

Monday, May 12, 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 91)

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 12th day of May,
1997, in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
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APPEARANCES

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Stillwater, Oklahoma, 74076, appearing for Defendant McVeigh.

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PROCEEDINGS

(Resumed at 1:45 p.m.)

THE COURT: Be seated, please.

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

THE COURT: Resume the stand, please, Mr. Fortier.

(Michael Fortier was recalled to the stand.)

THE COURT: Mr. Jones, you may inquire.

Michael Fortier - Cross
CROSS-EXAMINATION

BY MR. JONES:

Q. Mr. Fortier, do you know an individual by the name of Lonnie Hubbard?

A. Yes, sir.

Q. Who is that?

A. That's a good friend of mine from the service.

Q. And did you have a conversation with him on May 8, 1995, on the telephone?

A. Yes, sir.

Q. And in that conversation, did you have a discussion concerning Kato Kaelin, from the O. J. Simpson trial?

A. Yes, sir.

Q. And during the course of that discussion, did you make the following statement concerning if you were called as a witness in this case: "I'd sit there and pick my nose and flick it at the camera"?

And did Mr. Hubbard say, "Pick your name and shit"?

And you say, "Flick it and then like kind of wipe it on the judge's desk"?

And did he say, "Scratch your ass and sniff your finger and stuff"?

And you laughed and said, "Yeah, really, or wait just a second. Pull my finger"?

And then did you say, "To the lawyer asking me

Michael Fortier - Cross
questions, Come here. Pull my finger"?

And did he laugh in return?

And then you say, "Oh, I don't know, dude, once I get up there, I get comfortable, if there's like a camera. I don't

know if they're going to do it like the O. J. Simpson trial or

not. If they do, oh, my God, I'll be fucking fucked with the camera, hard core"?

Did you make those statements?

A. Yes, sir.

Q. And then did you go on down to say, "And I'm the key"?

And did Mr. Hubbard say, "In our life and so far

anyway"?

And did you repeat, "And I'm the key."

And he said, "'Cause you're the key," and laughed?

And you said, "The key man"?

And he said, "That can unlock the whole mystery"?

And you said, "The head honcho. General Quaint?"

And he laughed and said, "You can unlock the

mystery"?

And you said, "Huh"?

And he said, "Some guy that sits around his trailer with his wife and daughter"?

And you said, "Yep, I hold the key to it all"?

And did he say, "Oh, man, that just trips me out, 'cause I just know what a mellow dude you are. I mean really."

Did you make those statements?

Michael Fortier - Cross

A. Yes, sir.

Q. Now, in addition, in your conversation you had with your brother on April the 25th, 1995 -- that's your brother John?

A. Yes, sir.

Q. Did you make the following statement: "I've been thinking about trying to do those talk-show circuits for a long time, come up with some asinine story and get my friends to go in on it"?

A. Yes, sir, I made that statement.

Q. And in the same conversation, did your brother say to you: "Whether the story is true or not, if you want to sit here and listen to a fable, that's all it was at the time is a fable"?

And then did you say: "I found my career, 'cause I can tell a fable"?

And then did you burst out laughing and say, "I could tell stories all day"?

A. Yes, sir.

Q. Then do you know an individual named Glynn?

A. Yes.

Q. And his last name, sir?

A. I think you're referring to Glynn Bringle.

Q. Did you have a conversation with him by telephone on April the 30th?

A. Yes.

Q. And did you say, "I want to wait till after the trial and

Michael Fortier - Cross

do book and movie rights. I can just make up something juicy"?

And then did you laugh?

A. I'm not sure if I laughed or not, but I did make that statement.

Q. "Something that's worth The Enquirer, you know." You made those statements

those statements.

A. Yes, sir.

Q. Mr. Fortier, you appear and sound and dress differently than you did back in April, do you not?

A. I appear differently, yes.

Q. Well, back in April, when you were engaged in these conversations, did you think that your telephone was tapped?

A. I didn't know if it was or not.

Q. But you thought it might be?

A. I thought it might be.

Q. And you didn't have any problem talking like this, knowing that the FBI might be listening in?

A. That's correct.

Q. And in those days, you wore your hair long, did you not?

A. Yes, I did.

Q. Had an earring in your ear?

A. Yes, sir.

Q. And you didn't shave?

A. I wore a goatee, yes.

Q. And you walked around in one of those T-shirts where the

Michael Fortier - Cross

straps come up, didn't you?

A. Yes, sir.

Q. And you didn't have any problem talking with your friends in profane and abusive language about the FBI, did you?

A. No, sir.

Q. Or the court?

A. No, sir.

Q. Or the media?

A. No, sir.

Q. And you talked about a million dollars and it just rolled off your tongue, didn't it?

A. We -- I spoke about a million dollars, yes.

Q. Well, you didn't just speak about it once; you had numerous

conversations in your house and on your phone with your parents

and with your friends about the ability to sell a story.

A. Yes, I had a few conversations like that.

Q. In fact, you had a conversation with your mother in which you talked about selling some photographs for \$50,000, didn't you?

A. Yes, sir.

Q. And split it with her.

A. Excuse me?

Q. And split the proceeds with her.

A. I'm not sure if I said that, sir.

Q. Well, in late April of 1995, you were unemployed, weren't

Michael Fortier - Cross

you?

A. Yes, sir.

Q. And your wife was unemployed.
A. Yes, she was.
Q. And you didn't have any visible means of regular support.
A. I had no income. Other than the money I was receiving from the service.
Q. Well, you also sold drugs, didn't you?
A. On occasion, yes.
Q. Did you make any money from that?
A. Yes, sir.
Q. And you'd gotten an IRS tax refund back in January, didn't you?
A. Yes, I did.
Q. But that was four months before, wasn't it?
A. Yes, but it was for quite a bit.
Q. \$2400.
A. Yes, sir.
Q. That would be an average of how much a month, that four months? A little over \$500, wouldn't it?
A. Yes. I only needed \$800 to break even each month.
Q. Well, then, you were short 300 each month, weren't you?
A. If I divided it up over four months, yes.
Q. Well, you had the same bills in March and April you had in January and February, didn't you, sir?

Michael Fortier - Cross

A. Yes, sir.
Q. Now, your -- you said that Mr. and Ms. Hart were generous to you; is that correct?
A. Yes, they were.
Q. But they weren't going to support you indefinitely, were they?
A. No, I wouldn't think so.
Q. And how much were you receiving from the VA?
A. \$86 or thereabouts, a month.
Q. Only \$86 a month?
A. Yes, sir.
Q. So after you got your IRS check in January, then the only check that you had that was regular, steady income was \$86 a month.
A. Yes, sir.
Q. And now all of the sudden in the last month of April or the last week of April, the world literally, as you said, beat a path to your door. Didn't they?
A. Certainly the media was hounding me, yes.
Q. Well, in fact, I think you told one of your friends, even the Tokyo newspaper showed up one day.
A. They didn't show up, sir. They called my house.
Q. Oh, they just called you.
A. Yes, sir.
Q. Well, you were being called by representatives of

Michael Fortier - Cross

"Dateline."

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. "PrimeTime" news.

A. I believe so.

Q. Sara Koch called you from ABC?

A. Yes, I remember her.

Q. CNN called you?

A. Yes.

Q. You had conversations with reporters even for the local newspaper?

A. Actually, I only spoke to her once.

Q. Well, you spoke to her.

A. Yes, through my door. She wanted a quote, and I yelled something through the door at her.

Q. And then NBC contacted you.

A. Yes, they were calling also.

Q. CBS.

A. Yes, sir.

Q. Washington Post.

A. Yes, sir.

Q. National Enquirer?

A. I believe my wife took a call from the National Enquirer.

Q. In fact, you had so many press calls that you had a system

Michael Fortier - Cross

whereby you put a recorder on the telephone so you could screen

the calls?

A. Yes, I did.

Q. So here you are unemployed, your wife is unemployed, you have a small child; all of that is correct?

A. Yes, sir.

Q. You're living in a trailer house in Kingman, Arizona?

A. Yes, sir.

Q. Been unemployed for several months.

A. Yes, sir.

Q. Now, was your wife pregnant at that time, or did that come later?

A. I believe my wife conceived in May.

Q. All right. So up to April the 30th, you just had the one child there.

A. Yes, sir.

Q. What kind of future did you have economically at the end of

April of 1995, Mr. Fortier?

A. The immediate future, I wasn't employed. What I was planning to do was have an operation performed on my back at the VA Hospital; and after I recovered from that, I was planning on becoming reemployed.

Q. Well, you had a high school education?

- A. Yes, sir.
Q. And you had two years of college?

Michael Fortier - Cross

- A. Yes, sir.
Q. And the best job that you had before you quit over a \$50 Christmas bonus was working as a bookkeeper down at the hardware store?
A. Yes, sir.
Q. And how much were you making there?
A. Roughly \$200 a week.
Q. Net or gross? Take-home?
A. Yeah, take-home.
Q. Take-home.
A. Yes, sir.
Q. \$200 a week?
A. Yes, sir.
Q. All right. So about \$800 a month.
A. That's what I was bringing in, yes.
Q. Just barely getting by.
A. We were making ends meet.
Q. Now -- but there wasn't any economic future or security in that, was there?
A. There's millions of people living like that, sir.
Q. I understand they are. But they didn't have millions of people having calls from CNN or NBC or ABC, were they?
A. No, at that time I believed it was just me.
Q. Yes, sir. Well, after you recovered from your back operation, what type of job did you intend to get?

Michael Fortier - Cross

- A. Hopefully I would have received employment in some type of office environment.
Q. Well, yes, because you couldn't really work outside and do physical labor, could you?
A. No, I believe I could have.
Q. Even before the operation?
A. Yes, during the time period that I did work outside at TruValue, my back never hurt me.
Q. All right. So let's say you could have gotten a job outside. What would you have done?
A. Many things. Whatever the job required.
Q. Well, what's the population in Kingman?
A. I'm not really certain -- sure.
Q. How long have you lived there?
A. Since 1977.
Q. Well, it's a small town, isn't it?
A. Yes, but it's growing very rapidly.
Q. Well, that's because other people are moving in, isn't it?
A. Yes, sir.
Q. And they're looking for jobs, too, aren't they?
A. Yes.

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- Q. And you'd been off work for four months.
A. Yes, sir.
Q. And how long had Mrs. Fortier been off work?
A. For about a year.

Michael Fortier - Cross

- Q. A year.
A. Yes, sir.
Q. So she hadn't been drawing any income to help support the bills for at least a year?
A. Well, she was a student for some time, and she received benefits from the federal government.
Q. While she went to school?
A. Yes, sir.
Q. When had she stopped going to school?
A. The spring of 1995 she didn't attend school.
Q. All right. So she was in school until fairly recently before this happened; is that correct?
A. Yes, sir.
Q. And when she was working before, she was working for a tanning salon?
A. Excuse me. Yes, she was.
Q. And what was she making there?
A. I believe she was being paid \$5 an hour.
Q. Now, you indicated in response to a question from Mr. Hartzler that you used crystal meth.?
A. Yes, sir.
Q. And how did you use that? How did you take it?
A. I preferred to smoke it or I would snort it.
Q. Up your nose?
A. Yes, sir.

Michael Fortier - Cross

- Q. And did your wife also do that?
A. Yes, sir.
Q. And then you also smoked marijuana?
A. Yes, I did.
Q. Had a marijuana pipe there in the house?
A. It was made out of tinfoil, but, yes.
Q. And you sold a substantial amount of marijuana, a lot of marijuana I think is what you said.
A. At one time, yes, I did.
Q. Well, you were selling it the night they had that big raid there, weren't you?
A. That's the time I'm speaking of.
Q. Well, how long had you been selling it?
A. I sold it almost all in one day.
Q. Well, before that, how long had you been selling it?
A. None.
Q. So you were just selling marijuana for one day?
A. Almost all of it went in that one day, yes.
Q. That's the only day you sold it?

A. Marijuana, yes.

Q. Yes, sir.

A. Yes, sir.

Q. And how often did you sell crystal meth.?

A. Over a year's time, probably between five and ten times.

Q. So maybe as often as slightly more than once a month?

Michael Fortier - Cross

A. Yes.

Q. And then you bought crystal meth.?

A. Occasionally, yes. I was mostly given it by my neighbor.

Q. Mr. Rosencrans?

A. Yes.

Q. He just gave you crystal meth.?

A. He would share with me.

Q. Oh, he would share with you.

A. Yes, sir.

Q. Well, how else did you support the use of crystal meth.?

What other money did you have to buy it?

A. Just money I was making at my job, or whatever the money I was coming back with.

Q. And how long had you been using crystal meth.?

A. I believe the first time I tried crystal meth. was my senior year in high school.

Q. And in 1995, how long had you been out of high school?

A. Eight years.

Q. And had you been using drugs during that period of time?

A. On and off.

Q. Well, I don't mean you used them every day, but was there any year that went by that you didn't use drugs, from 1988 to 1995?

A. Yes, sir, my first two years in the service if you do not count alcohol.

Michael Fortier - Cross

Q. Okay. Well, let's leave aside alcohol. And incidentally, you had a problem with alcohol for a long time, didn't you, Mr. Fortier, back when you were in high school?

A. I never considered it a problem. I considered it a rash of bad luck, more or less.

Q. Well, most -- well.

Just a rash of bad luck?

A. I was -- I drank alcohol under the age of -- you know, under the legal age. And I would attend parties, and sometimes

those parties would, what we used to say get busted by the cops. I didn't feel it was very safe to go running from the police like that, so I'd always just stay there; and sometimes the police would let me, you know, go home, or they would give me a ticket. And I got quite a few tickets.

Q. So even after you got the first or second tickets at these parties for having alcohol in your possession underage at these

parties, you continued to do it?

A. Yes.

Q. Let's get back to the drug use. So the first two years you

were in service, you didn't use drugs?

A. That's correct.

Q. After you got out of the service and moved back to Kingman, you did?

A. Yes, sir.

Q. Was there a month that went by that you didn't use drugs?

Michael Fortier - Cross

A. There were certainly days that went by. I would say, no, it wasn't a month that went by.

Q. And Mrs. Fortier used drugs with you during that same period of time?

A. Not right after we got out of the service. She did occasionally. I was mostly smoking marijuana when I first got out of the service, with a friend of mine.

Q. Who was the friend?

A. His name is Matt Murphy.

Q. All right.

A. And Lori doesn't like to smoke marijuana. She has on occasion, but she didn't usually do it.

Q. She preferred crystal meth.?

A. Yes. She does.

Q. Well, now, you indicated in a description of an event with Mr. Hartzler that there was one night that you and Jim Rosencrans had been playing video games and you all had been snorting and smoking crystal meth. all night.

A. Yes, sir.

Q. Well, how many times did you snort and smoke crystal meth. all night, either with a friend or by yourself?

A. You mean how many different times?

Q. Yes, sir, that was the question.

A. Over my whole life?

Q. No, let's just take the last five years.

Michael Fortier - Cross

A. That would be extremely difficult for me to put a number on.

Q. Because it's so many?

A. Yes, sir.

Q. Well -- and in fact, these times that were so many, a lot

of them occurred during the period of 1994 and 1995, didn't they?

A. Yes. Yes, sir.

Q. And a lot of them occurred during the very periods of time

Q. And a lot of them occurred during the very periods of time that you're telling us you had these conversations with Tim McVeigh; isn't that true, Mr. Fortier?

A. Yes, sir.

Q. Now, what kind of effect did crystal meth. have on you?

A. Crystal meth. made me feel very excited, as if it released a lot of adrenaline in my system. Made me want to talk a lot. Basically it just made me very excited.

Q. Now, during this period of time that Mr. McVeigh was at your house, September, October, November, December 1994, and those times in '95, was Mrs. Fortier also using crystal meth.?

A. Yes, sir.

Q. Now, Mr. Fortier, you told the jury, as I understand it, that when you met Mr. Hartzler or at least with the FBI -- and perhaps it was Mr. Hartzler -- that you ceased using any drugs.

A. Yes, sir, in May of 1995.

Q. And then you went into custody in August of 1995?

Michael Fortier - Cross

A. Yes, sir.

Q. Now, from May of 1995 to August of 1995, did you take any drug tests?

A. No, sir.

Q. So whether you used drugs before you reported to be confined, we have only your word for it; is that correct?

A. Yes, sir.

Q. Would you say you were under more or less stress from May to August 1995?

A. I would say less, very much less stress.

Q. Even though you didn't know what the deal was going to be with the Government on your plea bargain until just before you pled?

A. That's right. I felt -- I felt a lot better once I started

cooperating. I wasn't living such a big lie.

Q. I understand. Now, you weren't living such a big lie. Were you living a small lie?

A. No, sir.

Q. When's the last time you told a lie to somebody in law enforcement or a judge or grand jury or whatever in the federal

government? Relating to this case?

A. That would have been before May 17 -- or on May 17, 1995.

Q. On May 17, what happened then?

A. There was an interview with Special Agent Volz and Special Agent Zimms. Halfway through that interview, I had not had

Michael Fortier - Cross

representation. My counsel had not been appointed to me yet. I wanted to cooperate with them, but I got cold feet; and halfway through, I started to lie to the FBI again --

Q. So on May 17, you lied?

A. Yes, sir.

Q. Well, now, you said that you didn't have counsel. You had in your house something called a Patriot's Rule Book, didn't you?

A. That was confiscated in the search.

Q. Well, I understand. But before it was confiscated, you had it?

A. Yes, sir.

Q. And you had some material in there from the Patriot's Report and Spotlight and all of that?

A. Yes, sir.

Q. Well, those publications talk about your rights to an attorney and right to remain silent, don't they?

A. Somewhat. But I wouldn't consider that counsel.

Q. No, I'm not suggesting it is. But you were hardly a stranger to the concept of getting a lawyer, were you?

A. No. Alls you had to do was pick up a phone and call one.

Q. In fact, you told your friends you told the FBI you weren't

going to talk to them again because you were getting a lawyer?

A. Yes, I said that.

Q. And you said that back in May, early May or late April?

Michael Fortier - Cross

A. Possibly April, yes, sir.

Q. So during all of these interviews that you had, you knew that you had the right to an attorney?

A. Yes, sir.

Q. And there was not any doubt in your mind that if you had said to one of these ladies and gentlemen of the FBI, I want to consult with an attorney, they would have stopped questioning you.

