

Monday, June 9, 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 139)

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 9th 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,
P.O. Box 3563, Denver, Colorado, 80294, (303) 629-9285

APPEARANCES

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

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

STEPHEN JONES, ROBERT NIGH, JR., RICHARD BURR, RANDALL
COYNE, and AMBER McLAUGHLIN, Attorneys at Law, Jones, Wyatt &
Roberts, 999 18th Street, Suite 2460, Denver, Colorado, 80202;
JERALYN MERRITT, 303 East 17th Avenue, Suite 400, Denver,
Colorado, 80203; MANDY WELCH, Attorney at Law, 412 Main, Suite
1150, Houston, Texas, 77002; CHERYL A. RAMSEY, Attorney at Law,
Szlichta and Ramsey, 8 Main Place, Post Office Box 1206,
Stillwater, Oklahoma, 74076, and CHRISTOPHER L. TRITICO,
Attorney at Law, Essmyer, Tritico & Clary, 4300 Scotland,
Houston, Texas, 77007, appearing for Defendant McVeigh.

* * * * *

PROCEEDINGS

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

THE COURT: Be seated, please.

Good morning. Are you ready for the jury?

MR. JONES: Your Honor, I think we are except that

affidavit that we spoke about in chambers is ready to be presented now, the exhibit; and I know you wanted to introduce it while the jury is here, but I thought I'd advise the Court we furnished a copy to the prosecution and made one change on the first page, which Mr. McVeigh has initialed.

THE COURT: Well, what's the Government's position?

MR. HARTZLER: We just received a copy; only I've had an opportunity to read it. It doesn't appear that it needs to be introduced for these first several witnesses, so I'd asked that we at least have an opportunity over the lunch hour to discuss it and have an opportunity to address the Court.

THE COURT: All right. Sounds fair.

MR. JONES: That's fine.

THE COURT: Jury.

(Jury in at 9:02 a.m.)

THE COURT: Members of the jury, good morning.

JURORS: Good morning.

THE COURT: We're ready to resume the penalty hearing and call for the next witness.

MR. BURR: Defense calls Howard Thompson.

THE COURT: Thank you.

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

(Howard Thompson 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: Howard Ian Thompson, T-H-O-M-P-S-O-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Burr.

MR. BURR: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. BURR:

Q. Good morning, Mr. Thompson.

A. Good morning, sir.

Q. Where do you presently live?

A. Right now I'm currently living at 115-23 225th Street, Queens, New York.

Q. How long have you lived in Queens?

A. Almost all my life, since I came to the United States.

Q. And what do you now do to make a living?

A. Right now, I'm a parking attendant.

Q. Where do you do that?

A. In Manhattan, New York.

Q. Do you have plans for school?

A. Yes. I'll be going back to school this September.

Q. Have you ever been in the United States Army?

A. Yes, I have.

Q. What period of time were you there?

A. From May 1988 until June 1991.

Howard Thompson - Direct

Q. Where did you do your basic training?

A. I did my basic training in Fort Benning, Georgia.

Q. Do you recall meeting Timothy McVeigh when you were at Fort Benning?

A. Yes, I have.

Q. Do you recall very much about interaction or contact with him during the basic training period?

A. No. Not until he got to our unit in Fort Riley, Kansas.

Q. Do you recall when that was, when you got to Fort Riley?

A. Yes. It was in August of 1988.

Q. What unit were you assigned to?

A. I was assigned to a Charlie Company, 216th Infantry.

Q. And which platoon?

A. 1st Platoon.

Q. Is that the same platoon Mr. McVeigh was in?

A. Yes, sir.

Q. Who were your roommates when you first started living in the barracks at Fort Riley?

A. At the time it was Michael Fortier, Ronald Herbas, and Timothy McVeigh.

Q. Do you remember about how long the four of you stayed as roommates?

A. Yes. Actually we stayed for almost a year.

Q. Do you recall what your first assignment was, your first soldiering assignment was at Fort Riley?

Howard Thompson - Direct

A. Yes. I was an M-203 gunner.

Q. Were you -- I'm going to ask you what an M-23 gunner was, but first I'm going to ask you as a part of that, were you assigned to any vehicle?

