an address?

A. Yes.

Q. Where did you get that address?

A. 428 Maple -- Maple Drive. Mile Drive.

Q. All right. And where did you get that address, sir?

A. Off his driver's license.

Q. What city does it -- does that address indicate?

A. Redfield, South Dakota.

Q. And again, the phone number is your office number; is that right?

A. Yes, it is.

Q. On the far right-hand side, does this document indicate the

location of the destination of this rental?

A. Yes. It says from Elliott's Body Shop to Omaha, Nebraska.

Q. During the course of your trans -- your discussion with Mr. McVeigh that morning, did he indicate whether or not he wanted to change the date he was picking it up or leave it on Monday, the -- Monday, the '95 -- excuse me, Monday April 17, 1995, at 4:00?

A. He didn't say anything about changing it. He just wanted to know if it would be ready on April the 17th of 1995 at 4:00.

Eldon Elliott - Direct

Q. Let me ask you to direct your attention then to the "Option" section of the contract. Did that change at all from the time that the information came in in the quote form?

A. No, it did not.

Q. Did you go through that box with him when you were leaning on the counter?

A. Yes, I did.

Q. Under "Payments," what do we have?

A. \$280.32.

Q. When did Defendant McVeigh make that payment to you? When did Defendant McVeigh make that payment to you?

A. At that time, he give me the -- the cash.

Q. Can you tell us how that happened?

A. Yes. He -- he handed me the money. It was -- he give me \$281; and as I started to get the change, he said, "Just a moment." He had the 32 cents, so he give me the 32 cents and I

handed him back \$1.

Q. All right. After that, did you ask Defendant McVeigh to sign the contract?

A. Yes, I did.

Q. And did he sign it?

A. Yes, he did.

Q. Direct your attention to the bottom portion of that page. In what name did he sign the contract?

A. Robert Kling. Robert D. Kling.

Eldon Elliott - Direct

Q. Did you see Defendant McVeigh put the Robert D. Kling signature onto Government Exhibit 308?

A. Yes, I did.

Q. Throughout this transaction, where were your eyes directed?

A. When I wasn't -- had my eyes -- showing him -- showing him things, I'd glance up at his face, and then when I got done, I was looking right at him.

Q. How far away were you from Defendant McVeigh throughout the transaction other than the time that you said you were about 18 inches to 2 feet away?

A. At the maximum distance away, it would be about 4 foot.

Q. What's the reason you directed your eyes to his face?

A. Because that's the way I look at everybody. I look right square at their face when I talk to them.

Q. Throughout most of this transaction, how was Defendant McVeigh standing at the counter?

A. Standing on the other side of the counter just kind of barely leaned on the counter just a little bit.

Q. After he signed that contract and paid his money, what did he do?

A. He left.

Q. Let me direct your attention to Monday, April 17, 1995. That afternoon, at about 4:00, where were you?

A. I was in the shop. Working.

Q. And do you remember at about 4:20, somebody coming in that

Eldon Elliott - Direct

shop to get you?

A. Yes.

Q. Who was that?

A. Vicki Beemer, my secretary.

Q. What did she say to you?

A. She asked me to come in and go walk around this truck and do the inspection on it.

Q. And again, just tell us what the walk-around or inspection pro -- part of the truck contract process is.

A. Okay. On the walk-around, we have a sheet with pictures of trucks on them. And we walk around and if there's any scratches on one side or corner or dents, we list that on the pictures of the truck and then put it down at the bottom, so it

shows that there is -- any damage that's on that truck is showed on this inspection slip that he gets a copy to go with the contract.

Q. All right. Did you -- where did you go at that point?

A. At that point when she handed me that inspection slip, I walked over and asked -- spoke to him, asked him if he changed his mind about insurance; and he said no, he hadn't.

Q. All right. Let me just stop you for a minute. You were in

the shop. Where did you move at that point?

A. At the shop, I moved into the office; and she handed me a copy of the inspection slip right at the back corner of the desk.

Eldon Elliott - Direct

Q. All right. Let me ask you to look at Government Exhibit 303. Does that depict where you were and where Defendant McVeigh was when you saw -- where the man was when you saw him that morning -- afternoon, excuse me.

A. The gentleman was standing right at the corner, rounded part of that counter and when I first seen him was back over

at

this -- he was standing right there.

Q. Where the circle is?

A. Where the -- about where the circle was.

Q. And where were you standing?

A. I was back probably when I first seen him, 4 or 5 foot from

him as I come around the other corner of the other office.

Q. Now, the man that you saw that day: How did he compare to the man that you saw Saturday?

A. It was the same gentleman.

Q. Defendant McVeigh?

A. Right.

Q. What did you do when you entered that room?

A. I woke -- walked up to him and spoke and asked him if he had changed his mind about taking insurance.

And he says no.

I said, "Well, let's go out and walk around the truck."

And he said, "That's all right. I'll just wait here and you can go out and walk around it."

Eldon Elliott - Direct

Q. When you looked at him that day, how far away from him were you?

A. When I first seen him, I was probably 4 foot or 5 foot, and

then was I walked -- when I walked by him, I was within inches of him walking by him.

Q. What was the lighting like that day?

A. It's all fluorescent lights on the sides of the ceiling on both sides.

Q. Who was present in the room when you walked into the room that Monday afternoon?

A. Vickie Beemer was there that handed me the contract. And Mr. McVeigh was standing there. There was another gentleman standing in the corner, and I had one of my mechanics was setting at a chair.

Q. And his name is what?

A. The mechanic?

Q. Yes.

A. Tom Kessinger.

Q. Now, the other gentleman that was standing in the corner, did you pay any attention to him?

A. I just barely glanced at him as I walked by.

Q. How long did you look at the second person?

A. Just -- for just a second.

Q. You took the inspection form and went outside?

A. Right.

Eldon Elliott - Direct

Q. What did you do with the inspection form while you were

Q. What did you do when the inspection form while you were outside?

A. I walked around the truck and looked at what was damaged on it and noted it on the inspection slip and then came back inside and showed it to Mr. McVeigh. And then I handed it back to Vicki.

Q. Let me ask you to look at Government Exhibits 309 and 310.

A. Okay.

Q. What is Government Exhibit 309?

A. 309 is the contract.

Q. In whose name?

A. The name that's on that is Bob Kling.

Q. What date?

A. Out was April 17 of '95. That's 1619.

Q. 1619 is the time?

A. It is the time.

Q. And tell us, what does that time signify?

A. That would be -- that would be 4:19.

Q. And what does it signify on the contract?

A. The time of the contract.

Q. The time the contract was begun --

A. Yes.

Q. -- or ended?

A. Begun.

Q. How was that time entered onto the contract?

Eldon Elliott - Direct

A. By the computer.

Q. And when during the course of the reservation -- or the contract process is that time imprinted on the contract by the computer?

A. I think as soon as we start, it prints the time on there.

Q. So in the very beginning of the work on the contract is done, the time is printed out?

A. Right.

Q. And that indicates 4:19?

A. Right.

Q. Does that comport with your memory of about when Vickie Beemer came to get you in the back shop, a little after 4:19 that day?

A. Right.

Q. Is this contract made and maintained in the normal and ordinary course of your business at Elliott's body shop?

A. Yes, it is.

MR. MENDELOFF: Move the admission of Government's Exhibit 309, your Honor.

MR. JONES: Just a moment. I object on the basis of hearsay, your Honor.

THE COURT: Overruled. 309 is received.

BY MR. MENDELOFF:

Q. Let me ask you to look at Government Exhibit 310. What is Government Exhibit 310?

Eldon Elliott - Direct

A. 310 is the inspection slip that we use.

Q. Is that the slip that Ms. Beemer handed you that even -- that afternoon?

A. It's a copy.

Q. And is there an indication on that slip of what rental that

pertains to?

A. I didn't understand --

Q. Is there an indication on that document of what rental that

pertains to?

A. It -- yes, it is. It's a copy of where he signed it Robert

Kling, and it's got the truck number up in the left-hand corner.

Q. And that's the same truck number as on the rest -- on the contract?

A. Yes, it is.

MR. MENDELOFF: Move the admission of Government Exhibit 310, your Honor.

MR. JONES: No objection to 310.

THE COURT: 310 is received.

BY MR. MENDELOFF:

Q. Now, when you returned into the room with the completed inspection form, did you hand it to anybody?

A. I went over it with Mr. McVeigh, and then I handed it to Vicki.

Q. When you went over the contract with Mr. McVeigh -- or the

Eldon Elliott - Direct

inspection form with Mr. McVeigh when you walked back into the room, how far away from him were you?

A. Just probably a foot.

Q. Where were your eyes directed?

A. At him.

Q. Let me ask you to look first at Government Exhibit 309.

MR. MENDELOFF: And your Honor, we'd also move for the

admission of 309A, which is a clean copy of 309.

THE COURT: You may use 309A.

MR. MENDELOFF: Thank you.

MR. JONES: We have a continuing objection.

THE COURT: Yes, of course.

MR. MENDELOFF: I'm sorry. I'm going to need the

ELMO. Thank you.

BY MR. MENDELOFF:

Q. Direct your attention first to the upper left-hand corner of the contract. Does that indicate the name of the customer?

A. Right.

Q. And that is Bob Kling with the address that appeared on the -- on the contract; is that right?

A. Right.

Q. How does this address differ from the address that you were given on Saturday with respect to the reservation?

A. Vicki had typed this in; so evidently, he had told Vicki this address.

Eldon Elliott - Direct

Q. How does it differ from the one you received from Mr. McVeigh on Saturday?

A. Oh, this one was going to Omaha, Nebraska. And mine was going to Redfield, South Dakota.

Q. Is the rental period any different than it was when you talked to Mr. McVeigh on Saturday?

A. No, it is not.

Q. Now, we see in this exhibit 1619. Is that 4:19 in the afternoon?

A. Yes, it is.

Q. And that's the number you said the contract placed on -- the computer placed on the contract; is that right?

A. That's right.

Q. What does the "dispatching dealer" mean?

A. That means that it's coming from -- the location it's coming from, and that's Elliott's Body Shop, Goldenbelt Boulevard, Junction City, Kansas, and our Ryder phone number on there.

Q. Under "vehicle information," you see the number -- vehicle number. Is that the Ryder number, or the vehicle identification number?

A. That's the vehicle identification number.

Q. This is the -- this is the vehicle identification number, or the number Ryder puts on there?

A. That's the number we go by that's on the contract.

Eldon Elliott - Direct

Q. Ryder's number?

A. Ryder's number.

Q. Under driver's information, what is listed there?

A. Drivers mentioned, there is Bob Kling and the license number; and the state is South Dakota.

Q. What does the contract list as the driver's date of birth on his -- on his driver's license?

A. Is what?

Q. What date of birth does driver's -- the driver's license list for Mr. Kling?

A. April 19, 1970.

Q. I'm designating it with my finger right here.

A. Right. April 19, 1970.

Q. The Social Security number is listed as 962-42-9649; is that right?

A. That's right.

Q. Would you direct your attention to the upper right-hand

Q. Would you direct your attention to the upper right hand side of the page. Does that include the general information regarding the rental in terms of the amount charged and paid?

A. Right.

Q. Does that comport with the information on the other documents we've already reviewed?

A. Yes, it does.

Q. Does this document and does your process require the customer to sign the contract?

Eldon Elliott - Direct

A. Yes, it does.

Q. Does this contract contain a signature --

A. Yes.

Q. -- of Mr. Kling?

Tell us what name Defendant McVeigh signed on this contract.

A. Robert D. Kling.

Q. Finally, let me direct your attention to Government Exhibit

310. What are we looking at?

A. That's an inspection slip.

Q. Is that the piece of paper you were handed by Ms. Beemer before you went outside to do the inspection on the truck?

A. Yes, it is.

Q. Ask you to direct your attention to the upper left-hand side of this page and tell us what is listed there.

A. Okay. The truck number is up there in the top corner.

Q. All right.

A. And down on the pictures of the trucks, it's got marks where there's little light scratches on both sides; and then it's showing on the front bumper -- it's got a mark on the front bumper.

Q. Who put those marks onto Government Exhibit 310?

A. I did.

Q. As part of your normal practice, do you require the customer to review this form and initial it?

Eldon Elliott - Direct

A. Right.

Q. Is this form initialed?

A. Yes, it is.

Q. Can you tell us, referring to these points that I'm --

A. What those initials are?

Q. Right.

A. RDK.

Q. How does that comport with Mr. Kling's initials?

A. And then down there, it's signed Robert D. Kling.

Q. That's the name Mr. McVeigh signed on the 19th; is that right?

A. Right.

Q. Now, looking at Government Exhibit 310A, let me ask you if you can tell us whose handwriting is across the top of the

-
page.

A. Mine.

Q. When did you put those names and figures -- or the name and those numbers on there?

A. When?

Q. Yes.

A. On April the 19th of '95.

Q. And what was the reason you put those numbers on there?

A. I'd been called and -- to pull this contract out and this inspection slip out with the contract, and I wrote Dave Russell's name on there and his phone number, which he was from

Eldon Elliott - Direct

Miami.