A. That actually did happen, sir.

Q. Indeed it did. Now, on the 17th, though, even though you knew about your rights to an attorney, you met with these agents at your request without an attorney.

A. Yes, sir.

Q. And the purpose of meeting with them was to tell them that if they would agree not to prosecute you, you could give them McVeigh.

A. I had said that.

Q. Right outside on the front porch of the motel.

A. On the balcony, yes, sir.

Q. Balcony. Well, you didn't tell Judge Russell the full truth when you appeared in front of him in August of '95, did you?

A. Yes, I did.

Q. Well, didn't you tell Judge Russell that you just lied two or three or four days after the FBI first interviewed you?

Michael Fortier - Cross

A. I don't remember exactly what I said to Judge Russell.

Q. Well, you appeared before Judge Russell on August the 10th, 1995, didn't you?

A. Yes, sir.

Q. Now, Judge Russell was the chief judge of the United States District Court for the Judicial District of Western Oklahoma, wasn't he?

A. Yes, sir.

Q. And his -- same position Judge Matsch has here, except he's chief judge of the District of Colorado.

A. Okay.

Q. And it was in a courtroom just like this.

A. Yes, sir.

Q. All right. And in fact, it was about a thousand yards from

where the Murrah Building had once stood. Wasn't it?

A. Yes, sir.

Q. And when you went in there on August the 10th, 1995, you were sworn to tell the truth, the whole truth, and nothing but the truth, weren't you?

A. I don't remember.

Q. Well, if that's what the transcript says, you don't dispute it, do you?

A. No, sir, I don't.

Q. And do you remember being there with Mr. Maguire?

A. Yes, sir.

Michael Fortier - Cross

Q. And with Mr. Hartzler.

A. Yes, sir.

Q. And Ms. Arlene Joplin from the U.S. Attorney's Office?

A. I believe she was there.

Q. And of course Judge Russell was there.

A. Yes, sir.

Q. And the purpose of appearing in front of Judge Russell was to answer the grand jury's indictment that had been returned against you.

A. Yes, sir.

Q. Is that correct?

A. Yes.

Q. And as a part of the process, did you write out a statement

or did somebody else write it out and you signed it? I'm talking about something that's printed.

A. I wrote that out, myself.

Q. So you wrote it out. I'm going to show you first a document labeled P107. It should be up there --

MR. NIGH: Not yet.

MR. JONES: Not yet. Well, why don't we -- well, if we may approach, why don't we give the witness the witness

we may approach, why don't we give the witness the witness book.

I'm sorry. Excuse me. Go ahead and give it to him.

While he's doing that, I'm told that this has already been admitted as a part of the Government's Exhibit 193.

Michael Fortier - Cross

BY MR. JONES:

Q. Do you have 193 in front of you, Mr. Fortier?

A. I believe so.

Q. Would you turn to Government Exhibit 193.

A. Yes, sir.

Q. And do you see a Factual Statement in Support of Plea Petition?

A. Yes, sir.

Q. And that's in your handwriting?

A. Yes, it is.

Q. And you signed it.

A. Yes, I did.

Q. And this was a statement that you made in support of your plea agreement, which was Petition to Enter a Plea of Guilty, filed on August the 10th, 1995, in the United States District Court. Is that correct?

A. Yes, sir.

Q. And in this document did you make the following statement: "I did not as soon as possible make known my knowledge of the McVeigh and Nichols plot to any judge or other person in civil authority. When the FBI agents questioned me later about two days after the bombing and during the next three days, I lied about my knowledge and concealed information"?

Did you make that statement?

A. Yes, sir.

Michael Fortier - Cross

Q. Well, that's not the whole truth, is it, Mr. Fortier?

A. I also lied to the FBI on May 17.

Q. Yes, sir. And you lied to them on May 7, didn't you?

A. I'm not sure.

Q. On May 7 in Kingman, Arizona, did you say to Special Agent Robert E. Walsh and Charles B. Walker that you had already cooperated and could be of no further help to the investigation; that you didn't think you could be of any additional help because you didn't know anything?

A. Yes, sir, I lied to them at that time.

Q. And your statement is that's a lie.

A. Yes, sir.

Q. All right. And then you were interviewed again on May 10, 1995, by Special -- Supervisory Special Agent William R. Keefe and Supervisory Special Agent Robert K. Cromwell in Kingman. Do you remember that?

A. Yes, sir.

Q. And at that time did you say in response to a question they

asked you, "What does a trip to Kansas to buy guns have to do with the bombing in Oklahoma City"?

A. I believe that was my statement.

Q. Yes, sir. So from April the 21st, at least according to your testimony today, you acknowledge that you lied more than two or three times?

A. Yes, sir.

Michael Fortier - Cross

Q. Now, when you were indicted by the grand jury, you were only indicted for making false statements three to four days after April 21, weren't you?

A. I believe so.

Q. Do you know why the Government didn't charge you with these other lies in May?

A. No, sir, I don't.

Q. Do you think that it was part of an effort to minimize these lies rather than to string them out for nearly 30 days?

A. I don't know their intentions.

Q. Well, whatever their intentions may be, your statement today -- and regardless of what you wrote to Judge Russell or told Judge Russell back in another federal court proceeding, what you're saying today is that as late as May 17, you were lying to the FBI.

A. That was the last time that I lied to the FBI.

Q. Yes, sir. Now, Mr. Fortier, you knew on April the 19th about the bombing; is that correct?

A. Yes, sir.

Q. And the first time that you really made any statement to the FBI to cooperate with them in their investigation from their viewpoint was the one on May 17.

A. That's when I initially started to cooperate.

Q. Yes, sir. Prior to that time, other than leaving your house the time they asked you to, you weren't cooperating with

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them.

A. In no real sense, no.

Q. Right. Now, you watched television and read the newspapers about the Oklahoma City bombing, didn't you?

A. Everything, yes.

Q. Everything you could get your hands on.

A. I mostly watched everything that I could see on TV about the bombing.

Q. Well, you also read the newspapers, didn't you?

A. Just a few of them.

Q. Just a few of them.

A. I read one Arizona Republic; and although I don't remember specifically, I believe I read a few of the Kingman Daily Miner

papers.

Q. All right, so you read at least one issue of The Arizona Republic and several issues of the Kingman Daily Miner?

A. That's correct.

Q. In addition to watching television?

A. Yes, sir.

Q. You also went out and bought a copy of Time magazine that had a copy of Mr. McVeigh's face on the cover of it, didn't you?

A. I never did get it. I had wanted to go out and find it, but I didn't.

Q. Did anybody give it to you?

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A. No, sir.

Q. And you watched CNN; right?

A. At my neighbor's house, yes.

Q. Well, you told your friends that you were watching it -- you remember you had a conversation with your brother on April the 25th -- remember that -- in which you talked to him about watching television and said, "I heard on the news last night that they going to be releasing a modified sketch of John Doe 2."

A. Yes, sir.

Q. All right. And then you said that "the L.A. Times, Tokyo Times, everybody's been by my house," didn't you?

A. I believe I said something like that.

Q. And with respect to these statements that you made about the victims in Oklahoma City, you told your brother, "'cause it's terrible what happened. I know that, but I don't know right now in my own life -- I got bigger and better things to worry about."

A. I was concerned with all the media and the FBI that were swarming my house.

Q. Well, you were concerned about them, weren't you?

A. Yes. They were more or less overrunning my life.

Q. And you were concerned enough about what some of these newspapers were telling about you or saying or writing about you that you were considering a slander case.

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A. Yes. It seemed to me that they would just write anything.

Q. So in addition to the slander case and in order to work on your case, you followed it on the newspapers, didn't you?

A. No. I never put no work into a slander case whatsoever, except for this one paper, The Arizona Republic, I highlighted some of the -- what I thought was inflammatory statements.

And

in the margins I wrote like some of my thoughts on what the paper was saying.

Q. Well, and then you confronted the FBI, saying they leaked information, didn't you?

A. Yes, I did.

Q. And you were so incensed by some of the things that you read in the newspaper that you wrote very cryptic comments throughout that newspaper, didn't you?

A. I was upset by what the newspaper was saying.

Q. Well, you were following the case in the news, weren't you,

Mr. Fortier?

A. Yes, sir, I was.

Q. Because you were the very focus and center of everything that was going on out in Arizona, weren't you?

A. I was following the case because I knew that Tim had did it, and it was -- and I had direct knowledge of it. I followed

the case like everybody else in America did.

Q. Okay. Fair enough.

Now, prior to the time that you talked to the FBI,

Michael Fortier - Cross

even in that conversation on May 17, a lot had appeared in the newspaper and on television about what the Government's theory was, hadn't it?

A. Between the 19th and the 17th, there was --

Q. Between the 19th of April and the 17th of May, yes, sir.

A. Yes, there's lots of speculation in the newspapers.

Q. Well, they were quoting unnamed federal officials about the

investigation, weren't they?

A. That's what they wrote.

Q. Prior to May 17, there had been stories on television and the newspapers concerning the Government's theory of the use of

a Ryder truck, hadn't there?

A. I believe there were.

Q. And prior to May 17, there had been discussion in the media

and the press and newspapers that Mr. McVeigh had rented that Ryder truck using an alias "Robert Kling," weren't there?

A. I don't know if that information was released during that time frame or not.

Q. Well, it was in The Arizona Republic, in the very article the day before the one you complained about, wasn't it?

A. I don't know. I didn't read The Arizona Republic only except for that one time.

Q. You didn't read The Arizona Republic the day before you read the article that you went down and talked to the FBI about?

Michael Fortier - Cross

A. The article that I wrote on and the one that I referred to the FBI about, or referred to the FBI --

Q. Yes, sir --

A. -- that's the only Arizona Republic that I read

A. That's the only Arizona Republic that I read.

Q. Well, how is it that you just happened to read that one?

A. My neighbor, Jim Rosencrans, had had it and showed it to me.

Q. Well, did you know that your wife, Lori, had testified that she had destroyed a typewriter ribbon that had Robert Kling's name on it?

A. She told me that after the FBI requested the typewriter. I

asked her why they would want the typewriter and she told me that, that she had did that.

Q. But she told you that she destroyed the name Robert Kling that was on this typewriter ribbon before May 17, didn't she?

A. I don't think so.

Q. Well, there was an article in the Kingman Daily Miner talking about the person Robert D. Kling being the person that had rented this Ryder truck up in Junction City, Kansas, wasn't there?

A. I don't know.

Q. You don't remember that?

A. No, sir, I don't remember that article.

Q. You don't recall that. May you have read it?

A. I don't recall it.

Michael Fortier - Cross

Q. You don't recall it. Well, did you read newspaper accounts and watch on television the Government's belief that ammonium nitrate was used?

A. Yes, sir.

Q. And you knew that because you tried to get rid of the ammonium nitrate that you had. Isn't that so, Mr. Fortier?

A. I tried to get rid of the ammonium nitrate because that's what Tim told me that he was going to use to make the bomb and I didn't want to be found with any of it.

Q. And you read it in the newspaper and watched on the television that that was the Government's theory, didn't you?

A. I don't recall much about the Government's theory before May 17, as opposed to after May 17.

Q. Mr. Fortier, every day from April the 21st until you left to go to Oklahoma City, the FBI kept you under surveillance, didn't they?

A. Yes, they did.

Q. And the newspapers and the television stations were calling you and knocking on your door and wanted to talk to you?

A. Yes, sir.

Q. And are you saying that you didn't follow the news developments in this case?

A. No, what I'm saying is I can't recall exactly what was put out in the news before May 17, as opposed to what was put out in the news after May 17.

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Q. So are you saying today, sir, in this courtroom that you don't recall whether before May 17 that you had heard or read that Government's theory that ammonium nitrate bomb had been placed in a truck?

A. I believe that was put out before May 17.

Q. Yes, sir. Because you were watching it just like the rest of America was, weren't you?

A. Yes, I was watching the news.

Q. Except you had a greater interest in it, didn't you?

A. Yes.

Q. And in fact, one night your dad even called you and read you a list of names of people that the FBI was questioning about, to see if you knew about any of them, didn't he?

A. That was my father-in-law.

Q. Father-in-law. Excuse me. That happened, didn't it?

A. He called me one evening, and he told me about a list of names that the FBI had given him.

Q. Yes.

A. And I asked him to read it off. I was just curious of what the names were.

Q. Fine. Well, he called you, I suppose, thinking you might be curious.

A. I'm not sure what he was thinking.

Q. Well, you were curious, weren't you?

A. Yes.

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Q. Well, you were curious enough that you didn't have to rely on your father-in-law; you had all these media people that were

talking about the Government's theory, didn't you?

A. They were pretty much just asking me lots of questions about --

Q. I'm talking -- excuse me. I'm talking about on the television and in the newspapers.

A. Yes, sir.

Q. Well, you didn't take any trips out of town until later, did you, when you went up to Harrah's.

A. That was sometime in May.

Q. Yes, sir. And most of the time, you stayed right in your house, didn't you?

A. In the Kingman area. I was making trips to Lori's parents'

house and to my parents' house.

Q. But most of the time you were in your house.

A. Yes.

Q. And friends called you?

A. Yes.

Q. And they came by to see you?

A. Yes, they did.

Q. And you had a television that was functioning and working in your house, didn't you?

A. Yes, sir.

Q. Now, prior to May 17, you had read and heard reports of

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storage sheds were being used in connection with the investigation of the bombing on the theory that bombing components might have been stored there.

A. I'm not sure if that was information that got leaked out before May 17 or not.

Q. When you say you're not sure, you mean it might have?

A. Yes, sir, might have.

Q. And you might have known about it.

A. I may have, yeah, heard about it on the TV.

Q. Yes, sir. Now, did an article appear on April 25 in the Kingman Daily Miner, written by a Ken Smith, quoting somebody named Greg?

A. Not that I recall.

Q. Were you Greg?

A. No, sir.

Q. Well, didn't the newspaper there, the local newspaper, call

you up and interview you on the phone?

A. No, sir.

Q. They didn't? Interview you in person?

A. Are we speaking of the Kingman Daily Miner?

Q. Yes, sir.

A. No, sir. Only like I told you before, I yelled a quote to the lady reporter through my front door.

Q. So your statement is you didn't give any interview to the Kingman Daily Miner.

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A. That's correct.

Q. All right. Now, on April the 28th, 1995, did you read an article in the Kingman Daily Miner with the headline:

"Evidence Mounts Against McVeigh"?

A. I may have.

Q. Did you read the article May 5, 1995, "Friend of Bombing Suspect Remembers McVeigh Planned Action Against Feds"?

A. Again, I may have. But that doesn't ring any bells.

Q. Prior to May 17, did you read in a newspaper or see on television that the Government was investigating whether or not

blasting caps, explosives, and detonator devices were missing from Fort Riley?

A. No, I never heard that.

Q. You didn't hear that?

A. No, sir.

Q. So you didn't read the Kingman Daily Miner for April 28?

A. I may have, but I don't remember that being reported in

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if I did.

Q. Well, you had in your possession blasting caps or explosives or improvised pipe bombs, didn't you?

A. Yes, sir.

Q. What did you do with those?

A. I turned them over to the FBI.

Q. And where were they when they were turned over?

A. They were in the trunk of my brother's car that was in his

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garage.

Q. And when had they been placed in the trunk of your brother's car?

A. I'm not sure of the date. It was sometime in April prior to the 19th, when I was selling all those drugs and I felt that

my house was potentially going to be raided by the narcotics police. I took them to my brother's house the very next morning.

Q. So whatever you were doing before April the 19th with respect to drugs, it was serious enough that you thought the narcotics squad might raid your house?

A. Well, what happened was my neighbor raised that suspicion for me. He had been listening to my scanner, and he said that some houses were being raided. And he felt the narcotics police was doing a sweep through Kingman and his house would definitely be a target. And I live right next door, and there's lots of traffic going through my house that day; so I felt that my house may be targeted, also.

Q. Because of what you had been doing with respect to drugs prior to that date.

A. On that day, sir.

Q. Well, on that day. And before. 'Cause you had used drugs in your own house.

A. Yeah, but I didn't feel there was any reason for the narcotics police to come into my house just for that reason.

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They would be looking at the dealers, what I call the "heavy dealers"; and for that one day I was -- I was moving quite a bit. Well, it was a quarter pound of marijuana and an eightball of crystal meth. I was selling it from my house.

Q. Well, if you weren't a heavy drug dealer, what were you worried about?

A. I was worried about them catching me with all that, the drugs that I had that day.

Q. So you were worried about the drugs, so you went and took blasting caps and explosives and an improvised pipe bomb over to your brother's house?

A. That's what -- what I did was I cleaned my house up, more or less.

Q. All right. Now, before May 17, 1995, did you read in The

Arizona Republic or the Kingman Daily Miner or see on television that the investigators for the federal government were tracing evidence of nitrates and fertilizers that might have been in Mr. Terry Nichols' home?

A. Yes, sir.

Q. Now, you had nitrates in your house, didn't you?

A. In my shed, I did.

Q. Yes, sir. And you had had explosives in your house; but according to you, they had been moved over to your brother's house?

A. Yes, sir.

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Q. Now, you had some ammonium nitrate fertilizer?

A. Yes. It was about a third of a bag that Tim had given me the previous spring.

Q. Well, you had had -- held onto it, hadn't you?

A. Yes. Tim asked me to, if I would hold onto it for him. And I stuck it in my shed, and it sat there for that whole time.

Q. So even after you thought he might kill you, you were holding on to it for him?

A. I didn't even think about it until after the bombing.

Q. And then what did you do with that ammonium nitrate fertilizer?

A. I asked my neighbor, Jim Rosencrans, if he would take it for me, or if he wanted it; and he said sure. He took it.

Q. Now, he's your neighbor next door.

A. Yes, sir.

Q. Now, just a minute ago, you said that you were concerned that the police might raid your neighbor next door who was a dope dealer.

A. Yes, sir.

Q. That's Mr. Rosencrans, isn't it?

A. Yes.

Q. So because you thought they might raid the dope dealer next

door to your house, they might also raid your house.

A. Yes.

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Q. But the reverse wasn't true; they might raid your house in the Oklahoma City bombing case where 168 people had been killed

but wouldn't raid your next-door neighbor, this known dope dealer?

