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**Friday, May 23, 1997 (morning)**

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 110)

Proceedings before the HONORABLE RICHARD P. MATSCH,  
Judge, United States District Court for the District of  
Colorado, commencing at 9:00 a.m., on the 23d day of May, 1997,  
in Courtroom C-204, United States Courthouse, Denver, Colorado.

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

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PROCEEDINGS

(In open court at 9:00 a.m.)

THE COURT: Be seated, please.

Good morning. We're ready for the jury. Okay.

(Jury in at 9:00 a.m.)

THE COURT: Members of the jury, good morning. You'll  
recall when we recessed yesterday afternoon, we were hearing

testimony from Ms. Vicki Beemer, and Ms. Beemer is now returning to the stand.

(Vicki Beemer was recalled to the stand.)

THE COURT: Mr. Mendeloff, you were inquiring.

MR. MENDELOFF: I was, your Honor. Thank you.

RE-CROSS-EXAMINATION CONTINUED

BY MR. MENDELOFF:

Q. Ms. Beemer, when we broke last night, I was asking you about Mike Hertig.

A. Yes.

Q. Do you remember that? And I showed you an exhibit, Government Exhibit 331.

MR. MENDELOFF: We'd move that into evidence at this time, your Honor.

MR. JONES: No objection.

THE COURT: 331 received.

MR. MENDELOFF: May I display it, Judge?

THE COURT: Yes.

BY MR. MENDELOFF:

Q. Who is this?

A. That's Michael Hertig.

Q. And this photo depicts Michael Hertig with a mustache; is that right?

A. That's right.

Vicki Beemer - Recross

Q. Is this how he appeared when he came to your store on April 18?

A. Yes, it is.

Q. Now, I believe you testified on direct examination that you had described Mr. Kling as being 5' 10" to 5' 11", medium build and military haircut.

A. That's right.

Q. What kind of -- what color hair do you recall the man having?

A. It was dark blonde to light brown.

Q. And it's your testimony that Michael Hertig is not the person that came into your store on the 17th and represented himself to be Robert Kling; is that right?

A. That's correct.

Q. So it's a different person who's got dark blonde/light brown, military-style hair?

A. That's right.

Q. Let me just ask you, you mentioned that you and Michael Hertig at one time both lived in Chapman, Kansas?

A. Michael Hertig had moved from Chapman. That was the first time I -- when he came in to get a Ryder truck, that I met him.

Q. Right. So you did not know each other in Chapman?

A. No. Not really.

Q. You had a discussion about Chapman?

A. Yes, we had a discussion about Chapman.

Vicki Beemer - Recross

Q. You both lived at one point in that very small Kansas town?

A. That's right.

Q. How many people live in Chapman, Kansas?

A. About 1,500 people.

Q. Now, you testified on direct examination that the quote came in on the Kling call -- excuse me. Let me try that again.

The Kling quote came in by virtue of a phone call on the morning of April 14; do you remember that?

A. Yes, sir.

Q. Do you recall what time the call came in?

A. Yes. It was in the morning. Midmorning. During the midmorning break.

Q. Okay. Roughly what time was that?

A. Around 10, 10:30.

Q. And when you testified in the grand jury on April 1, 1995, is that what you told the grand jury?

A. Yes, it is.

Q. Do you remember receiving any other quotes that morning on the phone?

A. I -- I don't recall. I don't recall.

Q. All right. Now, let me ask you this: How long does it take to handle a quote call over the phone?

A. Just a normal one?

Q. Yeah. A normal one.

A. Probably around five minutes or so.

Vicki Beemer - Recross

Q. Do they extend later than that?

A. Yeah. Around five to ten minutes.

Q. And are they ever any less than five minutes?

A. Probably not. No.

Q. Five minutes is the minimum?

A. Right.

Q. Now, finally, you were asked questions on direct examination regarding the cars parked in front of Elliott's Body Shop. Do you remember those questions?

A. Yes, I do.

Q. And Mr. Jones showed you a photograph of the -- aerial photograph of Elliott's?

A. Uh-huh.

Q. Remember that?

A. Uh-huh.

Q. With the cars parked in front?

A. Yes.

Q. Now, in terms of repeat business, you have a body shop and a Ryder rental --

A. Uh-huh.

Q. -- concern there; is that right?

A. That's right.

Q. And your body shop is primarily your repeat business; is that right?

A. Primarily, yes.

Vicki Beemer - Recross

Q. And your rental customers are often people that you see one time and then never again?

A. Often. Most often that way, yes.

MR. MENDELOFF: Thank you.

Nothing further, your Honor.

THE COURT: Mr. Jones?

REDIRECT EXAMINATION

BY MR. JONES:

Q. Mrs. Beemer, did you meet with any FBI agents or any of the attorneys for the Government over the evening?

A. No, sir, I did not.

Q. Prior to your testimony today, how many times do you think you had met with them?

A. With the FBI or with the attorneys?

Q. Yes, ma'am. Both.

A. I met with the FBI -- I really don't know -- several times, but I don't know a number. The -- the attorneys I met once in November, I believe it was twice in March, and then once a couple weeks ago when I was out there.

Q. Now, Ms. Beemer, you have never been interviewed by a representative of the defense; is that correct?

A. That's correct.

Q. And in fact, you have declined to be interviewed on numerous occasions; is that also correct?

A. That's correct.

Vicki Beemer - Redirect

Q. All right. Now, Ms. Beemer, when you were interviewed by the FBI on 4-20 of 1995, at that time you thought the call for the quote had come in between 10:30 and 11:00. Isn't that correct?

A. I really don't recall that, no.

Q. You don't recall that it came in then or you don't recall telling the FBI?

A. I don't recall telling the FBI that.

Q. All right. Now, as I understand it, you and Mr. Hertig lived in Chapman for a period of time?

A. I did not know him when he lived in Chapman. It came up when he came to get a Ryder truck, he was moving from Chapman.

Q. Yes. I understood that.

A. So yes.

Q. That's a town of about 1,500 people?

A. That's right.

Q. And so even though you all both lived in the small town, you did not, in fact, know him?

A. That's correct.

Q. Now, he came in to rent a truck?

A. Yes.

Q. And that was to move from Chapman to where?

A. I believe he was moving to Fort Riley at that time.

Q. All right. Do you remember about when that was?

A. I'm -- I believe it was in December. It would have been

Vicki Beemer - Redirect

December of '94.

Q. And when was the next time you saw him?

A. The next time I saw him was in April.

Q. So he was not a -- he was a repeat customer in the sense that he had been in once before?

A. Right. But on -- like on the time in December, I would have seen him probably as many as two to three times during the course of that rental.

Q. Why would you have seen him two to three times for a short rental?

A. When he would have come in to make the -- you know, to make the deposit, when he came in to pick the truck up and then when he returned the truck.

Q. Okay. So are you telling me then that in April of 1995, you would have had him clearly in mind?

A. Yes.

Q. And the reason for that is because he had been in there before?

A. Yes.

Q. All right. Now, Ms. Beemer, it is true, is it not, that Sergeant Hertig also has a prominent line across his chin right here? Isn't it? You saw that in the photograph?

A. I saw that yesterday, yes.

MR. JONES: I don't believe I have any further questions. Thank you, ma'am.

Vicki Beemer - Redirect

MR. MENDELOFF: Just two, your Honor, please.

THE COURT: All right.

REXCROSS-EXAMINATION

BY MR. MENDELOFF:

Q. Mr. Jones asked you whether or not you told the FBI back in April of '95 that the call -- you thought the call came in from 10 to 10:30. Do you remember that question?

A. Yes.

Q. Ma'am, did you -- when the call came in, did you take your watch and mark down what time the call came in?

A. No. It was just an estimate.

Q. And when you told the grand jury back in '95 that it was 10 to 10:30, that was an estimate?

A. That's right.

Q. And when you're telling this grand -- this jury today that you thought it was about 10 to 10:30, what is that?

A. That is my best estimate.

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

REDIRECT EXAMINATION

BY MR. JONES:

Q. Do you now believe you were mistaken about the time the

call came in?

A. No, I'm not.

Q. So you still think it came in around 10:30.

Vicki Beemer - Redirect

A. That's my best estimate. Yes.

MR. JONES: All right. Thank you.

No further questions, your Honor.

REXCROSS-EXAMINATION

BY MR. MENDELOFF:

Q. You say that the call came in at 10:00 --

THE COURT: Look. It's not a tennis match. Is the witness excused?

MR. JONES: Yes, your Honor.

MR. MENDELOFF: Yes, your Honor.

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

THE WITNESS: Thank you.

THE COURT: Next witness, please.

MS. RAMSEY: Your Honor, we would call Daina Bradley.

THE COURT: All right. If you would just face the clerk and raise your right hand to be sworn, please.

THE COURTROOM DEPUTY: Your right hand.

(Daina Bradley affirmed.)

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

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

THE WITNESS: Daina L. Bradley, B-R-A-D-L-E-Y.

THE COURTROOM DEPUTY: Okay.

THE COURT: We're going to have trouble hearing you,

Vicki Beemer - Recross

so if you would please speak into the microphone.

THE WITNESS: Daina Bradley, B-R-A-D-L-E-Y.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MS. RAMSEY:

Q. You need to scoot your chair up a little bit and --

THE COURT: I don't think the chair moves.

MS. RAMSEY: Okay.

BY MS. RAMSEY:

Q. Can you move the microphone a little bit towards you, Ms. Bradley. That might help.

Are you ready? Okay.

A. Yes.

Q. Ms. Bradley, how old are you?

A. I'm 2 -- going to be 22.

Q. You're going to have to speak up.

A. 21.

Q. You're 21 now, soon to be 22? You need to answer yes or no.

A. Yes.

Q. Okay, and you do have an attorney present in the courtroom?

Q. Okay. And you do have an attorney representing you in this case, don't you: Ms. Wallace?

A. Yes.

Q. And can you see her --

A. Yes.

Daina Bradley - Direct

Q. -- in the courtroom?

Okay. Where do you live, Ms. Bradley?

A. Oklahoma City.

Q. And how long have you lived in Oklahoma City?

A. Born there.

Q. All right. So you've lived there all your life?

A. Yes.

Q. All right. And what's your educational background? Did you go to school in Oklahoma City?

A. Yes.

Q. Okay. And what are some of your special interests? What are your hobbies?

A. I like to read. I like car models, modeling cars.

Q. Okay.

A. Spending lots of time with my son.

Q. Are you comfortable now, a little more comfortable?

A. A little more.

Q. You don't want to be here, do you?

A. No.

Q. You would rather be back in Oklahoma City with your son, as you said; is that correct?

A. Yes.

Q. All right. And you are here because you received a subpoena from the defense; isn't that correct?

A. Yes.

Daina Bradley - Direct

Q. I want you to look on the screen that's below you, and can you tell me what that is.

A. That's the subpoena.

Q. And you were served with that subpoena last week; isn't that correct?

A. Yes.

Q. And that's the only reason you're here, isn't it?

A. Yes.

MS. RAMSEY: Your Honor, we would move for the admission of McVeigh Exhibit G1.

THE COURT: A subpoena?

MS. RAMSEY: Yes.

MR. RYAN: I don't have an objection, your Honor. I don't think it's appropriate.

THE COURT: I don't know what probative value it has, but we'll receive it.

MS. RAMSEY: Thank you, your Honor. Yes. Would you publish that to the jury, please.

Thank you.

Thank you.  
BY MS. RAMSEY:

Q. Now, Ms. Bradley, you went to the Murrah Building on April the 19th, 1995, didn't you?

A. Yes.

Q. And why did you go?

A. I -- I went for my son to get -- change my son's Social

Daina Bradley - Direct

Security card and to get an appointment for SSI.

Q. All right. You need to speak up now. To get an appointment for SSI?

A. Yes.

Q. All right. Now, is that the son that you just talked about a moment ago?

A. No.

Q. Who did you go to the Murrah Building with on April the 19th, 1995?

A. I went with my mother.

Q. And what's her name?

A. Cheryl Hammon.

Q. All right. And you went with who else?

A. And my sister, Felicia Bradley.

Q. And who else accompanied you there?

A. And my daughter Peachlyn Bradley and my son Gabreon Bruce.

Q. And what time did you get to the Murrah Building; do you remember?

A. It was before -- it was like 8 -- we all got there early to try to -- try to beat the people, the rush there.

Q. Did they have a waiting area outside the Social Security office?

A. No. It was in the -- we were in the -- by the time we got there, the Social Security office was open and they -- there was a lot of people there. They were already starting a line.

Daina Bradley - Direct

Q. All right. Do you think you got there around 8:00 when they opened or was it later, if you remember?

A. I don't.

Q. Okay. When you got to the Social Security office -- first of all, where is the Social Security office in the Murrah Building? Where was it on April the 19th?

A. It's on the first floor.

Q. Okay. When you went into the Murrah Building and went into the Social Security office, then what happened next?

A. I went in and signed the papers, and my mom was standing in line for -- for us -- for me. And I was doing the papers. I went to her and let her look over the papers.

Q. Okay. So she was actually holding your place in line?

A. Yes.

Q. While you were trying to get everything ready to present to the person you were going to talk to at Social Security; is that correct?



A. Yes.

Q. All right. You went over and talked to your mom about the papers that you had filled out; is that right?

A. Yes.

Q. And what happened next?

A. At this time, I turned around and looked out the window.

Q. Are there all -- is the front part of the Social Security office windows?

Daina Bradley - Direct

A. Yes.

Q. Okay. And so you looked out the window, and what did you see?

A. I seen the yellow Ryder truck drive up.

Q. And what did you think when you saw the Ryder truck pull up into the -- pull up?

A. That it was very unusual that -- downtown, they do not allow moving trucks as far as those kind of vehicles being parked down in that area.

Q. Okay. And did the -- what did the truck do when you saw it?

A. It -- they stopped.

Q. Did it park?

A. Yes. It parked.

Q. Okay. And did you see anything else at that time or did you continue your conversation with your mother?

A. I went back and I looked up and I started talking to my mother again and I looked back out. I seen two men get out of the truck.

Q. All right. Did you say anything to your mother about the Ryder truck when it pulled in and parked, or did you just think it to yourself?

A. I -- me and my sister and my mother, we both thought that it was unusual.

Q. Okay. So there was something mentioned about it?

Daina Bradley - Direct

A. Yes.

Q. All right. Now, you saw the men get out, and then what happens next that you remember?

A. I seen the driver get out.

Q. I don't want to get into your -- what happened at that point yet. What happened after you saw the Ryder truck park and the men get out? Did you go back to talking with your mother?

A. No. At this time, my mother had told me to go back to my sister to -- for her to help me fill out the part that -- that I did not fill out on the application. At this time that I was going back, that's when I was looking out the window.

Q. Okay. You went over to your sister; is that correct?

A. Yes.

Q. You were talking with her?

A. Yes.

Q. Right?

And then what happens next? Does the explosion occur shortly thereafter?

A. Yes.

Q. All right. How long were you in the Murrah Building, do you think, before the explosion occurred, if you remember?

A. I don't. All I know is that when I was talking to my sister, that a flash of light came over the desk, and that's -- that's where I -- I don't know how long that it was there.