Q. And who is Dave Russell?

A. Dave Russell was the vice president of Ryder.

Q. Let me ask you to direct your attention to the bottom of the page. What -- what number is that?

A. That's another number that I've written down that he could be reached at.

Q. And sir, let me ask you to finally direct your attention under -- under the name Robert D. Kling. There's a rental agreement number. Is that consistent with the other documents that we've got in evidence already?

A. That number that's on there is the contract number.

Q. And there are initials next to that, underneath that.

What

is that?

A. Vicki initialed that that it was inspected and the day it was inspected.

Q. That would be Monday the 17th?

A. Right.

Q. After you handed the rental agreement back to Vicki, where did you go?

A. I went back out into the shop.

Q. Did you return back into the office before Defendant McVeigh left?

A. No, I did not.

Q. Were you in the office when he arrived?

Eldon Elliott - Direct

A. No, I was not.

Q. Prior to the bombing in Oklahoma City, did you have the practice of advertising your business through T-shirts?

A. Yes.

Q. Tell us about that.

A. I always had T-shirts that had "Elliott's Body Shop" and "Beautiful bodies are our business" on the back of them.

Q. All right. Now, did you use that as a promotional tool?

A. Not really.

Q. After you began to cooperate in connection with this case, did you have occasion to have other T-shirts created?

A. Yes, I did.

Q. What did those say?

A. "Elliott's Body Shop, Ryder Truck Rental. We remember our customer."

Q. Did you -- how many of those T-shirts did you sell?

A. Probably about 12. 15 maybe.

Q. What's the reason you stopped?

A. I decided that that might -- wasn't a good idea; and I just took all of my T-shirts off the market. And I haven't sold no more T-shirts of any kind.

Q. Let me ask you about when the FBI came to see you in relation to this case. And direct your attention to April 19, 1995. On that day, did you learn about the Oklahoma City bombing?

Eldon Elliott - Direct

A. Yes, I did.

Q. What time during that day did you hear about the bombing?

A. Probably somewhere around 3, 3:30.

Q. What time did you hear about the bombing?

A. Oh, I'm sorry. Early in the morning.

Q. Later that afternoon, did you -- were you contacted in relation to a possible connection between your business and the

investigation in this case?

A. Yes, I was.

Q. What time?

A. It was probably about 3, 3:30.

Q. And after you were called -- and who called you on that occasion? Excuse me?

A. Dave Russell from Miami.

Q. The Ryder rental executive?

A. The vice president of Ryder.

Q. About 45 minutes later, did you meet with an FBI agent?

A. Yes, I did.

Q. Prior to that time, had you ever before in your whole life met with an FBI agent?

A. No, I had not.

Q. At the time you met with the FBI agent that afternoon, did he ask you about this rental?

A. I didn't understand you.

Q. At the time you met with the FBI agent that afternoon, did

Eldon Elliott - Direct

he ask about this rental?

A. Yes, he did.

Q. Did he ask you for a description of the man --

A. Yes.

Q. -- that came into your shop on Monday, the 17th?

A. Yes, he did.

A. Yes, he did.

Q. And did you give him a description?

A. I give him some description.

Q. Tell us what description you gave.

A. Just about that he was about 5' 10", 5' 11", medium built, short haircut.

Q. At the time, did the agent ask you for a description of the

clothing that the man had on?

A. I couldn't remember.

Q. Did you do anything to -- did the agent ask if you if there

was any way you could approximate or estimate or guess at the clothing?

A. Yeah. He asked several times. I said I really couldn't remember.

He asked, "Could it be military clothes?"

I said, "It could be." About 75 percent of our customers that come in have military clothes on, but I really wasn't -- really didn't remember what he had on.

Q. Now, the next morning, did you again meet with the FBI?

A. Right.

Eldon Elliott - Direct

Q. And that was Thursday, April 20th?

A. Okay.

Q. And did -- at that time, did you discuss both the Saturday transaction and the Monday transaction?

A. Yes, I did.

Q. Did you provide -- were you asked descriptions of the appearance of the man -- of the renter on Monday and on Saturday -- excuse me, on Saturday and again on Monday.

A. Yes.

Q. And were you asked about the clothing?

A. Yes.

Q. Could you remember what the man wore on Saturday?

A. On Saturday, I -- all I could remember -- I didn't remember what kind of trousers. I remember he had an Army T-shirt or a -- you know, a camouflage T-shirt on; and that's all I noticed.

Q. Now, on Monday, the date of the rental, were you also asked

about what he was wearing that day?

A. Yes, I was.

Q. Did you remember anything more than you did the day before?

A. No, I did not.

Q. Mr. Elliott, let me ask you, is there any doubt in your mind who it was that came into your business on Saturday morning, April 15, to make that reservation in the name of Robert Kling?

Eldon Elliott - Direct

A. No.

Q. Who was it?

A. Robert Kling.

Q. Who was it? Who was Robert Kling?

A. Bomb -- Timothy McVeigh.

Q. And on Monday afternoon, at 4:20, is there any doubt who it

was that came to pick up that truck from your business?

A. No. It was the same gentleman.

Q. Timothy McVeigh?

A. Right.

MR. MENDELOFF: Your Honor, we move the admission of Government Exhibits 310A and 608B, which we referred to. I'm sorry. 306B.

MR. JONES: I'm sorry. I've forgotten what 306B is.

MR. MENDELOFF: 306B was the chart with the circle.

MR. JONES: Oh, no objection.

MR. MENDELOFF: And 310A was the clean copy of the damage assessment form.

MR. JONES: I don't think I objected to the damage assessment form, and I sure won't object to a copy.

THE COURT: All right. They are received.

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

THE COURT: All right. Mr. Jones?

CROSS-EXAMINATION

Eldon Elliott - Cross

BY MR. JONES:

Q. Mr. Elliott, based upon your testimony this morning, I take it, then, that you looked this man Kling whom you've identified here today as Mr. McVeigh straight in the eye on Saturday morning?

A. Yes.

Q. And you remembered him?

A. Right.

Q. It was like a snapshot being taken in your memory?

A. I remembered who he was.

Q. And then you saw him again on Monday afternoon about 4:20 or 4:25, when you had this conversation with him?

A. Right.

Q. And you stood right next to him?

A. Right.

Q. And you looked him right in the eye?

A. Looked at him, yes.

Q. Yes, sir. Well, you looked at him in the face, didn't you?

A. Yes.

Q. Didn't you say before that's what you do with customers: You look them in the face?

A. Yes.

Q. Because you're in sales?

A. Right.

Q. Is that right? And you want to establish eye contact?

Eldon Elliott - Cross

Right?

A. I look right at them in the face.

Q. Yes, sir. And then Mr. Crabtree comes to your office, not months later, not weeks later, but 48 hours after you've looked

this man in the face -- Mr. Kling. Right?

A. Right.

Q. But they didn't show you a photo lineup until 48 days later, did they?

A. No.

Q. Do you know why?

A. No.

Q. It was 48 days before you were asked to identify this man that you had looked straight in the face only 48 hours before your conversation with Mr. Crabtree?

A. Yes.

Q. Well, it is a little strange, isn't it? You being so positive and everything?

A. I don't know.

Q. You don't know. Were you in Oklahoma City on Saturday morning, after Mr. McVeigh was arrested, to participate in the physical lineup?

A. No, I was not.

Q. Did you ever go to a physical lineup?

A. No.

Q. So you saw Mr. McVeigh in the photograph spread on June the

Eldon Elliott - Cross

8th, didn't you?

A. Yes.

Q. In Oklahoma City?

A. Right.

Q. And prior to June the 8th, no law enforcement agency had ever asked you to identify Kling or McVeigh or any photo spread, had they?

A. No.

Q. And as you sit there today, you still don't know why 48 days passed?

A. No.

Q. Now, Mr. Elliott, as I understand it, on the time that this

happened back in April of '95, you had how many employees, sir?

A. About six.

Q. Six. That included yourself?

A. Yes.

Q. Ms. Beemer?
A. Right.
Q. Mr. Kessinger?
A. Right.
Q. And you also had a gentleman there, a Mr. Ramos?
A. Right.
Q. So that's four of the six. Is that right?
A. Right.
Q. Now, each of those four -- that is, you, Ms. Beemer,

Eldon Elliott - Cross

Mr. Kessinger, and Mr. Ramos, saw Kling, didn't they?
A. I don't know. I can't say. I know Mrs. Beemer seen him, Tommy seen him and myself seen him.
Q. All right. You don't know whether Mr. Ramos saw him?
A. No, I do not.
Q. When did you arrive in Denver?
A. When did I arrive in Denver?
Q. Yes, sir. To testify.
A. This time?
Q. Yes.
A. Tuesday evening.
Q. Did Ms. Beemer come with you?
A. No.
Q. Is she here?
A. Yes, she is.
Q. So she's in Denver today?
A. Right.
Q. Is Mr. Kessinger here?
A. No.
Q. Where is he?
A. I don't know.
Q. Does he still work for you?
A. No, he does not.
Q. Okay. When did he leave your employment?
A. Several months ago.

Eldon Elliott - Cross

Q. Well, he was still working for you when we had the hearing here earlier where you testified, wasn't he?
A. No, he was not.
Q. He wasn't working for you then?
A. No.
Q. Mr. Ramos: Is he still working for you?
A. Yes, he is.
Q. Does Mr. Kessinger still live in Junction City?
A. I can't answer that, sir.
Q. Okay. Now, when this fellow, Kling, came in on Monday afternoon, that's when he signed the paperwork, isn't it?
A. That's when he signed the contract and --
Q. Yes, sir.
A. Right.
Q. That permitted him to lease the truck?

Q. That permitted him to lease the truck.

A. Right.

Q. And that was a transaction that he had with Vicki Beemer, wasn't it?

A. Right.

Q. Not with you?

A. Right.

Q. And while he was having this transaction with Vickie Beemer

in your office there at Elliott's Body Shop, Mr. Kessinger was there also, wasn't he?

A. Yes.

Eldon Elliott - Cross

Q. Because he was on his break?

A. Right.

Q. Your only role, then, in the transaction was that Ms. Beemer asked you to come out and inspect the truck?

A. Right.

Q. And but for inspecting the truck, you wouldn't have even been there in that office when the transaction was taking place?

A. That's right.

Q. So actually, what you did on Monday afternoon for the most part was go out and inspect the truck?

A. Right.

Q. And this fellow, Kling -- Mr. Kling didn't follow you outside, did he?

A. No.

Q. Was it raining?

A. It was real light mist.

Q. Right light mist. Well --

A. Not real wet. It was just a real light mist.

Q. Coming down out of the sky.

A. It normally does.

Q. Well, at least it does in Oklahoma. Now, so since it was misting, as you say, I take it you didn't dally too long outside?

A. No, I did not.

Eldon Elliott - Cross

Q. When you saw Kling inside, did he look wet?

A. I didn't pay that much attention to him.

Q. When you looked into his face and -- and you handed him -- you have this business transaction, you didn't notice whether he was wet?

A. His face wasn't wet, no.

Q. Okay. How about his clothes?

A. I didn't even look at his clothes.

Q. You didn't even look at his clothes?

A. No.

Q. How did you miss that?

A. I didn't pay any attention to his clothes, maybe I should

say.

Q. Did he have a raincoat on?

A. I don't know.

Q. Well, you looked at this other gentleman's clothes because you noticed his hat, didn't you?

A. I just glanced at his hat, and that's all I glanced at.

Q. Well, you knew enough as to color, and you described the flashes on it or lightening on it, didn't you? Stripes?

A. It was because it was something different.

Q. Yeah. Was it wet, or was it dry?

A. I did -- I don't know.

Q. Did Kling have on a raincoat?

A. I don't know.

Eldon Elliott - Cross

Q. Did the other fellow have on a raincoat?

A. I can't answer that.

Q. All right. So then you come in and -- and you hand him the

forms; and he signs off of them, and presumably, he leaves with

the truck. And you go on back about your business; is that right?

A. Right.

Q. Then as I understand, the conversation that he had originally for a quote was with Ms. Beemer?

A. Well, the quote, yes.

Q. Okay. So she talked with him -- right -- on the phone?

A. Right.

Q. On Friday. And then she was the one that actually had him sign the contract and handled that transaction?

A. On the contract, yes.

Q. Yes. And she's right here in Denver this afternoon, isn't she?

A. Yes.

Q. Now, you'd been in the Ryder truck business how long at that time, sir?

A. Around five years.

Q. And you indicated -- in fact, I think it's been introduced into evidence that there was an ad in the Yellow Pages of the Junction City phone book.

A. Right.

Eldon Elliott - Cross

Q. For your business?

A. Right.

Q. Okay. Now, have you ever used a pay phone?

A. I have, yes.

Q. Out at a commercial establishment, service station, grocery store?

A. I've used it a couple times.

Q. A couple times. Have you ever had the annoying experience of going up to use a phone and find that somebody has ripped out the telephone directory that goes there?

A. We don't have that in Kansas.

Q. You don't have what in Kansas?

A. I haven't had it ripped out in Kansas -- the phone book.

Q. Well, have you ever had a strong wind maybe blew it away?

A. No.

Q. Or a phone company that just didn't put them out?

A. Not that I've went up to.

Q. All right. Well, the truth of the matter is, you know, don't you, that the allegation here is that this phone call that was made which you've identified as the, quote "call," according to the Government's theory, was made from a pay phone

at the bus station in downtown Junction City?