A. I didn't think of it in that way.

Q. You didn't think of it?

A. I just wanted to get rid of the stuff, the nitrates.

Q. You put it in a box, didn't you, along with some other stuff?

A. It was already in the box, as you call it. It was a red

milk crate.

Q. It was in a box. What did you put in the box?

A. I didn't put anything in the box. There was already some pipe in the box when I got it, received it from Tim.

Q. Pipe. Now, did you make an improvised pipe bomb, yourself?

A. Yes.

Q. And you still had that. I mean you could get it. You might not have it right under your feet, but you could get it, couldn't you?

A. Well, what was my brother's house and what you're referring to --

Q. Was it at your brother's house?

A. Yes. What was at my brother's house and what you're referring to as a pipe bomb, I don't think was a pipe bomb. It was just a cardboard . . . what it was what the inside of a

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fax -- the fax paper, when it rolls out, the cardboard that's left over. I had more or less just made a firecracker out of it, actually out of a few.

Q. Well, there certainly wasn't any reason to be worried about that, was there?

A. Sure. Sure there were. There was other stuff that Tim had given me, too, that was over there.

Q. Well, but this was just a firecracker; right?

A. Yes, but it's homemade; and I'm not sure, but I'm pretty sure that it's illegal.

Q. You're not sure, but you're pretty sure that it's illegal to make firecrackers?

A. Let me strike that. I know that it's illegal in Arizona to have firecrackers.

Q. All right. So it was illegal?

A. Yes, sir.

Q. Okay. And how big a firecracker was this firecracker?

A. About 8 inches by half an inch in diameter.

Q. Okay. Inside a fax tube, a fax paper tube?

A. The roll the fax paper, when it runs out -- the cardboard tube that is left over.

Q. And what was pushed down in there?

A. Black powder. Gunpowder.

Q. And this had been in your house and you moved it?

A. Yes, sir.

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Q. What were you going to do with this?

A. I was saving those for the 4th of July. I was going to light them off.

Q. You were saving them for the 4th of July and you were going to set them off?

A. Yes, sir.

Q. Okay. Well, in any event, you gave this ammonium nitrate to Mr. Rosencrans?

A. Yes, I asked him if he wanted it; and he said he would take it.

Q. And how did you give it to him?

A. I handed it to him over the back fence, or the fence that separates our two yards.

Q. Was it at night?

A. No, it was in the day.

Q. In the daytime. Why didn't you just go out the front door and walk around to his house?

A. 'Cause I had to retrieve it from the shed, and he was in his backyard. And I got it out of the shed, and I just walked over to the fence and handed it to him over the fence.

Q. Did he know that you were going to hand it to him before?

A. Yes.

Q. When did he know that?

A. I don't remember exactly what took place just prior to that. I believe he was over at my house where I asked him if

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he wanted it.

And he said sure.

And I said, "Great. I'll go get it, if you want to go, you know -- go to your house and receive it over the fence."

Q. Oh, so you were trying to hide that you were giving it to him?

A. I was definitely trying to hide the ammonium nitrate. But I just did it in the open, just took it out of my shed and just handed it to him over the fence.

Q. But as I understand it, Mr. Fortier, he's already in your house. You just walk over with him to the shed and say, Jim, here it is, partner?

A. We could have done that.

Q. Instead what he -- excuse me -- what he did was leave your house -- right --

A. Uh-huh.

Q. -- go over to his house, go in the front door, go out the back. You went out the back of your house, opened the shed, went over, and gave it to him over the fence?

A. More or less.

Q. And this is your description of doing something in the open?

A. Yes, sir.

Q. Now, before May 17, you were aware that it was the

Michael Fortier - Cross

Government's theory that this Ryder truck had been rented in Junction City under the name of "Robert Kling" and with ammonium nitrate in it had been parked in front of the Alfred Murrah Building just before it went off.

A. It was my understanding that the Government had a theory that a Ryder truck rented by Mr. McVeigh was parked in front of the Murrah Building and went off.

Q. And either with some type of timing device or remote control; isn't that right?

A. I didn't hear anything about that in the media, sir.

Q. Well, did you hear the theory that whoever done this had presumably escaped in a car parked nearby?

A. What I heard, they were blaming it on Tim and they had caught him on the highway heading for Kansas.

Q. And was the theory that his car was parked nearby?

A. I don't remember that being reported in the news before May 10 -- or 17th.

Q. Well, you knew what time the bomb went off, didn't you?

A. Yes, I had heard that.

Q. And you knew he had been stopped about an hour and a half away, about 70 miles down the road, maybe a little longer.

A. Yes. I remembered 90 miles.

Q. Okay, 90 miles. Well, in order to get 90 miles in an hour

and a half, the getaway car, if it was Mr. McVeigh, had to be parked real close, didn't it?

Michael Fortier - Cross

A. One could assume that, yes.

Q. Well, you assumed that, didn't you?

A. Well, I didn't really need to assume anything. I had prior knowledge.

Q. Yeah, I understand you had prior knowledge; but you didn't tell the FBI your prior knowledge about the Ryder truck and the

ammonium nitrate and the timing devices and the blasting caps and the explosives and the getaway car until it was all over the media in this country, did you, Mr. Fortier?

A. I didn't tell the FBI or the prosecutors anything that I knew about the bombing until after the 17th.

Q. And when you talked to them on the 17th, almost all of this

was already in the public domain, if not, in fact, all of it, wasn't it?

A. I'm not sure what was and what wasn't.

Q. I see. All right.

Now, you knew Terry Nichols, didn't you?

A. Yes, I have acquaintance with Mr. Nichols.

Q. Well, you had an acquaintance with him; you were in the

same company with him, weren't you, down there at Fort Benning?

A. Yes, sir.

Q. Were you in the same platoon with him?

A. Yes, sir.

Q. How many men in a platoon in the United States Army, Mr. Fortier?

Michael Fortier - Cross

A. A full platoon, I believe, has 40 men.

Q. 40. And how long were you all down there together? 90 days?

A. We're speaking of Fort Benning?

Q. Yes, sir.

A. Yes, three months.

Q. And then you were shipped up to Fort Riley?

A. Yes, sir.

Q. And did the three of you continue to be in the same platoon?

A. No, sir.

Q. You were in one, and the two of them were in another?

A. No, sir. Me and Tim were in the same platoon. And Mr. Nichols was in another platoon.

Q. All right. Well, then, after you got out of the service and after Tim and Mr. Nichols got out of the service, Mr. Nichols came by your house on several occasions, didn't he?

A. Yes, he did on one occasion by himself -- excuse me, with his wife. And the other times were just with Tim.

Q. And you visited with and had conversations with him?

A. Strike that. There was one other time that Mr. Nichols had showed up at my house.

Q. How many times did he show up at your house?

A. By himself, once. Once with his wife, and then a few times with Tim.

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Q. So he could have been at your house five, six, seven times, couldn't he?

A. Four times is what I'm remembering right now.

Q. Okay, four times. Well, you knew who he was, and you knew he was a friend of Tim's?

A. Yes, sir.

Q. And you knew you had been in the Army with him?

A. Yes.

Q. And you knew he lived up in Herington, Kansas?

A. I didn't know that, sir.

Q. You didn't know that?

A. I didn't know that -- the town of Herington until I went

there with the FBI agents.

Q. Well, maybe you didn't know the town's name, but you knew where it was.

A. Just Kansas. I knew where Kansas was.

Q. Ah. Mr. Fortier, I thought it was Mr. Terry Nichols who went over to Arkansas and robbed Bob.

A. That's what Tim had told me.

Q. Right. That's what he told you. And then you made a trip,

according to you, with Mr. McVeigh up to this little town where the Pizza Hut was and where these storage units were in order to pick up these guns.

A. Yes, sir.

Q. All right. Now, you also told the FBI that you didn't want

Michael Fortier - Cross

them raiding your house on the 1st of May like the farmhouse had been raided up in Michigan; isn't that true?

A. Yes, sir.

Q. And you watched the coverage of that farmhouse raid in Decker, didn't you?

A. Yes, I did.

Q. So you knew from watching that that Terry Nichols lived in Herington, didn't you, sir?

A. I may have heard that, the word "Herington," but it never sunk in. I didn't know that.

Q. How long did you watch the raid of James Nichols' farm over

nationwide television in Decker, Michigan, on April the 21st?

A. I'll assume it was on the 21st. I didn't spend hours in front of the TV. I just watched the coverage of whatever the local TV stations were showing.

Q. Well, however long you watched it, it was long enough for you to form the opinion that you didn't want them doing that to

your house, wasn't it?

A. It only took me one second to see the agents dressed all in

black and carrying their automatic weapons to figure out I didn't want them coming into my house in that manner.

Q. You're not suggesting that you just watched this for one second, are you?

A. No, but I'm saying I knew right away that I wouldn't want my house being raided in that same manner.

Michael Fortier - Cross

Q. Well, you knew it was James Nichols' house, didn't you?

A. That's what the TV was saying.

Q. And you knew that James Nichols was Terry Nichols' brother,

didn't you?

didn't you:

A. I learned that from the news, yes.

Q. You didn't know that before?

A. No.

Q. Tim hadn't told you that he was up there staying occasionally with James Nichols, Terry Nichols' brother in Decker, Michigan?

A. Tim always referred to it as the "Nichols farm."

Q. Okay.

A. I don't remember the name "James Nichols" until after the bombing.

Q. Well, you assumed that was a member of the Nichols family, didn't you?

A. Yes.

Q. And you knew a Nichols, didn't you, from the military?

A. Excuse me?

Q. From the military.

A. Yes, Terry.

Q. Now, did you also know that the Government believed that the bomb had been carried in one of the larger Ryder trucks?

A. No, sir. I don't think they made a distinction in that nature.

Michael Fortier - Cross

Q. You didn't see a program on television where they had different size of Ryder trucks and people explained that?

A. I don't recall that at all.

Q. Did you read any news reports that allegedly Terry Nichols had taken Tim McVeigh down to Oklahoma City, or they were going

to go down on Sunday? Did you read anything about that or hear

anything about that?

A. I don't remember anything being said about Sunday.

Q. Well, now, you told the FBI, as I understand it, more than a month later, or about a month later, that Tim McVeigh told you that either he was going to have the car parked nearby and would be taken down there early, or Terry Nichols was going to drive him away; isn't that right?

A. What Tim told me in December of '94 was that he was -- they

were going to deliver a getaway car to Oklahoma City a few days

before, and then Tim was going to drive the truck down and then

get away using the vehicle, or Tim was going to drive the truck

down and Terry was going to follow him in a getaway vehicle.

Q. Well, it was just Tim and Terry? Was there any other explanation as to how they could do that other than just those two?

A. Didn't put any thought into it.

Q. Well, did you put thought into it after you read and heard that the Government was investigating the theory as to whether they had ferried the car down before the day of the bombing?

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A. No, sir.

Q. You didn't read or hear that?

A. No. What I'm saying is I didn't put any thought into how else they could do it.

Q. Well, I'm not asking you about that now. I'm asking you if

you saw report that one of the Government's theories were that Mr. Nichols and Mr. McVeigh had ferried Mr. McVeigh's Mercury Marquis down a few days before the bombing so that it would be available to them.

A. I have heard stories of that sort in the media, yes, sir.

Q. And you had heard it before May 17, didn't you?

A. That's possible.

Q. Yes, sir. Now, did you also hear or read about these plastic barrels?

A. Yes, sir, I heard about those.

Q. And that that supposedly is what the bomb had been carried in.

A. Yes, sir.

Q. And that they had been put in the back of this Ryder truck.

A. Yes, that was what they were reporting on the news.

Q. Yes, sir. With ammonium nitrate and some kind of racing fuel.

A. Some type of fuel, yes.

Q. All right. Fuel. And that there was some type of detonating device?

Michael Fortier - Cross

A. I'm not sure --

Q. Had you read that --

A. -- how specific they got into it on the news.

Q. Well --

A. I don't know if they got into detonating devices, or not.

Q. Mr. Fortier, you're not unfamiliar with explosives and detonating devices, are you?

A. I'm not now.

Q. Well, you were back then. I mean after all, what is the name of the local newspaper?

A. The Mohave Daily Miner.

Q. You mean the Kingman Daily Miner?

A. The name has changed.

Q. Okay.

A. Or it is now, I'm not sure.

Q. It's the Daily Miner?

A. Yes.

Q. Which means there's a lot of mining activity going on out there.

A. That's just the name of the paper.

Q. Well, isn't historically that's what happened in the

northern Arizona area down there, that it was a big mining community? That's why the newspaper is named the Daily Miner, isn't it?

A. I don't think there's any active mining going on in the

Michael Fortier - Cross

area, maybe near Oatman.

Q. Well, you mine with explosives a lot, don't you?

A. I suppose so.

Q. And the explosives have to be set off, don't they?

A. Yes, sir.

Q. And you do that with a detonator, don't you?

A. I imagine so.

Q. And you worked in a hardware store, didn't you?

A. Yes, sir. But we didn't sell any type of explosives whatsoever.

Q. Did you sell any kind of det cord or detonators or timers or wire?

A. No.

Q. No?

A. Not at all that I'm aware of.

Q. Now, did you read that there was some theory that the investigators were speculating that this bomb had been put together in a barn near Herington?

A. No, sir, I've never heard that.

Q. Did you tell the investigators at one time that you thought

that Tim had told you that Mr. Nichols had this abandoned farmhouse where they could put the bomb together?

A. No, sir.

Q. You didn't.

A. No, sir.

Michael Fortier - Cross

Q. Did you tell them that there wasn't an abandoned farmhouse?

A. No, sir.

Q. You didn't tell them either way?

A. No, not about a farmhouse. Or an abandoned farm.

Q. Or some abandoned property, barn, shed, farmhouse?

A. No, what I told them is what Tim told me: That they were looking for a low spot in the area that they could build that, build the bomb in.

Q. So you never said that Tim had told you that Terry had access to some abandoned property, some kind of building out in

the countryside of where this bomb could be put together?

A. No, sir.

Q. All right. Now, you read in the newspaper, did you not, that the investigators and the reporters had found out that Mr. McVeigh had stayed at two hotels or motels in Kingman.

A. Yes.

Q. And those were the Imperial and the Willton

Q. And those were the Imperial and the Hilltop.

A. I don't recall the names, but those sound correct.

Q. Well, there's motels right there on the highway in Kingman,

aren't there, the Imperial and the Hilltop?

A. They're not on the highway. They're -- I believe those two, both of them are in the junction of Andy Devine and Stockton Hill. It's really nowhere near the highway.

Q. But you had read about the press and the investigators finding some suggestion that Mr. McVeigh had stayed in these

Michael Fortier - Cross

two hotels, didn't you?

A. I believe so, yes.

Q. And you read about that before May 17, didn't you?

A. Yes.

Q. Now, did you also read and hear the story on television and

the newspapers about this quarry robbery up near central Kansas?

A. No, sir.

Q. You didn't read or hear anything about that?

A. Not before May 17.

Q. You're sure of that?

A. Yes, sir.

Let me recant. I'm pretty sure I didn't read anything

like that before May 17. I have -- I have read that in the newspapers, though.

Q. Mr. Fortier, is "recant" a word ordinarily in your vocabulary?

A. Never had occasion to use it before. That I can --

Q. Well, that's a legal term, isn't it?

A. I'm not sure if it is or not. It's possible I picked that up from, say, my lawyer.

Q. Along with "strike that"?

A. Yes, I picked that up, definitely, through my lawyer.

Q. Now, in the local newspaper, do you remember reading an article on where there was an extended time line of all of

Michael Fortier - Cross

Mr. McVeigh's alleged activities in the month before the bombing?

A. No, sir.

Q. Did you read that?

A. No, I did not.

Q. You didn't read that.

A. We're talking about the local, the Kingman Daily Miner?

Q. Yes.

A. That's right, I did not read that.

Q. So even though here's the local newspaper with a time line of where Mr. McVeigh was allegedly, and what he did, some of which in Kingman and some of which you -- matters you knew

something about, based upon your testimony, you didn't read that article?

A. That's right.

Q. Now, did you read the article or see it on television about

this ammonium nitrate being purchased by Mr. Nichols and a receipt with Mr. McVeigh's fingerprints on it? Did you read something about that?

A. Yes.

Q. And you read that before May 17, didn't you?

A. I'm not sure.

Q. Now -- oh, you're not sure.

A. Yes, sir.

Q. You could have?

Michael Fortier - Cross

A. I could have.

Q. Now, you indicated, if I remember correctly, that Mr. McVeigh told you that Mr. Nichols had gone in to buy the ammonium nitrate; and what was it that happened?

A. Tim told me that they had gone in to buy the ammonium nitrate and Terry was to do the talking because Terry had a history -- he was a farmer. So they were going to buy such a large amount that it would probably generate some questions from the clerk, so he figured Terry should do the talking.

He told me that Terry had screwed up, that he couldn't lie very well, and so he had to do it from then on out. He had to do the talking from then on out.

Q. Well, did you understand Tim was there?

A. That's what he was implying to me, yes.

Q. Well, did he say that, or was he implying it; or just tell me what your understanding was.

A. That he was there.

Q. Okay. Now, so Mr. Nichols was making a large purchase, and he couldn't answer the questions?

A. Yes, that's what Tim said.

Q. Well, is there kind of a test that you have to undergo before you can buy a certain amount of ammonium nitrate?

A. I have no idea.

Q. Well, you worked in a retail establishment, didn't you, Mr. Fortier?

Michael Fortier - Cross

A. I worked in the office and in the back. I never had to handle the fertilizers in any way. Except maybe picking them up with forklift and moving it from one area to another.

Q. Sure. Well, you want to sell all the fertilizer you can, don't you?

A. No, I had no interest in that.

Q. Well, I mean the store that you worked at wanted to.

A. I'm sure they want to sell as many products as they could, yes.

Q. And that includes ammonium nitrate.

A. Yes.

Q. Fertilizer.

A. Yes.

Q. They were in the business. Weren't they?

A. Yes, they carried that product.

Q. Now, when you were working there in the hardware store, do you remember some customer being put the third degree because he wanted to buy a lot of ammonium nitrate?