Daina Bradley - Direct

Q. And what is it that you remember next?

A. That I was trapped.

Q. All right. How long were you trapped in the building?

A. Before rescue or completely out?

Q. Completely.

A. I was in there for five hours.

Q. All right. And during that time that you were trapped, you had to have your leg amputated, didn't you?

A. Yes.

Q. In order to be released from the building; is that correct?

A. Yes.

Q. And did your mother and your two children survive?

A. No.

Q. And your sister was severely injured, also, wasn't she?

A. Yes.

Q. And you were then taken to the hospital at some point after you were retrieved from the building; is that correct?

A. Right.

Q. How much time did you spend in the hospital? Do you recall how many days?

A. No, I don't, because I lost day and time at that point. I don't -- I don't know -- I don't even, you know -- people coming and going. I couldn't tell you, you know, day or time or where I was most of them.

Q. All right. Now, since this -- since April 19 of 1995, you

Daina Bradley - Direct

became pregnant and had another child; isn't that correct?

A. Yes.

Q. And that's the child that you were speaking of that you wanted to be home with; isn't that correct?

A. Yes.

Q. And he was not involved in, nor were you pregnant at the time?

A. No.

Q. Okay. While you were in the hospital, were you contacted by the Federal Bureau of Investigation?

A. Yes.

Q. All right. Haven't you -- I gave you and your attorney the -- what we call the 302's of your statement -- statements with regard to the two times or three times that you've talked

with regard to the two times or three times that you've talked with the FBI; isn't that correct?

A. Yes.

Q. Okay. Now, when you first talked with the FBI was on May the 3d and May the 4th, when you were in the hospital; isn't that correct?

A. Yes.

Q. And what did you tell the FBI agents with regard to the Ryder truck, if you recall?

A. I --

Q. Did you tell them the Ryder truck came up and parked?

A. Yes.

Daina Bradley - Direct

Q. All right. Did you tell them that you observed an individual get out of the passenger side of the vehicle?

A. Yes.

Q. Okay. And did you give them a description of the person?

A. Yeah.

Q. All right. And what did you tell them about the person that got out of the vehicle? Do you recall?

A. I recall telling them that -- that it was a olive-complexion man with short hair, curly, clean-cut. He had on a blue Starter jacket, blue jeans, and tennis shoes and a white hat with purple flames.

Q. All right. And did you tell him that -- or tell them that he was wearing a baseball cap?

A. Yes.

Q. And did you also tell them when you talked to them on May the 3d and 4th that you observed him from a side view?

A. Yes.

Q. And did you also tell the FBI what this person did when he got out of the Ryder truck?

A. Yes.

Q. And what did you tell them?

A. I had told him that -- I told them that he had got out of the truck, went to the back of the truck, and proceeded to walk very fast forward in front of the truck. He went back on the sidewalk and left.

Daina Bradley - Direct

Q. All right.

A. In a rapid speed.

Q. And he was walking very quickly?

A. Yes.

Q. And did that also call your attention to him?

A. Yes.

Q. Okay. Did you also talk with the FBI on May the 3d and 4th about the sketch that you had seen when you were in the hospital?

A. Yes.

Q. And what did you tell the FBI about that sketch?

A. That that man was familiar; that I had seen him get out of

the truck.

Q. All right. And when had you seen that sketch? Did they show it to you or had you seen it when you were in the hospital?

A. I had seen it when I was in the hospital.

Q. When you saw the sketch when you were in the hospital, were you with someone or were you by yourself?

A. I was by myself.

Q. Now, on your screen, I have what's previously been admitted as Government's Exhibit 320. Is that the sketch that you saw on television?

A. Yes.

Q. All right. And when you saw this sketch, did you say to

Daina Bradley - Direct

yourself -- I believe you told the FBI that you were certain that this was the person that you had seen get out of the Ryder truck?

A. Yes.

Q. And I believe also, you told the FBI that when you saw him get out of the truck and walk down the sidewalk very quickly, the next thing that you recall was the explosion; is that correct?

A. Yes.

Q. Now, did the FBI also show you sketches on May the 3d and 4th when you met with them?

A. Yes.

Q. And did you tell them that you had only seen one person --

MR. RYAN: Your Honor, I'm going to object to leading.

MS. RAMSEY: I'll rephrase the question.

THE COURT: All right.

BY MS. RAMSEY:

Q. Did you tell them about anyone else getting out of the vehicle?

A. No, I did not.

Q. Did they -- did the FBI show you a sketch of the other person?

A. Yes.

Q. And you could not identify that; isn't that correct?

A. Right.

Daina Bradley - Direct

Q. Because you said you'd only seen one person; correct?

A. Yes.

Q. Okay. Now, you also met with the FBI on May the 21st; isn't that correct?

A. Yes.

Q. When you met with them on May the 21st, had you been released from the hospital?

A. Yes.

Q. And you met with them where?

A. I met with them at my lawyer's office.

Q. At Ms. Wallace's office?

A. Yes.

Q. And is that in Oklahoma City?

A. Yes.

Q. And when you met with the FBI on May the 21st, did you tell them about the Ryder truck?

A. Yes.

Q. What did you tell them about the Ryder truck?

A. That it parked in front of the Social Security office.

Q. Did you also give them a description of the person you saw get out of the vehicle?

A. Yes, I did.

Q. And what was that description?

A. The olive-complexion man and the short hair, curly hair, with the Starter jacket, blue jeans, and tennis shoes, with the

Daina Bradley - Direct

baseball hat with the flame, purple flame.

Q. Did you also tell them that the hat was white on one side with a purple flame on it?

A. I told him the hat was white with flames on it.

Q. Okay. And did you also tell them that he -- the person left the vehicle and walked at a very rapid pace?

A. Yes.

Q. Now, did you also on October -- did you also have a conversation with an investigator from Mr. McVeigh's defense team?

A. Yes.

Q. And was that -- do you recall when that was? Was that in 1995?

A. Yes.

Q. And you've had -- this will be your fourth conversation with regard to what happened that morning with either the Government or someone from the defense; is that correct?

A. Yes.

Q. What did you tell Wilma Sparks when you talked with her on the telephone with regard to that day, if you recall?

A. I don't recall.

Q. Did you tell her what time you got to the Social Security office?

A. Yes.

Q. All right. Do you recall what time that was?

Daina Bradley - Direct

A. I -- I had told her 8.

Q. Okay. And you've seen a copy of this, haven't you?

A. Yes.

Q. The transcript?

Okay. And did you also tell her about an individual getting out of the truck?

A. Yes.

Q. And what did you tell Ms. Sparks with regard to a description of that person?

description of that person?

A. I told her that it was the same man.

Q. The olive skin?

A. The olive complexion, yes.

Q. And did you give her any further description of that person?

A. The same as the olive complexion, short hair, white ball cap with purple flames, blue jeans and tennis shoes.

Q. All right. And did you also tell her what height you thought he might have been?

A. I don't recall.

Q. Could you have told her that he was approximately 6 feet tall?

A. Yes.

Q. What did you tell Ms. Sparks with regard to his wearing gloves or glasses?

A. He had none.

Daina Bradley - Direct

Q. Okay. And did he have a beard or a mustache?

A. No.

Q. Clean-shaven.

A. Yes.

Q. Did you also tell Ms. Sparks that the sketch that you had seen of the John Doe 2 was the person that you saw get out of the Ryder truck?

A. I don't understand.

Q. Did you tell her that the sketch that I just had on the monitor was the person that you saw get out of the truck?

A. Yes.

Q. Okay. Did you also talk with her about how this person was acting?

A. Yes, I did. I told her that he was acting very mysterious and that he was walking off very rapidly and very nervous.

Q. Okay. Did you also tell her that that was the only person that you saw get out of the truck?

A. Yes, I did.

Q. Now, these interviews were in 1995; is that correct?

A. Right.

Q. And you had not been interviewed with regard to this case until 1997; isn't that correct?

A. Right.

Q. Now, were you advised by your attorney that I wanted to interview you approximately three to four weeks ago?

Daina Bradley - Direct

A. Yes, she did.

Q. And I -- were you advised by your attorney that I probably -- that you would probably be subpoenaed to come to court today?

A. Yes.

Q. And did we have a meeting in your attorney's office on Friday, May the 16th, which was last Friday?

-----, ---, --- -----, ----- --- -----  
A. Yes.

Q. And who was present at that meeting, please?

A. You and my attorney and me.

Q. And Wilma Sparks?

A. And Wilma Sparks.

Q. Okay. Now, when we got to the office, we went into your attorney's conference room; isn't that correct?

A. Yes.

Q. And what did you advise me with regard to the Ryder truck?

A. That -- that it had drove up and that I told you that two men got out of the truck.

Q. Did you give me a description or did you state a description of the person that you saw that was the olive-skinned one?

A. Did I -- I don't understand your question again.

Q. Did you describe the olive-skinned person who got out of the Ryder truck?

A. Yes, I did.

Daina Bradley - Direct

Q. And what was the description that you gave on May the 16th, 1997?

A. I told you that he was olive-complexion, clean-cut, baby-faced, and he had on a white ball cap with purple flames, blue jeans and tennis shoes.

Q. And that the tennis shoes were white?

A. Yes.

Q. Did you also describe the jacket that he had on?

A. Yes. It was a blue Starter jacket.

Q. And what did you tell -- what did you say on May 16 that he did when he got out of the Ryder truck?

A. That he went to the back of the truck and walked forward and walked off rapidly.

Q. And walked what?

A. Walked off rapidly.

Q. Okay. And what did you tell me that he had in his hands?

A. He had nothing in his hands.

Q. And did you see him throw anything away at that point?

A. No.

Q. And what did you state with regard to the sketch of John Doe 2 that you saw on TV while you were in the hospital?

A. What did I --

Q. What did you say on May 16th with regard to that?

A. That that was the same guy that I seen get out of the truck.

Daina Bradley - Direct

Q. Now, we also -- in the May 16 interview, you advised that there was another person that got out of the vehicle; isn't that correct?

A. Yes.

Q. And what did you -- how did you describe that other person?

A. That --

Q. What did he do?

A. That he was a white male and that he walked off. I could see enough to see that he was a white male and that he had walked off very fast across the street.

Q. Okay. And which way did he go? Did he go in the same way that the other person went?

A. No.

Q. Okay. Did he -- which way did he head?

A. I --

Q. Are you very good with directions?

A. No, I'm not.

Q. Did he go towards the back of the truck or the front of the truck?

A. He was -- he just got out of the truck and went across the street.

Q. Okay.

A. And the other man went that way.

Q. They went two different directions; is that correct?

A. Yes.

Daina Bradley - Direct

Q. Did the gentleman that you told me about on May 17th (sic) do anything with regard to the truck or just get out and walk away very quickly?

A. He got out and walked away very quickly.

Q. And did you see if he had a hat on?

A. I don't recall or remember.

Q. Okay. Now, how long did our meeting last, if you recall?

A. Maybe an hour. Hour and a half.

Q. Okay. Do you recall me asking you the question did you ever see anyone that day that looked like Timothy McVeigh?

A. Yes, I did.

Q. And what was your response?

A. That I couldn't recall if it was or not.

Q. Is that what you told me on May the 17th -- I'm sorry -- May 16, on Friday, in your attorney's office?

A. No.

Q. What did you tell --

A. I said no.

Q. You said no; is that correct?

A. Yes.

Q. All right. Now, did you meet with anyone else the afternoon of May the 16th?

A. I don't -- I don't --

Q. Did you meet with Ms. Behenna from the prosecution team in Oklahoma City?

Daina Bradley - Direct

A. Yes. Yes.

Q. All right. And that was also in your attorney's office;



isn't that correct?

A. Yes.

Q. Now, when did you come to Denver?

A. Monday.

Q. And would that be the 19th?

A. Yes.

Q. Okay. And that was Monday in this week; is that correct?

A. Yes.

Q. All right. And did we meet in your hotel room on May the 19th?

A. Yes.

Q. And who was present at that meeting?

A. You and my attorney and -- I can't recall who else.

Q. The three of us, wasn't it?

A. Yes.

Q. And at that time, did we discuss what your testimony was going to be?

A. Yes.

Q. And at that time, we also discussed some of the description, as you testified before; isn't that correct?

A. Yes.

Q. And were you shown a photograph of Timothy McVeigh at that time?

Daina Bradley - Direct

A. Yes, I was.

Q. Okay. I'm going to show you what's previously been admitted as Government's Exhibit 421 and ask you if that's the photograph that I showed you on May the 19th.

A. Yes.

Q. And did I ask you the question if you were absolutely positive that you did not see Timothy McVeigh in or around the Ryder truck on April the 19th, 1995?

A. Yes.

Q. And what was your response?

A. No.

Q. And did I ask you if you were absolutely positive that you did not see Timothy McVeigh in or around the Murrah Building on April the 19th, 1995, and what was your response?

A. No.

Q. And that was after you looked at this photograph; is that correct?

A. Right.

Q. And did I further ask you if you were absolutely positive that the white male you saw get out of the passenger side of the Ryder truck and walk north was not Timothy McVeigh?

A. Yes.

Q. And your answer was yes, it was not; is that correct?

A. Uh-huh.

Q. Now, also on May the 21st, we met again, didn't we?

Daina Bradley - Direct

A. Yes

44. Yes.

Q. And that was on Wednesday, I believe. Did you meet on Wednesday with anyone from the prosecution: Mr. Ryan?

A. Yes. I did.

Q. And did you also meet with some of the other people -- some of the other victims and victims' families that are here in court today or that are here in Denver?

MR. RYAN: I object to this. That's leaving an impression there were victims with me, and that's not so.

MS. RAMSEY: I'm sorry. I'll rephrase it.

MR. RYAN: It was in the hall of the --

THE COURT: All right. She's going to rephrase it.

MR. RYAN: Thank you, your Honor.

BY MS. RAMSEY:

Q. You met with Pat Ryan in the afternoon; isn't that correct?

A. Yes.

Q. And at a different time, you also ran into some of the people that are staying at the hotel that are here in court; isn't that correct?

A. Yes.

Q. And you just had a normal conversation with them; isn't that correct?

A. Yes.

Q. Okay. And then we also met on the 21st; isn't that correct?

Daina Bradley - Direct

A. Yes.

Q. In my office?

A. Yes.

Q. And who was present at that meeting?

A. Me and my attorney and you.

Q. Okay. And we talked for how long?

A. Not even an hour and a half.

Q. Okay. Just a short time?

A. A short time.

Q. And we were going back over your testimony, weren't we?

A. Yes.

Q. And at that time, what did you tell me about the white male that got out of the passenger side of the vehicle that walked north? Do you recall?

A. No.

Q. Okay.

A. I don't recall.

Q. Did you tell me that it was not Timothy McVeigh?

A. Yes, I did.

Q. But that you had talked to Mr. Ryan and had told him that you were not sure?

A. Yes, I did.

Q. All right. Now, did we meet again yesterday afternoon?

A. Yes.

Q. And in that meeting which -- how long did that meeting

Daina Bradley - Direct

take?