A. Okay.

Q. Okay. Now, do you know whether there was a Junction City phone book at that pay phone that morning?

Eldon Elliott - Cross

A. I don't know.

Q. In fact -- I'm sorry.

A. I haven't used that phone or been to that phone, so I don't know what's there.

Q. Okay. But originally, didn't the FBI think the phone call to your business came at 8:44 in the morning?

MR. MENDELOFF: Objection, your Honor.

THE COURT: Sustained.

MR. JONES: I'm sorry.

BY MR. JONES:

Q. Do you know, were you told -- let me rephrase.

Were you told originally that the phone call came at 8:44 in the morning?

A. On this transaction?

Q. Yes, sir. The quote.

A. No.

Q. You weren't told that?

A. I wasn't told that, no.

Q. All right. Now, this is the third time you've testified under oath in this case, isn't it? You testified once before the grand jury; right?

A. Right.

Q. And we had a hearing a year earlier; right?

A. Right.

Q. And then the hearing today?

Eldon Elliott - Cross

A. Right.

Q. Now, since the last time you and I visited and you were on the witness stand and I was asking questions, how many times have you met with the FBI with no federal prosecutor since

have you met with the FBI with no federal prosecutor, since then?

A. Once.

Q. Once. And where was that, sir?

A. Out here. I think it was in the MCI tower with the prosecuting attorney one night.

Q. All right. So the prosecutors were there?

A. The prosecuting attorney was, yes.

Q. My question really -- and I might not have made it clear --

was had you met with the FBI alone?

A. No.

Q. Okay.

A. I'm sorry.

Q. So the meeting you had, the prosecutors were there?

A. Right.

Q. And when was that meeting, sir?

A. Tuesday evening.

Q. Of this week?

A. Yes, sir.

Q. And what time did that meeting start?

A. Probably about 7:00.

Q. And what time did you finish?

Eldon Elliott - Cross

A. Probably about 9.

Q. And did you have supper there while you were meeting with them, or was that before or after?

A. I had supper after.

Q. Okay. Now, what happened at this Tuesday night meeting?

A. I was just asked some questions.

Q. Did you review your FBI witness statements?

A. I didn't review anything. They just asked me some questions.

Q. Had you reviewed your FBI witness statements before Tuesday night?

A. My FBI --

Q. Your 302's, I think they are called.

A. I'm not familiar with the 302.

Q. Well, it's a typewritten document. It says at the top "Federal Bureau of Investigation."

A. Is that the grand jury one you're referring to?

Q. No, sir. No, sir. 302's are typed on a government form.

A. I didn't have a form.

Q. You've never seen those?

A. Is that the one where -- from when I was here at the last --

Q. It looks like this. Haven't seen those?

A. Nope.

Q. All right. Now, you did review your grand jury testimony?

Eldon Elliott - Cross

A. I've read it over.
Q. And did you read it over Tuesday night?
A. No, I did not.
Q. Did you review the testimony that you gave here previously?
A. No, I have not.
Q. So you haven't even looked at that transcript?
A. I have not looked at that transcript.
Q. When you were meeting there Tuesday night, did you -- was there kind of a mock trial or moot court where somebody played me or said what questions I might ask you?
A. No.
Q. Okay. Now, you and I have never talked about this case except the only previous time you were in court under oath; is that correct?
A. That's right.
Q. And the efforts of the defense investigators to interview you, you declined those interviews; is that correct?
A. That is right.
Q. But you have been interviewed on numerous occasions by the FBI; is that right?
A. I've been asked questions from them sometimes.
Q. Well, what? Half a dozen times?
A. Maybe a half a -- maybe six times.
Q. And then you went down and answered questions that the prosecutors put to you in front of the grand jury?

Eldon Elliott - Cross

A. Right.
Q. And I wasn't present there, was I?
A. No.
Q. All right. Now, you said that your business was a little over a mile from the McDonald's?
A. Right.
Q. Do you know exactly how far it is?
A. Not really.
Q. Isn't it more like a mile and a third?
A. I -- I don't know. I've never checked it. I just -- it's estimated at a little over a mile.
Q. Okay.
A. But I never checked it by tenths to see exactly what it is.
Q. All right. Well, let's say it's a little over a mile. Let's take your description. And your business is up on a little hill, isn't it?
A. On a side hill, yes, it is, sir.
Q. All right. And your elevation is uphill from the McDonald's, isn't it?
A. It's a little incline up and then it kind of goes back down and then you go back up into my driveway.
Q. All right. And have you ever walked that?
A. I've walked it one time.

Q. Have you ever walked it in a mist? Heavy mist or rain?
A. No, I haven't.

Eldon Elliott - Cross

Q. Now, the T-shirt that you mentioned a moment ago, "We remember our customers," do you remember Mr. Mendeloff asking you about that?

A. Yes, I do.

Q. Actually, I asked you about that at the previous hearing, didn't I?

A. Yes, you did, sir.

Q. Yes. So do you remember your customers?

A. I try to remember all my customers.

Q. This picture that's been introduced into evidence of the office area there, that's about 15-by-13, including your office, isn't it?

A. I would say my office and the other office, total width is probably about 18 feet.

Q. Well, then, as a matter of fact, didn't you tell the grand jury it was 15-by-13 and one corner of that is a small office which is yours and the rest is a front office?

A. That could be.

Q. Okay. And people walk right in the front door to the desk that sits about 4 feet from the door, don't they?

A. Right.

Q. Okay. So when Ms. Beemer is sitting there, she is looking right at the door?

A. Right.

Q. And when you're sitting there like you did on Saturday

Eldon Elliott - Cross

morning, you're looking right at the door?

A. If I was looking at the door.

Q. Well, is there much to see 4 feet away?

A. No, but --

Q. You could have been working at the desk?

A. That's right.

Q. All right. And if somebody comes in, I take it you look up?

A. Right.

Q. Now, you have a practice with Ryder, do you not, that this paperwork, you've got to send to them?

A. Right.

Q. Okay. Tell me how that works.

A. Okay. On every Monday morning, at noon, 12:00, has to be the Monday morning report run off. And that runs a sheet off of how many transactions we did that day -- that week. And then it shows how much money we have to send along with that transaction. It has credit cards on there and everything. We don't send credit-card payment in, just the amount of payments we've collected in checks or cash; and then we send that amount

or money in with the contract. And it has to be run off on Monday, and we have to have it mailed by Tuesday evening.
Q. All right. So on Monday morning of each week, Ryder requires you to summarize the business from the previous week and send it in, and it has to leave by Tuesday morning?

Eldon Elliott - Cross

A. By Tuesday evening.

Q. Tuesday evening. All right. Now, when Mr. Kling was in there on Saturday with you, you created some paperwork there, didn't you?

A. Right.

Q. Did you hand it to him?

A. Yes, I did. I turned it around and laid it right on the counter, right in front of him; and he signed it there.

Q. All right. Now, what was it that you handed him?

A. A quote.

Q. The quote? All right.

MR. JONES: Can you turn this on.

BY MR. JONES:

Q. Now, this is Government Exhibit 308. Is this the quote?

A. Yes, it is.

Q. Now, this is the document that on Saturday --

A. I'm sorry. That's not the quote. That's a reservation.

Q. All right.

A. That's what I handed him.

Q. All right. Just a moment. Is this the quote, 305?

A. Yes, it is, sir.

Q. All right. Now, what happened to the original of the quote? Do you know?

A. The original of the quote?

Q. Yes, sir.

Eldon Elliott - Cross

A. The original of the quote would go in with the weekly report.

Q. All right. Is the original of the quote with you up there, 305?

A. Yes. I think it is.

Q. Okay. So you got the original of the quote?

A. Right.

Q. And that's what you handed Kling on Saturday morning?

A. No, it is not, sir.

Q. It's not.

A. No.

Q. What did you hand him?

A. I handed him the reservation.

Q. All right. All right. I want to be sure. I don't want to

get confused. I'm already confused. I don't want to get any more confused. You handed him the reservation?

A. What I did on Saturday was a reservation.

... what I saw on Saturday, was a reservation.

Q. All right.

A. And that's what I handed him, sir.

Q. Okay. Is this what you handed him, 308?

A. Yes. That's a reservation.

Q. That's what you handed him?

A. That's what I handed him.

Q. All right. Now, you're sitting there and he is -- incidentally, you're sitting, aren't you?

Eldon Elliott - Cross

A. Right now, I am.

Q. And I'm standing.

A. That's right.

Q. Okay. What am I doing now?

A. You're leaning over just a little.

Q. All right. Now, when you talked to the grand jury, you told them that he was standing, did you not?

A. Right.

Q. You didn't say he was leaning over, did you?

A. I don't know if I told them in the grand jury he was leaning a little or not.

Q. Well, there's a difference between standing and leaning, isn't there?

A. But he wasn't leaning way over as far as you was.

Q. I understand that's what you're staying, but Mr. Mendeloff has been saying "leaning" and "standing," hasn't he?

A. Right.

Q. Okay. Well, which is it, was he leaning or was he standing?

A. Halfway in between.

Q. What's that called?

A. Just barely lean over a little bit.

Q. Just a little lean over?

A. That's right.

Q. Just a little bit like that?

Eldon Elliott - Cross

A. Because I think our counter is just enough taller it made it -- he was on the counter without leaning down.

Q. He was more standing than he was leaning?

A. He was leaning down a little.

Q. All right.

A. A little bit.

Q. Anyway, while he's leaning down, you hand him 308?

A. That's right.

Q. Okay. And -- and he signs it?

A. That's right.

Q. Okay. And then what happens?

A. When he signed it, then that's when he paid me and I tore -- there's three copies of this, sir. We tear off the back copy and give him a -- the back copy. We keep the two copies, and the original goes in on Monday morning reports,

and

we keep the second copy.

Q. But you're satisfied that this signature, Robert D. Kling, on 308 was the signature that was signed Saturday morning?

A. Yes.

Q. And then he hands it back to you and you separate it and give him a copy and you keep the copy?

A. That's right.

Q. And then on the following Monday, this -- or following Tuesday, this would have gone to Kansas City?

A. No. It would not, sir.

Eldon Elliott - Cross

Q. This would have stayed in your office?

A. That's right.

Q. Okay.

A. Now, let me clarify that. It stays in our office till the next week.

Q. That's what I mean.

A. Till the next Monday morning.

Q. Right. I confused you. I said Tuesday morning. It would be the next Tuesday, wouldn't it?

A. Right. Because this transaction didn't go out until Monday

evening. So on the -- on the -- on the truck going out so all

this stuff stays with us for another full week and goes out on the next Monday morning's report.

Q. So when you got this back and after you had separated it, it got put in a desk drawer or folder somewhere?

A. Filing cabinet.

Q. File cabinet. Where, presumably, it stayed until

Mr. Crabtree arrived on the 19th?

A. Until we got the phone call on Monday afternoon was when it

was pulled back out.

Q. Phone call --

A. I'm sorry. On the 19th, it was pulled back out before Crabtree came down.

Q. Oh. And then he took it that day, didn't he?

A. I think so.

Eldon Elliott - Cross

Q. Yeah. Because it says right up here at the top, SC 4-19-95.

A. I think -- they took everything.

Q. Took everything. All right. Well, let me ask you something. Does this fellow Kling have gloves on?

A. No, he did not.

Q. Well, then, we ought to be able to find Mr. McVeigh's fingerprints on this --

MR. MENDELOFF: Objection, your Honor.

THE COURT: Sustained.

BY MR. JONES:

Q. You gave it to the FBI?

A. I did.

Q. Do you know what they found on it?

A. I have no idea.

Q. When you saw Mr. Kling on Monday, did he have gloves on?

A. I don't -- I don't know as I paid that much attention to his hands.

Q. Mr. Elliott, did he have gloves on Monday?

A. I can't remember.

Q. Can't remember. Is that the type of thing you would remember?

A. I don't remember that.

Q. Did he sign something Monday?

A. Not in front of me.

Eldon Elliott - Cross

Q. Okay.

MR. JONES: Your Honor, this would be a convenient place to stop.

THE COURT: To stop or to --

MR. JONES: No.

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

We're

going to recess for 20 minutes, and then you'll be back.

THE WITNESS: Okay. Just leave this here?

THE COURT: Yes.

Members of the jury, before we recess, I just want to remind you about in connection with the cross-examination here, you heard Mr. Jones refer to grand jury testimony, and of course, this witness apparently did testify before a grand jury, but you understand that's not like a trial. As we've said before, a grand jury indictment, as I -- if you remember all the way back to the time you were going through jury selection, an indictment is nothing more than the charges, a statement of the charges in the case, and cannot be considered in any respect to constitute some sort of finding that has any influence on you and your decision.

Also, there is a reference here to prior testimony in a matter before this Court, and of course, I'm sure you appreciate that in cases -- criminal cases, there frequently are motions that are heard before the trial ever begins and matters relating to discovery, things like that in preparation for the trial. So here again, while any previous testimony by a witness under oath can be considered in connection with the testimony here at the trial, you should not speculate about well -- what was that hearing and what was the outcome. That's not a matter before you. And you simply should not speculate about what was the hearing and what was it all about and what was the ruling. You focus on what happens here in front of

was the ruling. You focus on what happens here in front of you in this trial, just as I said so many times. So please keep that in mind.