A. No, I worked in the office mostly, and I didn't deal with customers of that nature, in that way.

Q. Well, it's silly even to suggest such a thing, isn't it? It doesn't happen, does it?

A. I wouldn't imagine so.

Q. Well, as I understand it, Mr. Nichols was the farmer. Right?

Michael Fortier - Cross

A. Yes, sir.

Q. Not Mr. McVeigh.

A. Uh-huh.

Q. How many farms are there in Buffalo, New York?

A. I don't know.

Q. In fact, the Nichols had a farm up in Michigan, didn't they?

A. Yes, sir.

Q. So how -- from what you know about it, how could Terry Nichols fail to answer the questions if any were asked?

A. Tim told me that Terry screwed it up. He couldn't lie very well is what he said.

Q. That's what you say Tim told you.

A. That is what Tim told me.

Q. In your opinion, is that logical?

A. Yes, it is, because I don't consider the questions that were posed to Terry as being some type of test. They were just -- I imagine, just commonsense questions, just small talk.

Curiosity by the clerk possibly.

Q. And so this farmer --

A. That -- that Tim was talking about.

Q. And so this farmer couldn't answer the questions, that's what you were led to believe?

A. That's what Tim told me.

Q. Now, Tim also told you about some robbery over in Arkansas,

Michael Fortier - Cross

didn't he?

A. Yes, he did.
Q. Bob in Arkansas?
A. Yes, sir.
Q. Who is Bob?
A. I have since learned his name is Roger Moore.
Q. Well, where is he?
A. I imagine he's in Arkansas.
Q. Have you seen him in Denver?
A. No, sir, I don't know him.
Q. Do you know what he's going to testify?
A. No, I don't know nothing about that.
Q. This is the man that, according to Tim, Terry Nichols held up.
A. Yes, sir.
Q. And you understand his name to be Roger Moore?
A. Now I do, yes.
Q. How did you learn that?
A. Through the newspapers. Or possibly through my lawyer.
Q. Oh. So you continue to read the newspapers.
A. Yes.
Q. Well, now, your lawyer doesn't represent Roger Moore, does he?
A. Excuse me?
Q. Your lawyer doesn't represent Roger Moore, does he?

Michael Fortier - Cross

A. No, he does not.
Q. Well, is there any doubt in your mind that the FBI knows who Roger Moore is?
A. No, sir.
Q. Well, now, this -- this robbery, how did that go down?
A. Tim told me that Terry had parked his vehicle on a dirt road, near Roger's -- he was using the term "Bob's house." He said Terry walked through the woods and hid behind a shed or Bob's garage. And when Bob came out to get the morning paper, Terry approached him from behind with a shotgun and ordered Bob to go back inside the house where he tied him up and started to loot his house.
Tim told me that Terry had gotten tired, so he untied Bob and had Bob help him load the weapons and whatever into the -- Bob's van. And when he had cleaned out Bob's house, retied Bob up and drove the van back to where Terry had parked his truck and reloaded the weapons and the stolen goods into Terry's vehicle and then drove away, leaving the van there.
Q. And was Tim along? I mean was he with Terry when this happened?
A. Tim -- my impression was Tim was in Buffalo when he gave me the call to tell me that Terry had did Bob, and it was my impression that it had just happened recently.
Q. And Terry was there. Was anybody with Terry?
A. Tim told me that Terry was by himself. Or -- he did not

A. Tim told me that Terry was by himself. Or he did not

Michael Fortier - Cross

mention anybody else, so I assume Terry was by himself.

Q. Tell me how that happened. How could that happen as you've

described it, or as Tim has described it, according to you?

A. I don't understand the question.

Q. Well, I apologize. It's a poor question. Let's break it down.

This Bob or Roger Moore is a gun dealer?

A. As far as I understand, yes.

Q. Yeah, well, that's what you were told?

A. Yes.

Q. Goes to gun shows and sells guns?

A. Yes.

Q. That's what a gun dealer does.

A. Yes, sir.

Q. And he lives over there in Arkansas?

A. Yes, sir.

Q. Whereabouts in Arkansas did this gun dealer live?

A. I don't know.

Q. Well, did he live in the country, did he live in the city, in the suburbs, in an apartment?

A. I don't know. Tim implied that he lived out in the woods.

Q. Well, sure. He lived out in the country. Because I thought you said that Mr. Nichols drove his car up and parked and walked up to the house.

A. Through some woods. That's what leads me to believe that

Michael Fortier - Cross

he lived out in the country.

Q. Through some woods?

A. Yes.

Q. And was there waiting when this gentleman came out to get his morning paper.

A. Yes, sir.

Q. And when was this?

A. After October 31 and before December 15.

Q. Okay. So after October 31 and before December the 15th, somewhere in that?

A. Yes, sir.

Q. Tim, who had told you all these other things, didn't give you the exact date?

A. No, he didn't.

Q. What day did he call you and tell you that Terry had done Bob?

A. I'm not sure.

Q. Well, if the records show that it was during the first week

in November, would that be different from your memory?

A. No, that would be consistent with my memory.

Q. All right. Well, in any event, whenever it was, it was

during that period of time, according to you.

A. Yes, sir.

Q. Now, how was Terry supposed to know that it was safe to walk up to Bob's house out in the country, this gun dealer that

Michael Fortier - Cross

lived in Arkansas?

A. I do not know.

Q. Were you curious?

A. No.

Q. That's kind of dangerous, isn't it?

A. I imagine robbing somebody is pretty dangerous business, yes.

Q. And on top of that, we had a lazy robber, just got tired; is that right?

A. That's what Tim told me, yeah.

Q. Well anyway, Terry parks his car and he walks up to this gun dealer's house, and had he ever been there before?

A. I don't know.

Q. Was it daylight?

A. Tim told me it was in the morning that Bob was going out to

get his morning paper.

Q. Okay. So that suggests daylight.

A. Yes.

Q. Now, is Terry just walking up there? Does he have some kind of disguise on or posing as a garbageman or mailman or what?

A. Tim told me that Terry was dressed in fatigues and had boots on and a ski mask.

Q. Oh, a ski mask?

A. Yes, and he was carrying a pistol-grip shotgun.

Michael Fortier - Cross

Q. Kind of like those terrorists that you see on television?

A. Yes, I guess you could say that.

Q. Well, that would be an unusual sight, wouldn't it, a man walking through the woods in Arkansas in camouflage outfit and boots and a ski mask and carrying a pistol-grip shotgun?

A. Yes, sir.

Q. Coming up on some gun dealer's house alone?

A. Yes, that would be unusual.

Q. But you say that's what Tim told you?

A. That is what Tim told me.

Q. So now Mr. Moore comes out and gets his paper and, according to Tim, Terry tells him, "Hands up," or whatever, "I'm going to rob you"?

A. Yeah, whatever. Tim didn't tell me what Terry said. If he said anything.

Q. How did Terry know that there wasn't anybody else in the

house?

A. I don't know.

Q. How did he know somebody else wasn't going to come?

A. Tim didn't tell me. I don't know.

Q. How did he even know Bob was the one that was going to pick up the newspaper?

A. I don't know, sir.

Q. How did he even know there was a newspaper?

A. I'm not saying that he was counting on the newspaper as

Michael Fortier - Cross

being there. I'm just saying this is how Tim explained it to me.

Q. How did he know that this gun dealer that traded in guns and lived out in the country didn't have two of the meanest rottweilers that would sober up anybody, that would pounce this

man coming up with camouflage with a ski mask on his face?

A. The only explanation I could give you is that from my knowledge, this guy Bob in Arkansas was Tim's friend, so I imagine he told Terry all about what he could expect there that day.

Q. Okay. Well, even your best friend walking up in camouflage with a ski mask would tend to draw your attention, wouldn't it?

A. Yes, it would.

Q. Okay. Now, so Terry gets there and they go back in the house, according to Tim?

A. Yes, sir.

Q. And Terry ties up the man. What does he tie him up with?

A. Plastic ties.

Q. Plastic what?

A. I'm not sure what they're exactly called, but they're like plastic ties.

Q. Who told you that?

A. Tim. That's what he was saying. Plastic ties. I've seen the police on TV like on that show "Cops" use it sometimes, as -- in place of handcuffs.

Michael Fortier - Cross

Q. Well, did you tell the grand jury that it was plastic ties or did you just tell them that he was tied up?

A. I'm not sure.

Q. Okay. Well, do these come in strips? I haven't watched television lately. Do they come in strips?

A. I'm not sure how they come.

Q. What have you seen on TV?

A. What they remind me of is the ties that you would use to tie up the top of your trash bag. It's sort of like that.

Q. Are they supposed to be strong?

Q. Are they supposed to be strong:

A. Yes.

Q. Okay. Now, in addition to that, he blindfolded this fellow?

A. I believe he used duct tape.

Q. Duct tape?

A. Yes.

Q. And you have to get that out of the dispenser, cut it up, don't you?

A. Or just tear it, I imagine.

Q. Or tear it, okay. Well, tell me, how did Terry Nichols do that holding a shotgun in one hand and tying somebody up with duct tape and strips and blindfolding them with the other hand?

A. I have no explanation for that. This is just what Tim told

me.

Q. Is the explanation that maybe it didn't happen?

Michael Fortier - Cross

A. I don't understand why Tim would tell me that happened if it didn't.

Q. Is the explanation that Tim didn't tell you?

A. No, sir, that's not what the explanation is.

Q. That you had to have an explanation for what you thought were stolen guns, and you didn't want to say you were involved in it, so Tim told you that Terry did it?

A. No, sir, that's not the explanation.

Q. Okay. Well, wouldn't you agree with me that this doesn't add up, this explanation?

A. I could foresee one man robbing another with a shotgun and tying him up.

Q. Well, I understand that. You've done some thieving, yourself, haven't you?

A. Yes.

Q. Yes. Well, does Terry have two arms or three?

A. Two, last time I looked.

Q. And this is a gun dealer's house, this isn't your average person that lives out in the country that isn't expecting they'd be ripped off.

A. Excuse me. Would you ask the question again, please.

Q. This was a gun dealer that Mr. Nichols was holding up?

A. Yes, sir.

Q. In any event, Terry got tired and then went back and while still holding the shotgun on the guy, untied him and

Michael Fortier - Cross

unblindfolded him so he could help him load the stolen property

into the truck or the vehicle, come back in the house, and then

Terry tied him up and blindfolded him again?

A. That's what I understand.

Q. Now, you lived up in the Fort Riley/Junction City/Manhattan area, didn't you, Mr. Fortier?

A. Yes, sir.

Q. How long did you live up there?

A. For three years.

Q. While you were in the service?

A. Yes, sir.

Q. So you were familiar with that area, weren't you?

A. Yes.

Q. And when you would drive back up there from Kingman, what route did you take?

A. I would go on -- I would go on I-40 and then up by 35 and then across on 70. That would bring you right to the Fort Riley area.

Q. So you didn't go up U.S. 54?

A. I did once.

Q. Oh, once. Just once?

A. Once that I can recall.

Q. Yes, sir. And was Miss Fortier with you when you went up U.S. 54?

A. Yes, sir.

Michael Fortier - Cross

Q. Okay. But all the other times, you went straight up I-35 and across to I-70?

A. There wasn't many other times.

Q. Well, there were certainly more than one other time, wasn't there?

A. There was one other time when me and Tim went home, I believe, in 1988, or maybe it was 1989. We went to my home for Thanksgiving, and I believe that is the route we took back.

Q. Up 54?

A. No, sir; I-40 across to I-35 and straight up.

Q. Oh, you're saying you just went home three years -- twice in three years?

A. I usually flew when I went home.

Q. Okay. Well, I understand that's your testimony that you usually flew. Are you saying you just drove twice?

A. Yes. While I was in the service.

Q. While you were in the service. All right. And so one time you went up I-35 to I-70, and the other time you went up to U.S. 54?

A. One time with Tim we went, on the way back, across I-40 and up I-35. And one time with my wife, we went up State Highway 54.

Q. All right. So you had been up Highway 54 before you took the FBI agents up there, hadn't you?

A. I don't know if the highway -- that Highway 54 extends into

Michael Fortier - Cross

Kansas. Or that we took that road. I'm not sure.

Q. You don't -- all right.

What is the highway that you and Mr. McVeigh took on this trip when he was trying to get off the interstate?

A. I don't -- I can't recall the name of it.

Q. Well, if Highway 54 doesn't go up to the Fort Riley/Junction City/Manhattan area, how could you take Highway 54 to get up there?

A. What Highway 54 does, to the best of my recollection, jumps

from, I think, New Mexico; and instead of going like a 90-degree turn, it cuts across into Kansas, or -- yeah, just into Kansas, I think Wichita.

Q. But it does end up eventually in Manhattan and Fort Riley area, doesn't it?

A. I'm not sure.

Q. Now, you lived in Manhattan in an apartment?

A. Yes.

Q. How far were you from the airport?

A. 5 miles or so.

Q. It was more like 2 miles, wasn't it?

A. I'm not sure. I never checked the distance.

Q. Well, did Tim McVeigh ever live in Manhattan?

A. I've heard reports on the news that he lived off the base, but not to my knowledge -- or independent knowledge.

Q. Did Tim McVeigh ever fly from Manhattan airport?

Michael Fortier - Cross

A. I don't know.

Q. You knew where the airport was, didn't you?

A. Yes, sir.

Q. And you knew the airport had rental cars, didn't you?

A. Yes.

Q. Have you ever heard of Tim McVeigh renting a car there at that airport?

A. No, sir.

Q. Now, did you live at Fort Riley?

A. For a while I did, yes.

Q. Did you ever live in Junction City?

A. No, sir.

Q. And you indicated that -- or did you ever go to any of these little fishing lakes around there?

A. No, sir. The only lake -- I believe the lake is named Tuttle Lake. It's a -- it's north of Manhattan.

Q. Not Tim Tuttle Lake, is it?

A. No, I believe -- I believe it's Tuttle Lake. I'm not sure.

Maybe it's Millford. I don't remember, to tell you the truth.

Q. All right, sir. Anyway, you went to that lake?

A. Yes.

Q. You had never been to Geary Fishing Lake?

A. NO, sir.

Q. Now, you say that on the way back, Mr. McVeigh just kind of pulled into this fishing area and said, Well, is your

Michael Fortier - Cross

four-wheeler better than mine, or the Jeep, or something to that effect?

A. He said something to that effect. But we weren't on the way back. We were -- I would say we were on the way there.

Q. Well, I'm sorry. I meant on the way there, back to Fort Riley and Manhattan.

Well, did you have any other conversation there with him at the fishing lake?

A. No, sir.

Q. Was it the Geary State Fishing Lake?

A. I later learned that they called it Geary, Geary Lake.

Q. Now, when you stopped in this first storage unit, as I understand it, you couldn't see what was in there.

A. That's correct.

Q. And why is that?

A. What I could see was a couple mattresses, and there was other junk behind the mattresses. I couldn't see what was behind the mattresses.

Q. All right. And then you stopped into another storage unit;

is that correct?

A. Yes.

Q. And where was the first storage unit where the mattresses were?

A. In Herington.

Q. And the second one?

Michael Fortier - Cross

A. In Council Grove.

Q. And when -- did you go inside that storage unit?

A. Not the first time I visited that storage unit. The second time, I did.

Q. All right. What was the first time, or when was the first time you visited?

A. The 16th of December.

Q. And the second time?

A. It would be the 17th.

Q. All right. So when you went in there the first time, did you go in -- or when you stopped there on the 16th, did you go in?

A. No, sir.

Q. But you stopped back on the 17th and went in?

A. Yes, sir.

Q. Now, who was saying -- was it Tim, or was it you that was kind of standing watch?

kind of standing watch.

- A. It was me.
Q. And this was at night?
A. No, this was in the morning.
Q. All right. So it was in the morning and you were standing watch and Tim went in and pulled out all these guns?
A. Yes, sir.
Q. Now, these guns were in barrels, were they not?
A. Yes, they were.

Michael Fortier - Cross

- Q. What kind of barrels?
A. Cardboard.
Q. What color were the cardboard barrels?
A. Brown.
Q. And how tall were the brown -- were the barrels?
A. They were about 4 feet tall with the metal rim around the top.
Q. Now, what's the reason that you keep guns in a barrel?
A. So they would stand upright.
Q. Okay. And it's a way of protecting them?
A. I guess.
Q. Okay. Now, if you handle guns, you get nitrate, don't you?
A. I wouldn't know that.
Q. You wouldn't know that?
A. If you handled guns, you'll get residue from the gunpowder.
Q. All right. And nitrate's in gunpowder, isn't it?
A. I don't know. I guess. If you say so.
Q. No, I'm asking you. Don't take my word for it.
A. I don't know.
Q. How long have you been shooting?
A. Since I was in high school.
Q. So seven, eight, nine years?
A. Yes, sir.
Q. You shoot regularly?
A. No.

Michael Fortier - Cross

- Q. Before you got these guns, did you have other guns in your house?
A. I had a pistol and a shotgun.
Q. Okay. And some black powder, occasionally?
A. Yes.
Q. And you didn't know that nitrate was in gunpowder?
A. No, sir.
Q. All right. Well, in any event, so these barrels were in there with these guns stacked in them?
A. Yes, sir.
Q. And this happened in daylight.
A. Yes.
Q. What time of day?

A. In the morning.
Q. What time of morning?
A. Midmorning. I don't recall the exact time.
Q. All right. But it was after sunrise.
A. Yes, sir.
Q. After breakfast.
A. Yes.
Q. Okay. And Mr. McVeigh handed these guns to you, and you put them in the car, or did you put them in, or did he do it? How did it go down?
A. All three.
Q. All three. So you weren't watching the whole time, were

Michael Fortier - Cross

you?

A. No, I was moving back and forth.
Q. He'd pull the guns out of the barrel and give them to you, and you'd go put them in the car?
A. Or he would just pull the gun out of the barrel and go stick it in the car itself.
Q. After you got the guns in the car -- incidentally, where did you put them in the car?
A. The guns -- we put them in the trunk.
Q. And did you put anything else in the car besides the guns?
A. The guns were in gun cases.
Q. Where did you put the cases?
A. They were on the guns.
Q. Oh, okay. So you put the cases and the guns in the trunk.
A. Yes, sir.
Q. All right. You didn't want to go back to Arizona with these guns sitting in the back seat and somebody might break in and steal them, did you?
A. No. I wanted to conceal them in the trunk.
Q. Well, sure, that's why you put them in the trunk, wasn't it?
A. Yes, sir.
Q. Okay. Now, did you take anything else out of there?
A. No, just guns.
Q. And did you see anything else other than the guns in the

Michael Fortier - Cross

barrel while you were inside the shed?