A. No more than a couple of minutes or so.

Q. And who was in that meeting?

A. You, me, and my attorney.

Q. And we were again discussing what your testimony was going to be today, weren't we?

A. Yes.

Q. Okay. Now, when we talked yesterday, did you advise me that as -- that you did not get a good look at the person who got out and walked across the street very rapidly?

A. Yes, I did.

Q. Did you also tell me that you -- from what you saw, that the person who got out of the Ryder truck was not Timothy McVeigh?

A. Yes.

Q. But that you didn't get a good look?

A. Right.

Q. Okay. When we met -- or let me rephrase that. From the time that you first met with the FBI, which was on May the 3d and the 4th of 1995, until May the 16th of 1997, you had never advised anyone that there was anyone other than one olive-complexion male that got out of the vehicle; is that correct?

A. Yes.

Q. Since we -- since you knew that you might have to testify

Daina Bradley - Direct

and -- when we met on May the 16th was the first time that you have ever advised anyone that there was another person possibly in the vehicle; is that correct?

A. Yes, I did.

MS. RAMSEY: Your Honor, if I might have a moment?

THE COURT: Yes.

BY MS. RAMSEY:

Q. Perhaps my questions and your answers are not clear as to no means yes or yes means no.

When we -- when you first talked with the FBI, you told them you never identified Timothy McVeigh or the sketch of John Doe 1; isn't that correct?

A. I don't recall; because at that time, I don't even remember half of the things that I said when they did the interview.

Q. You only identified the olive-skinned person as getting out of the truck?

A. Right.

Q. You did not see anyone else get out of the truck?

A. True.

Q. Okay. Then on -- when you had the telephone conversation with Wilma Sparks, you did not say anyone else got out of the truck other than the olive-skinned male; correct?

A. Yes.

Q. And it was not until May the 16th, 1997, that you told anyone that there was a second person who might have gotten out

Daina Bradley - Direct

of the truck?

A. Yes.

Q. Or who did get out of the truck?

A. Yes.

Q. Okay. And you have never said that Timothy McVeigh was the person who got out of the truck; isn't that correct?

A. Yes.

MS. RAMSEY: No further questions at this time, your Honor.

THE COURT: Mr. Ryan.

MR. RYAN: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. RYAN:

Q. You doing okay? Are you all right?

A. I need to talk to my lawyer.

THE COURT: All right. We'll take a brief recess to accommodate that request. You may step down at this time.

Members of the jury, while it's early, we'll go ahead and take the morning recess as requested by the witness so that she may talk with her lawyer. And during this time, of course, please do not talk about anything connected with this case, what's happening here in the courtroom or has happened in the past, and remembering your obligation to maintain open minds. And avoid, of course, any discussion about anything that relates to the case as well as anything in any communication or

Daina Bradley - Cross

publication outside the evidence.

You're excused now, and we'll assume about 20 minutes, but it depends upon the witness and her lawyer.

(Jury out at 9:47 a.m.)

THE COURT: We'll recess subject to call.

(Recess at 9:47 a.m.)

(Reconvened at 10:10 a.m.)

THE COURT: Please be seated.

Are we ready to proceed?

MR. NIGH: Yes, your Honor.

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

THE COURT: All right. Ms. Bradley, are you ready to proceed?

THE WITNESS: Yes.

THE COURT: All right. Mr. Ryan?

MR. RYAN: Thank you, your Honor.

BY MR. RYAN:

Q. Did you have a chance to talk to your lawyer?

A. Yes.

Q. Did you have a chance to talk to your lawyer?

A. Yes, I did.

Q. Okay. Are you ready to proceed?

A. Yes, I am.

Q. I'm sorry to have to be asking you some questions now, but

Q. I'm sorry to have to be asking you some questions now, but if you'll bear with me.

Daina Bradley - Cross

A. Yes.

Q. Okay. Now, I met with you for the first time two days ago; is that right?

A. Yes.

Q. And do you remember that I called your lawyer and asked if it would be all right with her for me to visit with you for a little bit?

A. Yes, you did.

Q. And when I met with you, it was in your lawyer's room at the hotel?

A. Yes.

Q. And I had a special agent of the FBI with me, Mr. Michalic. I introduced you to him?

A. Yes, you did.

Q. Your lawyer was present for the entire interview?

A. Yes.

Q. Before I ever met with you or before Ms. Behenna met with you, you had told, apparently, Ms. Ramsey that you saw two men on the morning of the 19th. Do you remember that?

A. Yes. Yes, I did.

Q. Excuse me?

A. Yes.

Q. In other words, when you talked to me, it wasn't the first time you said there were two men. You had told Mrs. Ramsey that before; that there were two men that you saw.

Daina Bradley - Cross

A. Yes.

Q. And there were no victims present with me and the FBI agent who met with you and your lawyer, were there?

A. No, they were not.

Q. And has anybody tried to get you to change any of your testimony?

A. No, they have not.

Q. Has any victim tried to get you to do that?

A. No, they have not.

Q. Did anyone from the prosecution or the FBI try to get you to change anything that you remember?

A. No, they did not.

Q. When I met with you on Wednesday, you told me that there were two men and that I asked you to describe the second man who was running across the street, didn't I?

A. Yes, you did.

Q. And you told me he had kind of a baby face and was clean-shaven?

A. Yes.

Q. And then I asked you if -- from what you could see, did it look like Timothy McVeigh?

A. Yes, you did.

- Q. Remember that?  
A. Yes.  
Q. And do you remember what you said?

Daina Bradley - Cross

- A. I said that -- that I was not certain, probably and probably not. I didn't give a yes-or-no answer to it.  
Q. You told me that there was nothing that you saw about the man that ran across the street that was different than what you could see when you looked at Mr. McVeigh. There weren't any differences that you could see.  
A. Yeah.  
Q. Now, you told the FBI from the very beginning in this case that you did not have a good memory, didn't you?  
A. Yes, I did.  
Q. The very first time they came and talked to you, you said, "I've been through a lot of trauma, I've been through a lot of things in my life"?  
A. Yes.  
Q. "And I just don't have a good memory of these events"?  
A. Yes.  
Q. And that's true, isn't it?  
A. Yes, it is.  
Q. Do you remember that when you were in the hospital there that there was a lot of news coverage about this John Doe 2 person?  
A. Yes, there was.  
Q. And you had a television in your room, didn't you?  
A. Yes, I did.  
Q. And in fact, the newspaper in Oklahoma City -- they were

Daina Bradley - Cross

- writing articles about you the week the FBI came and visited you. Do you remember that, the article they wrote about you and your mother, the fact that you had lost your two children?  
A. Yes, they did.  
Q. And do you recall that in the newspaper, the week that you saw the FBI, there were sketches --  
A. Uh-huh.  
Q. -- of this John Doe 2 person that you talked about today?  
A. Yes.  
Q. Do you recall that?  
A. Yes, I do.  
Q. I'm going to put on the -- you have a computer screen there at your desk. If you'll look down at the top of your desk there. Do you see it?  
A. Uh-huh.  
Q. I'm going to put before you what is -- what I've marked as Government's Exhibit 1646, which is a newspaper from the Daily=20 Oklahoman dated May 2, 1995. Can you see the date there?  
A. Uh-huh.

Q. I'll zoom in a little bit for you.  
A. Yes.  
Q. Do you see that?  
A. Yes, I do.  
Q. Now, that's the day before the FBI came to see you, isn't it?

Daina Bradley - Cross

A. Yes, it is.  
Q. And in this -- did you read this paper and see this sketch that I've got on the ELMO, on your screen there?  
A. No, I didn't. I didn't read it, but I -- I have seen the sketch in the paper.  
Q. Excuse me?  
A. I had seen -- yes, I had seen the sketch.  
Q. You'd seen this exact sketch?  
A. Yes, I did.  
Q. And why don't you read to yourself, if you would, what it says about the description of this man with the baseball cap. Read what it says there in the newspaper the day before --  
A. You mean the picture?  
Q. Read to yourself, not out loud.  
Did you finish?  
A. Yes.  
Q. Now, had you seen this sketch and read the information that is below the sketch?  
A. Yes.  
Q. Excuse me?  
A. Yes, I read it.  
Q. Yes.

MR. RYAN: Your Honor, we would move into admission the sketch and the description following the sketch into evidence as part of Exhibit 1646; and I'll redact the rest of

Daina Bradley - Cross

the paper at a later time, if that's permissible.  
MS. RAMSEY: Your Honor, I don't believe a proper foundation has been laid. I don't know -- is it because she just read it now, or she read it at that time?  
THE COURT: I think there should be that clarifying question. It wasn't clear to me, either.

MR. RYAN: Apologize.

BY MR. RYAN:  
Q. The question that we're talking about, Mrs. Bradley, is did you see this sketch and this information that's on your screen there before the FBI came to see you for the first time on May 3?  
A. No, I didn't.  
Q. Oh, okay.  
MR. RYAN: I'll withdraw my offer, then.  
THE COURT: All right.

BY MR. RYAN:

BY MR. RYAN:

Q. I misunderstood you.

Now, when the FBI came to see you, though, the information that you gave them was very similar to the information that's written here under this sketch?

A. Yes, it is.

Q. You told the FBI that the man was wearing a baseball cap; right?

A. Right.

Daina Bradley - Cross

Q. Just like the paper showed the day before they interviewed you?

A. Yes.

Q. And you told the FBI the man was tanned, didn't you?

A. Yes.

Q. Excuse me?

A. Yes, I did.

Q. And it says right here the very same information, doesn't it, tan?

A. Yes.

Q. It doesn't say olive-skinned, does it?

A. No.

Q. Excuse me?

A. No, it doesn't.

Q. And you didn't tell the FBI olive-skinned the first time you met with them, did you?

A. No, I didn't.

Q. You told them tanned?

A. Right.

Q. And you told the FBI the man was thin, didn't you?

A. That -- excuse me?

Q. That the man was thin. "Slim" I believe was the word you used.

A. Slim, yes.

Q. You never said he was short and stocky, did you?

Daina Bradley - Cross

A. No, I didn't.

Q. You've never said that at any time, have you?

A. No, I haven't.

Q. Now, later when you were interviewed, you changed from tan-skinned to olive-skinned.

A. Yes, I did.

Q. Now, you had a really rough childhood, haven't you?

A. Yes, I have.

Q. You were in a psychiatric home, hospital, when you were 7 years old?

A. Yes, I was.

Q. And you were in a -- a mental health facility from the age of 7 until the age of 16; is that right? Smally's in Norman?

A. Yes, I was.

Q. Were you given a lot of medication during those years?



Q. Were you given a lot of medication during those years?

A. Yes, I was. A lot.

Q. Excuse me?

A. Lots.

Q. How would you describe the effect the medication had on you?

A. It had caused me to lose memory of who I was and people around me.

Q. And you were depressed?

A. I was depressed.

Q. And you were there for a very long time.

Daina Bradley - Cross

A. Yes.

Q. And have you received any therapy since the bombing in which you lost your mother and two children?

A. At a shorter time but not long enough to speak of. A lot -- to explain -- to tell people what is really going on and how exactly I feel: I didn't get that time to do that.

Q. Do you think you need some more counseling and treatment?

A. Yes.

Q. Do you recall which way the truck was facing when you saw it on the morning of the 19th?

A. Yes. It was -- the best I can describe it, your Honor, because I'm not good with directions --

THE COURT: All right.

THE WITNESS: Is that this -- this is the glass, and it was -- the front of it was parking -- parked -- it was in like towards the doors, the front doors of the federal building, the opposite side of where it's supposed to park, which is west instead of when it's supposed to park east because it's a one-way street.

BY MR. RYAN:

Q. Okay. 5th Street in front of the Murrah Building is a one-way street going east. Do you know that?

A. No, not really.

Q. You know where the YMCA is?

A. Yes.

Daina Bradley - Cross

Q. Does the street run from the Murrah Building towards the YMCA, or the other way?

A. I can't exactly remember.

Q. Okay. Do you know where the Regency Tower is?

A. It's -- yeah, it's going that way.

Q. Yes. Was the truck facing the Regency Tower?

A. Yes.

Q. Okay.

A. The Regency.

Q. So the truck was heading west. If west is -- Regency Tower is west of the Murrah Building, the truck was heading west?

A. Right.

Q. And you know that that street is a one-way street going the

other way?

A. Right. And that's what made it so unusual, for one thing.

Q. Were there other cars around the truck?

A. Yes, there was.

Q. Were they going the opposite way, or the same way as the truck?

A. They were going the opposite way. They were going the right way.

Q. And only the truck was going the wrong way?

A. Right.

Q. Now, how large was this truck?

A. It was a -- I'd say medium size, half truck, which would

Daina Bradley - Cross

probably only fit about a few things in it. It's -- it's not one of the long ones. It's one of short, short ones.

Q. Okay. Now, when you saw the man get out of the truck, the one that when you said for a long time there was just the one man, which direction did he walk in?

A. He walked towards the same facing that the truck was faced, which is towards the Regency Tower.

Q. So the man walked towards the Regency Tower?

A. Yeah. He was -- yeah. He was walking on the sidewalk that way.

Q. Okay. And did you ever tell the defense investigators that you thought he walked east towards the YMCA?

A. No, I didn't.

Q. Okay.

A. I don't recall.

Q. Now, later after you talked to the FBI, you added the purple flames to the hat, didn't you? You didn't tell the FBI that, did you, about the flames?

A. I don't recall what I had said.

Q. Okay. Do you -- you were asked a lot of questions by Ms. Ramsey from the defense about what you recall about different interviews. Do you really recall what you told anyone at any interview? Do you have a clear recollection of what you told anybody during these interviews?

A. Yes and no. I don't recall. I don't recall much

Daina Bradley - Cross

sometimes.

Q. All right.

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

THE COURT: Yes.

MR. RYAN: May I have just a second?

THE COURT: Yes.

BY MR. RYAN:

Q. If I asked you a bunch of questions about what everybody looked like, what these men looked like or how many there were, would you be able to answer those with a clear memory?

A. About what they looked like and how many?

Q. Yes. Do you know like, for example, how many people there were? Are you sure about that, even?

A. I'm sure that there were two.

Q. You are.

A. Yes.

Q. Excuse me?

A. I -- when I first did my first interviews, I don't recall a lot of things at that time. I can -- you can tell me one thing one week, and I would forget the next week.

Q. Okay.

MR. RYAN: Thank you.

THE COURT: Ms. Ramsey, do you have any more questions?

MS. RAMSEY: Just a few questions.

Daina Bradley - Redirect  
REDIRECT EXAMINATION

BY MS. RAMSEY:

Q. Ready to start?

A. Uh-huh.

Q. I'm just going to ask you a few more questions. I want to show you on your screen what has not been admitted as Defendant's Exhibit G6. Do you recall that drawing?

A. Yes, I do.

Q. And you drew that when you met with the FBI on the second occasion; isn't that correct?

A. Yes, I did.

Q. All right. And you showed -- what is this? Can you tell us what's on that?

A. That is the drawing of the truck, and it is the drawing of the man who was walking on the sidewalk.

MS. RAMSEY: Your Honor, we would move for the admission of G6.

MR. RYAN: May I speak to Ms. Ramsey for a moment, your Honor?

THE COURT: Yes. Yes.

MS. RAMSEY: We would move for the admission.