And keep in mind the frequently repeated cautions, don't talk about anything in connection with the case during this time and at all recesses.

You're excused now. 30 minutes -- 20 minutes.

(Jury out at 3:20 p.m.)

MR. JONES: Your Honor, that was a prior inconsistent statement.

THE COURT: Yeah.

Okay. 3:40.

(Recess at 3:20 p.m.)

(Reconvened at 3:40 p.m.)

THE COURT: Please be seated.

MR. JONES: Your Honor, may we approach the bench?

THE COURT: Yes.

(Bench Conference 88B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: All right. Bring in the jury.

(Jury in at 3:43 p.m.)

THE COURT: Please resume the stand.

Mr. Jones, continue your cross.

MR. JONES: Thank you, your Honor.

BY MR. JONES:

Q. Mr. Elliott, as I understand it, the first indication you had that this transaction that took place on April 17 with Mr. Kling and the renting of the truck came on April 19, about 3:30 in the afternoon?

A. Right.

Q. And what happened then?

A. I got a phone call from the people in Miami wanting us to pull this contract.

Q. And is that Mr. Russell?

A. Right.

Q. Okay. And did you pull the contract?

A. Yes.

Q. And what happened then?

A. At that time, he said that they believed that that truck could have been the one that was in Oklahoma City and Mr. Crabtree would be coming down to talk to us and not talk to

anyone until he got there.

Q. All right. So Mr. Russell is the vice president?

Eldon Elliott - Cross

A. Right.

Q. And he told you not to talk to anybody till Mr. Crabtree got there?

A. If anybody called -- or said not to talk to anybody over the phone except Mr. Crabtree.

Q. Well, he didn't say not talk to anybody over the phone, did

he? He said not to talk to anybody.

A. Well, that could be.

Q. Isn't that what you told the grand jury?

A. Not to talk to anybody.

Q. And Mr. Crabtree came by 45 minutes later?

A. Yes.

Q. But before Mr. Crabtree got there, you did, in fact, talk to somebody.

A. Oh, we just -- Dave Russell called back to get rooms. I called him back on rooms that we got, and it was just -- by that time, Crabtree was there.

Q. Well, but before Mr. Crabtree got there, you and Vicki Beemer and Tom Kessinger had a discussion about what had happened on Monday afternoon, didn't you?

A. I didn't have no discussion with -- with Tom Kessinger. And Mr. -- Vicki and I just barely mentioned that that was the contract and about the truck, and Crabtree was there.

Q. Well, let me ask you specifically if you and Mr. Kessinger and Ms. Elliott (sic) had a conversation before Mr. Crabtree

Eldon Elliott - Cross

got there about two men renting the truck and Ms. Beemer saying

she didn't recall that, and you joined the conversation and, listening to Mr. Kessinger, generally described the two men he recalled renting the truck.

A. I don't remember that. And Mrs. Elliott wasn't even there, and I didn't talk to Mrs. Elliott.

Q. Well, that's my mistake. Ms. Beemer.

A. Okay.

Q. So to be sure I understand, you are denying that there was a conversation that you joined in between Beemer and Elliott (sic) in which the three of you talked about Kessinger's recollection of the two people that rented the truck on Monday?

MR. MENDELOFF: Objection, your Honor.

Mischaracterizes the testimony.

THE COURT: Overruled.

THE WITNESS: I don't remember having any conversation of that.

BY MR. JONES:

Q. Well, you did talk to Vicki Beemer before Mr. Crabtree arrived, didn't you?

A. Just about the contract and inspection.

Q. Well, why did you talk with her if Mr. Russell had told you not to talk to anybody?

A. We didn't talk to anybody else. We just pulled that contract out about that.

Eldon Elliott - Cross

Q. Are you saying under oath that you and Vicki Beemer did not discuss the description of the people that rented the truck on Monday before Mr. Crabtree got there?

A. I did not discuss the description of the people.

Q. Did she?

A. I don't remember. I don't think she said anything about that to me.

Q. Sir?

A. To me.

Q. Did you overhear her discussing it with anybody else?

A. No, I did not.

Q. So your statement is that there was absolutely no discussion that you participated in or overheard about the description of the people that rented the truck between the time Mr. Russell called and said don't talk to anybody till Mr. Crabtree arrives.

A. That's right.

Q. Now, when Mr. Crabtree arrived, what happened there?

A. He asked us some questions on -- about the gentleman that rented a truck.

Q. Go ahead. And what else?

A. And I give him what I could. I just couldn't quite get in my mind placing him exactly. It was just real hazy. So much stuff had happened and so much excitement there that I just couldn't think right then, and I told him just about his height

Eldon Elliott - Cross

and about the size of him and --

Q. Well, Mr. Elliott, why was there so much excitement?

A. The phone calls we had back and forth to Miami and down to the motels, and I was just shook up about this -- all this.

Q. Well, did you make the calls to the motels?

A. Yes, I did.

Q. So you didn't have any trouble doing that?

A. No.

Q. You didn't have any trouble finding the contract?

A. No.

Q. You didn't have any trouble calling Dave Russell back?

A. No. And when I pulled the contract, I didn't even know what it was about, when I pulled the contract.

Q. What do you mean you didn't know what it was about?

A. I didn't know anything about what this pertained to when I pulled the contract.

Q. Well, when did you find out what it pertained to?

A. After I pulled the contract.

Q. Well, I thought you said Mr. Russell had told you that there was a suspicion that the truck that had carried the bomb had been rented at your place.

A. After the contract was pulled, sir.

Q. Okay. So after the contract was pulled, you called him back and that's when he told you?

A. No. He had to pull the contract, and after I pulled the

A. No. He had me pull the contract; and after I pulled the

Eldon Elliott - Cross

contract out and everything, then that's when he told me that he believed that the truck could be the one that was in Oklahoma City.

Q. All right. Well, now -- and then it was about 45 minutes after that that Mr. Crabtree arrived?

A. Right.

Q. So when Mr. Crabtree arrived, he identified himself as a special agent of the FBI?

A. Right.

Q. And he didn't just come in immediately. He came there nearly an hour later, 45 minutes later?

A. Between 30 to 45 minutes, yes.

Q. Well, I thought you said earlier it was 45.

A. About 45 minutes.

Q. That's what you testified to before today, isn't?

A. Okay.

Q. And that's your best memory, 45 minutes?

A. Right.

Q. And so in that 45 minutes, you knew what he was coming about?

A. Right.

Q. And I presume since this transaction had happened only 48 hours before that you recalled it?

A. Right.

Q. And did you go over it in your mind?

Eldon Elliott - Cross

A. I didn't -- I went over it in my mind -- I've just -- everything I was doing, I didn't have time to go over it in my mind yet.

Q. What else were you doing?

A. I made those phone calls. By the time I got the phone calls made, called him back and he called back -- and Crabtree had called right before I called Russell back and stuff. As soon as I hung up from Russell the first time, Crabtree had called. And by the time I got done, Crabtree was there.

Q. So all that took 45 minutes?

A. Whatever time it was. I didn't time it.

Q. All right. So Mr. Crabtree comes in and he goes in and talks to you?

A. Right.

Q. Just the two of you?

A. Right.

Q. You knew it was important?

A. Right.

Q. And he proceeded to interview you concerning your knowledge of what had happened.

A. That's right.

Q. And you told him?

2- - - - -

A. Right.

Q. And then later on early the next morning, you had another meeting with him, didn't you?

Eldon Elliott - Cross

A. Right.

Q. And where did that take place?

A. Out at Fort Riley.

Q. And he was there and you were there?

A. Right.

Q. And Ms. Beemer was there?

A. She was out there at Fort Riley. She wasn't with us when we was together.

Q. Okay. But she was there. Not necessarily with you, but she was there.

A. Right.

Q. And then this fellow Tom Kessinger was there, wasn't he?

A. Right.

Q. What was Mr. Kessinger doing?

A. I have no idea. I didn't see him.

Q. Well, was he meeting with the FBI sketch artist?

A. I don't know.

Q. Were you shown an FBI sketch?

A. From the sketch artist?

Q. Yes.

A. Yes, I was.

Q. So you didn't help prepare the sketch. It was shown to you

after it had already been done?

A. Right.

Q. Do you know whether Mr. Kessinger was the basis of the

Eldon Elliott - Cross

sketch?

A. I -- I'm assuming he was, but I don't know for sure.

Q. But it wasn't you, because when it was shown to you, it was

already done.

A. Right.

Q. And did you make any additions to it?

A. No.

Q. Now, you were shown the sketch of one person, or two people?

A. One person.

Q. One person. And which one was that, the fella that rented the truck, or the fella that was with him?

A. The person that rented the truck.

Q. All right. Were you later shown a second sketch?

A. Yes.

Q. And was that the sketch of the person that was with the fella that rented the truck?

A. That was a sketch of the person that was in there at the

same time.

Q. Well, he was in there at the same time. Do you know who that person is?

A. No.

Q. Did you conduct any business with him that day?

A. No.

Q. I take it you don't let strangers loiter around this small

Eldon Elliott - Cross

reception room you've got there.

A. No. I wouldn't do that, but I don't know when he come in, because I wasn't in the office, or I would have knew about it and I would have knowed (sic) what he was there for.

Q. Well, I take it you don't know what he was there for?

A. I don't know what he was there for.

Q. You didn't see who came in with Kling, if anyone?

A. No.

Q. And did you see him leave?

A. No.

Q. Did you see this other fellow conduct any business while you were in the office?

A. No.

Q. Did you recognize him?

A. No, I did not.

Q. Wasn't one of your regular customers?

A. No.

Q. Did you rent any more trucks after the one with Kling?

A. Not that day.

Q. Any customer bring in a car that you dealt with to do anything after Kling left?

A. No.

Q. All right. In fact, on Monday, you only rented two trucks, didn't you?

A. I don't remember what we rented on Monday.

Eldon Elliott - Cross

Q. Well, didn't you just rent one about 8:30 in the morning and this one to Kling at 4:00?

A. That could be.

Q. And you had one customer come in the office during the day?

A. I don't know how many customers come in the office.

Q. Okay. And you had a couple of deliveries from a local business, didn't you?

A. Right.

Q. Okay. Now, when you were interviewed on the 19th by Mr. Crabtree, did you describe the hair of Kling as being light

brown, short, military-style haircut?

A. Yes, I think I did.

Q. And did you describe his height as 5' 10"?

A. Right.

Q. And did you say that the clothing that he had on Monday was

Army fatigues or similar military-type clothing?

A. On Monday?

Q. Yes, sir.

A. I didn't remember what he had on, on clothes on Monday.

Q. Well, it is true that you told Mr. Crabtree that you could not be certain exactly. Is that correct?

A. I had told him I didn't remember what the clothes was. He said, "Could it be military clothes?"

I said, "It could be. I'm not sure what he had on, on clothes." I just didn't remember.

Eldon Elliott - Cross

Q. I want to be sure I understand you. This special agent of the FBI has come up to your office and is asking you about a description of somebody, and he is asking you whether it could have been military. Is that right?

A. When I said I couldn't -- don't remember what it was and stuff, he said, "Could it be military?"

I said, "I don't know. It could be." About 75 percent of our customers come in here have military clothes on, but I'm not sure what he was wearing.

Q. Well, sure. 75 percent of them come in with military clothing, don't they?

A. Right.

Q. So the ones that would stick out in your mind are the ones that don't wear military clothing. Isn't that true?

A. Not necessarily.

Q. That would be the exception, wouldn't it?

A. I just didn't remember what he had for clothes because I didn't pay that much attention to clothes, and I wasn't --

Q. Well, you don't get many young men with short haircut, military-style, that come to see you in civilian clothes, do you --

A. We have some.

Q. -- to rent a truck?

You have some. Well, sure. But you don't have more than 25 percent.

Eldon Elliott - Cross

A. No.

Q. All right. Now, and you described his build as medium?

A. Uh-huh.

Q. Incidentally, you've identified Mr. McVeigh, as I understand it, as Robert Kling.

A. Right.

Q. Does he look to you today like he did then?

A. Yes, he does.

Q. So in other words, this fellow that came in to rent this truck, if it's Mr. McVeigh -- this truck that carried the

CLACK, IS IT? MR. McVEIGH. THIS CLACK THAT CARRIED THE
bomb -- didn't have any disguise?

A. No.

Q. Just walked in off the street.

A. Right.

Q. And didn't have a hat on?

A. No.

Q. And didn't have any particular unusual clothing on?

A. No.

Q. And didn't have any kind of fake mustache or beard?

A. No.

Q. Or sunglasses?

A. No, he didn't.

Q. In fact, if I understand it, this fellow that you saw,
which you've identified as Mr. McVeigh, looks about as much
(sic) today as he did then?

Eldon Elliott - Cross

A. Right.

Q. Now, what did you say about Kling's complexion?

A. I said he was about medium complexion, about like mine, or
maybe just a little bit darker.

Q. So you think that Tim McVeigh's complexion is darker than
yours?

A. It was at that time.

Q. Was at that time. All right. Now, then, you were
interviewed, as I think you've indicated, on the 20th by the
FBI concerning these descriptions. Is that correct?