A. No, sir.
Q. You didn't see any explosives?
A. No.
Q. Didn't see any sacks of fertilizer?
A. No, sir, I did not.
Q. Didn't see anything that looked like it had been taken from this quarry?
A. No.

MR. JONES: Your Honor, this would be a convenient time. I would move on to another subject.

THE COURT: All right. We'll take a 20-minute recess.

You may step down, Mr. Fortier.

Members of the jury, we'll take our afternoon break here of the usual 20 minutes. And of course, once again, please be careful and not discuss anything connected with this case, any testimony or any other aspect of our trial.

You're excused; 20 minutes.

(Jury out at 3:16 p.m.)

THE COURT: We'll recess. 20 minutes.

(Recess at 3:17 p.m.)

(Reconvened at 3:37 p.m.)

THE COURT: Please be seated.

(Jury in at 3:37 p.m.)

THE COURT: Mr. Fortier, if you'll resume the stand.

Michael Fortier - Cross

Mr. Jones, please continue.

MR. JONES: Thank you, your Honor.

BY MR. JONES:

Q. Excuse me, Mr. Fortier. I just wanted to clarify something in my mind.

Now -- so you're down here at -- or up there or out there, I guess it is, at this storage shed, and you got the guns loaded up and you turn south and head back towards Kingman. And where does Mr. McVeigh go?

A. He turns north.

Q. All right. So do you go back down the interstate and I-40?

A. Yes.

Q. And that takes you by Oklahoma City?

A. Yes. I drove around Oklahoma City.

Q. When you say you drove around it, you mean you came down Interstate 35 and intersected to I-40?

A. Yes, and I drove west into Arizona.

Q. Now, on the way up there, as I understand it, Mr. McVeigh had taken you into downtown Oklahoma City and shown you the Murrah Building.

A. Yes, sir.

Q. Pardon me. How did he do that? Tell me how he got to downtown Oklahoma City where the Murrah Building was.

A. He exited the highway.

Q. Which one?

Michael Fortier - Cross

A. It would be I-35.

Q. All right.

A. And then -- drove -- excuse me.

Q. Go ahead.

A. And then he drove into downtown Oklahoma City. I'm not

A. And then he drove into downtown Oklahoma City. I'm not familiar with how we got to just behind the Murrah Building, but that's where -- I can only retrace the steps through that area there.

Q. When you say behind the Murrah Building, you mean north, or south of the Murrah Building?

A. South.

Q. All right. So on the street between the United States courthouse and the Murrah Building?

A. If the building behind the Murrah Building is the courthouse, then that's --

Q. It is.

A. Yes.

Q. Now -- but you don't know how he got there? You can't remember the route?

A. Not exactly, no.

Q. Now, you've gone with the FBI up to -- in their automobiles

out into the Kingman area and out into the desert?

A. Yes, sir.

Q. To locate things?

A. Yes, sir.

Michael Fortier - Cross

Q. And you've taken them down to the -- to the YMCA down here; right?

A. Yes, sir.

Q. And the Murrah Building?

A. Yes, sir.

Q. And you remember what streets you were on south of the Murrah Building?

A. I don't remember the name of the street.

Q. But you showed them where it was?

A. No. They took me to a point behind the Murrah Building where I could take over.

Q. All right. When you got there, you took over?

A. Yes. Then I showed them the route that we took past the Murrah Building.

Q. Well, those are one-way streets, aren't they?

A. I have since learned that they are.

Q. You didn't know they were one-way streets when you were there?

A. No, sir.

Q. And you showed them this parking lot?

A. Yes, sir.

Q. And the Y?

A. I showed them the big white building, yes.

Q. Yes, sir. You showed them this storage unit up there in the city that you didn't know the name of it but you've since

Michael Fortier - Cross

come to learn was Herington?

A. Yes, sir.

Q. And you showed them the Pizza Hut?

A. Yes.

Q. And you showed them the storage unit in the little town of Council Groves (sic)?

A. Yes, sir.

Q. And the motel where you stayed at in Amarillo on the way?

A. I haven't showed anybody that.

Q. Well, you told them where it was?

A. Yes, sir.

Q. And you told them where you stopped and spent the few hours' sleep on the way back?

A. Yes.

Q. Told them the highway you had been up to go into Kansas?

A. I directed their route, but I don't know the name of the highway.

Q. All right. Well, you directed the route?

A. Yes.

Q. And you didn't have any trouble doing that. I mean, you went along and you directed the route?

A. What I was doing was just -- there is a few things along the way; and I would say we should be coming up to this certain

thing. And we were consistently passing those, yes.

Q. Well, of course, those certain things had been there for a

Michael Fortier - Cross

long time, hadn't they?

A. Yes.

Q. And you even showed them where Geary Lake was, even though you had never been there before?

A. Yes. It's just up the road from where the first storage shed is.

Q. And you even took them into Geary Lake and showed them that

little valley and the little valley on the other side where Tim

went when he was talking about the Jeep and the four-wheel?

A. I showed them the hill that we were talking about.

Q. Right. Well, there is a valley on either side of hills, aren't there?

A. That whole area is hilly. I didn't show them any valleys, except for I guess you could say the lake is in a valley.

Q. And then you showed where you rented the car there in Manhattan?

A. Yes, sir.

Q. And all of that, you took them and pointed it out?

A. Yes, sir.

Q. Okay. Now, tell me how you got to the Murrah Building off Interstate 35.

A. Well, I don't know the exit number from the highway.

Q. Were you able to show them that?

A. No, sir.

Q. So you couldn't direct these agents after showing them all

Michael Fortier - Cross

these other things and going with them -- you couldn't show them how to get into downtown Oklahoma City off the interstate?

A. I couldn't show them the exact exit that we used, no. I wouldn't know. The big city -- it's just confusing to me.

Q. I-35 into downtown Oklahoma City is confusing to you?

A. Yes.

Q. Well, now let's talk about the Y for a minute. When you were being questioned by Mr. Hartzler, did you leave something out about that Y, something that comes to your mind now?

A. I don't believe so.

Q. Well, tell me again what happened at the Y when Tim showed you the Y.

A. Tim pointed out the spot that he wanted to park the vehicle

at. I looked down the alley. I asked him why he wouldn't want

to park the vehicle down the alley.

And he said that he wanted to have this building between him and the blast.

That's all I recall about the Y.

Q. Well, actually, among other things, if I may approach the model, you pointed out to him, didn't you, that if he parked where he wanted to park, when he got ready to leave there were some ruts there, some jagged edges that would tear up his tires.

A. Yes. I noticed a piece of metal that was in the ground.

I just thought to myself that it would probably give him a flat

Michael Fortier - Cross

tire as he was trying to get his getaway.

Q. And so you wanted to help him make his getaway, so you told

him he couldn't go that way, shouldn't go that way?

A. No, I just noticed a piece of metal in the ground. And it was just a humorous thought that went through my mind at that very inappropriate time.

Q. What was humorous about what you were -- all were talking about?

A. There was nothing humorous about what we were talking about.

Q. Well, this piece of metal in the ground that you're talking

about is the type of metal -- and you see them, do you not, at rent-a-car places where if you drive a certain way, jagged edge

comes up and punctures your tire?

A. No, that's not what I remember.

Q. What's not? What's not a security device to keep people

Q. That's not? That's not a security device to keep people from going the wrong way?

A. No, sir. It was just a piece of metal that came out of the

ground. It was half buried and part of it came up, and it looked like it may have a sharp edge at the very end of it.

Q. Well, now --

A. Excuse me.

Q. I'm sorry. No. Go ahead.

A. It just appeared to be what was once just like a little bumper or something that had gotten half buried with dirt.

Michael Fortier - Cross

Q. Now, this is in December you're telling him this.

A. Yes, sir.

Q. Now, he's telling you that he's going to blow up this building in April.

A. Yes, sir.

Q. And so in December, you're telling him about this little piece of metal in the road and how that might blow -- cause his

tires to be punctured?

A. I did not tell Tim that thought. It was just something that ran through my head and would help me to -- to place the parking spot.

Q. Well, why was it important to you to place the parking spot, Mr. Fortier?

A. Because I was asked by the prosecution to point it out, and

that's one of the ways that I could remember where it was.

Q. I understand that, but why was it important to you on December 16, or whatever day it was in December you were down there?

A. It wasn't important to me.

Q. But you remembered it?

A. Yes, sir.

Q. And in fact, it went through your mind and that's when you told Mr. McVeigh that perhaps he should point in the alley -- park in the alley, according to you.

A. No, what ran through my mind when I asked him why he

Michael Fortier - Cross

wouldn't park closer was just for the fact that he was going to

blow up a building, so you would think he would want his car as

close to the truck as possible.

Q. All right. Well, in any event, you recognized it and you suggested to him that he park someplace else.

A. I didn't suggest anything to him. I just asked him -- that

was just a thought. I understand it's -- it was extremelv

inappropriate. But nonetheless, that's what I said.

Q. Well, in any event, you got back to Kingman now with these guns. Is that correct?

A. Yes, sir. Yes.

Q. And then I understand Mr. McVeigh came out a few weeks later and was unhappy that you hadn't taken any to gun shows.

A. Yes, he was.

Q. Now, were you going to take some to gun shows?

A. In my good time, I was.

Q. Well, what was holding you up?

A. My back had been bothering me quite a bit, and I was in no hurry to sell those weapons. I had just gotten the income tax return, \$2,400, so I was set for a little while; so I didn't see the rush.

Q. All right. So you quit your job over this dispute over the Christmas bonus. You had gotten your IRS check, so you didn't see any reason to sell the guns?

A. I didn't see any reasons to sell them right away.

Michael Fortier - Cross

Q. Right. Any other reason why you didn't sell them right away?

A. No, sir.

Q. Okay. So you weren't concerned that they were stolen?

A. Well, I was aware that they were stolen.

Q. But it didn't concern you enough that that's the reason why

you didn't sell them, because you just told me you didn't need to sell them because you had your \$2,400 refund and that was the only reason, didn't you?

A. Right. I was just keeping them at my house.

Q. Now, you had understood that Mr. Miller was a gun dealer?

A. I don't know who Mr. Miller is.

Q. I'm sorry. Mr. Moore. Excuse me.

A. Yes.

Q. All right. And yet you were going to sell them at gun shows?

A. Yes, sir.

Q. In fact, the gun show in Reno is a large gun show, isn't it?

A. It was a large gun show, yes.

Q. How many tables?

A. I'm not sure.

Q. Several hundred?

A. I believe there may have been 200.

Q. Now, did -- and as I understand it, you and Mr. McVeigh sat

Michael Fortier - Cross

there and had a conversation about selling techniques.

A. Yes, sir.

Q. And he told you to look smart, stand up straight, good posture, wear military-type clothing or boots; is that correct?

A. Yes, sir.

Q. And shave your goatee?

A. I didn't have a goatee at that time.

Q. Shave your beard. Shave your face?

A. Be clean-shaven, yes.

Q. Be clean-shaven. And did you do that?

A. No. I did some of it but not all of what he suggested.

Q. All right. Now, the first two gun shows, you went with him.

A. We -- yes. We went together.

Q. Well, right. I don't mean to suggest that necessarily he was the leader. You went together. Both of you were there?

A. Yes, sir.

Q. And that was at Reno; correct?

A. Yes.

Q. And the other one was where?

A. St. George, Utah.

Q. All right. And were you all there the full time?

A. I don't understand the full time. Of the gun show?

Q. Well, the full time of the gun show.

A. Yes, sir. Two days, both days.

Michael Fortier - Cross

Q. Did you do anything to disguise yourself?

A. No.

Q. Was Mr. McVeigh right there at the table with you?

A. No, sir. Tim wouldn't go to the gun shows. He went, but he wouldn't associate with me at the gun shows.

Q. Did he walk around the various other tables?

A. Yes, and he would walk by and pretend that we didn't know each other.

Q. All right. Well, you used an alias there.

A. Yes, sir.

Q. He used an alias?

A. Yes.

Q. You knew it was kind of common to use aliases at gun shows, didn't you?

A. No, I had no idea.

Q. You didn't know that? Have you since heard that?

A. No. Actually, I don't know it's common that he use aliases at gun shows.

Q. Well why did you use an alias?

A. Because I was selling stolen weapons.

Q. I see. Well, how is using an alias going to protect you selling stolen weapons?

A. In case somebody who bought a weapon off me maybe would get caught with it and somehow it was found out that that was a stolen weapon, they would go back to the gun show and they

Michael Fortier - Cross

would find that -- they wouldn't be able to trace who I was from there on.

Q. I see. Well, suppose for these stolen property the real owner walked up and recognized his guns. How was an alias going to help you then?

A. It wouldn't.

Q. If somebody from the ATF walked up and wanted to see the serial numbers or some proof of ownership, how would an alias help you then?

A. It wouldn't.

Q. Well, you not only went to these two gun shows with Mr. McVeigh with you; but as I understand, you then took some of these what you've described as stolen weapons down to a gun show just with your wife in Arizona.

A. Yes, sir.

Q. And did you use an alias there?

A. Yes.

Q. And did she use an alias?

A. She had no need to.

Q. Was she there with you?

A. Yes.

Q. At the table?

A. Yes, sir.

Q. Okay. So you said you made pretty good money at the first gun show. How much money did you make?

Michael Fortier - Cross

A. I believe about \$2,100.

Q. And that's in two days in Reno?

A. Yes.

Q. And how much did you make at the St. George gun show?

A. I'm not sure on the amount. I made at least \$300 that I was -- that I gave to Tim to give it to Terry.

Q. All right. Well, did you keep any of that?

A. Yes.

Q. How much did you keep?

A. I'm not sure how much money I made at the St. George gun show.

Q. Well, you think it was more, or less than 300?

A. It was more than 300.

Q. And then you sold some guns down at the show in Arizona?

A. Yes, sir.

Q. And how much did you make there?

A. Again, I'm not sure on the amount. I made at least \$700 to

finish my -- paying off my debt to Tim.

Q. So -- and were each of these two-day gun shows?

A. Yes, sir.

Q. All right. So in the two -- six days that you were there, you made at least \$3,000, didn't you?

A. Yes, sir.

A. Yes, sir.

Q. That's \$500 a day?

A. Okay.

Michael Fortier - Cross

Q. You weren't making \$500 a day doing anything else, were you?

A. No, sir.

Q. Now, of course, you weren't going to gun shows every day, were you?

A. No, I wasn't.

Q. But you knew there were gun shows every weekend, didn't you?

A. Somewhere, yes.

Q. All right. So Tim came back to Arizona and had a conversation with you and in effect said, "Get off your hindquarters and get to these gun shows and let's sell these guns." Isn't that basically what happened?

A. Yes.

Q. "I'm tired of you sitting at home lying on your back. Let's go sell some guns"?

A. He didn't think my back was as bad as it was. He thought I

was being lazy, so he was giving me encouragement by verbally encouraging me and setting up the gun shows.

Q. Well, Mr. Fortier, let's just assume for a moment that the guns are not stolen. Let's just assume that. You knew that Tim McVeigh went to gun shows, didn't you?

A. Yes, I knew that.

Q. You knew that he bought and sold guns at gun shows?

A. Yes, sir.

Michael Fortier - Cross

Q. And did you know that Terry Nichols went to gun shows?

A. Not specifically, no.

Q. But did you have an impression that he did?

A. Yes.

Q. But in any event, you knew Tim McVeigh did?

A. Yes, sir.

Q. And you told the jury today that he did.

A. Yes, he did.

Q. And at gun shows you buy and sell guns, don't you?

A. Yes, sir.

Q. And Tim had a grandfather that died, so he got a few guns, maybe not very many, but a few from his grandfather's estate, didn't he?

A. I don't know about that.

Q. You don't know. All right.

Well, before the robbery, where did you think Tim got

these guns to sell at gun shows?

A. He -- from his personal collection that he had is how he got started, and then he would trade and buy and sell.

Q. All right. Let's talk about that personal collection.

You

had known him since when?

A. 1988.

Q. And he was a pretty thrifty individual, wasn't he?

A. Yes.

Q. In fact, when you all were up at Fort Benning together, Tim

Michael Fortier - Cross

was kind of the company loan shark, wasn't he?

A. That's what some people called him.

Q. Yeah. Loaned out money to GIs that got broke, spent all their money in town, and he'd tide them over till their next check came in?

A. Yes, sir, he did.

Q. And then he'd go around and collect with some pretty good interest?

A. Yes, sir.

Q. Right. And on top of that, he was also kind of a late-night chauffeur back from the bars to the base, wasn't he?

A. Yes, he was.

Q. Guys go down into town, they get drunk or get into a fight or something, they'd call Tim McVeigh and he'd come and pick them up and bring them back to the quarters?

A. Many times, Tim would accompany them.

Q. Yes, sir. And he'd charge for it, wouldn't he?

A. Yes, he would.

Q. And while a lot of these guys were out cruising downtown, Tim was back at the base cleaning his weapons and doing the soldierly thing and waiting for the phone to ring?

A. I don't think that's a fair characterization.

Q. What part of it is not fair?

A. How Tim would sit in the barracks and clean his weapons.

Q. Well, did he sit in the barracks and clean his weapons?

Michael Fortier - Cross

A. Only when everybody else was cleaning their military-issue weapon.

Q. Did he stay in the barracks while everybody else was downtown generally?

A. Yes, sir.

Q. He was a good soldier, wasn't he?

A. Yes.

Q. He was promoted ahead of you, wasn't he?

A. Yes.

Q. And in fact he was a sergeant, wasn't he?

A. I believe he was when he got out.

Q. He was a responsible soldier, wasn't he?

A. Yes, he was.

Q. And so he had a way to make money in addition to his

salary

while he was in the Army, didn't he?

A. Yes.

Q. He was thrifty, wasn't he?

A. He liked to save his money.

Q. Travel light, didn't he?

A. Yes.

Q. Okay. So now -- incidentally, Mr. Fortier, even though you

had this dispute over the Christmas bonus, you got bored working at this hardware store, didn't you?

