

Monday, June 2, 1997 Verdict

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 130)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 1:30 p.m., on the 2nd day of June,
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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CHRISTOPHER L. TRITICO, Attorney at Law, Essmyer, Tritico &
Clary, 4300 Scotland, Houston, Texas, 77007, appearing for

Defendant McVeigh.

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PROCEEDINGS

(In open court at 1:30 p.m.)

THE COURT: Please be seated.

The jury has informed that they have arrived at a verdict. Before I return the jury to receive the verdict -- and of course, at this moment, the verdict is known only to the jury -- I want to caution everyone here that there must be no audible or visible reaction to the verdict when it is read. When the jury returns, the verdict will be handed to me and I will read it.

Now, any person violating this order that there be no reaction will be removed from the courtroom.

I will address the jurors after reading the verdict. There will be some time required for this, and no one will leave the room until a recess or adjournment of the Court is announced.

We'll return the verdict -- the jury.

(Jury in at 1:32 p.m.)

THE COURT: Members of the jury, have you reached a verdict?

JURORS: Yes, we have.

THE COURT: Does the foreperson have the verdict form?

JUROR NO. 11: Yes, I do.

THE COURT: If you'll pass the verdict form to Mr. Manspeaker, he will pass it to me.

THE COURT: Members of the jury, you will listen to the reading of your verdict.

VERDICT

THE COURT: In the United States District Court for the District of Colorado, Criminal Action No. 96-CR-68, United States of America vs. Timothy James McVeigh. We, the jury, upon our oaths unanimously find as follows:

Count 1, conspiracy to use a weapon of mass destruction, guilty.

Count 2, use of a weapon of mass destruction, guilty.

Count Three, destruction by explosive, guilty.

Do you find that the Government proved beyond a reasonable doubt that the crime or crimes committed by the defendant, Timothy James McVeigh, as found above, resulted in the death of one or more of the persons named in the indictment? Yes.

Was the death of such person or persons a foreseeable result of the defendant's criminal conduct? Yes.

Count 4, first-degree murder of Mickey Bryant Maroney, guilty.

Count 5, first-degree murder of Donald R. Leonard, guilty.

Count 6, first-degree murder of Alan Gerald Whicher, guilty.

Count 7, first-degree murder of Cynthia Lynn Campbell Brown, guilty.

Count 8, first-degree murder of Kenneth Glenn McCullough, guilty.

Count 9, first degree murder of Paul Douglas Ice,

guilty.

Count 10, first-degree murder of Claude Arthur Medearis, guilty.

Count 11, first-degree murder of Paul C. Broxterman, guilty.

Dated June 2, 1997, signed by the foreperson.

Sir, was this and is this the jury's verdict?

JUROR NO. 11: Yes.

THE COURT: So say you all?

JURORS: Yes, sir.

THE COURT: I will poll the jury on the verdict; and I'm simply going to refer to you, members of the jury, by the chairs in which you are seated.

The juror seated in Chair No. 1: Was this and is this your verdict?

JUROR NO. 1: Yes.

THE COURT: The juror seated in Chair No. 2: Was this and is this your verdict?

JUROR NO. 2: Yes.

THE COURT: The juror seated in Chair No. 3: Was this and is this your verdict?

JUROR NO. 3: Yes, sir.

THE COURT: The juror seated in Chair No. 4: Was this and is this your verdict?

JUROR NO. 4: Yes.

THE COURT: The juror seated in Chair No. 5: Was this and is this your verdict?

JUROR NO. 5: Yes, sir.

THE COURT: The juror seated in Chair No. 6: Was this and is this your verdict?

JUROR NO. 6: Yes, sir.

THE COURT: The juror seated in Chair No. 7: Was this and is this your verdict?

JUROR NO. 7: Yes, sir.

THE COURT: The juror seated in Chair No. 8: Was this and is this your verdict?

JUROR NO. 8: Yes, sir.

THE COURT: The juror seated in Chair No. 9: Was this and is this your verdict?

JUROR NO. 9: Yes, sir.

THE COURT: The juror seated in Chair No. 10: Was this and is this your verdict?

JUROR NO. 10: Yes, sir.

THE COURT: The juror seated in Chair No. 11: Was this and is this your verdict?

JUROR NO. 11: Yes.

THE COURT: The juror seated in Chair No. 12: Was this and is this your verdict?

JUROR NO. 12: Yes, sir.

THE COURT: Members of the jury, you have determined by your verdict that the evidence established the guilt of Timothy McVeigh on these charges beyond a reasonable doubt of crimes for which death is a possible punishment. Whether Mr. McVeigh should be put to death for these crimes is a question to be answered by the jury serving as the conscience of the community. Although Congress has given this responsibility exclusively to the jury, the applicable statute

responsibility exclusively to the jury, the applicable statute and the Constitution command that you must exercise your discretion by following a specific procedure and give careful and thoughtful consideration to information characterized as "aggravating and mitigating factors" to be presented now in a court hearing that is in a sense an extension or continuation of the trial.

I'm going to return the alternate jurors into the jury box with you now, announce your verdict to them, and give you some additional instructions.

(Alternate jurors in at 1:37 p.m.)