A. That's correct.

Q. And at that time, you said that Kling had medium- to
light-brown short hair; right?

A. Right.

Q. And you said he was about 5' 10" to 5' 11"?

A. Right.

Q. And then they asked you what he was wearing on Saturday.
Do you remember that?

A. Right.

Q. And didn't you say camouflage-colored T-shirt and green
slacks?

A. No, I did not.

Q. You did not?

A. I said -- I had -- T-shirt was camouflage shirt or
military -- or Army shirt, T-shirt, but I didn't know what he

Eldon Elliott - Cross

had for trousers on.

Q. All right. So you said camouflage color or military-
colored shirt, but you weren't sure about the trousers?

A. Right.

Q. Did you give a description of the slacks or trousers, or
you just weren't sure?

A. No, I did not.

Q. All right. And then in the same interview, you described what Mr. Kling had on Monday as possibly the same thing he wore

Saturday?

A. No, I did not.

Q. You did not tell the FBI that?

A. That it was the same as Saturday? I did not.

Q. That it was possibly the same as what he wore Saturday?

A. Are we talking about Monday?

Q. Talking about your being interviewed on April 20 about what

he looked like on Monday, or what he was wearing on Monday.

A. I couldn't remember what he wore on Monday.

Q. Well, I understand that's your testimony; and what I'm asking you is on April 20, did you tell the FBI that on Monday,

the 17th, Kling possibly was wearing the same thing he had worn

Saturday?

A. No, I did not.

Q. You did not tell them that?

A. No.

Eldon Elliott - Cross

Q. Did you tell them that you could not be sure what he was wearing?

A. Yes, I did.

Q. Did you tell them you were not positive what he was wearing?

A. I said I just don't know what he was wearing. I can't be sure what he's wearing.

Q. And didn't you then tell them that because your contact with him was so short?

A. I said I was just with him on Monday for a short moment.

Q. Okay. And that's true, isn't it, incidentally?

A. Right.

Q. Now, on August 1, you testified in front of the grand jury.

Is that correct?

A. It was sometime. I don't know the date for exactly, but I think that's when it was.

Q. And when you testified in front of the grand jury, did you describe Mr. Kling's hair as half-an-inch-long hair, military cut?

A. Yes, I did.

Q. And did you tell them that when he came out on Saturday, he

was wearing camouflage military T-shirt?

A. Yes, I did.

Q. Did they ask you what he was wearing on Monday?

A. I don't remember if they asked me what he was wearing on

Eldon Elliott - Cross

Monday or not.

Q. Okay. Now, when you were asked by the grand jury what Kling looked like, wasn't your response, "Well, he was probably my height, a little bit taller. I'm about 5' 10"?"

A. Right.

Q. And then you went on?

A. Right.

Q. And did you also tell them, "I stood -- like our counter is probably from here to the desk and the counter, and he stood on that side facing me and we was like this, face to face"?

A. Right.

Q. And when the grand jury asked you what color his hair was, Kling's hair was, did you say, "Golly, I can't remember. I really can't remember what color his hair was"?

MR. MENDELOFF: Can I have a page, your Honor?

MR. JONES: Sure. 14.

THE WITNESS: I said that I couldn't remember really for sure what kind of color it was.

BY MR. JONES:

Q. And you described Monday as a dreary day with a light mist, didn't you?

A. Real light mist.

Q. Well, did you tell them it was a real light mist, or did you say it was a light mist?

A. Light mist.

Eldon Elliott - Cross

Q. Now, when the grand jury asked you about Monday, the 17th, you told them, did you not, "He was standing right at the corner of the counter as I walked in and walked around"?

A. Right.

Q. Now, you're not claiming he was leaning then, are you?

A. No.

Q. He was standing straight up?

A. I don't remember whether he was leaning or standing straight up.

Q. Well, you told the grand jury he was standing right at the corner of the counter. Is that right?

A. That's right.

Q. And presumably your memory about it was better in August of '95 than it is today. Is that right?

A. Yes.

Q. Okay. Now, you indicated that Kling -- Mr. Kling didn't come out with you during the inspection.

A. No, he didn't.

Q. Now, that's not unusual, is it?

A. Not really.

Q. Okay. And when you came back in, you said "Thank you

Q. Okay. And when you came back in, you said, "Thank you very much, and have a safe trip."

A. That's right.

Q. Now, the grand jury asked you if Kling was with somebody?

MR. MENDELOFF: Page?

Eldon Elliott - Cross

MR. JONES: Sure. 21.

BY MR. JONES:

Q. Do you remember that?

A. Yes.

Q. And you said, "Yes, he was."

A. Yes.

Q. Now, you didn't say there was just somebody else standing there. You said there was somebody with Kling.

A. Right.

Q. And you were under oath then? Sir?

A. Yes.

Q. And this is several months, nearly six months after the bombing, so you've had time to reflect and think. Is that right?

A. Right.

Q. This isn't some sudden, impulsive question that's being thrown at you?

A. Right.

Q. In fact, before you went in the grand jury room, you met with the prosecutors that were handling the grand jury, didn't you?

A. Right.

Q. And they went over with you about some of the questions that you would be asked; is that right?

A. Yes.

Eldon Elliott - Cross

Q. So you didn't go in the room cold turkey, did you?

A. No.

Q. And then the grand jurors asked you if you could tell them about the second man, didn't they?

A. Yes.

Q. Now, at that time you told them that you really couldn't tell them what he looked like; right?

A. That's right.

Q. But you said, "I remembered that he had a hat with blue stripes or like lightening on the side of it; and I noticed that, but I didn't pay no attention to him."

A. That's right.

Q. And he was standing there, wasn't he?

A. Yes, he was.

Q. And you noticed that?

A. Yes.

Q. Now, was he talking to Kling?

A. They was saying something when I came back in, but I don't

know what they said.

Q. So this fellow Kling was talking with this other man that had the striped hat?

A. Right.

Q. But you don't remember what they were talking about?

A. No.

Q. Okay. Now, you were asked if -- by the grand jury if

Eldon Elliott - Cross

Mr. Kling was approximately 5' 10", were you not?

A. Right.

Q. And you answered, "Somewhere about that"?

A. Yes.

Q. Is that right?

A. Yes.

Q. And then you remember the grand juror asked you how tall you were?

A. Right.

Q. And you said, "I'm about 5' 10", " didn't you?

A. Right.

Q. And then didn't the grand juror say to you, "About your same height, then"?

A. Yes.

Q. And you said, "Right"?

A. I said, "Yes, sir, just a little taller."

Q. All right. "Yes, sir, just a little taller." Did you say yes, or what did you say right at that time?

A. I can't remember now.

Q. Now, the truth -- well, strike "the truth."

Today, is it your testimony that you are uncertain about the height of Robert Kling?

A. He was 5' 10", 5' 10" or 11" or maybe just a little taller;

but he was a little taller than me, I thought, because after thinking about it, leaning on the counter, he would have had to

Eldon Elliott - Cross

have been just a little taller than what I said.

Q. Well, did you tell the grand jury that he was leaning on the counter?

A. I don't remember if I did or not.

Q. Or is the business about leaning something that you have remembered since your grand jury testimony?

A. No, sir.

Q. Is it something that you remembered since your grand jury testimony because Mr. McVeigh has now been measured?

A. I really don't know how tall Mr. McVeigh is, sir.

Q. Now, the grand jurors also asked you -- I'm sorry. Strike that.

At the hearing that we had here before -- do you remember that?

A. Yes, I do.

Q. Now, at that point, you were asked your memory of the physical description of Mr. Kling on Saturday. Is that right?

A. Yes.

Q. And you told us that you were mostly looking at his face.

A. That's right.

Q. And then you said, "He was standing behind the counter there, the desktop that we had that's taller than our desk, and

just looking right at me"?

A. Right.

Q. And do you recall that I asked you the question if you

Eldon Elliott - Cross

formed an opinion about his height?

A. Right.

Q. And at that time, did you say under oath, "Not really. I said, you know, when they asked me about what height, but I couldn't really tell because he was leaned on the counter."

A. Right.

Q. Well, the description that you gave of Mr. Kling to the grand jury under oath back in August of '95: Is that the description that you remember?

A. That's what I remember; that he was around 5' 10", 5' 11".

Q. Standing?

A. Where I seen him -- and he was leaning on the counter a little.

Q. Did you tell the grand jury he was leaning on the counter?

A. I don't remember whether I told the grand jury that or not, sir.

Q. Now, then do you remember that at the eyewitness hearing, when I was visiting with you, you said that he was leaning against the counter?

A. Right.

Q. When is the first time that you told one of the FBI agents or the prosecutor that you remember that Kling was leaning against the counter?

A. I don't remember when it was.

Q. Now, do you also recall that when we had the hearing before

Eldon Elliott - Cross

Judge Matsch that I asked you if you noticed anything about Kling's face?

A. Right.

Q. And at that time, did you say, "Just nothing really out of the ordinary except like a little bitty line or mark on his chin"?

A. Yes.

Q. "It might have been a shadow from the light or something. I don't know."

...

A. Yes, I did.

Q. Now, when you were in front of the grand jury, did you describe that as follows: "He kind of had like a little wrinkle or drawn in on his chin"? Do you remember that?

A. Right.

Q. And then did a grand juror ask you, "You noticed this chin particularly?" Did that happen?

A. I don't remember.

Q. Do you recall making a statement, "Right, because I stood -- like our counter is probably from here to here, and he was like face to face"?

A. Yes.

Q. Well, may I ask you, sir, are you saying that this line that you saw might have been from a shadow or a light, or it's something that was on his face?

A. I don't know. It was just a little mark on his chin that

Eldon Elliott - Cross

run crossways a little bit, either a mark or a shadow. There was just a little bitty thing I seen there.

Q. Now, have you seen a photograph of a gentleman known as Michael Hertig?

A. That's right.

Q. Does he have a line or little mark on his chin?

MR. MENDELOFF: Objection, your Honor.

THE COURT: What's the objection?

MR. MENDELOFF: The photo is the best evidence, not the witness' recollection.

THE COURT: Overruled.

BY MR. JONES:

Q. Doesn't Mr. Hertig have a little line across his chin right here?

A. Not like what I was talking about.

Q. All right. Well, now, when you were in front of the grand jury down there in August of '95, you didn't tell them that this might have been a shadow from a light or something, did you?

A. I don't remember if I did or not.

Q. Well, have you -- I thought you said you looked at your grand jury testimony?

A. I did one time, a long time ago, but I don't remember that or not.

Q. You don't remember that. Well, is it true -- strike that.

Eldon Elliott - Cross

Did you say that you particularly noticed the chin?

A. Yes, that there was a little -- yes, I did.

Q. A little -- it was prominent enough for you to notice.

A. Right.

Q. And not just for you to notice but for you to notice.

x. And not just for you to notice but for you to notice, quote, "particularly," close quote, wasn't it?

A. Well, I don't know. That was the only -- that was the only thing that I could notice telling them that he had on his chin.

Q. Now, since this other gentleman was seen in your business on the 17th with the cap, you have been shown a photograph of a cap, have you not?

A. That's right.

Q. And was that the cap the gentleman was wearing, or did you say it wasn't the cap?

A. That was not the cap that I was shown -- was not the cap that the gentleman had on that was in there.

Q. The cap that you were shown: Was that the cap that Todd Bunting was wearing on Tuesday when he was there?

MR. MENDELOFF: Objection, your Honor. This man can't testify to what Todd Bunting was doing there.

THE COURT: Rephrase the question.

BY MR. JONES:

Q. Was Todd Bunting in your business on Tuesday?

A. I don't know. I did not see him in my business.

Q. Now, do you recall that I asked you when we were here

Eldon Elliott - Cross

before if you had gone to Oklahoma City?

A. Right.

Q. And do you recall that I asked you when you went to Oklahoma City?

A. Right.

Q. And you said that you couldn't really remember?

A. I didn't remember the date, no.

Q. Did you only go to Oklahoma City one time in reference to this case?

A. No. I went to Oklahoma City two times.

Q. And what was the -- was the time you appeared in front of the grand jury the first time or the second time?

A. Second time.

Q. You went down before?

A. Right.

Q. When did you go down before?

A. I don't know what the date was.

Q. Was the grand jury sitting then?

A. It was, I think, preparing me for grand jury or asking me questions. I don't know what -- what it was actually about.

Q. Well, had you received a grand jury subpoena to be there on that first day you went down?

A. Yes, I did.

Q. So you received a grand jury subpoena to go down but didn't testify in front of the grand jurors?

Eldon Elliott - Cross

A. Not the first time -- well, I had a subpoena to go down the

first time, but I did not appear to the grand jury that day.

Q. But you did talk to the prosecutors, or some prosecutors?

A. Right.

Q. And about how long was that meeting?

A. Well, I don't really remember. We was down there, and I waited quite a while and we talked to them. I'd say I probably

was with them three hours.

Q. And then at the end of the three hours, the decision was made not to put you in front of the grand jury that day?

A. I guess. I don't know.

Q. Well, you didn't appear in front of the grand jury?

A. That's right; but I don't know that that was made, you know. I didn't go to the grand jury that day.

Q. All right. Well, did somebody say, "You're excused, you can go back to Kansas"?

A. They told me I could go back to Kansas when we was done, yes.

Q. Did they give you an explanation that even though you had received a grand jury subpoena and you were there and it was that day, they didn't take you in front of the grand jury?