THE COURT: Mr. Ryan?

MR. RYAN: No objection, your Honor.

THE COURT: All right. G6 is received in evidence.

BY MS. RAMSEY:

Daina Bradley - Redirect

Q. And on that drawing, would you please advise -- did you write this, the writing right here?

A. Yes, I did.

Q. Okay. And would you read that to the jury?

A. I walked by myself the whole time, did not watch the whole time.

Q. It said, "Walked by himself but did not watch the whole time," which means you didn't watch it the whole time. Isn't that correct?

A. Yes. And I indicated that to him when he came and

A. Yes. And I indicated that to him when he came and questioned me.

Q. You don't recall everything that you wrote -- or everything that you talked to anybody about in any of the interviews, do you, word for word?

A. Not word from word, no, I don't.

Q. You told the FBI when you first talked with them on May 3 and the 4th that the person had on a baseball cap, didn't you?

A. Yes, I did.

Q. Did anyone ever ask you to describe the cap that you recall on that interview?

A. Yes, it was described.

Q. You don't have any control over what's written down in somebody else's report, do you?

A. No, I do not.

Q. And you've always maintained that this was a Ryder truck;

Daina Bradley - Redirect

isn't that correct?

A. Yes, I did.

Q. And you've never varied from what you've said with regard to the olive-skinned person walking to the back of the truck and then coming to the front of the truck and walking away. Isn't that correct?

A. I don't recall I -- from my recollection, I remember seeing olive complexion.

Q. No, but I mean he wasn't to the back of the truck, came to the front of the truck and then went off in another direction?

A. Yes.

Q. I think I asked you on direct examination, you're not very good at directions, are you?

A. No, I'm not.

Q. A lot of people aren't very good at directions. And the first time that you ever stated that it could or could not have been Timothy McVeigh as the second person was when you met with Mr. Ryan; isn't that correct?

A. Yes, I did.

MS. RAMSEY: No further questions, your Honor.

MR. RYAN: Nothing further, your Honor.

THE COURT: All right. Is the witness to be excused?

MS. RAMSEY: Yes, your Honor.

THE COURT: Agreed, Mr. Ryan?

MR. RYAN: Yes, your Honor.

THE COURT: All right. You may step down, and you're excused. That means you can go home.

MS. RAMSEY: Your Honor, I would request also that her lawyer be excused at this time.

THE COURT: Yes. Certainly.

All right. Next witness?

MR. NIGH: Scott Crabtree, your Honor.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Scott Crabtree affirmed.)

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

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

THE WITNESS: Scott Crabtree, C-R-A-B-T-R-E-E.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. JONES:

Q. Mr. Crabtree, where do you live now?

A. In Gypsum, Kansas.

Q. And are you a special agent of the Federal Bureau of Investigation?

A. Yes, sir, I am.

Q. How long have you been a special agent?

A. Almost 14 1/2 years.

Q. And in April of 1995, were you with a resident office or a field office as it's sometimes called?

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A. Yes, sir, I was in the Salina resident agency, that's correct.

Q. What is a resident agency?

A. It's a just satellite office out of a bigger field division that covers less populated of the territory within the federal division.

Q. But your duties as a special agent are the same?

A. Correct.

Q. All right. And in this case, you were a part of what division? Kansas City?

A. Kansas City division, sir.

Q. And you maintained an office in the Salina area?

A. In Salina itself, yes, sir.

Q. Now, on April 19 of 1995, Mr. Crabtree, did you receive an assignment with respect to the Oklahoma City bombing?

A. Yes, sir, I did.

Q. And how did that come about?

A. I received a call from the Miami division that the truck believed to be used in the bombing had been rented from Elliott's Body Shop in Junction City, and I was instructed to go pick up the documents and get them forwarded to headquarters.

Q. And before leaving your office to do that, did you make any telephone calls?

A. Yes, I did.

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Q. And what did you do?

A. I called Elliott's Body Shop to tell them that I was on my way, and I called my office to tell them that I was leaving.

Q. And who did you speak with at Elliott's Body Shop?

A. I believe Vicki Beemer answered the phone, and I eventually got on the phone with Eldon Elliott, the owner.

Q. And then did you leave to go to Junction City?

A. Yes, sir, I did.

Q. And what time did you arrive?

A. Approximately 4:30.

Q. When you were speaking with Ms. Beemer or Mr. Elliott before you left, did you tell them what the reason for your trip there was?

A. Yes, sir, I did.

Q. What did you tell them?

A. I told them that we believed that a truck that could have been used in the bombing had been rented from there; that we needed to come and secure the documents that were involved within the rental of that vehicle, and that I would like to talk to the people that would have been around during the time that that vehicle was rented.

Q. About how long did it take you to get there?

A. Maybe 50 minutes or so, sir.

Q. Did you say 15, or 50?

A. 50, sir.

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Q. 50. You went up I-70?

A. Yes, sir.

Q. And when you arrived at Elliott's, you were the only special agent?

A. That is correct, sir.

Q. And did you speak with someone?

A. Yes, sir, I did.

Q. Who did you speak with first, Mr. Crabtree?

A. Eldon Elliott.

Q. And did you obtain the documents?

A. Yes, sir, I did.

Q. And after you obtained the documents, did you have further conversation with Mr. Elliott?

A. Yes, sir, I did.

Q. All right. And did you ask him to describe Mr. Kling?

A. Yes, sir, I did.

Q. And what did he say to you?

A. That he was a white male; 5' 10"; average build; short, light brown hair; and a military's type haircut. Wasn't sure about what clothing he was wearing at the time, but we discussed that further and said it was possible he might have been in some kind of fatigues; but he wasn't certain, because there had been a number of people in the office that particular day in that type of attire.

Q. You say "that day." Was he referring to Monday, or

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Saturday?

A. Monday, sir.

Q. All right. Now, during the meeting that you had with him there on the 19th, at that time did he tell you that he had also met with Kling on Saturday?

A. No, sir, he did not.

Q. So he just told you then about the Monday meeting?

A. Correct. That's what I asked him about, sir, the contract rental date

rental date.

Q. And that meeting was on the 17th?

A. That is correct, sir.

Q. Now, during this meeting that you had with him there on the 19th in the afternoon, when you say he said the person might be wearing fatigues, did you understand that to be Army fatigues?

A. Yes, sir.

Q. All right. And he told you that he could not be certain exactly of the attire on that day?

A. That is correct, sir.

Q. And the reason that he gave for not remembering was what?

A. There had just been a number of people in the office that day in that attire, and he didn't know if it was one of those people or not. He just was not certain about the attire.

Q. He told you there had been a number of people in the office that day?

A. Yes, sir.

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Q. Did he say what those people were doing?

A. No, sir, and I didn't ask him. There is a body shop and a Ryder rental, so I presumed it was something to do with that.

Q. Did you check his records to see how many people had or had not been in the office on Monday, the 17th?

A. No, sir.

Q. All right.

A. I did not.

Q. Now, the description that he gave, as I understand it, was 5' 10" and you said average build?

A. Yes, sir.

Q. Did he say average, or medium?

A. He might have said medium, sir.

Q. All right. And did he also tell you at that time that he could not recall hearing Kling's voice?

A. He told me he couldn't recall if he had heard it or not. That's correct.

Q. How long did Mr. Elliott say that his meeting or contact with Kling had been on Monday, the 17th?

A. He had been in the office when the -- Mr. Kling or the renter, whoever was there, completing the rental agreements. He in fact had gone outside to do a damage estimate on the vehicle, so he had been outside a good portion of the time, but that the renter was in the shop that day.

Q. Well, he told you, didn't he, that the opportunity to view

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Kling on the 17th was very quickly?

A. Right. He had to go outside and do the damage estimate. That's correct.

Q. And that he had just a quick view of him?

A. On that date, that's correct.

Q. Yes. Now, when was the next time you interviewed Mr. Elliott. Mr. Crabtree?

-----, ---- -----  
A. Would have been the next morning, on the 20th.  
Q. All right. And that would have been Thursday morning?  
A. Yes, sir.  
Q. All right. Now, where did you interview him first then?  
A. On the 20th, sir?  
Q. Yes, sir.  
A. That was at the Criminal Investigative Command at Fort Riley.  
Q. Now, what did you learn from Mr. Elliott on that occasion concerning the transaction involving Kling?  
A. That Mr. Kling had come in on Saturday and had paid for the rental of the vehicle in full.  
Q. Now, who first told you about the Saturday transaction, Vicki Beemer or Eldon Elliott?  
A. Vicki Beemer mentioned it.  
Q. Now, when you spoke with Mr. Elliott on the 20th, did he have a better description of Mr. Kling than he had had on the 19th?

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A. Yes, sir.  
Q. And on the meeting on the 20th, did Mr. Elliott describe for you, sir, the clothing that Mr. Kling wore on Saturday?  
A. Yes, sir.  
Q. And by Saturday, I mean April 15.  
A. Correct, sir.  
Q. All right. Now, what did he tell you on the 20th about Mr. Kling's clothing on Saturday?  
A. That it could have been like a camel shirt and green slacks.  
Q. Well, did he say a camel shirt, or a camouflaged shirt?  
A. Probably a camouflage color.  
Q. All right. I'm sorry. What else did he say to you, sir?  
A. Regarding clothing?  
Q. Yes.  
A. That was it as far as the 15th goes.  
Q. And what did he say about the clothing on the 17th, when you met with him on the 20th?  
A. After discussing what he was wearing on Saturday, he said he did not have any recollection of what he was wearing on Monday. I asked him about it again later in the interview, whether it was possible that he might have had something similar to what he had had on Saturday, and he said it was possible.  
Q. And did he also tell you that he couldn't be positive

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because the contact on Monday had been so short?  
A. That is true.  
Q. Now, when you interviewed Mr. Elliott on Saturday -- on the 20th, Thursday morning, what, if any, physical description did Mr. Elliott provide of the man who had come by to pay for the



truck on Saturday?

A. Said he was a white male; 5' 10" to 5' 11"; 180 to 185 pounds; medium build; short, light brown hair; believed he was right-handed, and would estimate his age to be in late 20's.

Q. All right. And also that he was 180 to 185 pounds?

A. I think I said that, sir. If I didn't, I'm sorry.

Q. All right. Now, during that interview, the one on Thursday, the 20th --

A. Yes, sir.

Q. -- did Mr. Elliott tell you how many people had been in the shop on Monday during the transaction with respect to the Ryder truck in question?

A. Yes, sir.

Q. And what did he say, sir?

A. He said there had been two people.

Q. And did he describe to you or give you some description of the second person?

A. Yes, sir.

Q. And what description was that?

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A. He said he was a white male, 5' 7" to 5' 8", wearing a blue and white baseball cap.

Q. Were there stripes on the cap?

A. That was the way he described it, blue and white in the back and kind of striped toward the back.

Q. All right. So the stripes were blue?

A. I guess. Since they're interspersed, it depends which way you're looking at it. Blue and white towards the back, however you want to characterize it.

Q. Now, did Mr. Elliott describe in that meeting that you had with him, sir, any unfamiliar vehicles that he had seen?

A. I asked him if he had any recollection of any vehicle that might have been around that he couldn't account for, and he said he thought he had seen a medium -- or fair-sized, light blue sedan.

Q. And when he is describing to you this fair-sized, light blue sedan, did he say when he had seen that?

A. Not specifically. We were talking about that time, so I presume that it must have been somewhere around the time that Mr. Kling would have been there; but I don't know for a fact, sir.

Q. Are we talking about the time on Saturday or the time on Monday?

A. I believe on Monday.

Q. Now, did you ask Mr. Elliott at that time, Mr. Crabtree, if

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he had discussed Mr. Kling's appearance with anyone else in his business?

A. No, sir, I did not.

Q. Did he tell you that he had discussed it with anyone?

A. No, sir, he did not.

Q. When you called Elliott's Body Shop on the afternoon of the 19th and spoke first with Ms. Beemer and then with Mr. Elliott --

A. Uh-huh.

Q. -- in that initial conversation on the phone, did you ask either one of them not to discuss the incident with co-workers?

A. Yes, I did.

Q. And the reason for that was you didn't want them to cross-fertilize each other's opinion?

A. Yes, sir.

Q. All right. Now, did you also give any admonition to them about not touching the paperwork?

A. Yes, sir, I did.

Q. And the reason for that?

A. So the -- any fingerprints that might be on the document wouldn't be obliterated.

Q. Mr. Crabtree, when you interview someone in your official capacity as a special agent of the FBI, you make a report of that interview, do you not?

A. Yes, sir.

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Q. And what is that form called?

A. It's a FD302.

Q. And these reports are made by you as soon as you can after the meeting that's convenient with your schedule?

A. Yes, sir.

Q. You take notes during the meeting, and then you go someplace and dictate a report?

A. Correct.

Q. All right. And I take it as an FBI agent, you try to put everything of significance in the report?

A. Yes, sir.

Q. Now, you didn't tape-record your interviews with either Mr. Elliott or Ms. Beemer, did you?

A. No, sir, I did not.

Q. So the only contemporaneous report we have of your recollection that's written or documented in some way is this FBI 302?

A. Correct.

Q. All right. Now, when you made up your -- I shouldn't say "made up." When you wrote or dictated your FBI 302's of these conversations that you had on the 19th and 20th with Mr. Elliott and Ms. Beemer, did you make a note that you had given them an admonition to avoid media coverage of the event and not to discuss what they knew or thought they knew with their co-workers?

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A. No, sir, I did not.

Q. But in any event, the reason you would have given them such

Q. But in any event, the reason you would have given them such an admonition would be so that whatever they saw would not interfere with their later ability to assist you in identifying the individual at that time known to you as Kling?

A. Correct.

Q. All right. Now, when you talked with Mr. Elliott on Wednesday and Thursday and with Ms. Beemer, did you talk to her on Wednesday, too?

A. Yes, sir, I did.

Q. And on Thursday, at that time Mr. McVeigh had not been arrested, had he?

A. No. We didn't even have his name, sir.

Q. Right. He wasn't arrested -- when I say "arrested," by the federal authorities. He wasn't arrested by the federal authorities until when, sir?

A. I believe Friday morning.

Q. All right. Now, after Mr. McVeigh was arrested on Friday at whatever time it was by the federal authorities, did you call Mr. Elliott or Ms. Beemer or anyone else at the body shop and tell them to avoid media coverage so as not to interfere with their later ability to select Mr. Kling from a lineup or photo spread?

A. No, sir, I did not.

Q. You would agree with me that a true memory of the witness

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is extremely important in identifying someone?

A. Yes, sir.

Q. And you want that memory to be the product of their memory and not the product of somebody else's memory?

A. Exactly.

Q. Now, you made an FBI 302 report of your interview with Mr. Elliott for both the April 19 and the April 20 interviews. Is that correct?

A. That is correct, sir.

Q. And you have reviewed those, have you not?

A. Yes, sir.

Q. You're generally familiar with them?

A. Yes, sir.

Q. All right. Do you have them in front of you?

A. No, I do not, sir.

Q. Just a moment. Let me get you a copy.

Do you have a notebook next to you?

THE COURTROOM DEPUTY: C book?

MR. JONES: Yes. C book.