A. No.

Q. No?

Michael Fortier - Cross

A. No, sir.

Q. Well, did Tim ever express to you that he was bored working

at these minimum-wage jobs?

A. I don't remember him saying that, no.

Q. All right. Well, let's get back to the gun show. You knew

he was on the gun-show circuit?

A. Yes, sir.

Q. And you said a while ago before beginning cross-examination

that but for the Oklahoma City bombing, Tim was a nice guy.

A. Yes, sir.

Q. Okay. Well, let's just leave aside for a moment whether these guns were stolen or not. You didn't have a regular source of income, did you?

A. Not in 1995.

Q. All right. Well, we're talking about late '94, where you go up to Kansas with him. Is that right? You were still working then.

A. Yes, sir.

Q. But not for much longer?

A. Well, I didn't know that then.

Q. But your wife wasn't working.

A. No, she was going to school.

Q. And you were bringing home \$200 a week?

A. Yes, sir.

Q. And you had back problems?

Michael Fortier - Cross

A. Yes, I did.

Q. Okay. So Tim set you up in the gun-show business, didn't he?

A. More or less. He gave me those weapons.

Q. Okay. And then when he came back to town and you hadn't taken advantage of the weapons that he had given you, then he got your attention and you all hit the road selling them, didn't you?

again to you:

A. Yes, sir.

Q. And then he said to you, "Well, but you need to pay Terry for these weapons."

A. Yes, he did.

Q. Okay. So he kind of grubstaked you. In other words, he gave you the weapons to sell; and then when you sold them, why,

you had to give some money back to Terry.

A. Yes.

Q. Now, leaving aside for just a moment -- and I understood your testimony that Tim told you these were stolen weapons; but

just leaving that aside for a moment, is there anything in the arrangement as I have described that was unusual or out of the ordinary to you?

A. Just the fact that Tim was giving me such a large -- essentially a large amount of money in those weapons.

Q. Well, but I thought you said he was just giving you the runt of the litter.

Michael Fortier - Cross

A. He was.

Q. He was keeping the good ones for himself?

A. He was, but it was still a substantial amount.

Q. Incidentally, how did you know you were getting the poor guns?

A. It was obvious to me.

Q. Well, do you know that much about weapons?

A. I know enough to tell a nice rifle vs., you know, just an ordinary rifle.

Q. Sure. So you had some familiarity with it.

A. Yes, sir.

Q. All right. Well, in any event, you're familiar with the term of consignment, aren't you?

A. Yes.

Q. What does that mean?

A. Get now, pay later, I believe.

Q. Exactly. And being in the retail business, you're familiar with that concept?

A. Yes, sir.

Q. And that's what you had here. You got the guns. The guns were promised to you. He took you to gun shows, helped you sell them, told you how to sell them; then when you got the money, he said, "Well, we need to send this money back to Terry, or at least send some of it back to Terry"?

A. I don't know what was going through Tim's mind, but what he

Michael Fortier - Cross

told me in the motel room in Kingman was that he was just giving me those weapons outright. He also gave me some silver

at that time; and when I asked him why he was doing this, he told me he wouldn't be needing this no more. It was very clear to me that those weapons were mine to keep with no strings attached.

Q. Oh, so then he came along later and wanted you to pay for them?

A. He came along later and told me that Nichols -- he had been talking with Terry Nichols and that Terry was extremely upset that Tim had given me those guns but he would call it even if I gave Terry \$2,000.

Q. So Mr. McVeigh then was an even better friend because he was, according to you, just giving you the guns. You didn't have to pay anything for them.

A. That's right.

Q. I see. All right. Incidentally, where are those guns now?

Do you -- do you know where they are, all the ones you have?

A. I turned them over to the FBI.

Q. All of them?

A. Yes, sir.

Q. You didn't get any of them back?

A. None of the stolen weapons.

Q. All right. Now, how many of the so-called stolen weapons, as you have described them, did you actually sell?

Michael Fortier - Cross

A. An estimate: 15.

Q. All right. How many did you get altogether?

A. Between 20 and 25.

Q. So on April 19, you still had, of the 25, 10 -- as you have described them, stolen weapons in your house?

A. I'm not sure how many exactly, but there were a few.

Q. There were several.

A. Yes.

Q. Well, during the period of time from April 19 until May 17, did you get rid of any of them?

A. Only one.

Q. And how did you do that?

A. This was a -- what they call a .22 Hornet, and I had not been able to sell it at the gun shows; so I asked Rosencrans if

he thought somebody would -- one of his -- the people that would come by and buy drugs off him -- if any of those people might want to buy it. I gave it to him on consignment. I asked him if he could get rid of it. Whatever he made off it, he could split with me.

Q. This was a consignment for dope?

A. For whatever Rosencrans could make off it.

Q. So you weren't giving him the gun to get rid of it because

you expected somebody to raid your house. You were giving him the gun because you wanted to get some dope?

A. I was giving him the .22 Hornet because it was just such an

Michael Fortier - Cross

odd caliber I couldn't get rid of it. It was a \$400 weapon, and I couldn't give it away. I had it on my table in Tucson for only \$100, and nobody would even take it.

Q. But this is one of the guns you claim was stolen?

A. Yes.

Q. Then are we in agreement that you didn't give it to him because you were afraid that somebody would find it because it was stolen; you gave it to him because you couldn't sell it.

A. That's right.

Q. All right. So you weren't particularly concerned, or at least you weren't concerned enough about these stolen weapons in your house, as you have described them, to get rid of them.

A. No. I was very concerned once the FBI started scrutinizing

me. That was one of my major concerns that I was going to be caught with those stolen weapons.

Q. Well, when did you give the Hornet to Rosencrans -- Mr. Rosencrans?

A. I'm not sure. It was either after April 19, or just before.

Q. Well, it was after the 19th, wasn't it?

A. I'm not sure.

Q. He didn't take it out of your house one night after sundown?

A. No.

Q. No? All right.

Michael Fortier - Cross

Well, you didn't have any trouble getting rid of some

of this other stuff over the fence to him, did you?

A. No, sir. That's exactly how I gave him the .22.

Q. All right. So you gave him the .22 over the fence?

A. Well, I had made arrangements with him that he was going to

take it, and I went to my back fence, out my back door, and he was supposed to come out of his house to come get it; and he was taking his time or something, and I just put it over the fence and let it drop to the ground. And that's where I left it, and that's the last place I've seen it.

Q. Did you have any other person that took some guns out of your house after the FBI began surveillance of you?

A. No, sir.

Q. All right. Now, you had some other explosives in your house, didn't you? And you got rid of those?

A. Yes, sir.

Q. What did you do with those?

Q. When did you do that?
A. Roughly a week before the bombing.
Q. And then you took the FBI to your brother's house?
A. Yes, sir.
Q. And is that at 2805 Lass in Michigan?
A. No, sir, in Kingman, Arizona.
Q. I'm sorry. In Kingman. Thank you.
And did that one include one State Arms Model M,
single-shot, .50 caliber rifle?

Michael Fortier - Cross

A. Yes.
Q. And one blue and brown vinyl gun case?
A. Excuse me. Yes, sir.
Q. One blanket?
A. Yes, sir.
Q. Two green military ammo cans?
A. Yes, sir.
Q. Five tubes of Kinestik binary explosives?
A. I'm not sure the number. That sounds a little high.
Q. Well, there were some sticks of Kinestik binary
explosives.
You're just not familiar with how many?
A. Yes, sir.
Q. And did it also include a 1-millimeter film container with
aluminum powder?
A. Yes, sir.
Q. One plastic bag containing green canon fuse?
A. Yes, sir.
Q. Four 1-pound cans of FFFG black powder?
A. Yes.
Q. One roll of speaker wire with alligator clips attached?
A. Yes.
Q. One Blaser .22 caliber ammunition bag containing four
nonelectric blasting caps, one of which is crimped?
A. Yes, sir.
Q. Two electric matches?

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A. Yes, sir.
Q. Five sealed cardboard tubes with canon fuse inserted
containing unknown powder?
A. Yes, sir.
Q. Five plastic containers of Kinestik liquid binary
explosives?
A. Again, I'm not sure on the amount, but yes.
Q. One plastic bag containing 30 nonelectric blasting caps?
A. Yes, sir.
Q. One plastic bag containing 16 nonelectric blasting caps?
A. Yes, sir.
Q. One plastic bag containing four electric blasting caps
with
yellow and turquoise wire wrapped and shunted?

yellow and turquoise wire wrapped and shunted.

A. Yes, sir.

Q. One nonelectric blasting cap?

A. Yes.

Q. One electric blasting cap with yellow and turquoise wires unshunted?

A. Yes, sir.

Q. Four electric blasting caps with red and yellow wires?

A. I believe, yes.

Q. Three 60-foot coils of Primadet delay detonator?

A. Yes.

Q. One mercury switch?

A. Yes.

Michael Fortier - Cross

Q. One 12-inch tube wrapped in aluminum foil with electric match inserted in one end?

A. Yes, sir.

Q. Now, who gave you these items?

A. Tim gave me some of them. Some of them I bought off Tim, and some of them I made myself.

Q. All right. So some you made yourself. Which ones did you make yourself?

A. The -- I believe you said five cardboard tubes with unknown powder in it.

Q. Yes, sir.

A. Those were the firecrackers.

Q. Yes, sir.

A. Also the deal with the electric match that was attached to another firecracker, but I don't remember exactly why, but I had taken Saran Wrap and wrapped it all up.

The alligator clips and the wire -- I'm not sure where

I picked that up at, but I did not get that from Tim.

Q. And then the rest of it, you either bought from him or he gave you.

A. Yes, sir.

Q. And you bought it at the garage sale?

A. Yes. That's -- that's what we'll call it.

Q. So Tim was leaving Kingman and had a garage sale. Right?

A. Well, just -- yes, just a little sale. He was needing some

Michael Fortier - Cross

money, and he sold me some items.

Q. Well, there were other people there besides you, weren't there?

A. No, sir.

Q. Nobody else showed up?

A. No. To say it was a garage sale, that's just, you know, a term that we'll use -- that I use to associate with that time.

Q. Well, how was it sold?

A. Tim wanted to lighten his load, and so he was asking me if I wanted to buy some stuff off him. I said sure. I bought a blanket and some socks, some kerosene and a kerosene lamp, some

silver and these explosive items.

Q. Okay. And when was the sale?

A. In the spring of 1994.

Q. All right. And then the rest of the stuff that he couldn't

sell to you he just gave to you.

A. Yes. He gave to me saying that he was going to come back sometime to pick it up.

Q. All right. So you were holding it for him?

A. Yes, sir.

Q. Those items.

Now, did you use any of these items that you bought after he left, or did they all end up over at your brother's?

A. All of it ended up at my brother's house.

Q. Now, Mr. Fortier, you -- you subscribed to The Spotlight,

Michael Fortier - Cross

didn't you?

A. Yes, sir.

Q. And you were describing a little while ago some of Mr. McVeigh's political beliefs, weren't you?

A. Yes.

Q. And you share a lot of those political beliefs yourself, don't you?

A. Yes, I do.

Q. Or you did, certainly.

A. Certainly, I did.

Q. You still have those beliefs?

A. No, sir.

Q. Have you changed your beliefs since you've been in federal custody?

A. Somewhat, yes.

Q. Now, Mr. McVeigh believed in a decentralized government, didn't he?

A. Yes.

Q. You believed in it?

A. Yes.

Q. And Mr. McVeigh believed that the federal government had too much power and encroached upon the rights of citizens?

A. Yes, he did.

Q. And you shared those beliefs, didn't you?

A. Yes.

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Q. And Mr. McVeigh read literature which advocated this point of view, didn't he?

A. Yes, sir.

Q. And so did you?

A. So did I.

Q. You possessed a document entitled The Liberty Lobby Citizens' Rule Book?

A. Yes, sir.

Q. Is that correct?

A. Yes.

Q. And what's that book about?

A. It contains the Constitution, the Bill of Rights, the other amendments, rights of a jury. That's about it.

Q. And you subscribed to something called the Patriot Report?

A. Yes, sir.

Q. And you were receiving that publication in March of 1995, were you not?

A. Yes, I believe so.

Q. Did you consider yourself a patriot?

A. Yes, sir.

Q. In fact, you had a flag on a flagpole outside your trailer,

didn't you -- or your home? Excuse me.

A. I flew two flags.

Q. What were they?

A. I flew the United States flag on top and this yellow flag

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that says "Don't Tread On Me" below that.

Q. And that's a reproduction of an old Revolutionary War flag,

isn't it?

A. Yes, it is.

Q. From the American Revolution?

A. Yes, sir.

Q. And flying that flag was part of your political philosophy?

A. Yes, sir.

Q. Anybody else up and down McVicker Street flying that flag?

A. Not that flag.

Q. Now, you didn't see anything wrong with advocating those positions, did you?

A. No, sir. Nothing wrong at all.

Q. And Mr. McVeigh also gave you a copy of The Turner Diaries?

A. Yes, he gave me a copy to read one time.

Q. Did you read it?

A. Yes, sir.

Q. And did you, yourself, listen to Radio Free America?

A. Yes, I did.

Q. Now, what's that?

A. It's a patriot program on short-wave radio.

Q. And who is the main speaker or talker?

A. A man named Bill Cooper.

Q. And where is he from?

A. I think he's from Show Low, Arizona.

Michael Fortier - Cross

Q. And you considered yourself a constitutionalist, didn't you?

A. Yes.

Q. And addition to these items, you also subscribed to and read Spotlight newspaper published by the Liberty Lobby in Washington, didn't you?

A. Yes, I did.

Q. And you didn't think there was anything wrong with possessing that paper, did you?

A. No, sir.

Q. Did you see these bumper stickers that Tim had, "Fear the government that fears your gun"?

A. Yes, he had given me one of those.

Q. And did you put it on your car?

A. No, sir.

Q. Did he give you one that said, "Ban guns, make the streets safe for government takeover"?

A. Yes, sir.

Q. And did he give you one that said, "Politicians love gun control"?

A. Yes.

Q. Now, did you have a book entitled Hand to Hand Combat?

A. Yes. I bought that book when I was in the service.

Q. And did you have a copy of a book entitled Combat and Survival - What It Takes to Fight and Win?

Michael Fortier - Cross

A. I don't recall that book.

Q. And did you have a magazine article entitled, "Why Cops Can't Shoot Fighting Firearms" -- I'm sorry -- "Why Cops Can't Shoot: Fighting Firearms"?

A. Again, I don't recall the exact title. I had many articles concerning patriot matters.

Q. Did you have a magazine entitled Urban Combat?

A. I don't recall.

Q. Did you have a magazine entitled Silent Weapons for Quiet Wars?

A. It wasn't a magazine, but I do remember that pamphlet.

Q. Now, you were a strong opponent of gun control, were you not?

A. Yes.

Q. Strong opponent of the Brady Bill?

A. I didn't agree with them.

Q. Well, you were an opponent of it?

A. Yes, sir.

Q. And you were very critical of President Clinton's remarks about the children that died at Waco, were you not?

A. Yes.

Q. In fact, you discussed that during the time that the phones

-
were being taped -- or tapped by the FBI.

A. With my brother, yes.

Q. Okay. So in a lot of ways, if not in almost all ways, your

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political views prior to April 19 were very similar to Tim McVeigh's, were they not?

A. They were.

Q. And in addition to that, you had in your house sometime before April 19 ammonium nitrate; correct?

A. I had ammonium nitrate in my shed.

Q. Well, in your shed. On your property?

A. Yes, sir.

Q. And you had several weapons, firearms?

A. Yes, sir.

Q. And you had at some point all of these items that you moved

over to your brother's house.

A. Yes.

Q. Or to his car.

A. Yes.

Q. And you were a friend of Tim McVeigh's.

A. Yes.

Q. And you had served in the Army with him.

A. Yes, I did.

Q. And the FBI was there knocking on your door?

A. After the 19th, yes.

Q. Yes, sir. And what day did you call the FBI and tell them that you wanted to correct your statements?

A. On the 17th of May.

Q. Had you decided to correct your statements before then?

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A. Yes.

Q. What day was that?

A. One or two days prior to that.

Q. Well, actually, wasn't it as early as May 12 that you were talking to the FBI about proffer letters, and one time your car

pulled up next to one of their cars? Do you remember that?

A. Yes, sir.

Q. And wasn't that all before you left to go to Oklahoma City?

A. Yes, sir.

Q. And wasn't it also within a couple of days after Terry Nichols had been arrested and charged with participation in the

Oklahoma City bombing?

A. I'm not sure in that matter.

Q. Well, what's your memory? Wasn't it two days later?

A. No, sir. I don't have a memory of when Terry was arrested

or charged with the bombing itself.

Q. I thought you followed it like most Americans.

A. I did.

Q. So one of your Army buddies, Tim McVeigh, has been arrested

and charged with the bombing. Correct?

A. Uh-huh. Yes.

Q. And now another person that's been in your house four times

has been charged with the bombing; and you don't remember the date he was charged?

A. No. I remember that he was being held since just after the

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19th.

Q. Well, he was held has a material witness, wasn't he?

A. Yes. And I'm not sure when that transformed into a suspect

in the bombing.

Q. Well, it was before you contacted the FBI to correct your statements, wasn't it?

A. It may have been, but it had no bearing on that whatsoever.

Q. Well, my question is it occurred before you contacted the FBI, didn't it?

A. It may have.

Q. And there is a lot of parallels and similarities between your situations in that second week of May and Terry Nichols' situation, wasn't there?

A. I wouldn't know.

Q. You wouldn't know? Well, let's look at it just a moment. Both of you were married and had a small child.

A. Correct.

Q. Right?

Both of you knew Tim McVeigh.

A. Yes.

Q. Both of you had served in the service with him?

A. Yes, sir.

Q. Both of you had the same political views, or at least almost the same political views; correct?

A. Yes.

Michael Fortier - Cross

Q. And all three of you were outspoken about those views?

A. I don't know how outspoken Terry was.

Q. Well, Tim McVeigh had stayed in your house, hadn't he?

A. Yes, he had.

Q. He had stayed in Terry Nichols' house, hadn't he?

A. I believe so.

Q. Terry Nichols had stayed in your house, hadn't he?

A. The longest Terry was ever in my house was for no more

than

LIAM

an hour.