A. No.

Q. No explanation was given to you?

A. No.

Q. Well, when they were having this three-hour meeting with

Eldon Elliott - Cross

you there, did they talk to you about your description?

A. Yes, they describe -- talked to me about my description some.

Q. Went over it in some detail?

A. Right.

Q. And then you came back to Kansas?

A. Yeah.

Q. And you didn't go in the grand jury that day?

A. I think that's what I said, yes.

Q. Now, if I remember correctly, this -- and I want to be sure

I get the right nomenclature, so let me just ask you. Which one says it's going to be picked up at 4:00?

A. Which one shows it?

Q. Yes.

A. They all show that it was set for picking up at 4:00.

Q. All right. So they all say it. Fair enough.

A. Once it goes in the first quote, it will stay the same time

unless it's been changed.

Q. Okay. So it was going to be picked up at 4:00?

A. Right.

Q. Now, who chose 4:00, Kling, or is that a number that you all just put on there, or is there something magical about the number?

A. Well --

Q. That's a poor question. Let me rephrase that.

Eldon Elliott - Cross

Did Kling tell you that he wanted to pick it up at 4:00?

A. Okay. I'll clarify this so it's not a mistake.

Q. Okay.

A. It was put on at 4:00 on the quote that my secretary give, and then when I give -- made the reservation, he asked me if the truck would be ready by 4:00; and I said yes, it will be.

Q. So the 4:00 sort of came from Kling?

A. Yes, it did.

Q. Be ready by 4:00. Okay.

Well, of course 4:00 came and went and Kling wasn't there.

A. Right.

Q. He didn't show up till 4:15, or somewhere around there?

A. Right.

Q. Now, did he call and say he was running a little bit late?

A. I can't answer that.

Q. Okay. Now --

A. That's not unusual for people to be 30 minutes late or an hour late picking trucks up.

Q. Sure. I understand. What time do you close?

A. 5:00.

Q. So the fact that he wasn't there at 4:00 didn't particularly bother you.

A. No.

Eldon Elliott - Cross

Q. But you did have a board there which had indicated he was going to pick it up at 4:00?

A. That's right.

Q. All right. Now, do you have a chart in there that Ms. Beemer can refer to that shows how much weight a truck will carry?

A. Yes, we do.

Q. Because the chart that's been introduced into evidence here

talks about a three-bedroom house, a two-bedroom house, or something like that?

A. Right.

Q. But you also have a chart -- in fact, it hangs on the wall,

or did in April of '95, that talks about what the weight is?

A. Sir, they all do. The ones that say the three-bedroom and that it will say to decide how much weight can be in those

that, it will say to decide how much weight can be in those trucks.

Q. Because some people want to know that, don't they?

A. Yes, they do.

Q. Now, Mr. Elliott, you are aware that there is a -- or was, at least, back in April, May and the summer of 1995, a \$2 million reward for information leading to the arrest and conviction of the person in the Oklahoma City bombing?

A. I heard that one time on the TV.

Q. Well, you heard it.

A. I heard it.

Eldon Elliott - Cross

Q. And you heard it enough to remember it today?

A. Yes.

Q. Now, have you tailored any part of your testimony or recollection to be eligible for this reward?

A. No, I have not, because I've been told right off the start and I've been told several times there would be no reward. I said I wasn't looking for no reward, I didn't want no reward; and I've even signed a letter that I didn't -- that there wasn't going to be no reward, and I signed that letter.

Q. When did you sign that letter?

A. I'd have -- I don't know.

Q. Well, was it this year?

A. I think it was.

Q. You don't remember whether you signed that letter after a particular court proceeding, do you?

A. No.

Q. Well, up until this year, or when you signed the letter, had you sent a letter saying that you didn't want to be considered for the reward?

A. I never did send no letter. I just -- right off the start, the security people from Ryder said there would be no reward. The -- when it went to the prosecuting attorney, they said -- to meet with them in Oklahoma City -- they said there would be no reward. I had no -- no reason to think there would be no (sic) reward.

Eldon Elliott - Cross

Q. Well, what did Ryder have to do with the reward?

A. I guess they just wanted to make sure that I knew that there would be no reward out there, unless that they was talking about them a reward, or what, I don't know.

Q. Well, Ryder wasn't offering \$2 million, was it?

A. No.

Q. All right. And you say the prosecutors told you there wasn't going to be any reward?

A. Well, someone, when we were down there, said that, you know, no reward.

Q. So it might not have been a prosecutor?

A. Well, might not. I don't know who it was for sure. Could

have been the FBI. I don't know.

Q. Do you remember the face of the individual?

A. They was -- I don't know which one said it at that -- there, but there was two guys and two ladies there. I don't know which one really said it.

Q. Well, how did the subject of reward even come up, if you weren't interested in it?

A. I think this was just brought up before we, you know, got started on the testimony.

Q. Just sort of out of thin air?

A. Well, I don't know as it was thin air, or that's just their

policy to let you know that. I don't know.

Q. Did you mention it before they mentioned it?

Eldon Elliott - Cross

A. No, I do not -- did not. I've never mentioned it to no one.

Q. Do you know whether the notice of this reward has been withdrawn?

A. I do not.

Q. Okay. Well, you have had some financial problems in the early 90's with the Federal Government, didn't you?

A. Yes, I did.

Q. Had some pretty serious tax liens put against your property?

MR. MENDELOFF: Objection, your Honor.

THE COURT: Overruled.

THE WITNESS: Yes, I did.

BY MR. JONES:

Q. And some state tax liens?

A. And I got that taken care of.

Q. That was my next question. They were released, weren't they?

A. That's right.

Q. But they were put on there for different times and for different amounts, weren't they?

A. That's right.

Q. Now, you're a small-business man.

A. That's right.

Q. Subject to the usual fluctuations of any small business?

Eldon Elliott - Cross

A. That's right.

Q. Where is your copy of this letter telling you there is no reward?

A. Probably at home.

Q. Do you remember who signed it?

A. No, I didn't.

Q. Is it on United States Government stationery?

A. I'm not sure. It might be.

Q. Do you still have it?

A. Yes. Home, I do.

Q. So if somebody asked you to bring it, you could find it?

A. I could, yes, sir.

Q. Thank you.

Now, when you were interviewing -- I'm sorry -- when you were interviewed by Mr. Crabtree on 4-19, I believe you testified earlier that you did say Mr. Kling was about 5' 10".

A. Right.

Q. Did you tell Mr. Crabtree that Kling was leaning on the desk?

A. I don't remember if I did or not.

Q. And then you saw Kling with somebody else.

A. Right.

Q. Is that right?

A. Right.

Q. Did you, in your next interview with Mr. Crabtree, tell

Eldon Elliott - Cross

Mr. Crabtree that Mr. Kling had been leaning on your desk?

A. I don't remember if I did or not.

Q. And in the next statement that you made, you again said he was 5' 10", didn't you?

A. Somewhere around there.

Q. And that he was with somebody else, didn't you?

A. That's right.

Q. And did you say in that interview -- did you mention that Kling had been leaning on the counter?

A. I can't remember when I said that.

Q. And then you appeared in front of the grand jury?

A. Right.

Q. And you again said he was about 5' 10"?

A. My estimate, yes.

Q. And you didn't mention to the grand jury that he was leaning on the counter, did you?

A. I don't remember.

Q. But when you were here meeting with the prosecutors before you testified at the motion hearing in front of Judge Matsch, you told them clearly that you remembered he was leaning on the counter.

A. Right.

Q. Right?

A. Right.

Q. Now, that would have been about a year and a half after

Eldon Elliott - Cross

April 17, wouldn't it?

A. Well, I told someone else before that a long time ago, but I don't know who it was; and so I'm not going to say who it was

or when it was, because I don't remember.

Q. Well, in looking through your statements and testimony

CHAD

the Government has furnished you or that you have, were you able to find where you told somebody that?

A. I didn't look at that, no.

Q. You did not look at that?

A. No.

Q. Now, when Kling was there on Monday and you went outside to

inspect the Ryder truck, did you notice a full-size, light-colored car parked in the front portion of your lot?

A. I noticed a light-color car out there, yes.

Q. Well, was it a sedan?

A. I think it was a sedan, yes.

Q. Did you tell Sergeant Story of the Junction City, Kansas, Police Department and Special Agent Ronald Koziol that it was a

full-size, light-colored car?

A. I think I did, yes.

Q. Now, who else was in your business that wasn't an employee there other than Kling and this other fellow that was with him?

A. No one else was in there.

Q. And that car didn't belong to any of your employees, did it?

Eldon Elliott - Cross

A. No. It could have been -- it could have been one of my Ryder customers that picked a truck up.

Q. Well, which Ryder truck customer would that have been, Mr. Elliott?

A. I don't know. You know, I don't know if the one that picked it up earlier in the morning left the car for a while.

Q. All day?

A. We also have -- sometimes will pull cars in that we don't see them pull in, and they leave them sit there all day and pick them up that night; or sometimes they're there the next day, or they have problems. I don't know whose car it was.

Q. Well, I understand, but you were asked about it. Did you tell them that explanation, said, "Well that could have been Ms. So-and-So that picked up the Ryder truck at 8:30 this morning"?

A. No.

Q. Or have you remembered that since then?

A. No.

MR. JONES: If I might have just a moment, your Honor.

THE COURT: Yes.

MR. JONES: Your Honor, with the Court's permission, may I show this witness -- will you permit me time to show him his two or three 302's?

THE COURT: All right.

I don't know if it's ever been explained to the jury

Eldon Elliott - Cross

in this case that these references to 302 -- that's a reference to a form number that is used by FBI agents when they interview people, and then they write a report of the interview on a form called 302. So that's what these references to 302's.

That's the standard practice that the FBI uses.

MR. JONES: I'm sorry, your Honor.

BY MR. JONES:

Q. Mr. Elliott, I've handed you a series of 302's that the Court has described. Would you please review those and find the place where you told Mr. Crabtree or any of those other agents that Kling was leaning on the counter.

Do you find any such reference?

A. No.

Q. Mr. Elliott, would you describe Mr. McVeigh's build today as medium?

A. It would be medium, or just maybe -- maybe just a little bit taller than medium.

Q. I'm talking about his size, his body, through here, his build.

A. About medium.

Q. You would describe it as medium. Is that right?

A. Pretty close to medium, yes.

Q. Now, how long has Ms. Beemer worked there?

A. I think about two and a half years, three years.

Q. Before April, or counting the present time?

Eldon Elliott - Cross

A. Counting present time. I think she was there about a year before.

Q. Have you been there before when she's dealt with customers on rental trucks?

A. Yes, I have.

Q. About how many times do you think you have seen her there while she's dealing with somebody that wanted a truck?

A. Oh, numerous times in the three years.

Q. Can we say certainly up to April 19 or April 17, you had seen her dozens of times?

A. Right.

Q. All right. Does Ms. Beemer have any kind of special saying that she uses when she's talking to customers?

A. Oh, sometimes when she looks at their driver's license or something -- or she'll say, "Well, you're not as old as I've been married."

Q. Okay. How many times have you heard her say that?

A. I've heard her say that probably over a dozen times.

Q. So --

A. Up to that date.

Q. Up to that day. So somewhere maybe between a dozen and two

dozen?

A. Yes.

Q. Right?

Okay. And what are the circumstances, if you know,

Eldon Elliott - Cross

when she would say that?

A. I think it's when she looks at the driver's license and sees the age -- their date of birth.

Q. Well, of course, most of your customers are military, aren't they?

A. Yeah.

Q. And a lot of them are in their 20's?

A. Right.

Q. How long has she been married?

A. I'm not sure.

Q. Okay.

MR. JONES: Nothing further. Thank you, Mr. Elliott.

THE COURT: Mr. Mendeloff?

MR. MENDELOFF: Thank you, your Honor.

THE COURT: Go ahead, Mr. Mendeloff.

MR. MENDELOFF: Your Honor, I think I'm going to --
to
use those FBI reports.

THE COURT: Those are his copies.

MR. JONES: That's all right. Here.

He loaned me his exhibits, your Honor.

MR. MENDELOFF: I need Mr. Elliott to have them.

MS. RAMSEY: Take them back where you got them.

THE WITNESS: You just needed your exercise.

THE COURTROOM DEPUTY: Yeah.

REDIRECT EXAMINATION

Eldon Elliott - Redirect

BY MR. MENDELOFF:

Q. Mr. Elliott, you remember being asked on cross-examination about the various employees that were there when Mr. McVeigh came into the store to pick up that truck?

A. Right.

Q. And you remember being asked about Ms. Beemer, Mr. Kessinger?

A. Right.

Q. Now, of the three people that you said had seen Mr. McVeigh

pick up that truck, Mr. Beemer -- Ms. Beemer, Ms. --

Mr. Kessinger and yourself, who was the one who saw Mr. McVeigh

two times, two different times?

A. Myself.

Q. That was on Saturday?

A. Saturday, and then on Monday.

Q. Just so we're clear, you were asked certain questions on cross-examination regarding the signature on these documents.

A. Right.

Q. And there was a signature, as I understand it, on the rental agreement, and there is another signature, Robert D. Kling, that you said Mr. McVeigh put onto the reservation document?