BY MR. JONES:

Q. Now, if you'll turn in that notebook to No. C61 and C62, I believe those are the two I was just asking you about.

A. Okay. I've got them.

Q. All right, sir. Now, is there any mention in your interview with Mr. Elliott on 4-19 or your interview with him

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on 4-20 where Mr. Elliott told you that Mr. Kling was leaning against the counter?

A. No, sir, I don't believe so.

Q. All right. And in reviewing these two 302's and reports of these two interviews with Mr. Elliott, is there anywhere in the report, Mr. Crabtree, where you wrote that Mr. Elliott was uncertain of the height of Mr. Kling or that there was any obstacle in preventing him in determining his height?

A. No, sir, there is nothing in the reports to that effect.

Q. All right. And is that because he did not tell you anything about that at that time?

A. That's correct.

Q. All right. Now, no other agent interviewed Mr. Elliott on the 19th other than yourself?

A. That's correct.

Q. Now, I want to talk with you just a moment about your interview with Ms. Beemer. When you got to Elliott's that afternoon, who did you interview first, Mr. Elliott or Ms. Beemer?

A. Mr. Elliott, sir.

Q. And then you interviewed Ms. Beemer?

A. Yes, sir.

Q. And where did that interview take place?

A. Both of those interviews took place in Mr. Elliott's office, off the side of the lobby.

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Q. Was there anyone else present other than you and the person being interviewed?

A. No, sir.

Q. So Ms. Beemer waited outside while you talked to Mr. Elliott?

A. Yes, sir.

Q. And vice versa.

A. Yes, sir.

Q. All right. Now, did -- to your recollection, did Ms. Beemer say anything to you on the 19th about her and Mr. Elliott hearing a description of Mr. Kling from another employee by the name of Tom Kessinger?

A. No, sir.

Q. She did not tell you that?

A. No, sir.

Q. All right. And I take it Mr. Elliott did not tell you that.

A. No, sir.

Q. Did you have a discussion with Ms. Beemer, or could you tell from your documents when the contract was executed on April 17?

A. I believe it was on or about 4:22 that afternoon.

Q. And did Ms. Beemer tell you that anyone else was present when the truck was rented to Mr. Kling on the afternoon of Monday, April 17?

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MR. MENDELOFF: Objection, your Honor. This is not proper impeachment. This is not the subject of conflicting testimony.

THE COURT: Overruled.

THE WITNESS: Excuse me, sir.

BY MR. JONES:

Q. Do you want me to ask the question?

A. If you wouldn't mind.

Q. You bet. When you were talking with Mrs. Beemer, did she tell you anyone else was present when she rented the truck to Mr. Kling on April 17?

A. Yes, sir, she did.

Q. And when you interviewed Ms. Beemer, did she have any recollection of seeing a driver's license that Kling had given her, or did she say or suggest that he had read the information to her?

A. I believe she said she read the information off the license.

Q. And did she tell you that the name on the license was Robert Kling or Bob Kling? Do you remember?

A. Not off the top of my head.

Q. Now, this is what she told you on April 19; is that correct?

A. Yes, sir.

Q. Which would have been about 48 hours after the event of the

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rental of the Ryder truck by Mr. Kling on Monday, the 17th.

A. Correct, sir.

Q. Now, as an FBI agent, has it been your experience that persons' memories are generally better closer to the event, or further from the event?

MR. MENDELOFF: Objection as to his level of expertise.

THE COURT: Sustained.

BY MR. JONES:

Q. Now, did you also have an interview with an employee by the name of Tom Kessinger?

A. Yes, sir, I did.

Q. And was that the third interview?

A. Yes, sir.

Q. And did that also take place in the office?

A. Yes, sir.

Q. And it was just you and Mr. Kessinger?

A. Yes, sir.

Q. I will take it the door was shut?

A. Yes, sir.

Q. And what description did Mr. Kessinger provide to you of Kling?

MR. MENDELOFF: Objection, your Honor.

THE COURT: Sustained.

BY MR. JONES:

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Q. Mr. Crabtree, when you were there on the 17th -- strike that.

When you were there on the 19th, were you aware at that time that Mr. Elliott and Mrs. Beemer had had a conversation with Mr. Kessinger about the description of these two men before you arrived?

A. No, sir.

MR. JONES: I reoffer my question, your Honor.

THE COURT: Same objection, same ruling.

BY MR. JONES:

Q. Now, later that day -- actually, I guess early the next morning -- you met with these three individuals again, did you not?

A. Yes, sir.

Q. And that was out at Fort Riley?

A. Correct, sir.

Q. Now, by the time that you met with them again at Fort Riley, there were additional FBI personnel present, were there not?

A. Yes, sir, there were.

Q. And among those was a gentleman that's a sketch artist?

A. That is true.

Q. And what was his name, sir?

A. Ray Rozycki.

Q. And do you want to spell that for Mr. Zuckerman?

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A. Phonetically, sir, or --

Q. Well, just a second. Maybe I can help you.

THE COURT: I believe we have that.

MR. JONES: We'll give it to him later.

BY MR. JONES:

Q. Anyway, he was there?

A. Yes, sir.

Q. Now, he talked first to whom in the preparation of his sketch?

A. Tom Kessinger, sir.

Q. And why did he talk to Mr. Kessinger -- well, let me rephrase it. Did you suggest he talk to Mr. Kessinger first?

A. Yes.

Q. And what was the reason for that?

A. When we discussed it the prior afternoon, he was able to give the best details as to the description of the renter.

Q. Meaning Mr. Kling?

A. Yes, sir.

Q. And what about the second person?

A. Same thing.

Q. So his description in your mind on that morning was better than the other two?

A. Well, on that morning, he came in first, he went in first.

He was able to give a -- I mean what seemed to me a good description from his recollection as to who these people were,

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what they looked like, so . . .

Q. Well, he had a better description or a more complete description of them, didn't he?

A. I guess. I mean I'm not sure exactly what you're --

Q. Well, it was -- you sent him in first to see the artist sketch (sic), didn't you?

A. Yes. He was there first.

Q. Well, but he also was there first because he had given you the most complete description, hadn't he?

A. I don't know that he was at the command -- or Criminal Investigative Command because he gave the best description. I called them all and asked them to come in, and he got there first.

He did provide -- I mean I thought he was able to relate the best description the prior afternoon. I thought that would be important to the artist, yes.

Q. All right. Now, you were aware -- well, let me rephrase that. Are you aware that there was a physical lineup in Oklahoma City on April 22, 1995, in which Mr. McVeigh was in the lineup?

A. I know it now, yes.

Q. Now, were Mr. Kling -- strike Mr. Kling.

Did Mr. Elliott ask to go down and see if he could identify Kling in this lineup?

MR. MENDELOFF: Objection, your Honor. Foundation.

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THE COURT: Sustained.

MR. JONES: I'll withdraw it, your Honor.

BY MR. JONES:

Q. Did Mr. Elliott or Ms. Beemer or Mr. Kessinger go down to the lineup in Oklahoma City on Saturday morning in which Mr. McVeigh was a participant?

MR. MENDELOFF: Objection, your Honor. Foundation. He says he knows it now.

THE COURT: Yes. Sustained.

BY MR. JONES:

Q. Well, do you know now whether they went down?

A. I've heard they did not.

Q. Now, the first discussion that you noted in your reports concerning your advising these witnesses to avoid media contacts is a reference you made on May 2, after you had a conversation with Mr. Kessinger. Is that correct?

A. That's correct, sir.

Q. But your recollection today is that you had told Mr. Elliott and Ms. Beemer not to watch the media or to talk about it with other people.

A. Yes, sir.

Q. After May 2, did you continue to admonish them not to watch the media or to talk to other persons?

A. I'm not sure after May 2 that I ever talked to any of them again, sir.

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Q. All right. And is it true that the only report that you wrote, sir, in which the admonition is contained to these witnesses not to talk to others or to watch the media is in the 302 of your conversation with Mr. Kessinger?

A. On May 2?

Q. Yes, sir.

A. Yes, sir.

Q. Now, when you talked to Mr. Kessinger -- I'm sorry -- Mr. Elliott on your first interview and your second interview, the interviews of April 19 and the 20th, do I understand that Mr. Elliott described the renter's clothing as possibly fatigues or something similar but he was not certain?

MR. MENDELOFF: Objection, compound question. Talking about two interviews, interview days.

MR. JONES: I'll rephrase it.

THE COURT: All right.

BY MR. JONES:

Q. What did he say to you was the clothing of Kling when you interviewed him about Monday?

A. On the 19th?

Q. Yes.

A. Wednesday afternoon, when I interviewed him, we discussed what he might be wearing. He said it was possible it might have been Army fatigues; that he was not certain because there had been a number of people in the shop that day.

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Q. All right. And what did he say to you at that time about the clothing on Saturday?

A. We did not discuss Saturday on that date.

Q. On the following day when you interviewed Mr. Elliott, did you have a discussion with him concerning his clothing on Saturday?

A. Yes, sir.

Q. And what did he say then?

A. That he was wearing possibly a camouflage-type T-shirt and green trousers or slacks.

Q. And then did you ask him about the clothing for the Monday transaction?

A. Yes, sir, I did, immediately after discussing Saturday's, and he said he didn't have any recollection of what he was wearing on Monday.

Q. He told you he was not certain?

A. Right.

Q. Now, when you asked him about the Saturday clothing, he told you, did he not, that Kling was wearing a



camouflage-colored T-shirt and possibly green slacks?

A. Yes, sir.

Q. So he didn't express any uncertainty about the camouflage-colored T-shirt, did he?

A. That attire, the shirt and the pants, was -- it was a suggestion that he gave as to what he could have been wearing

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on Saturday.

Q. Well, when you prepared your report of your interview with him, didn't you record that he told you that on Saturday, Kling was wearing a camouflage-colored T-shirt and possibly green slacks?

A. Yes, sir, that's what's in the report.

Q. And is that an accurate description of what he told you?

A. No, sir. The word "possibly" should have been in front of the shirt and the pants, not just the pants.

Q. And when did you recall that, Mr. Crabtree?

A. What do you mean, sir?

Q. Well, when do you recall that you should have said "possibly" before "camouflage-colored T-shirt and green slacks"?

A. After I went back and looked at the 302 in front of my notes.

Q. Did you review the 302 after it had been dictated?

A. Yes, sir.

Q. In fact, it bears your initials on the first page?

A. Yes, sir.

Q. Which would have been added by you, sir, after you had reviewed it?

A. Yes, sir.

Q. And this is the 302 that was submitted up the chain of command?

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A. Yes, sir.

Q. Now, with respect to your interview with him on Thursday about the clothing on Monday, Mr. Elliott told you that the reason he was uncertain, simply because the contact had been so brief. Isn't that true?

A. Yes, sir. He said he had quick contact on Monday.

Q. Now, did Mr. Kessinger give you a description of what clothing Kling had on Monday?

MR. MENDELOFF: Objection.

THE COURT: Well, that's not objectionable.

MR. MENDELOFF: All right.

THE COURT: You may answer that question.

THE WITNESS: Yes, sir.

He said it was --

THE COURT: No, that's a yes-or-no question.

THE WITNESS: Excuse me, sir. Would you ask it again?

BY MR. JONES:

O. Sure. I think my question was when you were there on

Q. Sure. I think my question was when you were there on Thursday at Fort Riley, did Mr. Kessinger give you a description of the clothing that Mr. Kling was wearing?

A. No, sir.

Q. Did Mr. Kessinger give you a description of the clothing that Mr. Kling was wearing when you interviewed him on Wednesday, the 19th?

A. Yes, sir.

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Q. And what description of the clothing did he give you at that time?

MR. MENDELOFF: Objection.

THE COURT: Sustained.

BY MR. JONES:

Q. Now, was there an occasion in which Mr. Kessinger met with an individual by the name of Jeanne Boylan?

A. Yes, sir.

Q. And that was on April 29?

A. I believe so, sir.

Q. And where did that take place?

A. That would have been also at the Criminal Investigative Command at Fort Riley, sir.

Q. Before the April 29 meeting of Mr. Kessinger with Jeanne Boylan, did Mr. Kessinger tell you that his primary view --

MR. MENDELOFF: Objection as to what Mr. Kessinger told him.

THE COURT: Well, we have to take this a step at a time.

Obviously, I'm sustaining hearsay objections to what Mr. Kessinger said to anybody.

MR. JONES: I understand you are, and I'm just making my record, if the Court please. I don't want to do it unnecessarily.

THE COURT: Well, I am -- you know, it isn't hearsay

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as to whether somebody talked with him. What he said is.

MR. JONES: Well, may I just ask this? If I were to ask this witness a series of questions about what Mr. Kessinger told him about Robert Kling and John Doe 1 and the physical description and the clothing on April 19 and 20 when he was interviewed and with the sketch artist, the Court would sustain those objections?

THE COURT: As hearsay, yes.

MR. JONES: All right, sir. Now, I'm not offering them for hearsay.

THE COURT: Well, if they're not for the truth of the matter --

MR. JONES: They are not.

THE COURT: Well, they would only be relevant at this time for the truth of the matter.

MR. JONES: All right. Well, I'm sure -- I'll

proceed, then.

THE COURT: All right.

BY MR. JONES:

Q. Now, the sketch that was prepared by -- is it Special Agent Rozycki?

A. No, I think his title is -- it's a VIA are the initials, like Visual Investigative Assistant, or something like that.

Q. Well, we'll give him the neutral title of "Mister."

Was the sketch that was prepared by Mr. Rozycki based

Scott Crabtree - Direct

upon the description given to him by Mr. Kessinger?

MR. MENDELOFF: Objection. Foundation. We haven't found out whether he's there or not.

THE COURT: Well, you will have to establish the foundation.

MR. JONES: All right.

BY MR. JONES:

Q. Do you know whether the sketch that Special Agent Rozycki made was based upon what Mr. Kessinger told him?

A. Mr. Rozycki interviewed him and prepared the sketch, so I would suppose that to be the fact, sir.

Q. Did you show the sketch to either Ms. Beemer or Mr. Elliott?

A. No, sir.

Q. Do you know if someone did?

A. Mr. Rozycki might have. I do not know, sir.

Q. All right.

MR. JONES: I believe that's all I have of you, Mr. Crabtree, that I wanted to question you about, but let me just check here for a moment and be sure.

Yes, that's correct. Thank you, sir.

THE WITNESS: Thank you.

THE COURT: Mr. Mendeloff, do you have some questions?

MR. MENDELOFF: Yes, your Honor. Thank you.

CROSS-EXAMINATION

Scott Crabtree - Cross

BY MR. MENDELOFF:

Q. Agent Crabtree, when you first talked to Eldon Elliott on the 19th in the afternoon, did you focus your questions on any particular date and event?

A. Yes. On the date that the truck was actually rented and the agreement was signed.

Q. Did you ask him about any other date or event, other than that?

A. No. No, sir. At the time I interviewed him, I didn't know to.

Q. I believe you testified this was about 50 minutes after you first called them to tell them you were coming?

A. Yes, sir.

Q. Now, you were asked a series of questions regarding what

Eldon Elliott said about the clothing that Robert Kling was wearing, the man using the name Robert Kling was wearing when he came into Elliott's Body Shop on Saturday the 15th and then on Monday, the 17th. Do you remember those questions?