Q. Well, I didn't mean he had been over there overnight. I didn't mean to mislead you. He had been in your house on several occasions?

A. Yes.

Q. And according to you, you had gone out to some storage shed there in Kansas where Mr. McVeigh had rented a unit; is that correct?

A. Yes. Excuse me. I don't know who rented those units.

Q. All right. And you knew from reading the newspaper and watching television that ammonium nitrate had been found at Terry Nichols' house, didn't you?

A. What I remember was they found it all over his front lawn.

Q. Well, that's at his house, isn't it?

A. Yes, sir.

Q. And did you read in the paper they had found some other explosive items at his house and in his shed and garage?

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A. No, sir.

Q. You didn't read that?

A. Other explosives items?

Q. Yes, sir.

A. No, I don't recall any of that.

Q. Okay. Now, prior to that time -- by that time, I mean when

you contacted the FBI to correct your statements, as you said, your position had consistently been that you didn't know anything about it --

A. Yes, sir.

Q. -- the bombing; right?

A. Yes.

Q. And in fact, I believe that you told Mr. Hartzler on direct

examination -- yes -- that you really didn't put any thought to

it. The FBI came up to you and you just told them you weren't involved.

A. Yes. I had no plan on how I was going to evade the FBI's questioning.

Q. Okay. But assuming for a moment that's true, that didn't last very long, did it? You put together a statement, you and your wife, that you released to the media, or were going to release to the media.

A. This is true. And I did not put together a statement with -- for the media with my wife.

Q. Well, who put the statement together?

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A. The FBI had shown me a statement, and I believe it's in my wife's handwriting.

Q. I didn't ask you what the FBI had shown you, Mr. Fortier. Who put together that statement, Mr. Fortier? Lori?

A. I believe it was Lori.

Q. You believe it. Is there any doubt in your mind?

A. No.

Q. And you and she were husband and wife at the time?

A. Yes, sir.

Q. And you were living together.

A. Yes.

Q. Did you know she was putting together the statement?

A. No. I don't remember that statement being put together.

Q. You don't remember it at all.

A. No. I don't remember when she wrote that out.

Q. Do you remember the statement? Leave aside when she did it, do you remember it?

A. Do I remember it now?

Q. No. Did you remember it at the time?

A. No. I wasn't aware of it at the time.

Q. Wasn't it laying on your dining room table, Mr. Fortier?

A. It may have been.

Q. Well, how large was your house?

A. It's a 14-foot-by-70-foot trailer.

Q. Now, this statement that she put together -- you also

Michael Fortier - Cross

arranged for an interview with CNN, didn't you?

A. I was pressured by CNN to do an interview.

Q. Well, how did they pressure you, Mr. Fortier? Did they come up and put a gun to your head?

A. No, but they constantly knocked on my door and phoned my house.

Q. Just broke it down?

A. No, they didn't break anything.

Q. Well, actually what really happened is that you decided to give one interview, didn't you?

A. I thought that would be best.

Q. Right. And you discussed that on these tapes, didn't you?

A. Yes.

Q. And you chose CNN.

A. Yes.

Q. All right. So there wasn't any pressure to it, was there? You made the decision.

A. I made the decision under pressure. There was lots of pressure coming from the media, pressure coming from friends and family, also.

Q. Well, how was this pressure manifested? Did CNN pay you?

A. No, sir.

Q. Did they offer to pay you?

A. No, they did not.

Q. Did they tell you they'd put you on some TV show?

Michael Fortier - Cross

A. Not CNN, no.
Q. Okay. Didn't offer to give you anything in return?
A. No, sir.
Q. What they did was call you up on the telephone and knock on your door and say, "Would you give us an interview?"
A. Over and over.
Q. Well, how many times is over and over? Bearing in mind, of course, that there is tapes. How many do you remember?
A. They were pressuring me for an interview the whole time that they were out there at my house.
Q. Well, how many times did they call you?
A. I'm not sure how many times exactly they called. Many times, they would just be talking to me as I'm leaving or entering my house.
Q. Okay. Well, it's a free country, isn't it?
A. Yes, it is.
Q. They didn't come up and peek in your window, did they?
A. I never seen them do that.
Q. Okay. They didn't shine bright lights on your house at night and keep you from sleeping, did they?
A. They did shine bright lights on my house, yes, doing live satellite broadcasts.
Q. And how long did that last?
A. A couple hours at a time. They did it -- not CNN, but all the media personnel -- they did it on a few occasions.

Michael Fortier - Cross

Q. I'm just talking about CNN right now.
A. Okay.
Q. So then you met down at a park?
A. Yes, sir.
Q. And you talked to Sean Calebs?
A. I'm not sure who the individual was that I talked to.
Q. Was it a male reporter?
A. Yes, sir.
Q. And there is a videotape of that, isn't there?
A. Yes, there is.
Q. And Ms. Fortier was with you?
A. Yes.
Q. And she heard every word that you said?
A. I can only assume she did.
Q. You don't know any reason that she didn't.
A. She may have been standing too far away. I'm not sure.
Q. Well, have you seen this video?
A. Yes, I have.
Q. Don't you look sort of casual and relaxed?
A. Not in my opinion.
Q. Not in your opinion? Well, did you stutter a lot, or did you just answer his questions?
A. I can't recall if I stuttered much, but I did pretty much just answer his questions, lied to him.

Q. Excuse me. The reason you gave the interview, wasn't it,

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was because you thought the FBI was getting ready to modify the

John Doe sketch to look like you?

A. The reason I gave the interview was because I was taking on

the persona of an innocent man and I felt it was expected of me

to defend my friend before this onslaught of such negative publicity.

Q. Are those words usually in your vocabulary, Mr. Fortier, or

is that some something somebody suggested to you?

A. No, sir. That's exactly what I was doing.

Q. Well, you told one of your friends on these tapes that the reason you were giving the interview is that you wanted to get out that you were afraid the FBI was going to modify the John Doe 2 sketch to look like you? Didn't you say that, Mr. Fortier?

A. Yes. That was also a concern of mine.

Q. Yes, sir. I imagine it was a mighty big concern, wasn't it?

A. Yes, it was.

Q. More than your concern about this persona of the innocent man, wasn't it, Mr. Fortier?

A. No, it was not.

Q. And in addition to that, you told one of your friends that the FBI planted earplugs in your Jeep, didn't you?

A. I had -- there is some -- there was some earplugs in my Jeep, and I don't know how they got there. I think there was

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an FBI inside my Jeep and they dropped out of his pocket.

Q. How did an FBI agent get inside your Jeep?

A. Just opened the door.

Q. You think FBI agents just opened your Jeep without a search warrant?

A. I think it's possible.

Q. I see. And these earplugs just happened to drop out of his pocket?

A. I guess. I have no other explanation for how those earplugs got in my Jeep.

Q. Well, did you have a pair of earplugs?

A. Yes, but not like those.

Q. I see. Well, regardless of what you say today about the FBI might have accidentally dropped it, at the time, you thought it had been planted on you, didn't you?

A. No. I thought they had just dropped it.

Q. And the reason you were concerned about the earplugs being

Q. And the reason you were concerned about the earplugs being there is because you had read or heard on television about these earplugs that had been found on Mr. McVeigh by Trooper Hanger, hadn't you, Mr. Fortier?

A. No, sir. My issue on the earplugs was that that proved that the FBI was conducting illegal searches. I thought an FBI

agent had searched my Jeep and had dropped the plugs.

Q. And then another time you accused the FBI of harassing you.

A. Yes, sir.

Michael Fortier - Cross

Q. I believe the term you used was "fucking" with you.

A. Yes.

Q. And you used that repeatedly?

A. Yes.

Q. So when you went down to give this interview, it was less a

question of pressure than it was a question that you thought you were being set up and you wanted to tell people that.

Wasn't that really your motivation?

A. No. I was being -- I was being pressured by family, friends, and the media to do it -- an interview. And that was

just one of the facets of what I wanted to put out, was to say to watch out for this sketch, it may be modified to look like myself.

Q. But you believed that, didn't you?

A. At the time, it appeared that's what they were doing.

Q. Yes, sir. In fact, you had a conversation with an FBI agent and that's what you inferred from the conversation that that's what they were going to do.

A. Yes.

Q. Now, you said you were pressured. As a matter of fact, what you were really trying to do was to sell an interview.

A. No, sir.

Q. You were pressuring them to give you money for interviews, weren't you?

A. Not at all.

Michael Fortier - Cross

Q. Not at all.

A. No, sir.

Q. Well, you were willing to sell pictures of you and yourself -- Tim McVeigh for \$50,000, weren't you?

A. I had never had any serious intent to do any of those things.

Q. Well, I understand that you claim today you didn't have any

serious intent; but you told your mother about it.

A. Yes, sir.

Q. And you talked with other friends about TV deals and movie

deals.

A. Yes.

Q. So who was pressuring whom in this situation?

A. In what way?

Q. About this interview.

A. I was being pressured to do the interview.

Q. And when you found out that these news organizations, no matter what you might think of them -- incidentally, you called

them "vultures," didn't you?

A. Much worse than that, also.

Q. Yes, sir. But you were perfectly willing to go to these vultures to get out your story about the FBI harassing you.

A. I did not want to go to them. I felt I had to.

Q. But first, you wanted some money, didn't you?

A. No, sir.

Michael Fortier - Cross

Q. And when they wouldn't give you the money, then you went down and gave them the interview.

A. No, sir. Not once did I contact any of the media and ask for money.

Q. Not once?

A. Not once.

Q. Did you talk about getting an agent to do that?

A. No, sir.

Q. Have you reviewed your interview with this gentleman from CNN?

A. Yes, I have.

Q. And during the course of the interview -- I'm sorry. Just a moment. Before I get to the interview, this gentleman you were talking about on the interview, Mr. Tim McVeigh --

A. Yes, sir.

Q. -- is that the Tim McVeigh that you were so fearful of that

on three occasions when you went to his motel, you were packing?

A. Yes, it was the same person.

Q. And by packing, I mean you had a firearm?

A. Yes. I understood what you meant.

Q. And on one of those occasions, you took your wife?

A. Yes, I did.

Q. And then there was a night that you heard a car drive by your house and it sounded like Mr. McVeigh's car.

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A. Yes.

Q. Okay. So this is the man that, according to you, you knew had not only killed 167 people and then this nurse that died during the recovery effort, making 168, but -- excuse me -- but

on top of that, you were afraid of him enough that when you

went to see him those last three times, you took along a firearm?

A. Yes, sir.

Q. And the purpose of the firearm was to shoot and kill him if

he did something untoward toward you?

A. Yes, sir.

Q. Okay. Now, when you were interviewed by Mr. Caleb -- well,

that's his first name. I've forgotten his last name, but you know who I'm talking about, the young man with CNN. Right?

A. Yes, sir.

Q. Did you make the statement: "People cannot make their judgment on his guilt by what they read in the paper and by what I see on TV. They have. People are calling for his blood to hang him in the street and whatnot; and in America, we believe that people are innocent until proven guilty in the courts, not in the streets. And everybody must remember that. Whoever stands out and says, 'Forget the judiciary system, let's just hang him now' -- those people are not Americans. They may think they are, but they are not Americans"?

Did you make that statement?

Michael Fortier - Cross

A. When I made that statement, I was more defending the ideal that I put forth in that statement, more than I was defending Tim.

Q. You were kind of conducting a voir dire there?

A. I don't understand that word.

Q. You were defending the system?

A. I was defending the ideal that a person is innocent until proven guilty in the courts.

Q. I see. I see. Now, I notice that you said, ". . . and by what I see on TV," again, an acknowledgement by you you were following this pretty closely, weren't you, on television?

A. I was watching television, yes.

Q. Yes, sir. And then you said, didn't you: "I'd like to say something about all these militias. Everybody is making them sound like they're antigovernment. This is a false phrase. I believe they are pro Constitution. They believe in the framework of our government. They may have disagreements with who is elected and what our Congress may be doing, but we -- I'm not part of a militia, but people think they are patriots and not antigovernment. We support our government"? Did you make that statement?

A. Yes, sir.

Q. Now, at that time, there was a lot of talk in the press about these militia movements, weren't there?

A. Yes, there was.

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Q. And you were defending them

Q. And you were defending them.

A. Yes.

Q. All right. Now, that didn't have anything to do with getting out there and saying Tim McVeigh was innocent and therefore by implication you're innocent, did it?

A. No, but that was just a by-product.

Q. Well, you weren't a member of a militia?

A. No, I was not.

Q. And neither was Tim McVeigh, as far as you knew.

A. As far as I know, he never was.

Q. Well, he never told you he was.

A. That's correct.

Q. Okay. And then you were asked by this gentleman from CNN about what your life had been like; and did you say: "Yes, I believe that's happening right now. I have spoken with the FBI, and I get the impression that that sketch is being modified to fit my face"?

A. Yes, I said that.

Q. And that's what you thought, didn't you?

A. Yes, sir.

Q. And then did you say later on in the interview: "I mean that I know my friend, Tim McVeigh, is not the face of terror as reported on Time magazine. I cannot say that he -- see, everybody just assumes he did it automatically, and everybody wants to know why he did it or, you know, what was he thinking

Michael Fortier - Cross

and stuff like that"?

Did you say that?

A. Yes, sir.

Q. You refer to Mr. McVeigh as "my friend"?

A. Yes.

Q. This is the man that you were so afraid of before that you carried a firearm three times when you saw him?

A. Yes, sir.

Q. Now, you were going beyond defending the system here. You were defending Tim McVeigh personally, weren't you?

A. Yes.

Q. And then did you say to him: "I did want to just come before a camera and remind people of a moral foundation in America of people being innocent before proven guilty and to tell Tim that -- you know, to be strong and that he's not alone. I mean, the just -- he has friends and he is not the face of terror"?

A. Yes, I said that.

Q. So you told Mr. McVeigh to be strong and that he was not alone.

A. Yes, sir.

Q. And that he had friends.

A. Yes.

Q. One of whom was you?

A. Yes. I was claiming to be his friend at that time.

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Q. And your wife.

A. I believe she was, also, yes.

Q. Yes. And then did you say: "You know, I seen what was on TV; and honestly, I don't believe any of it because of how I've

experienced media. I can't believe it"? Did you say that?

A. Yes, sir.

Q. And then you told Mr. Caleb of CNN that you had spoken with

the FBI for four days.

A. Yes, sir.

Q. And that was true, wasn't it?

A. Yes, it was.

Q. And then you said to CNN that "Mr. McVeigh was an excellent

soldier; nobody can deny that."

A. I told that to one of the reporters. I'm not sure who it was.

Q. Well, it's true that's what he was, wasn't it?

A. Yes. That is a true statement.

Q. And you said that you had heard that he won the Bronze Star?

A. I had heard that through the TV.

Q. And then one -- didn't the reporter ask you, "We've heard that he was polite -- polite, kind and always treated people with courtesy. Is that sort of your experience?"

And did you reply, "Yeah, he was a good man, as far as I know"?

Michael Fortier - Cross

A. Yes, sir.

Q. And when you were asked if you wanted to send him a message, didn't you say: "I will just tell him to be strong; that -- you're not alone. I mean right now, he may feel like there is nobody on this earth that is in any way supportive of him, but there is. There is, and everybody should be supportive of him because he's an innocent man"?

A. Yes.

Q. And then the reporter asked you, "Does it frighten you to say that?"

And what did you reply, Mr. Fortier?

A. I don't recall exactly.

Q. Didn't you say, "No, it doesn't frighten me one bit"?

A. That sounds like what I said.

Q. Now, that was the interview that you gave CNN on or about April 27. Is that right?

A. I believe it was a little earlier than that. I may be wrong on the date.

Q. Mr. Fortier, when the Oklahoma City bombing happened, as I understand it, for two days you were not contacted by the FBI.

A. The day of the bombing and the next day.

Q. Yes, sir. And then they showed up on the 21st.

A. Yes, sir.

Q. And then on that period of time after the 21st, they interviewed you on the 21st, the 22d, the 23d and the 24th.

Michael Fortier - Cross

A. Yes, sir.

Q. And in those interviews, you told them that you didn't know

anything that would indicate Mr. McVeigh was guilty. Correct?

A. That's what I had told them.

Q. You told them as far as you knew, he was innocent?

A. Yes, sir.

Q. That he didn't have what it would take to build a bomb?

A. Yes, sir.

Q. And that you had never heard him discuss any kind of bomb like this?

A. That's what I had said.

Q. And then there was a period of time after the, say, 24th or

25th when the FBI didn't contact you for several days. Is that correct?

A. Yes, there was.

Q. Or at least if they contacted you, it was very brief contact.

A. Yes, if they did.

Q. Now, during all of this period of time, from the 21st on down through the end of April, you were being approached repeatedly by the media --

A. Yes, sir.

Q. -- to tell them your story.

A. Yes.

Q. And then there became -- began a time when you in

Michael Fortier - Cross

discussions with your family and close friends talked about that you were the key; right?

A. Yes, sir. That's what the -- I believe that came -- CNN first put that out.

Q. Well, you certainly put it out, didn't you?

A. Yes. I thought it was funny at the time.

Q. All right. And you talked with your friends and your parents or your mother about movie deals and book deals?

A. Yes, sir.

Q. For a cool million?

A. Yes, sir.

Q. And you could get out of Kingman?

A. Yes. I would certainly leave Kingman if I had a million dollars.

Q. But the problem was at the time, wasn't it, that the FBI treated you as a suspect?

A. Yes, sir. I understand the question.

A. I don't understand the question.

Q. Well, during this period of time in late April, they told you that they thought you knew something you weren't telling them?

A. Yes, sir.

Q. That you might be a suspect?

A. They told me that I was a suspect.

Q. You were a suspect. All right. And you had read -- or seen on television that the President and the Attorney General

Michael Fortier - Cross

talked about the death penalty?

A. Yes, sir.

Q. And you knew Terry Nichols had been arrested?

A. Yes.

Q. But at the same time that you knew all this, you also were cognizant of the fact that at least among public opinion, the opinion was forming that Mr. McVeigh was guilty?

A. Yes.

Q. In fact, your mother said to him (sic) one day, "I pray for

him because his life is over"?