A. That's right.

Q. Who observed Mr. McVeigh put the name Robert D. Kling on the reservation document?

Eldon Elliott - Redirect

A. On the reservation? I did.

Q. You were asked questions about Mr. Jones' prior opportunity to speak with you, to ask you questions. Remember that?

A. Right.

Q. And in a prior proceeding, did he have full opportunity to ask you any questions he wanted?

A. Right.

Q. You were asked questions on cross-examination regarding a call to your business from a pay phone.

A. Right.

Q. Remember those questions? Remember those questions?

A. Right.

Q. Let me ask you to look at Government's Exhibit 555.

MR. MENDELOFF: I'm going to need the ELMO, please.

BY MR. MENDELOFF:

Q. Let me ask you to focus on April 14, 1995. That was the day of the quote. Is that right?

A. That's right.

Q. You see the call starting -- call after -- there are two calls from the J & K Bus Depot. See those?

A. Right.

Q. Do you know where that is? You know where the J & K Bus Depot is in Junction City?

A. Right.

Q. Is it near the Firestone store?

Eldon Elliott - Redirect

A. Approximately a quarter of a block or maybe just a little more.

Q. Let me ask you to look across at this call at 9:53, 7 minutes and 36 seconds, from the J & K Bus Depot on the morning of the 14th. Do you recognize the recipient of that call?

A. Right.

Q. Who is the recipient of that call -- right on this exhibit,

right where my finger is pointing. Who is the recipient?

A. Ryder Truck Rental, Junction City, Kansas, 238-8534.

Q. Whose phone number is that?

A. That's the Ryder Truck phone number.

A. That's the Ryder Truck phone number.

Q. For your business?

A. For our business.

Q. On Saturday, when you laid the reservation document on the counter for Mr. McVeigh to sign it, you put it down on the counter and turned it around. Is that right?

A. Right.

Q. And you went through it while it was still on the counter. Is that right?

A. Right.

Q. And then Mr. McVeigh signed "Robert D. Kling." Is that accurate?

A. That's right.

Q. You were asked a series of questions on cross-examination regarding your testimony before the grand jury, the

Eldon Elliott - Redirect

5-foot-10-inch questions, the questions about leaning on the counter.

A. Right.

Q. Now, sir, when you were first interviewed by the FBI, do you remember telling the FBI that the man that you saw was 5' 10"?

A. Right.

Q. That was on the 19th of April; is that right?

A. Right.

Q. The next day, the 20th, do you recall how tall you estimated the man?

A. 5' 10" to 5' 11", or my height, or just a little taller.

Q. You changed the height to be a little taller?

A. Right.

Q. What is the reason you did that on the 20th of April?

A. Because I had remembered he was leaning on the counter just a little bit.

Q. When you testified in front of the jury, did you tell the grand jury that he was your height or a little taller?

A. Yes, I did.

Q. Finally, on cross-examination, Mr. Jones asked you whether the man came in at 4:15. Do you remember being asked that?

A. Right.

Q. Were you in the office when the man walked in?

A. No, I was not.

Eldon Elliott - Redirect

Q. When did you come into the office?

A. It was probably about 4:20, or somewhere around there, when

Mrs. Beemer come and got me.

Q. Sometime after 4:19. Is that right?

A. Yes, sir.

Q. Finally, sir, let me ask you to look at Government's Exhibit 309. Let me ask you to focus on the driver's

information that Mr. McVeigh gave -- that you testified that Mr. McVeigh gave to get this truck on the 17th of April. Do you remember that testimony?

A. Right.

Q. You see that Social Security number?

A. Right.

MR. MENDELOFF: Your Honor, at this time we move the admission of Government's Exhibits 324, 325, and 326, which are certified copies of records of the Social Security Administration.

MR. JONES: You're not asking him to testify, just offering certified copies?

MR. MENDELOFF: No.

MR. JONES: No objection.

MR. MENDELOFF: May I publish them, your Honor, at this time?

THE COURT: Yes. The exhibits are received.

MR. MENDELOFF: The Social Security number record

Eldon Elliott - Redirect

indicating that the number 926-42-9694 is a Social Security number assigned to Robert D. Kling, date of birth April 19, 1970 -- the number 926-42-9694 is not a number issued by the Social Security Administration as a Social Security number.

Your Honor, that is what appears on Government's Exhibit 324. 325 is exactly the same document, except the name

it references is just "Robert Kling"; and 326 is the same document, except the name it references is "Bob Kling."

Nothing further, your Honor.

THE COURT: Mr. Jones?

REXCROSS-EXAMINATION

BY MR. JONES:

Q. Mr. Elliott, do you still have those 302's in front of you?

A. Right.

Q. Would you turn to the one for April 20, sir.

A. To which one, sir?

Q. April 20. It's a two-page document?

A. You're not talking about these that you brought up?

Q. Actually, I am.

A. Okay.

Q. Right up here at the top, it will say 4-20.

A. They all say 4-20 -- I'm sorry. There is three of them that says 4-20.

Q. Well, one of them is one page, isn't it?

A. Okay. The one that says page 2?

Eldon Elliott - Recross

Q. Yes, sir.

A. Okay.

Q. It's by Mr. Crabtree, if that helps you.

Now, this is the interview that you had out at Fort Riley. Is that correct?

A. I guess so.

Q. And here, you're describing this fellow Kling as 5' 10" to 5' 11".

A. Right.

Q. Now, has your -- in the time that we've been talking here on Mr. Mendeloff's cross-examination (sic), have you remembered

now why you weren't shown any photographs to identify for 48 days?

A. I have no idea why I wasn't, sir.

MR. JONES: Nothing further. Thank you.

MR. MENDELOFF: I do have one question, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. MENDELOFF:

Q. Mr. Elliott, the bombing happened on the 19th, and the agents came to your business shortly -- or on the 19th and the next day. Is that right?

A. Right.

Q. Shortly thereafter, did you observe Mr. McVeigh in some way?

Eldon Elliott - Further Redirect

A. Yes.

Q. Where did you observe him?

A. When he first was seen on TV.

Q. After you observed him, did you inform the FBI of anything?

A. I don't remember whether I did or not.

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

THE COURT: Is he excused?

MR. MENDELOFF: Yes, your Honor.

MR. JONES: I'd like for him to remain available, but

certainly he can go back to Kansas.

THE COURT: All right. That means, of course, that you're not released from the order of sequestration on witnesses, which means that you must not discuss your testimony

with any other person. Understand that -- with any other witness or anybody except, perhaps, the lawyers in the case.

THE WITNESS: But I can go back to Kansas?

THE COURT: You can, and you'll be notified if you're

going to have to return. We'll give you -- make sure you get adequate notice.

THE WITNESS: Okay.

THE COURT: Next.

THE WITNESS: Thank you, your Honor.

THE COURT: You can leave.

Next witness

next witness.

MR. HARTZLER: We're going to recall David Darlak.

THE COURT: Mr. Darlak, you were sworn as a witness earlier in this trial. Do you remember?

THE WITNESS: Yes.

THE COURT: Return to the stand under the oath earlier taken.

(David Darlak was recalled.)

DIRECT EXAMINATION

BY MR. MENDELOFF:

Q. Mr. Darlak, when you testified last before this jury, do you remember describing a land purchase you entered into with Mr. McVeigh?

A. Yes.

Q. Can you remind us where that land was?

A. That was in southern New York, about 50 miles from where I live.

Q. When did you and Mr. McVeigh purchase that piece of property?

A. Spring of '88.

Q. What did you use that property for?

A. Nothing, really.

Q. Just recreation, that sort of thing?

A. Yes.

Q. Shortly after that, I believe you testified previously that

you and Mr. McVeigh went into the military?

David Darlak - Direct

A. Yes.

Q. And you continued to make payments on that property over time?

A. Yes.

Q. Those payments included mortgage payments as well as tax payments?

A. Yes.

Q. Let me direct your attention to Government's Exhibits 1283 and 1284. Do you see those?

A. Yes.

Q. What are 1283 and 1284?

A. They are copies of checks.

Q. And are those refund checks of some sort regarding the property?

A. Yes.

Q. Now, sir, let me ask you to tell us whose name is listed as

the payees on those checks?

A. McVeigh, Timothy J. and David A. Darlak.

Q. That's on Government's Exhibit 1283?

A. Yes.

Q. And what about Government's Exhibit 1284?

A. T. McVeigh and D. Darlak.

Q. I ask you to turn over those checks and look on the back. Are they endorsed?

A. Yes.

David Darlak - Direct

Q. Do you recognize the writing on the top of the endorsement, the first signature listed?

A. Yes.

Q. And whose signature is that?

A. That's Tim's.

Q. How are you familiar with that signature?

A. I've seen it before.

Q. And was there -- did there come a time when Mr. McVeigh changed his signature?

A. Yes.

Q. Do you remember when that was roughly?

A. Not really.

Q. Well, before or after you graduated from high school?

A. After.

Q. Did you have a discussion with Mr. McVeigh regarding his changed signature?

A. Yes. I remember him telling me about it, about when he changed it.

Q. And what did he say?

A. That he had changed it on some form of ID and whoever the ID was for was giving him a hard time about it.

Q. What did the person -- what did Mr. McVeigh tell you the person said?

A. That that's not a signature.

Q. And what did Mr. McVeigh say in response?

David Darlak - Direct

A. "That's my signature."

Q. Let me ask you to look on Government's Exhibit 1284 below the signature. Do you see a printed -- three printed letters (sic) "for deposit only"?

A. Yes.

Q. Do you recognize that handwriting?

A. Yes.

Q. Whose handwriting is that?

A. That's Tim's handwriting.

Q. Finally, beneath that, do you see another name written in cursive?

A. Yes.

Q. And whose name is written in cursive?

A. That's my name.

Q. Is that your handwriting?

A. No, it is not.

Q. Now, finally, Mr. Darlak, did you ever see or do you recall

ever seeing Government's Exhibits 1283 and 1284?

A. Not till I was shown them earlier this spring.

Q. Do you have a recollection one way or the other whether

Mr. McVeigh mentioned these checks to you when they came in?

A. Not really.

MR. MENDELOFF: Your Honor, we'd move the admission of Government's Exhibits 1283 and 1284.

MR. JONES: Just a moment.

These are the checks?

Your Honor, we object on the grounds of relevance.

THE COURT: What's the purpose?

MR. MENDELOFF: Your Honor, there is a witness coming up in the future regarding an analysis that was performed using --

THE COURT: We'll wait.

MR. MENDELOFF: All right, Judge. Thank you.

Nothing further.

THE COURT: Any questions?

MR. JONES: No questions, your Honor.

THE COURT: May Mr. Darlak go now?

MR. MENDELOFF: Yes, your Honor.

THE COURT: Are you agreed, Mr. Jones?

MS. RAMSEY: Yes.

MR. JONES: Yes, your Honor.

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

Next witness.

MR. HARTZLER: Todd Krieger.

Mr. Orenstein will question.

THE COURT: All right.

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

(Todd Krieger 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: Todd Krieger, K-R-I-E-G-E-R.

THE COURTROOM DEPUTY: Thank you.

MR. ORENSTEIN: May I approach, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. ORENSTEIN:

Q. Good afternoon, Mr. Krieger.

A. Hello, sir.

Q. Where do you live, sir?

A. East Aurora, New York.

Q. And about where in New York is that?

A. Just south of Buffalo.

Q. And how long have you lived there?

A. 31 years.

Q. Where do you work, sir?

A. I work for Burns Security.

Q. And what is Burns Security?

A. It's a provider of uniformed security guards.

Q. Where is Burns Security located?

A. The office is in Buffalo, New York.

A. The office is in Kenmore, New York.
Q. Is that also near Buffalo?
A. Yes, just north.

Todd Krieger - Direct

Q. How long have you worked for Burns Security?
A. Almost six years.
Q. Starting when?
A. October of 1991.
Q. What is your current position with Burns Security?

A. I'm a security manager at one of the facilities contracted through Burns.
Q. When you go to work each day, where do you physically go?
A. I go a company named Fisher-Price in East Aurora.
Q. What do you do there?
A. I manage the security force.
Q. Do you supervise other people?
A. Yes, sir.
Q. How long have you had that position with Burns?
A. Since November of '96.
Q. And prior to November of '96, where did you report to work each day?
A. The Burns office in Kenmore.
Q. Their main office?
A. Yes, sir.
Q. And what was your position at that time?
A. I was the operations manager.
Q. As operations manager, what were your responsibilities, briefly?
A. Basically to supervise the operations staff.

Todd Krieger - Direct

Q. And what were the people doing whom you supervised?
A. The operations staff was responsible for scheduling the security guards at their sites.
Q. Now, was it part of your duties when you were working in the Burns Security offices itself to be familiar with and to help generate and file records that were kept by the company?
A. Yes, sir.
Q. Do you know a man named Timothy McVeigh?
A. Yes.
Q. And how do you know him?
A. He worked at Burns Security in 1992.
Q. What was his position when he worked there?
A. He was a scheduler and inspector.
Q. What does a scheduler and an inspector do?
A. A scheduler is one of the people that would actually schedule the guards every day at whatever site it was they were going to work at.

An inspector is someone that would go around to all the different sites and inspect the guards.

the different cases and inspect the guards.