A. Yes, sir.

Q. Did Eldon Elliott ever tell you that he knew what clothing the man was wearing?

A. No, sir.

Q. When issues regarding fatigues came up, how did they come up?

A. Discussing the possibility of whether this individual might

Scott Crabtree - Cross

have been wearing either military or civilian clothes. By then, I had had a chance to review the contract. There had been a military discount and stuff on the contract, so I thought that would be a way to follow up to maybe prod his

recollection a little bit.

Q. And when you talked to him on April 20, I believe your testimony was that Eldon Elliott initially said that he had no recollection of what the man was wearing on Monday.

A. Yes, sir.

Q. And that the issue of military clothes came up as a result of what?

A. Of me asking him again if he could have been wearing something on Monday that was similar to what he might have been wearing on Saturday.

Q. Did he tell you that he had any recollection at all what he was wearing, even after that leading question?

A. No, sir. He just said that he had quick contact.

Q. Now, you were asked questions about the process of report writing, and Mr. Jones asked you whether the 302 report was the only report of the events here.

A. Yes, sir.

Q. You have underlying notes, I believe you testified to?

A. Yes, sir.

Q. Which was the thing that was created at the time of the interview, the notes, or the FBI 302?

Scott Crabtree - Cross

A. The notes, sir.

Q. You were asked questions by Mr. Jones about the height description that Mr. Elliott gave?

A. Yes, sir.

Q. On the first day you interviewed Mr. Elliott on April 19, what height did he give you?

A. 5' 10", sir.

Q. On the next day that he -- that you interviewed Mr. Elliott, some 12 or 14 hours later about --

A. Yes, sir.

Q. -- what height did he give you then?

A. 5' 10" to 5' 11"

A. 5 10 20 3 11 .

Q. At this time, had Tim McVeigh been arrested?

A. No, sir.

Q. Did the FBI even know Tim McVeigh's name or who he was?

A. No, sir.

Q. Did Mr. Elliott give you any explanation as to why he had increased the height estimate by an inch?

A. No, sir.

Q. You were asked questions about what Vicki Beemer told you on April 19 regarding the transaction.

A. Yes, sir.

Q. And you were asked questions about whether information was read off the license and questions of that sort.

A. Yes, sir.

Scott Crabtree - Cross

Q. Did Vicki Beemer tell you anything about the day -- about anything she had noticed regarding a license and the man's birthday?

A. Just that his birthday was coming up in a couple of days and that he would be 25.

Q. Did she tell you anything about what she recalled regarding the weight of the -- or the kind of truck that the man wanted and the size and ---and how size was determined? Excuse me.

A. Yes, sir. When the renter had called in on the Friday previous, he had asked for a truck based on a weight capacity, rather than a room capacity.

Q. Finally, you were asked questions regarding the presence or absence in your notes of references to you telling Mr. Elliott and Ms. Beemer to avoid media.

A. Yes, sir.

Q. Is it your practice to record as a general matter things that you say to witnesses in your notes or in your 302's?

A. No, sir. The 302's are summaries of what the witnesses tell the agent.

MR. MENDELOFF: Thank you.

Nothing further, your Honor.

MR. JONES: I have no further questions.

THE COURT: All right. Is he being excused --

MR. JONES: Yes.

THE COURT: -- Mr. Jones?

MR. JONES: Yes, your Honor.

MR. MENDELOFF: Yes, your Honor.

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

THE WITNESS: Thank you, sir.

THE COURT: Next, please.

MR. JONES: Mr. Hersley.

THE COURT: All right. If you'll come forward and be sworn.

(Jon Hersley affirmed.)

THE COURTROOM DEPUTY: Have a seat, please.

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

THE WITNESS: My name is Jon Hersley, H-E-R-S-L-E-Y.

THE COURTROOM DEPUTY: Thank you.

-  
DIRECT EXAMINATION

BY MR. JONES:

Q. Mr. Hersley, where do you live now?

A. In Oklahoma City.

Q. And how are you employed?

A. I'm an FBI agent in the Oklahoma City office.

Q. And you are one of the case agents in this matter?

A. That's correct.

Q. How long have you been a special agent of the FBI?

A. I believe a little over 22 years now.

Q. How were you appointed to be the senior case agent?

Jon Hersley - Direct

A. I'm sorry?

Q. How were you appointed to be the senior case agent?

A. I was asked by the special agent in charge of the Oklahoma City office at that time to assume that role.

Q. Now, you have been in court during most, if not all, of the trial proceedings, have you not, sir?

A. Yes.

Q. You have heard all of the Government's witnesses testify?

A. Yes.

Q. And you are generally familiar with the exhibits that have been introduced?

A. That would be correct.

Q. Now, when did you learn about the Oklahoma City bombing?

A. I first learned about it when I heard the explosion.

Q. And where were you?

A. At the FBI office in Oklahoma City.

Q. And that's several miles away, isn't it?

A. Yes.

Q. Now, at that time, who was the special agent in charge?

A. Bob Ricks.

Q. When did you receive some, shall we say, official word that there had been some explosion downtown that would be of interest to the FBI?

A. Just very shortly after the explosion.

Q. And how did you learn that?

Jon Hersley - Direct

A. From news coverage. After we heard the explosion, I went and looked out the window and saw black smoke coming up from downtown Oklahoma City; and then shortly after that, someone had turned on the TV and we heard coverage of it.

Q. Were you given an assignment that day?

A. Yes.

Q. And what was your first assignment?

A. I was asked to stay in the Oklahoma City office and coordinate communications between people that were responding down to the bomb site and people back in our office, as well as different offices around the country.

Q. And who gave you that assignment?

A. The assistant special agent in charge of the Oklahoma City office, Jim Webber.

Q. I'm sorry?

A. Jim Webber.

Q. Jim Webber. Thank you.

Now, it would be true, isn't it, that on April 19 and 20 that you were not present for the interviews of Mr. Elliott or Ms. Beemer or anyone else in Junction City?

A. That's correct.

Q. You first met Mr. Elliott and Ms. Beemer and Mr. Kessinger and the other employees at the end of May and beginning of June of 1995?

A. That's correct.

Jon Hersley - Direct

Q. And how did you meet them? Well, let me rephrase that. Where did you meet them?

A. I believe I met Mr. Elliott first when he came down to Oklahoma City in early June.

There may have been a brief meeting with him at the end of May or early June in Junction City, but I believe that the first time would have been when he came down to Oklahoma City.

Q. When you went to Junction City at the end of May, were you there in the company of any prosecutors?

A. Yes. The meeting in Junction City was in either May or June, but I was there with some Oklahoma City prosecutors, yes.

Q. And who was there with you, sir?

A. Arlene Joplin and Kerry Kelly.

Q. And who did you meet with when you were in Junction City?

A. There were numerous people that we met with in Junction City on this visit. I believe we met with as many as 15 to 20 different people on this trip.

Q. About how long were you there, Mr. Hersley?

A. A couple of days, two to three days.

Q. All right. And among the people that you met, did that include Ms. Beemer and Mr. Kessinger?

A. Yes.

Q. And you may have met Mr. Elliott, but you're not sure?

A. We did speak with Mr. Elliott on this trip to Junction City

Jon Hersley - Direct

as well, yes.

Q. All right. Now, did you or someone in your presence request Ms. Beemer and Mr. Elliott and Mr. Kessinger to come to Oklahoma City?

A. Yes.

Q. And did they do that?

A. Yes.

Q. Now, in Oklahoma City in June, were you present when Mr. Elliott was interviewed?

A. Yes, I was.

Q. And were you present when Mr. Kessinger was interviewed?

Q. And were you present when Mr. Kessinger was interviewed?

A. I don't recall interviewing -- being present and interviewing Mr. Kessinger in Oklahoma City at this time period.

Q. Now, who did the interviews in Oklahoma City?

A. Mr. Elliott: It was Joe Hartzler, Arlene Joplin, Kerry Kelly, and myself.

Q. And was Mr. Mendeloff one of the persons present?

A. No.

Q. Now, how many times were Mr. Elliott and Mr. Kessinger interviewed on that trip?

A. Mr. Elliott was interviewed, my recollection, one time on that trip. My testimony is that I do not recall Mr. Kessinger being present on that trip.

Q. Did he come at another time?

Jon Hersley - Direct

A. I don't recall interviewing Mr. Kessinger in Oklahoma City.

Q. All right. Now, about how many times did special agents of the FBI or prosecutors or the two of them together -- that is, both agents and prosecutors -- interview Mr. Elliott before his testimony in this trial?

A. I was present during, I believe, four interviews of Mr. Elliott in Denver, along with Mr. Mendeloff, prior to this trial. There was the interview in Oklahoma City of Mr. Elliott that I spoke about, and then there were two other brief interviews of Mr. Elliott in Junction City in May or June of 1995.

Q. Were you present when Mr. Elliott testified?

A. Yes.

Q. Do you remember how many interviews and visits with either the prosecutors or the agents he approximated?

MR. MENDELOFF: Objection, your Honor. I don't think that accurately states the testimony.

THE COURT: Overruled.

THE WITNESS: No, I don't remember what his testimony was about how many meetings.

BY MR. JONES:

Q. All right. Now, how many times did agents of the FBI or prosecutors or both of them interview Mr. Kessinger in your presence?

A. I believe there were five such interviews in Denver between

Jon Hersley - Direct

myself and Mr. Mendeloff and Mr. Kessinger, and there were a couple of meetings with him, shorter meetings, in Junction City.

Q. Where you were present?

A. Yes.

Q. Now, do you know that in addition to those meetings, there were other interviews with Mr. Kessinger and Mr. Elliott?

A. There was another brief interview with Mr. Elliott in Junction City and I believe in October or November of 1995. I



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don't recall any more interviews with Mr. Kessinger.

Q. Now, how about Ms. Beemer? When was the first time you interviewed her?

A. It would have been on the same trip, I believe, that we've talked about in Junction City in either May or June of 1995.

Q. And was she able to give you a description of Mr. Robert Kling or Bob Kling?

A. She had a very limited description of Mr. Kling that she provided.

Q. Was she able to identify him?

A. No.

Q. Has she ever been able to identify him?

A. No.

Q. I'm sorry?

A. No.

Q. Now, when you interviewed or were present in the interview

Jon Hersley - Direct

with Mr. Elliott in Oklahoma City or for that matter at the Junction City meeting, whichever one you believe is the most substantive meeting, what did Mr. Elliott tell you about his opportunity to observe Robert Kling on Monday, April 17?

A. He said that he saw Mr. Kling on the 17th for a brief period of time when he came into the office shortly before going out to do the vehicle damage assessment on the truck that was rented by Mr. Kling on that occasion and then briefly when he came back inside to give that form back to Ms. Beemer.

Q. What did he tell you about the length of time that he had in conversation with Mr. Kling on Saturday?

A. That he spoke with Mr. Kling on Saturday for about 5 to 10 minutes.

Q. Now, what description did Mr. Elliott give you of Mr. Kling?

A. That he was a white male; that he was 5' 10" to 5' 11", could have been a little bit taller. He at one point described him as being about the same height as Mr. Elliott but maybe a little bit taller; that he had a slender to medium build; that he weighed somewhere around 175 to 185 pounds; that he had very short, light brown hair; clear complexion.

Q. Did he at the time that you saw him in Junction City -- did you or any other agents to your knowledge show Mr. Kling a photo spread or photo lineup, if you will, of various suspects or persons and ask him if he could identify Kling?

Jon Hersley - Direct

A. I believe your question was did I show Mr. Kling a photo spread?

Q. That may have been my question -- I'm sure he didn't do that, so let me go back and ask it another way.

When you were in Junction City, did you show Mr. Elliott a photo lineup or a photo spread to see if he could identify Robert Kling?

A. No.

Q. Did anyone else?

A. Not in Junction City.

Q. Now, in Oklahoma City, was he shown a photo spread and asked if he could identify Robert Kling?

A. Yes.

Q. Was that the first meeting in Oklahoma City?

A. Yes.

Q. All right. So when you and the prosecutors were up there in Junction City and meeting these various people, he was not -- "he," meaning Mr. Elliott, was not shown the photo spread or lineup.

A. I believe that the trip that we made to Junction City was after I had met Mr. Elliott in Oklahoma City on June 8. We had already shown him a photo spread at that time when I first met him there. I believe the meeting in Junction City was after that meeting in Oklahoma City with Mr. Elliott.

Q. All right. So your recollection is, as I understand it --

Jon Hersley - Direct

is that before you went to Junction City and saw him, you had already seen him in Oklahoma City.

A. Yes.

Q. And it was at the Oklahoma City meeting that the photo spread or lineup was shown?

A. That's correct.

Q. And the date of that meeting was what, sir?

A. June 8.

Q. And that would be about 48 days after Mr. Elliott had first been interviewed.

A. That's correct.

Q. Now, prior to that 48 days, Mr. Elliott had not been shown -- prior to the expiration of the 48 days, Mr. Elliott had not been shown a photo spread or lineup and asked to identify Robert Kling. Is that correct?

A. That's correct.

Q. Nor prior to June 8 had Mr. Elliott been asked to participate in a physical lineup and see if he could identify Robert Kling from these persons or suspects in the lineup?

A. That's correct.

Q. Now, others had been asked to do that, hadn't they?

A. Yes. Some of the people that said in the very early days after the bombing that they had seen Mr. McVeigh for a very short period of time in around the building on the day of the bombing were presented to the lineup.

Jon Hersley - Direct

Q. I see.

A. For that purpose.

Q. And those people did not testify in the Government's case, did they?

A. That's correct.

Q. Now, when you were talking with Mr. Elliott on June 8 in Oklahoma City, did you ask him if he had a clear and sufficient memory to be able to identify Kling?

A. Yes, we did.

Q. And did you at that time mention Mr. McVeigh's name?

A. We had mentioned Mr. McVeigh's name. Mr. Elliott brought up Mr. McVeigh's name earlier that day in the interview that we were conducting of him.

Q. And so there had been some conversation about Tim McVeigh prior to showing him the photo spread?

A. Yes. Mr. Elliott told us that he had seen the first coverage of Mr. McVeigh on TV and that that was the person that had been in his shop.

Q. All right. So when we say the first coverage, what are we talking about?

A. I believe he was referring to when Mr. McVeigh came out of Noble County.

Q. There -- that would be on what, April 21?

A. That's correct.

Q. In the custody of Mr. Zimms and other agents?

Jon Hersley - Direct

A. Yes.

Q. All right. Now, when you showed Mr. Elliott this photo spread, was he able to identify someone?

A. Yes.

Q. And who did he identify?

A. Mr. Timothy McVeigh.

Q. Now, did any of the agents make any comment after Mr. Elliott selected Mr. McVeigh's photograph?

A. No. I told him after he had selected the photograph to turn the photo spread over and to write the number of the person that he was identifying on the back of it and to date it and initial it, and then I also did date it -- initialed it. Excuse me.