THE COURT: Those of you who have served as alternate jurors through the trial of this case are now informed that the jury has just returned a verdict of guilty as to all 11 counts in this case. You are now going to rejoin the members of the jury during the next phase of this trial, and you may be called upon to participate in evaluating the information to be presented concerning aggravating and mitigating factors.

You must accept this verdict without questioning it. Please remember that this jury of 12 persons has functioned according to their own group dynamics. The 12 jurors sitting here discussed, analyzed, and evaluated this evidence during their days of deliberation. They did their work in secret sessions, as the law requires.

Now, they have no duty or obligation to defend or explain their collective decision to anyone in any way. You will be rejoined together, the 18 of you, during the penalty phase hearing. It would be wholly improper and a violation of your sworn duty to follow the law for any of you alternate jurors to in any way question any of the jurors about their deliberations or in any way to express any thoughts or opinions

you may have about the trial or anything connected with this case. Your position is no different from any of the other trial participants or the public. You must accept this verdict.

I specifically instruct all of you, jurors and alternate jurors alike, that you must not discuss the verdict or the deliberations resulting in the verdict at any time before the penalty questions in this case are addressed and resolved.

I'm going to remove the order of sequestration now for all of you, and we will be returning to the normal practice that we followed throughout the trial. And I'm going to have an interval here between this moment and the time that we begin with the presentation of the information that is relevant to the question of penalty.

So we're going to start that phase of the trial on Wednesday morning. Between now and then, there will be a hearing tomorrow, at which time I will hear some issues that are appropriately going to be raised by the lawyers so that we can have some -- they can have some advance information with respect to the Court's ruling on what will be permitted to be heard by the jurors in connection with the penalty.

And there will be a whole new set of instructions that will given to you as you address the question of the penalty to be imposed. You understand, I'm sure, from what I told you in

the course of jury selection, the voir dire process, about the penalty phase is a very separate phase; and it really has its own rules and own principles of law that must be followed in connection with that.

So we're going to, as I say, release the sequestration order, permit you to return to your homes and families.

Now, of course, this is a much different situation from any other time that I recessed and you went home. This verdict, obviously, is going to be a matter of great public interest. Great publicity will surround it. There will undoubtedly be many commentaries with respect to it. People can second-guess you on your decision.

As I've explained here, however, there is no obligation on your part to answer anybody's questions; and indeed, it would be inappropriate for people to ask you questions about this decision. So at the same time, you should not discuss the case now among yourselves or with anyone else, returning to the instructions that I gave you while we were addressing the evidence at the trial, to keep open minds with respect to the question of punishment. This is, of course, a solemn question. It must be addressed seriously and in accordance with the instructions that will be given to you in the next phase of the case.

And I simply want to also assure you that I've continued to maintain your privacy. The foreperson has signed this verdict form, but that part of it will not be made public now. And in the event that anyone should attempt to contact you or trouble you in any way with respect to this verdict, you let us know about it and we'll take appropriate measures, so that you can come back to us here.

And, of course, just as with the question of guilt or innocence of these charges, the question of what the punishment should be is a matter on which you should reserve judgment, even in your own minds, again, knowing that this question is coming but reserve judgment in your own minds until we have had

the penalty phase completed, the information necessary has been provided to you, and I have had the opportunity to instruct you in detail with respect to that law, because those instructions are quite detailed and require you to address this question in a very analytical way, just as you have addressed the questions before you on the guilt or innocence of these charges.

So you have done your duty in this case. You've returned this verdict. As I've just said to the alternate jurors, all of us accept that verdict, and we will go forward with it from here to proceed to the next phase. And we will begin that at 9:00 on this next Wednesday -- coming Wednesday morning.

Between now and then, you are going to be excused. And again, do not talk with anybody about it, the verdict, your deliberations, the trial, and what lies ahead; and permit no one to talk with you about it. And if anyone seeks to do that, you let us know about it. Again, contact us immediately through the numbers that you have in the event that that happens; and then also, of course, when during the penalty phase that should happen, you give me a note, just as I've told

you with respect to the trial that we've had.

Also, of course, stay away, now -- and it's going to be difficult, because there is going to be a lot out there, a lot of comment. Stay away from that. We don't want to have, and it would be unfair now to have, you influenced by anything that anybody says about your decision in this case or what you should do next. This is a solemn responsibility that is given to you; and it is, indeed, a most serious obligation that rests upon you to decide this next question.

So be true to your oath, as you already have been. Reserve judgment. Don't talk about it. We'll have you back in here at 9:00 on Wednesday morning and start the penalty phase hearing.

You're all excused until then.

(Jury out at 1:47 p.m.)

THE COURT: I'm going to suggest to counsel that we convene at 9:00 tomorrow morning for the purpose of hearing the

motions and motions which yet may be filed with respect to the penalty phase.

Mr. Jones?

DEFENDANT'S RENEWED MOTIONS

MR. JONES: Your Honor, on September 29, 1995, your Honor advised us that upon the receipt of the jury verdict, we should renew our motions with respect to duplicity and multiplicity; and we renew them at this time.

THE COURT: Yes. And those motions are denied.

Now, I'm going to ask the marshals to escort Mr. McVeigh from the courtroom now.

(Defendant out at 1:48 p.m.)

THE COURT: All right. We'll recess until 9:00 tomorrow morning.

(Recess at 1:48 p.m.)

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REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 2d day of June, 1997.

Paul Zuckerman