A. She said something to that effect.

Q. And you said, "I don't see how Tim is going to get up"?

A. Again, something to that effect, yes.

Q. So you thought he was a goner?

A. Yes. I knew he had done it and he was caught.

Q. Well, you say today that you knew had he done it; but in all of these dozens of hours of tapes in your house, did you ever say that?

A. No. I would never say that at that time.

Q. I see. Did you ever say any of that to the FBI prior to the 17th?

A. No, sir.

Q. All right. So we have your word that during that period of

time, you thought he was guilty -- you knew he was guilty.

Excuse me.

Michael Fortier - Cross

A. Yes.

Q. So in any event, your opinion was that he was down and out for the count?

A. My opinion was that he was caught.

Q. Okay. Well, you didn't -- that's not the way you put it, is it?

A. I'm not sure exactly how I put it.

Q. Well, you said that the media was stirring up and they were hanging him before he even had a trial, didn't have a chance.

A. Yes, they were.

Q. Yes, sir. So now Terry Nichols -- that domino had fallen, hadn't it?

.....

A. I hadn't really put two thoughts into what Terry Nichols' situation was.

Q. Not at all?

A. I was aware of what the TV was saying about him, but I -- I wasn't putting much thought into it.

Q. Sure you were, because you talked about it on the phone with your friends what they were saying about Terry Nichols.

A. The only thing I remember saying was I thought Terry was in deep shit.

Q. That's pretty blunt and comprehensive, isn't it?

A. Yes.

Q. Did you think he was?

A. I know -- I know he was.

Michael Fortier - Cross

Q. Yeah. And you were afraid you were going for be, to use your expression, "in deep shit"?

A. I was already in deep shit.

Q. All right. But you were trying to get out of it.

A. Yes, I was, by lying.

Q. So you contacted the FBI and said that you wanted to correct your statements.

A. Yes.

Q. About nearly 30 days after they had first contacted you.

A. Roughly, yes.

Q. So you meet at this motel in Oklahoma City because they've subpoenaed you to the grand jury.

A. Yes, sir.

Q. And are you -- and you said that you -- you knew you couldn't lie to the grand jury.

A. That's correct.

Q. Well, why did you think you couldn't lie to the grand jury?

A. I think that just shows the disrespect I was showing to the

FBI that was out in Kingman. I felt like --

Q. Well, you had also lied, according to you, to your mom and dad; right?

A. Yes, sir. I was certainly disrespecting them by doing that.

Q. I didn't ask you that. I just asked if you're claiming you lied to them.

Michael Fortier - Cross

A. I did lie to them.

Q. All right. And you say you lied to Mrs. Fortier's parents,

Mr. and Mrs. Hart?

A. Yes, I did.

Q. And to your two brothers?

A. Yes.

Q. And to your friends?

A. To everybody.

Q. And to your friends?

A. Yes, sir.

Q. And to the media?

A. Yes, sir.

Q. All right. And of course, to the FBI.

A. Of course.

Q. But now you were coming to Oklahoma City to appear in front

of the grand jury, people that you didn't even know, but you didn't think you could lie to them?

A. That's correct.

Q. You could lie to people that you knew, that cared for you, and to federal law enforcement, but not to some faceless strangers sitting in a grand jury in a building in Oklahoma City?

A. I did not think I could sit through a cross-examination and

not be found out that I was lying.

Q. Well, you had been cross-examined pretty strongly by the

Michael Fortier - Cross

FBI, hadn't you?

A. I'm not sure exactly what they would call it. They did ask me lots of questions.

Q. Well, actually, they grilled you, didn't they?

A. You could say that.

Q. In fact, you said one time that they kept you locked up in a room for six hours and all they did was give you some M & M's for the mice.

A. They gave me some M & M's to eat. I was only joking when I said that I could feed the mice with them.

Q. Well, was it true they kept you in a room for six hours?

A. I'm not sure if it was exactly six hours, but it was quite a while.

Q. And you said, "Boy, they're bringing out the rubber hoses on me"?

A. Yes, I had said that.

Q. But now you're in Oklahoma City and you're afraid of going down and lying to the grand jury.

A. That's right.

Q. So you call the FBI, and Mr. Zimms and Mr. Volz come out to see you.

A. Yes, sir.

Q. And you excuse yourself and go out onto the balcony and you say, "I can give you Tim McVeigh, but I don't want to be

prosecuted"?

Michael Fortier - Cross

A. I said something to that effect.

Q. Well, it was about that direct, wasn't it?

A. Yes, it was.

Q. Now, if you could have done that, then that would have been

the answer to your problem, wouldn't it?

A. Yes, sir.

Q. You could have had these talk shows; right?

A. No. When I say "problem," I refer to prison sentence.

Q. Oh, you didn't want to go to prison.

A. That's right.

Q. I see. So on May 17, you really weren't concerned about these 167 people that died in Oklahoma City; you were concerned

about avoiding prison?

A. I had a dual concern for what I should do: what is right, and for self-preservation.

Q. What was right for the people of Oklahoma?

A. Yes -- excuse me.

Q. I'm sorry. That's why you again lied to the FBI that night, because you were so concerned about the people of Oklahoma?

A. Could you repeat the question?

Q. Yes, sir. You were so concerned about the people of Oklahoma, that's why you lied to the FBI again that night.

A. No, I just lied to the FBI again that night because I got scared, acted like a child.

Michael Fortier - Cross

Q. Well, Mr. Fortier, what you were doing at the time was trying to get yourself and Mrs. Fortier in a position that you could tell the fable and not be prosecuted.

A. No, sir. What I was trying to do was the right thing.

Q. You were trying to do the right thing.

A. Yes, I was.

Q. And the right thing meant not going to prison.

A. No. The right thing meant to come forward with the truth, with the facts as I knew them.

Q. But when you went outside and talked to the FBI, that's not what you said. You said, "I can give you McVeigh, but I don't want to be prosecuted." You were only interested in doing the right thing if it wasn't going to cost you anything. Isn't that right?

A. No, sir. I was interested in doing the right thing, and I was also interested in not going to jail.

Q. Well, when the two came in conflict, you were more interested in the second one than the first one, weren't you?

A. No, I was more interested in doing the right thing. I have

have

been incarcerated for the last two years, so that's how it all turned out.

Q. You have been what?

A. Incarcerated --

Q. Yes, sir. But on the night of May 17, you were trying to avoid that for yourself and Mrs. Fortier.

Michael Fortier - Cross

A. Yes.

Q. And then the agents told you that they didn't have the authority or the power to give you immunity from prosecution.

A. Special Agent Volz said, "I don't need you. We can get Tim

without you." And I decided on that spot I still wanted to go ahead with telling the truth, doing the right thing.

Q. And in fact, Mr. Hartzler said something like the same thing to you in front of the grand jury: that "We don't need you."

A. I'm not sure if he said that in front of the grand jury or not. He has told me that, though.

Q. But he's told you that?

A. Yes, sir.

Q. Well, here you are. Right?

A. Yes, sir.

Q. And your wife; right?

A. Yes. She has testified.

Q. So somebody must think they need to put you on the stand; correct?

MR. HARTZLER: Object. Object, your Honor.

THE COURT: Sustained.

BY MR. JONES:

Q. Do you think they need to put you on the stand?

MR. HARTZLER: Objection.

THE COURT: Sustained.

Michael Fortier - Cross

BY MR. JONES:

Q. Well, you go back into the room and you talk to Mrs. Fortier.

A. Yes, sir.

Q. And then the agents come back; correct?

A. Yes, sir.

Q. And was it Mr. Zimms that asked you, "Do you want to correct your statement now, like you told us earlier?"

A. I'm not sure which agent asked me that.

Q. Well, one of them said that, didn't he?

A. Yes.

Q. And what did you say next, Mr. Fortier, doing the right thing?

A. I said that I had -- I did want to correct my statement.

Q. No, sir. What you said was, "Lori, you correct yours first," didn't you, Mr. Fortier?

A. I don't remember exactly what was said, but my intent was to correct my statement.
Q. Didn't you tell Lori to correct hers first?
A. I don't remember that little interplay of words.
Q. You don't? Have you read the 302?
A. I know that is in the 302's.
Q. Well, then, the agents wrote it down, didn't they?
A. Yes, they did.
Q. And what did Mrs. Fortier say back to you?

Michael Fortier - Cross

A. She said for me to correct mine first.
Q. And she kept silent for the rest of the night, didn't she?
A. No, sir.
Q. She didn't correct her statement that night, did she -- or did she?
A. No. We were interrupted by a phone call, and she was advised by her counsel not to speak with the FBI.
Q. Now, Mr. Fortier, when you pled guilty, that was on -- what was that, August 10?
A. Yes, sir.
Q. And the plea agreement was signed what date?
A. Just a few days prior to that.
Q. So until the plea agreement was signed, you didn't have a deal.
A. That's correct.
Q. So you started on May 17; right?
A. Yes.
Q. And the plea agreement was signed what day?
A. A few days before August 10.
Q. Do you remember the exact date? Let's look here. Maybe it's here.
August 7. Does that sound right to you, sir?
A. That sounds right, yes, sir.
Q. If you were doing the right thing, what took so long from May 17, to August 7?

Michael Fortier - Cross

A. I was working the whole summer under the proffer agreement.
I was answering questions as they were asked of me.
Q. And what was the proffer agreement?
A. To my understanding, it was I could speak to them and they would not hold what I -- what I'm saying against me in court.
Q. You could speak to them, but what you were telling them wouldn't be held against you?
A. That's correct.
Q. Well, who was it going to be held against?
A. Whoever it implicated.
Q. I see. And did it implicate you?
A. Yes, sir.

Q. But it wouldn't be held against you?
A. That's correct.
Q. And what about Ms. Fortier? Was she talking to them during this same period of time?
A. Yes, sir.
Q. She was?
A. Yes.
Q. I see. And did she have a proffer letter, too?
A. I believe so. I never sat in on her conversations with the prosecution.
Q. Well, now, was this proffer agreement reduced to writing, or was this one of these handshake deals?
A. I'm not sure.

Michael Fortier - Cross

Q. Well, have you seen a copy of it?
A. I was given a copy -- a copy of a proffer letter by the FBI agents out in Arizona, which I took to Oklahoma with me and turned over to my -- my counsel.
Q. All right. Well, did you sign that letter?
A. I don't recall.
Q. Well, in any event, you go from May 17 down through August 7 before this agreement is signed.
A. Yes, sir.
Q. And what was your sentence?
A. My maximum sentence is 23 years.
Q. You haven't been sentenced yet, have you?
A. No, I have not.
Q. It's been nearly a year and a half and you haven't been sentenced.
A. That's correct.
Q. And that's the Sword of Damocles hanging over your head, isn't it, Mr. Fortier -- the sentence?
A. Yes.
Q. And that string that holds that sword can be cut, can't it, and the sword drop on your head?
A. Theoretically.
Q. I can't cut it, can I?
A. No, sir.
Q. Or on the other hand, it can be caught, can't it?

Michael Fortier - Cross

A. Sir, I don't understand your question.
Q. Well, Mr. Fortier, under the terms of your agreement, I don't affect your sentence, do I?
A. No, you do not.
Q. My friend, Mr. Hartzler, and Mr. Ryan and the Government of the United States are the ones that make the recommendation

the United States are the ones that make the recommendation, don't they?

A. They can make a recommendation, yes.

Q. Well, you're counting on them making it, aren't you?

A. It is their sole discretion on whether they do or not.

Q. That's exactly right. It's their sole discretion.

A. Yes, sir.

Q. Nobody else can make them do it.

A. That's correct.

Q. You can't make them do it.

A. I cannot.

Q. Mr. Maguire can't make them do it?

A. No, sir.

Q. His Honor can't make them do it?

A. Not that I know of.

Q. And I can't make them do it for sure, can I?

A. I don't think so.

Q. And your wife can't make them do it.

A. No, sir.

Q. And they haven't made that decision yet, have they?

Michael Fortier - Cross

A. No, they have not.

Q. Because it depends on their evaluation of your "cooperation," quote, unquote, doesn't it?

A. That's my understanding.

Q. Yes, sir. And you are hoping that they will evaluate that your cooperation has been a hundred percent; correct?

A. It has.

Q. And it would not be a sign of cooperation for you to say that Mr. McVeigh was innocent, would it?

A. No, it would not, because that would be a lie.

Q. I understand what you're saying. It would not be a sign of

cooperation, would it, for you to say, Well, I really don't know whether those guns were stolen or not?

A. As far as those guns are concerned, I can only take Tim's word on it that they were stolen.

Q. You haven't taken Tim's word on it, because you and the Government have had some very strong meetings about whether those guns were stolen, haven't you?

A. No. I have taken Tim's word on it, and I have pled guilty to transporting stolen weapons.

Q. I didn't ask you that. Since your plea of guilty, have you had strong discussions with the Government about those guns were in fact stolen?

A. No, sir.

Q. No? Is that your answer?

Michael Fortier - Cross

A. Yes, sir; that the Government stands by the -- what they think is the guns were stolen.

Q. I didn't ask you what the Government stood by. I asked you if you had taken strong exception and disagreement with the Government since you signed the plea agreement that those guns were not stolen?

A. No, sir.

Q. No? Your lawyer hasn't argued with the Government that you want to be convinced those guns were stolen?

MR. HARTZLER: Objection, your Honor.

THE COURT: Overruled.

THE WITNESS: My --

BY MR. JONES:

Q. I'm sorry.

A. My lawyer has some concerns on whether Bob in Arkansas was robbed or not.

Q. You have some concerns whether Bob in Arkansas was robbed, don't you?

A. I'm convinced that those weapons were stolen.

Q. You mean your lawyer is working at cross-purposes with you?

A. No, sir. He just has concerns --

Q. I see. I'm sorry.

A. He just has concerns.

Q. Thank you. And you tell us you don't have those concerns?

A. No. I think those guns were stolen.

Michael Fortier - Cross

Q. Did you have those concerns within the last 60 days, Mr. Fortier?

A. I think those guns are stolen.

Q. Did you have those concerns within the last 60 days, Mr. Fortier?

A. Concerns that the guns were not stolen?

Q. Yes, sir.

A. No, sir.

Q. Did you and Mr. Hartzler have strong words recently concerning those guns?

A. No, sir.

Q. No. And have you been told in effect that it's not a sign of cooperation for you to raise the question about whether those guns were stolen or not?

A. Could you repeat the question, please.

Q. Yes, sir. It wouldn't be a sign of cooperation, would it, for you to raise questions about whether those guns were stolen

in the first place, would it?

A. I don't think it would be a sign either way.

Q. Oh, you think it would not be a sign of failure to cooperate for you to suddenly say, "Well, wait a minute; you know, the more I think about it, I'm not sure those guns were stolen"?

A. No, sir.

Q. The Government would not be happy if they heard that, in

Michael Fortier - Cross

your opinion, would they?

A. I don't think they would care.

Q. Oh, really?

A. If that was my opinion.

Q. You don't think they would care?

A. No, sir.

Q. I see. Well, what is your lawyer's concern that he's voiced to the Government? Not talking about what he said to you. What has he voiced to the Government about these guns and whether they were stolen?

MR. HARTZLER: Judge, I'm sorry. I really think this is far afield.

THE COURT: Overruled.

MR. HARTZLER: Thank you.

THE WITNESS: I don't remember a conversation between my lawyer and the prosecution just lately or even before that. I remember conversations between me and my lawyer concerning those weapons.

BY MR. JONES:

Q. Well, I thought you said just a moment ago to these ladies and gentlemen of the jury that you knew that your lawyer had raised these concerns with the Government.

A. No. I said my lawyer had these concerns.

Q. Oh. Well, has he raised them with the Government? Let me withdraw that.

Michael Fortier - Cross

He has raised them with the Government, hasn't he, Mr. Fortier?

A. I believe he has, but not in a strong manner. It was just expression -- expressing a concern.

Q. Just one of those casual conversations in which you face 23 years?

A. Yes, sir. I accept the fact that those guns were stolen -

Q. Yes, sir. Because you have to cooperate, don't you?

A. No, because I believe that they were stolen.

Q. I see. But you have to cooperate, also, don't you?

A. Under my agreement, yes.

Q. Yes, sir. And if you don't cooperate in the sole discretion of the Government, they don't move to reduce your guidelines, do they?

A. If I did not cooperate -- strike that.

I don't know what would prompt them to reduce my sentence or not.

Q. Well, you know it because it's in the plea agreement. You've read it, haven't you?

A. Yes, sir.

Q. You probably know it chapter and verse.

A. No, I don't know it chapter and verse.

Q. In fact, there is an escape clause. Isn't that what you called it?

A. Yes, sir.

Michael Fortier - Cross

Q. They don't think you've cooperated, they don't have to move

for a downward departure.

A. Yes, sir.

MR. JONES: All right. Now, a couple of other things and then we will have reached a point -- I'll finish up this point right here, if I may.

BY MR. JONES:

Q. Mr. Fortier, this plea agreement, among other things, says, does it not -- excuse me just a second, sir.

THE COURT: Well, I don't want to keep the jury any longer. We'll recess.

You may step down and return at 9:00 tomorrow morning.

THE WITNESS: Yes, sir.

THE COURT: Members of the jury, we're going to recess, as usual, this being 5:00; and again, during the time of this recess, of course, you must be very careful to avoid anything that may appear in radio, television, newspapers, magazines, whatever, concerning the trial, today's testimony, anything that relates to the trial, knowing, of course, the importance of your holding true to your oath to be able to decide this case based on what happens in this room and also hold true to your obligation to keep open minds until you've heard it all. You recall back as long ago as the time that we talked with you during jury selection of the importance of this, and we have to hold you to that and your honor in following that. You're on an honor system.

And, you know, the honor system is all that I can rely on so that I don't sequester you. So it's very important. And a part of the honor system is that if any of you violate that in any way, others of you will tell me about it.

You're excused now until 9:00 tomorrow morning.

(Jury out at 5:02 p.m.)

THE COURT: We'll be in recess.

(Recess at 5:03 p.m.)

* * * * *

WITNESSES

Michael Fortier

Cross-examination by Mr. Jones

* * * * *

REPORTERS' CERTIFICATE

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 12th day of May, 1997.

Paul Zuckerman

Kara Spitler