Q. Now, Mr. Elliott had also told you that two people came in on the 17th to rent the Ryder truck, didn't he?

A. During the June meeting in Oklahoma City?

Q. At any time.

A. He did during the meeting in Oklahoma City, yes, sir.

Q. Yes. And did he tell you that one of those individuals was wearing a hat?

A. Yes.

Q. Now, did you show Mr. Elliott a photograph of a hat?

A. Yes.

Q. And which hat was it?

A. It was the hat that was worn by Todd Bunting on April 18,

Jon Hersley - Direct

1995.

Q. I'm sorry. I didn't mean to --

A. 1995, when Mr. Bunting was in Elliott's Body Shop.

Q. All right. So you had a photograph of Mr. Bunting with the

Q. All right. So you had a photograph of Mr. Bunting with the hat on?

A. Yes.

Q. That he said that he wore when he went into Elliott's Body Shop on Tuesday?

A. That's correct.

Q. That would have been almost to the hour 24 hours after Kling had been there on Monday. Is that correct?

A. I believe Mr. Bunting indicated that he had been in the body shop on the next day at 4:30.

Q. Right. And the records indicate that Kling had been in the body shop on Monday, between 4:19 and 4:20?

A. That he had arrived there -- they started filling out the paperwork at 4:19.

Q. And concluded when?

A. I believe the paperwork was completed at 4:22.

Q. So almost exactly 24 hours later Mr. Bunting comes in with who?

A. Michael Hertig.

Q. Now, when you showed Mr. Elliott this photograph of the hat, did you cover up the face and just show the hat, or did he see the whole photograph?

Jon Hersley - Direct

A. Covered up everything but the hat.

Q. And what did Mr. Elliott say to you when he saw the photograph of the hat?

A. He said that was not the hat that he was describing.

Q. Mr. Hersley, in your conversations with Mr. Elliott, did you ever ask him or were you present when he was asked if Mr. Kessinger had shared impressions of physical characteristics of Kling with him?

A. I'm sorry. Can you ask that again?

Q. Yes, sir. In your conversation with Mr. Elliott or where you were present, did Mr. Elliott recall that Mr. Kessinger had shared impressions of physical characteristics with him?

A. He said that he had not.

Q. Now, are you familiar with Government's -- I'm sorry -- McVeigh Exhibit C69?

A. Not by that description, no.

MR. JONES: If I may approach the witness, your Honor.

THE COURT: Yes.

MR. JONES: C69.

THE WITNESS: Can I have a moment?

BY MR. JONES:

Q. Certainly.

A. Okay.

Q. Are you familiar with this document?

A. I've seen it. I wouldn't say I'm familiar with every bit

Jon Hersley - Direct

of it without looking through it again.

Q. There are conversations related here. Were you present

during some of those conversations?

A. No, I was not present during these conversations.

Q. You were not?

A. No.

Q. All right.

MR. JONES: Your Honor, may I ask if I were to ask this witness in an attempt to expedite matters here the same questions that I asked the earlier witness or any questions concerning what Mr. Kessinger told him about his description of Mr. Kling and John Doe 2 on the 19th and 20th or at any time thereafter, the objection based upon hearsay would be sustained?

THE COURT: Yes.

MR. JONES: Thank you.

BY MR. JONES:

Q. Are you familiar with the physical appearance of Terry Nichols?

A. Yes.

Q. Would you recognize a photograph of him?

A. Should be able to.

Q. All right, sir. I'm going to show you what's been marked as McVeigh Exhibit C10 and ask if you can identify who is in this picture?

Jon Hersley - Direct

A. Yes. That's a photograph of Terry Lynn Nichols.

MR. JONES: Move the admission of McVeigh Exhibit C10.

MR. MENDELOFF: No objection, your Honor.

THE COURT: Received, C10. You may display it, if you wish.

MR. JONES: Has it been shown?

Thank you.

With your Honor's ruling on my motion, I pass the witness.

THE COURT: All right. Mr. Mendeloff, do you have any questions?

MR. MENDELOFF: I need a moment, please, Judge.

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. MENDELOFF:

Q. Mr. Hersley, through the fall and early part of this year, were you present for almost all of the interviews that were accomplished between the Government and Eldon Elliott and Vicki Beemer?

A. Yes.

Q. You were asked questions about the photo spread session that you had with Mr. Elliott back in June of 199 -- 1995. Do you remember that?

A. Yes.

Q. Can you tell us from the beginning what happened in that

photo spread session.

A. We indicated to Mr. Elliott that we wanted to show him a photo spread. We asked him if he had a clear and sufficient memory of the individual that had come into his shop on Saturday, April 15, and also on Monday, April 17, that he would be able to identify that person if he was to be pictured in a photo spread. We told him that the individual may or may not be pictured in the photo spread.

Q. How did you accomplish that? How was it that you told him that the person may not be there?

A. We just told him that he should realize that the person may or may not be in the photo spread, the person that he had said he saw at his body shop.

Q. All right. Go ahead.

A. We also asked him if he would be able to set aside any media coverage that he might have seen of this individual and rely solely on his independent memory of this person being in his body shop on Saturday, April 15, and then again on Monday, April 17 --

Q. What did he say?

A. -- 1995.

And he said he would be able to do that; that he would be able to identify the individual, if he was in the photo spread.

Q. All right. And at that point, what happened?

Scott Crabtree - Cross

A. Mr. Hartzler asked me to provide him with the photo spread, and then we showed him the photo spread.

Q. Let me show you what's been marked Government's Exhibit 1647. And I don't believe this is admitted yet, so we'll do this on the ELMO.

Do you recognize this document?

A. Yes.

Q. What is that?

A. This is a photo spread that includes the picture of Timothy James McVeigh.

Q. Let me turn over 1647 and ask you to look at the markings on the back.

A. Okay.

Q. Can you identify which photo spread this is?

A. I'm sorry?

Q. Can you identify which of those McVeigh photo spreads this is?

A. Yes. This is the photo spread that we showed to Mr. Elliott on June 8, 1995, in Oklahoma City.

Q. How can you tell that?

A. I can tell by my initials, the "JRH" on there, and also it has the date indicated June 8, 1995, when we showed the photo spread; and I watched Mr. Elliott put his initials on there and the number "2."

Q. No. 2 is the selection he made?

Scott Crabtree - Cross

A. Yes.

MR. MENDELOFF: Move the admission of Government's Exhibit 1647, your Honor.

MR. JONES: No objection.

THE COURT: Received.

BY MR. MENDELOFF:

Q. After you showed Mr. Elliott the photo spread, can you tell us what he did?

A. He pointed right to the picture, No. 2, which was Timothy James McVeigh.

Q. What degree of confidence did he display at the time that he made the identification?

MR. JONES: If the Court please, I'm going to object to that --

THE COURT: Sustained.

MR. JONES: -- as calling for a conclusion.

BY MR. MENDELOFF:

Q. Can you tell us how quickly it took him to select the photo?

A. He right like that went to the page and pointed to the photo of Timothy James McVeigh.

MR. MENDELOFF: Your Honor, may we display the photo spread at this time?

THE COURT: Yes.

BY MR. MENDELOFF:

Scott Crabtree - Cross

Q. You said he selected No. 2. Is that right?

A. Yes.

Q. After he selected No. 2, did anybody in the room react in any way?

A. No.

Q. What happened?

A. I then indicated for him to turn the photo spread over and to write the number that he had chosen on the back of the photo spread and to date it, initial it, and then I initialed it.

Q. Let me direct your attention to the reverse side of this exhibit. Can you tell us what we see there?

A. We see my initials at the top, JRH, and the date 6-8-95 and Mr. Elliott's initials underneath there, and to the left of that is the number "2."

MR. MENDELOFF: I don't believe I have anything else, your Honor. Thank you.

THE COURT: All right.

MR. JONES: I don't have any further questions of Mr. Hersley.

THE COURT: All right. You may return to your seat.

THE WITNESS: Thank you, Judge.

THE COURT: Next witness, please.

MR. JONES: Raymond Rozycki.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Raymond Rozycki affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please.  
Please state your full name for the record and spell  
your last name.

THE WITNESS: My name is Raymond Thomas Rozycki, last  
name is R-O-Z-Y-C-K-I.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. JONES:

Q. Sir, how are you employed?

A. I'm employed with the FBI and work as a visual information  
specialist.

Q. And were you so employed in April of 1995?

A. Yes, sir.

Q. How long have you worked for the FBI?

A. Over 15 years.

Q. What is a visual information specialist?

A. Visual information specialist is -- the common sort of term  
is a forensic artist.

Q. All right -- go ahead.

A. And in that, the forensic artist uses artistic skills in  
criminal investigations and in trial -- criminal trial  
proceedings such as these.

Q. Do you consider yourself an artist?

A. Yes, sir, I do.

Raymond Rozycki - Direct

Q. Okay. When did you first become involved in the Oklahoma  
City bombing case, Mr. Rozycki?

A. On April 19, 1995.

Q. And what was the first assignment you had in the case?

A. To fly to Fort Riley, Kansas, for the purpose of doing some  
composite drawings.

Q. And where were you located at the time you were called?

A. I was at home when I -- actually at home when I was called  
and --

Q. In Washington?

A. At my home in Annandale.

Q. Greater Washington?

A. Yes, sir.

Q. You bet. What time did you arrive at Fort Riley?

A. Rough -- roughly 2:00. I wasn't watching the time at that  
point.

Q. Sure. And was that on the morning of the 20th?

A. That is correct.

Q. And did you go right to work when you hit the ground?

A. Yes, sir.

Q. And what was the first thing that you did?

A. I spoke with the agent on the scene.

Q. And who was that?

A. That was Agent Crabtree.

Q. And what was the subject of the conversation you had with



Raymond Rozycki - Direct

him?

A. Subject was the witnesses that I would talk to. That was the subject.

Q. What were you to talk to them about?

A. About obtaining a description of some individuals that they had seen.

Q. So you could do what?

A. In order to prepare a composite drawing.

Q. And what was to be done with the drawing?

A. I'm not quite sure. That was to be used -- during the investigation.

Q. You were to pass it up on the chain of command?

A. Give it to the agents there.

Q. Your job was to talk to the folks that had seen the individuals on the 17th or perhaps another day and on Saturday and get the best description you could in order to make a chart -- or a sketch?

A. That is correct.

Q. Okay. Now, were you told which witness seemed to have the best or most complete knowledge of the description of these two individuals?

A. Yes, I was.

Q. And which witness was that?

A. Mr. Kessinger.

Q. And did you meet with him?

Raymond Rozycki - Direct

A. Yes, I did.

Q. You met with him first?

A. That's correct.

Q. Now, what happened when he came in? What did you do?

A. When he came in --

Q. Yes.

A. -- we went through some pleasantries and sat down, and I talked to him a little bit about the procedure that we would go through. We discussed the use of the procedure, being that we would sit down and talk about the individual, the situation that he witnessed, and get a general description, then go to a book that we use -- it's the FBI Facial Catalogue -- and he would look through that and choose facial characteristics that were closest to his -- what he remembered of this individual. And from that, I would write that information down and prepare a drawing from that.

Q. Now, were any other agents or persons present during this meeting you had with Mr. Kessinger?

A. Yes, sir, there were two.

Q. And who was that?

A. I know that Agent Crabtree was there. I can't remember who the other agent was.

Q. And were they in the room there with you the whole time, or did they leave?

A. They were there roughly a half an hour.

Raymond Rozycki - Direct

Q. All right. And then how did you start the descriptive process with Mr. Kessinger?

A. I began the process by going through a general scenario, where was he in the room, where was Mr. Kessinger in the room -- excuse me, in order to establish that he could see this individual, then asked him some general information about him, which is --

Q. About him, or about Mr. Kessinger?

A. Asked about the -- I asked Mr. Kessinger information about the individual that he had seen.

Q. All right.

A. And it -- it broke down into some general categories of height, weight, build, and that sort of thing.

Q. Now, as a result of your conversations with Mr. Kessinger, were you to develop a sense of the setting and events at Elliott's on April 17 at the relevant time?

A. That specific narrow time, yes.

Q. Yes. And what did you determine?

MR. MACKEY: Objection. Calls for hearsay.

THE COURT: Sustained.

BY MR. JONES:

Q. At the meeting, were you provided with a physical description of the person who rented the Ryder truck on April 17?

A. I'm not -- by whom?

Raymond Rozycki - Direct

Q. At the meeting that you had with Mr. Kessinger, were you provided a physical description of the person that rented the truck?

A. Yes, he did.

Q. All right. And what was that description?

MR. MACKEY: Same objection.

THE COURT: Overruled. Now it's being received for what he relied on in preparing the composite. I assume that's the purpose of the question.

MR. JONES: Yes, your Honor.

THE COURT: All right. It may be received for what this witness relied on in preparing the composite drawing.

You may answer.

THE WITNESS: Thank you. My memory is not that great. The information is captured on the form. There is a form, the FD383; and I really try not to rely on my memory for that.

BY MR. JONES:

Q. Well, when is the last time you looked at this form?

A. I looked at it just recently -- earlier today.

Q. You don't remember --

A. The exact details, no.

Q. Okay.

A. I'm sorry.

Q. Do you have a book in front of you there, Mr. Rozycki, of exhibits? Could you turn to C64.

000000. Could you turn to 001.

Raymond Rozycki - Direct

Do you have it?

A. Yes, sir.

Q. Just take a moment and look at that.

Now -- go ahead. I don't mean to cut you off.

A. That's fine. I'm ready.

Q. All right. Now, Mr. Crabtree had told you, had he not, that Mr. Kessinger was the witness with the best recollection of Kling's facial features, didn't he?

A. That's correct, yes.

Q. Now, Mr. Kessinger told you that this Unidentified Subject No. 1 -- and that's the person that's Kling, isn't it?

A. Yes.

Q. The renter?

A. Yes.

Q. He told you this individual had a long head, a crew cut, a crease in his chin, close-set eyes, clean-shaven, average nose that fit his face. He was 5' 10", 175 to 185, slender, rough complexion with acne, light brown hair, 27 to 30 and white. Is that what he told you?

A. That's correct.

Q. And he also told you, did he not, that he was wearing green fatigues and a dark T-shirt?

A. That's correct.

Q. And did he tell you whether he was alone?

A. He indicated that there were two people there.

Raymond Rozycki - Direct

Q. And was he able to provide you with a description of the second individual?

A. Yes, he did.

Q. If you'll turn to C65. Just take a moment and look at that.

Now, you had the same conversation with Mr. Kessinger about the second subject that you had with him about the first in terms of what he saw and the description, didn't you?

A. In this -- no, not exactly. This one was a little -- was a little bit different.

Q. All right. Well, let's back up just a moment.

A. Okay.

Q. Mr. Crabtree had told you that Mr. Kessinger had the best recollection of the second subject's facial features, didn't he?

A. That's correct, yes.

Q. And it was on that basis that you interviewed him to get the description of the second subject, wasn't it?

A. Again correct.

Q. All right. Now, did Mr. Kessinger describe the second subject as 5' 10", clean-shaven, muscular, large arms, large chest, smooth complexion, dark hair, thick, trim square-cut nape, blue and white ball cap, thick neck, wide chin, blue

jeans and black T, white tennis shoes, tattoo on left upper arm, 26 to 27, and white?

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A. I believe that's all correct, yes.