Q. Mr. McVeigh's duties included both of those things?

A. Yes.

Q. As part of his duties as an inspector, was Mr. McVeigh required to generate any reports?

A. Yes, sir.

Q. And did Burns Security keep those reports in the normal and

Todd Krieger - Direct

ordinary course of its business?

A. Yes.

Q. Did you ever have occasion -- by the way, what was your relationship with Mr. McVeigh in terms of his employment there?

A. I was his direct supervisor.

Q. And as his direct supervisor, did you have occasion to view

any of those reports that Mr. McVeigh created?

A. Yes. It was my responsibility to review those reports every day.

Q. Now, let me direct your attention, sir, to the spring of 1995, following the bombing in Oklahoma City. Were you employed at Burns Security then?

A. Yes, sir.

Q. And at that time, were you asked to provide any records to the Federal Government?

A. Yes.

Q. Records specifically about Mr. McVeigh's employment?

A. Yes, sir.

Q. Let me ask you to reach into the file folder you've got in front of you and ask you if you have Government's Exhibit 1286.

A. Yes, sir.

Q. And can you briefly describe what is Government's Exhibit 1286?

A. It is an inspector report filled out by Tim McVeigh on 7-12-92.

Todd Krieger - Direct

Q. July 12?

A. Yes, sir.

Q. And was that one of the records that you provided to the Government from the files of Burns Security?

A. Yes.

MR. ORENSTEIN: Government offers Exhibit 1286, your Honor.

MR. JONES: No objection.

THE COURT: 1286 received.

MR. ORENSTEIN: May I use a copy to publish to the jury, your Honor?

THE COURT: Yes.

MR. ORENSTEIN: If I may use the ELMO.

BY MR. ORENSTEIN:

Q. All right. Now, Mr. Krieger, can you tell the jury essentially what kind of information is reflected on this first page of 1286?

A. The first page would have the name of the inspector filling out the report, the names of each site that were visited that night and again the signature.

Q. And you mentioned a signature. Let me direct your attention to this column over here.

A. Yes, sir.

Q. See that? I'll just zoom in in a moment.
What is the heading of that column?

Todd Krieger - Direct

A. Security officer signature.

Q. And who is supposed to sign in that column?

A. The officer that made the visit.

Q. So for this report, that would be who?

A. Tim McVeigh.

Q. And with respect to the rest of the writing on the front page of 1286, who is required to put those entries in?

A. That would also be the inspector filling out the report.

Q. In this case, Mr. McVeigh?

A. Yes, sir.

MR. ORENSTEIN: Your Honor, I have no further questions.

THE COURT: Any cross?

CROSS-EXAMINATION

BY MR. JONES:

Q. The documents appear to indicate that this position you described was a supervisory one; is that correct?

A. Whose position, sir?

Q. Mr. McVeigh's.

A. Yes, sir.

Q. It was?

A. Yes.

MR. JONES: No further questions. Thank you.

THE COURT: I take it he's excused.

MR. HARTZLER: Yes.

MR. JONES: Yes, your Honor.

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

THE WITNESS: Thank you, sir.

THE COURT: Next, please.

MR. HARTZLER: Ann Brittin.

Mr. Orenstein will question.

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

(Ann Brittin 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: Ann Marie Brittin, B-R-I-T-T-I-N.

THE COURTROOM DEPUTY: Thank you.

MR. ORENSTEIN: May I approach for a moment, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. ORENSTEIN:

Q. Good afternoon, Ms. Brittin. Where do you work, ma'am?

A. Unit No. 1, Federal Credit Union in Lockport, New York.

Q. Where is Lockport, New York, generally within New York?

A. It's about 25 miles northeast of Buffalo.

Q. Briefly state what is the business of the Unit No. 1 Federal Credit Union.

Ann Brittin - Direct

A. We're a financial institution. We do savings accounts, share draft loans, visas, various products like that for our members.

Q. Do the services you offer compare similar to a bank's services?

A. Yes, they do.

Q. How long -- how long have you worked at the credit union?

A. I started in 1983.

Q. And what is your position today?

A. I'm the assistant general manager.

Q. How long have you held that position?

A. Since 1990.

Q. Is it part of your duties as the assistant general manager at the credit union to be familiar with the records that are kept by that institution and to provide them to law

enforcement

when subpoenaed?

A. Yes, it is.

Q. Now, let me ask about one of the services you provide.

Can

your customers write checks on their accounts?

A. Yes, they can.

Q. And does your credit union have a process to maintain records of the checks that are drawn on customer accounts?

A. Yes, we do.

Q. How are those records maintained?

A. Once -- when the check is clearing, it is photocopied or

Ann Brittin - Direct

microfilmed, and that is kept with the processor that does it for us, which currently is Empire Corporate Federal Credit Union.

Q. And has the processor changed from time to time over the years?

A. Yes. We were with Chase Manhattan out of New York City.

Q. But whoever was doing it for you, they were doing this work

WCLN

on your behalf?

A. Yes.

Q. And the records belong to the credit union; is that correct?

A. That's correct.

Q. Did there come a time in 1995, spring of 1995, following the bombing of the building in Oklahoma City that you were asked to provide certain checks related to the account of Mr. Timothy McVeigh?

A. Yes, we were.

Q. Did Mr. McVeigh have an account at your institution?

A. Yes, he did.

Q. Was there any dollar amount limit on the checks that you were asked to provide?

A. We were asked for any checks or share drafts that were \$100 or more.

Q. Now, were you able to find and provide those checks to the Government?

Ann Brittin - Direct

A. Yes, we did.

Q. Were the checks original checks or copies of some sort?

A. They were the actual microfilm copies. The originals are truncated, basically.

Q. Does that mean destroyed?

A. Which means after 90 days they're destroyed, but the microfilm copies are kept permanently.

Q. And did you provide the microfilm itself or printed copies from the microfilm?

A. Printed copies.

Q. Now, let me direct your attention to the folder in front of

you and ask if you can find Government's Exhibit 1285.

A. Okay.

Q. Do you have that?

A. Yes, I do.

Q. And that is one of the records that you provided to the Government?

A. Yes, it is.

Q. Describe briefly what it is.

A. Okay. It is a copy of Draft No. 539. It is from the account of Timothy McVeigh that was at the credit union.

Q. And was that provided to the Government out of the records kept in the ordinary course of your business?

A. Yes.

MR. ORENSTEIN: Government offers Government's Exhibit

Ann Brittin - Direct

1285, your Honor.

MR. JONES: No objection to 1285, your Honor.

THE COURT: Received.

BY MR. ORENSTEIN:

Q. Now, Ms. Brittin --

MR. ORENSTEIN: May I publish it, your Honor?

THE COURT: Yes.

BY MR. ORENSTEIN:

Q. Ms. Brittin, would you tell the information that's written on that check?

A. Yeah. The check is dated the 2d of May, 1992. It's payable to AT&T Universal Card for \$25. It's written out as "twenty-five dollars." There appears to be an account number on there and the signature.

Q. Now, with respect to the date and the writing and the "Pay to the Order of" line, how would you describe that writing?

A. The date is printed in military style.

Q. What do you mean by military style?

A. It's with the day first and then the month and then the year.

Q. Is that a term you're familiar with?

A. Yes. I have a brother that's in the National Guard, and that's how he does it.

Q. And "Pay to the Order of" line?

A. It's "Pay to the Order of AT&T Universal Card." It's

Ann Brittin - Direct

printed also.

Q. What about the "Amount Payable" line where it's actually spelled out?

A. That's in cursive writing.

Q. Now, have you looked at other checks that you provided to the Government out of the business records of your institution?

A. Yes, I have.

Q. Let me direct your attention to Government's Exhibit 1327. Do you have that?

A. Yes, I do.

Q. And is that a series of additional checks that you provided

to the Government pursuant to the same request?

A. Yes, it is.

Q. The date on the first check is what?

A. It's 01 January 1991.

Q. If you go to the last one in the series, what's the date on that one?

A. This one is April 24, 1992.

Q. And were these records also provided to the Government out of the normal and ordinary records of your business?

A. Yes, they were.

MR. ORENSTEIN: Government offers Exhibit 1327, your Honor.

MR. JONES: Your Honor, I object until it can be clarified. On my list, those aren't here. Is there a

Ann Brittin - Direct

different list?

MR. ORENSTEIN: I believe we provided the list.

MR. JONES: Okay. If you did -- may I see that just

a

second?

MR. ORENSTEIN: Of course.

MR. JONES: Thank you.

No objection, your Honor.

THE COURT: 1327 is received.

MR. ORENSTEIN: May I publish the first page of
this?

THE COURT: Yes. But the witness doesn't know
anything about these checks, does she?

MR. ORENSTEIN: No. I'm going to ask her what she
sees.

THE COURT: They speak for themselves. Why ask her?

MR. ORENSTEIN: Very well.

BY MR. ORENSTEIN:

Q. Ms. Brittin, let me turn your attention now to other
records that you maintained. Did you also turn over to the
Government records of deposited items into Mr. McVeigh's
account?

A. That's correct.

Q. And are those also kept in the normal and ordinary course
of your credit union's business?

A. Yes, they are.

Q. Let me direct your attention to 1283A and 1284A. Do you

Ann Brittin - Direct

have those?

A. Yes, I do.

Q. What are 1283A and 1284A?

A. Okay. They are copies of deposit slips and also the
checks
that were deposited that day.

Q. So that the copies of the checks that are attached to the
deposit slip are the checks that were deposited with that
slip?

A. That's correct.

MR. ORENSTEIN: Government offers 1283A and 1284A,
your Honor.

MR. JONES: No objection, your Honor.

THE COURT: Received, 1283A and 1284A.

MR. ORENSTEIN: May I publish 1283A?

THE COURT: Here again, why?

MR. ORENSTEIN: To establish what was done with the
checks themselves.

THE COURT: What do you mean "what was done with the
checks"?

MR. ORENSTEIN: They were in fact deposited and what
happened to the money that was put into the account.

THE COURT: Is that relevant?

THE COURT: Is that relevant?

MR. ORENSTEIN: I believe I can establish relevance, your Honor.

THE COURT: All right.

BY MR. ORENSTEIN:

Ann Brittin - Direct

Q. Let me ask you one summary question, Ms. Brittin. With respect to both of those deposits, were they deposited into Mr. McVeigh's account?

A. They were deposited to his draft account, which is a checking account.

Q. And does your credit union allow for people to take money out from a deposit during the same transaction?

A. Yes, they do.

Q. Was any money given in terms of cash back for either of these deposits?

A. No. Both of these were deposited in full. No cash back.

Q. Now, let me also ask you to take a look at 1283 and 1284, Government's exhibits in your folder.

A. Okay.

Q. Have you, before coming to court today, compared those two checks to the copies of the checks in 1283A and 1284A?

A. Yes, I have.

Q. Are they the originals of the same checks?

A. Yes, they are.

MR. ORENSTEIN: Government offers 1283 and 1284.

MR. JONES: No objection.

THE COURT: Received.

BY MR. ORENSTEIN:

Q. Ms. Brittin, with respect to 1283 and 1284, are they payable to one person or two?

Ann Brittin - Direct

A. Payable to two people.

Q. Who are those two people?

A. First one, No. 1283, is payable to Timothy J. McVeigh and David A. Darlak.

Q. And the other one?

A. Same thing, payable to T. McVeigh and D. Darlak.

Q. And do both of those checks bear endorsements by two separate individuals?

A. Yes, they do.

Q. Now, is it a policy of your credit union to require two people to show up to endorse a check when there are two payees listed?

A. Yes.

MR. JONES: If the Court please, I object to this as irrelevant and 404(b).

THE COURT: Sustained.

MR. ORENSTEIN: Very well. Nothing further, your Honor.

THE COURT: Do you have any questions?
MR. JONES: No, your Honor.
THE COURT: Are you going to excuse this witness?
MR. HARTZLER: We would like to, yes.
MR. ORENSTEIN: Yes.
THE COURT: Pardon me?
MR. JONES: No objection.
THE COURT: All right. And you -- you may step

down.
You're excused. You can go back to beautiful Buffalo and out of this ugly weather here.

THE WITNESS: Thank you.

THE COURT: It's 5:00. So, members of the jury, you're also going to be excused to go into this very inclement weather that we're suffering through in Colorado.

And of course, you're excused now till Monday, which is, again, while you may not think so, in terms of what I worry about a long time because it means that you're going to be doing a lot of things, I hope enjoyable things during this time. But be very careful now. You know, I told you that I don't want to lock you up and keep you separate and apart from other people; and your side of the bargain is to be very careful, so that you can stay away from anything that would be improper for you to hear and consider or see and consider, recognizing that under the oath you took when we started, you will have to decide based solely on what you see and hear as evidence in the course of this trial.

So be careful.

And we hope you have pleasant weekend, and we'll see you on Monday. You're excused till 9:00 Monday morning.

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

THE COURT: All right. The trial will be in recess till Monday at 9.

MR. HARTZLER: Thank you.

(Recess at 5:02 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
300 & 301	7953	7953			
302 - 304	7977	7978			
305	7967	7967			
306B	8006	8006			

PLAINTIFF'S EXHIBITS (continued)

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
308	7986	7986			
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1285	8097	8098			
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DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
A1					

* * * * *

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 9th day of May, 1997.

Paul Zuckerman

Bonnie Carpenter