Q. Now, did you draw a composite sketch of Subject No. 1?

A. Yes, sir, I did.

Q. And did you draw a composite sketch of Subject No. 2?

A. Yes, sir.

Q. Is Government's Exhibit 317, which should be on the monitor in front of you there, sir -- is that the sketch that you drew of Subject No. 1?

A. Yes, it is.

Q. 317 down there. Can you see it all right?

A. Yes, sir.

Q. All right. And is Government's Exhibit 320 -- there is the number down there in the corner -- is that the sketch that you drew of Subject No. 2?

A. Yes, it is.

Q. Now, would you turn back to C64. And you see some Bates numbers there down on the side, 037634? Is that on your copy?

A. 633 is what I see -- no, I'm -- right, okay. 634. Yeah.

Q. Now, the page numbered 037634 and 037635 are the notes that you made in order to draw and sketch Government's Exhibit 317, which is Subject No. 1. Is that correct?

A. Yes, sir.

Q. Now, is there an FBI facial identification fact sheet for Mr. Elliott and Ms. Beemer?

A. No, sir, there is not.

Raymond Rozycki - Direct

Q. Now, after you finished talking to Mr. Kessinger, did you interview Ms. Beemer before you completed the sketch?

A. No, sir.

Q. Did you interview Mr. Elliott before you completed the sketch?

A. No, sir.

Q. So the sketch that is Government's Exhibit 317 of Subject No. 1 is based entirely upon what Mr. Kessinger told you?

A. That's correct, yes.

Q. Now, would you turn just a moment, please, to Government's Exhibit C65 -- I'm sorry -- McVeigh Exhibit C65, which should be in that book.

A. Okay.

Q. Now, would you turn to the second page, please, the one that's Bates stamped 308628. Do you see that?

A. Yes, sir.

Q. Now, this is an FBI facial identification fact sheet, is it not?

A. That's correct.

Q. That is the Bates number that I gave you. I recognize the first page is something else, but I'm just talking about this

sheet.

A. Yes, sir.

Q. And is there a similar facial identification fact sheet for Ms. Elliott -- I'm sorry -- Ms. Beemer on Subject No. 2?

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A. No, sir.

Q. Is there a similar FBI facial identification fact sheet from Mr. Elliott on Subject No. 2?

A. No, sir.

Q. This one is for Mr. Kessinger.

A. That's correct.

Q. Did you interview Mrs. Beemer before you drew the sketch of Unidentified Subject No. 2?

A. I did not show her the drawing of -- Un. Sub. No. 2.

Q. I understand that. And maybe my question wasn't clear. What I was asking you was before you completed the sketch, did you talk to her about her memory of what No. 2 looked like?

A. No, sir.

Q. Before you completed the sketch, did you talk to Mr. Elliott about his memory of No. 2?

A. No, sir.

Q. All right. So is Government's Exhibit No. 320 based entirely upon the description given to you by Mr. Kessinger?

A. Yes, sir, it is.

MR. JONES: Your Honor, I move the admission of that portion of Mr. McVeigh's Exhibit C64 that has the Bates stamp 037634 and 037635 being the form and not the first page of the exhibit.

MR. MACKEY: Judge, the form itself has a lot more information than simply that relied upon by Mr. Rozycki in

Raymond Rozycki - Direct

producing two composites. With those redactions, I'd have no objection.

THE COURT: Well, he says just the two pages identified by those Bates numbers.

MR. MACKEY: As to those two pages, there is extended information beyond that which --

THE COURT: So oh, I see. So there needs to be further redaction besides the elimination of that page.

MR. JONES: Before I offer it, why don't I talk to them over lunch and see if we can agree.

THE COURT: Same thing on C65.

MR. JONES: Yes, sir, except that would just be one page.

MR. MACKEY: Same position.

MR. JONES: We'll talk about it.

THE COURT: Thank you.

BY MR. JONES:

Q. Now, did you show Mr. Elliott Government's Exhibit 317, which is the sketch of Subject No. 1?

A. Yes, I did.

A. Yes, I did.

Q. And did he make any modifications or corrections or changes or deletions to it?

A. No, sir, he did not.

Q. Did you show him Government's Exhibit No. 320, being the sketch of No. 2?

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A. No, sir.

Q. Was there a reason why you didn't?

A. He indicated that he couldn't provide any description of No. 2.

Q. Now, on No. 317 -- that is, the sketch of Subject No. 1 -- did you show this sketch when you had completed it to

Ms. Beemer?

A. Yes, sir.

Q. And did she make any additions, corrections, deletions?

A. No, sir, she did not.

Q. Was she able to identify this person at all?

A. That question didn't come up.

Q. All right. Did you show her Government's Exhibit No. 320, which is the sketch of Unidentified Subject No. 2?

A. No, sir.

Q. And was there a reason for that?

A. Again, she indicated that she didn't have -- couldn't provide any description for that person.

Q. So these two sketches are entirely from Mr. Kessinger's memory?

A. Yes, sir.

Q. Now, the sketches, other than the cap, do not show any clothing other than it's obvious there is some type of shirt or T-shirt or something; isn't that correct?

A. That's correct.

Raymond Rozycki - Direct

Q. And on the sketch itself, there is no reference to height of the individual?

A. I'm sorry? No reference to --

Q. No reference to the height of the subject.

A. No, sir.

Q. On either one of them?

A. That's correct.

Q. Nor is there any reference to how much the individual weighs?

A. That is correct.

Q. Nor is there any indication as to whether the individual had a tattoo or not?

A. Correct.

MR. JONES: I don't believe I have anything else.

Thank you, sir.

THE COURT: Mr. Mackey, will you have much in the way of cross?

MR. MACKEY: 10 or 15 minutes. No more.

THE COURT: Or more?

MR. MACKEY: No more.

THE COURT: No more.

MR. MACKEY: Yes.

THE COURT: If the jury is agreeable, let's proceed with that and then take our break.

MR. JONES: That is lawyer's time, your Honor?

Raymond Rozycki - Direct

MR. MACKEY: I feel like I made the promise to the jury, Judge.

THE COURT: That's why I didn't respond when he said lawyer's time.

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Ms. Rozycki, good morning. How are you?

A. Fine, thanks.

Q. You were an artist before you went to work for the FBI?

A. Yes.

Q. You've been an artist for some 22 years --

A. That's correct.

Q. -- or thereabouts; and have had occasion to, as you might say, use your skills to become the hands of others.

A. That's correct.

Q. And that's what you were doing in the early morning hours of April 20, 1995?

A. Yes, sir.

Q. Had your own studio for a while?

A. Yes, sir.

Q. And I take it over the years, both with your experience with the FBI and your private practice, you have become very familiar with human form.

A. Yes, sir, that's true.

Q. Mr. Rozycki, let me show you and only you at this point in

Raymond Rozycki - Cross

time Government's Exhibit 319, being a composite of previously admitted exhibits. Have you seen that before?

A. Yes, sir.

Q. And I'd like to ask you some questions concerning similarities that exist between the facial features depicted in Government's Exhibit 319. Are you prepared to note those for the jury?

A. Yes, sir.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibit 319 for that purpose.

MR. JONES: No objection.

THE COURT: It's received and you may proceed.

MR. MACKEY: Thank you, your Honor.

BY MR. MACKEY:

Q. In the center of Exhibit 319, we see your work produced on April 20, 1995. Correct?

A. Yes, sir.

Q. And that's the drawing that you made of Un. Sub. No. 1 --

A. That's correct.

Q. -- as you knew him at that point in time.

Could you describe to the jury based on your training and experience, Mr. Rozycki, what similarities you see between the photograph of Timothy McVeigh and the composite in the center of that same exhibit?

A. In an overall sense, the head shape is similar. It's an

Raymond Rozycki - Cross

oval shape with a pointed chin. The eye structure is quite similar with the eyelids clearly visible towards the nose and not visible on the -- less visible on the outside.

The structure of the brow and the eyebrows is quite similar. The general -- what I would call tubular shape of the nose is similar down to a fairly compact bulb of the nose itself.

The structure of the lips is well defined and similar in shape and thickness and cheeks and jaw again are also similar and there is some indication on the photograph of the structure of the chin, which is -- bears close resemblance to that.

Q. And did you note dissimilarities, that is differences between the photograph of Mr. Hertig on the right-hand exhibit of 319 and your composite?

A. Yes, sir, I did.

Q. Describe those to the jury, please.

A. The photograph of Mr. Hertig -- one of the obvious dissimilarities is the presence of mustache. The eyebrows are much heavier. The head structure itself is a much squarer -- a square structure. Again, back to the eyebrows, they're much fuller and the shape of the brow ridge is also dissimilar. The eyes are of dissimilar shape.

The nose is -- it's fuller at the top. It doesn't maintain sort of a similar -- a uniform tubular shape, and the

Raymond Rozycki - Cross

cheeks are much more pronounced in this case and again, the -- he has -- yeah. That's right. I'll finish.

Q. Well, not surprisingly, based on your training, I didn't see all those things; but here's my final question, Mr. Rozycki, as relates to this exhibit: Of these two photographs, which is most like your composite?

A. The photograph of Un. Sub. 1 or McVeigh is -- Mr. McVeigh is much more similar.

Q. In your work with various potential witnesses, have you found that different witnesses have different levels of an ability to articulate or verbalize facial features?

A. Yes, I have.

Q. So one or more persons may have seen the same person, but they have different abilities of articulating that or describing it?



describing it:

A. That's correct.

Q. Did you find Mr. Kessinger to be particularly descriptive?

A. Very descriptive. Very descriptive, able to visualize the image that he had in his head of an individual.

Q. And based on that description, you produced your composite and then displayed it to the other two witnesses, Mr. Elliott and Ms. Beemer?

A. That's correct.

Q. Mr. Jones asked you some questions about what law enforcement use was made of your work. Un. Sub. No. 1, the

Raymond Rozycki - Cross

composite, Government's Exhibit 317: Do you know later that same day was in fact distributed publicly; correct?

A. Yes, I do.

Q. At that point in time, no one knew who Un. Sub. 1 was and feared perhaps that person was at large; is that correct?

A. That's correct.

Q. Did you learn, Agent -- or excuse me -- Mr. Rozycki, that later that same day, your composite was shown to a motel operator in Junction City and she said, "That's a person who was a guest at my motel"?

MR. JONES: If the Court please, I object to that hearsay.

THE COURT: Sustained.

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

THE COURT: Do you have anything else?

MR. JONES: Very quickly.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. JONES:

Q. Mr. Rozycki, of course, you're an employee of the FBI, aren't you?

A. Yes, sir.

Q. And clearly, you're aware it's the FBI's contention that that photograph of Mr. McVeigh is more similar to the sketch of Mr. Kling than the photograph of Mr. Hertig?

Raymond Rozycki - Redirect

A. That's correct.

Q. Now, you answered in response to a question by Mr. Mackey that the photograph was used in law enforcement work. Correct?

A. Yes, sir.

Q. And in fact, it was released over nationwide television.

A. Yes, sir.

Q. And in newspapers?

A. That's correct.

Q. Front-page coverage?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

O. In fact, the Attorney General of the United States held a

press conference when it was released that was televised. Is that correct?

A. I didn't see that, but that may be true.

Q. All right. Tell me something: Have you heard whether Trooper Hanger, before the FBI called Noble County courthouse -- whether he had made a connection between that sketch of Kling and Mr. McVeigh?

MR. MACKEY: Same objection.

THE COURT: Sustained.

BY MR. JONES:

Q. Now, you talked about some of the similarities in the exhibit, if I might just show that to you.

Raymond Rozycki - Redirect

Do you have it there in front of you?

A. Yes, sir, I do.

Q. Now, of course, what we have here are photographs of two men and a sketch. Correct?

A. Yes, sir.

Q. And the photograph of the two men do (sic) not show what they are wearing; correct?

A. Correct.

Q. Nor does it show what Mr. Hertig was wearing when he was at Elliott's on the 18th, does it?

A. That's correct.

Q. Nor does it reflect Mr. Hertig's memory of what Mrs. Beemer said to him, does it?

A. Yes, that's correct.

Q. Nor does it take into account what the person with Mr. Hertig thought the sketch resembled?

MR. MACKEY: Objection. Speculative, argumentative.

THE COURT: Sustained.

BY MR. JONES:

Q. It's just simply a photograph taken of two men taken at different times laid next to a sketch. Correct?

A. Correct.

Q. But even with that, Mr. Rozycki, you are of the opinion, are you not, that the hairline shown in the sketch is more similar to Mr. Hertig than Mr. McVeigh, aren't you?

Raymond Rozycki - Redirect

A. Comparing the two drawings, yes -- the drawing and the photograph, yes.

Q. And you are also of the opinion that the forehead of Mr. Hertig is more similar to the sketch than Mr. McVeigh's, are you not?

A. Yes, I would agree.

Q. And clearly, the distinct facial feature on the Kling sketch is more similar to Mr. Hertig's than it is to Mr. McVeigh, isn't it?

A. Based on the photograph, there is -- no, I would not agree. No.

Q. Well, Mr. Rozycki, you testified in this matter earlier, did you not, at a hearing held before Judge Matsch?

A. Yes, sir.

Q. And at that time, was a question asked of you and did you give this answer.

"Question: Looking at the chin of the persons depicted in Government's Exhibit 22, isn't it apparent to you that there is a swelling of sorts on the chin of Mr. Hertig and on Subject No. 1 that does not appear on the depiction of Mr. McVeigh?"

And didn't you say, "In this photograph, there is -- in this comparison of photographs, there is a more distinct facial feature on the chin of Mr. Hertig than Mr. McVeigh."

A. Yes, sir.

Raymond Rozycki - Redirect

Q. And the photograph that you were talking about is this comparison right here, isn't it?

A. That's correct.

MR. JONES: All right, sir. Nothing further.

REXCROSS-EXAMINATION

BY MR. MACKEY:

Q. Mr. Rozycki, the last question that Mr. Jones just asked you wasn't the same one he had asked you earlier; correct? Two different questions about the chin: the one that happened at the hearing and the one that happened just a moment ago?

A. That's correct.

MR. MACKEY: Thanks.

THE COURT: Is this witness now excused?

MR. JONES: Your Honor, we would like him to be available pursuant to our agreement with the Government.

THE COURT: All right.

MR. JONES: He's excused now.

THE COURT: So he can return and be available on notice?

MR. JONES: Yes, sir.

THE COURT: Okay. You may step down and be available on notice.

THE WITNESS: Thank you.

THE COURT: Members of the jury, we'll take our noon recess at this time. And of course, during this time, please continue, as a part of maintaining open-mindedness about everything in connection with this case, avoiding discussion of any part of it with other jurors and everybody else; and continue to avoid anything outside of the evidence which could in any way influence you in your decision.

We'll take the recess till about 1:42. You're excused.

(Jury out at 12:12 p.m.)

THE COURT: We'll be in recess, 1:42.

(Recess at 12:12 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
C10	10541	10541			
331	10441	10441			
1646	10482				
1647	10544	10544			

DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
G1	10452	10452			
G6	10490	10490			

\* \* \* \* \*

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 23d day of May, 1997.

\_\_\_\_\_  
Paul Zuckerman