A. Yes. It was an APC, which means "armored personnel carrier." It was an M-113.

Q. Now, is that the same as the Bradley vehicles that people have been hearing about?

A. No, it's a little bit different. In fact, a lot different. The Bradleys are a lot faster, has more power, and you can maneuver a lot easier with the Bradleys.

Q. Did you have the Bradleys when you first got to Fort Riley?

A. No.

Q. You said you were a M-23 gunner?

A. M-203.

Q. I'm sorry, what is that?

A. All it is is a grenade launcher attached to an M-16 rifle.

Q. Do you recall what Tim's job was at the same time?

A. Yes. He was a SAW gunner, meaning a squad automatic weapon gunner.

Q. Were these both characterized as dismount jobs?

A. Yes, they were.

Q. Do you remember who the other people were that were assigned to the same armored personnel carrier that you and Tim were in?

Howard Thompson - Direct

A. Pretty much. It was Derrick Bunch, Ronald Herbas, Michael

A. Pretty much. It was DELTICK BUNCH, RONALD HERBAS, MICHAEL Fortier, Sergeant Railback, Sergeant Rodriguez, Terry Nichols, and McVeigh.

Q. Did some sort of problem develop between you and Sergeant Railback?

A. Yes.

Q. What was that?

A. He was always picking on me for some reason.

Q. Did it bother you?

A. Pretty much, yes.

Q. Did you ever have occasion to talk to Tim McVeigh about that?

A. Yes. He came to me and told me not to worry about it, that it will pass.

Q. Do you know why he came to you?

A. Why did he come to me. I guess he doesn't like to see a person being oppressed.

Q. Did you talk with him about that on more than one occasion?

A. Yes.

Q. And again what sort of advice did he give you?

A. Okay. He told me -- okay -- if I wanted to, I could take it to higher authorities, but for the present moment, keep it at that squad level and see if we can work it out.

Q. Was Sergeant Railback your squad leader?

A. Yes, at the time he was.

Howard Thompson - Direct

Q. Did the advice that Tim gave you turn out to be helpful?

A. Yeah, in fact it was.

Q. Did you notice Mr. McVeigh doing that sort of thing with anybody else, offering some advice here and there?

A. Yes, pretty much the people that he was around.

Q. Do you remember any specific other example of it?

A. Yes. There was this one soldier, Ronald Herbas. He had got in some trouble, and everybody in the platoon was always on his case. And McVeigh would always take him off to the side and tell him that, Okay, in life, people sometimes do things wrong; it's only natural occurrence, but don't worry about it, he's a good soldier, continue doing his job, and things would be better for him.

Q. Do you know whether that was helpful advice to Mr. Herbas?

A. Yes, because he turned out to be one of the best.

Q. Did you ever notice Mr. McVeigh being interested in current events, things going on in the world?

A. Yes, pretty much.

Q. What do you recall about that?

A. Okay. He was always reading the paper, watching the news, especially CNN.

Q. Did he ever express any views about things going on, politics, political issues, or events in the world?

A. No, not that I can recall.

Q. Was he a person that you might characterize as outspoken

Howard Thompson - Direct

about issues?

A. Sometimes.

Q. Explain that for us, if you would.

A. Okay. If it gets to the point where -- whereas you can't deal with a situation, he'll stop you right there and then pull you off to the side and discuss the matter with you.

Q. Did you ever know him to force his views on other people?

A. No, not at all.

Q. In general, how -- if he had a problem with somebody, how would he deal with that person?

A. I'd duke it out right there.

Q. Was he an honest person?

A. Yes, very honest.

Q. Do you remember whether he ever -- he had a conflict with somebody, he got out in the open in front of other people?

A. No. He was not that kind of a person.

Q. Now, when -- you and I have talked before, haven't we?

A. Yes, we have, sir.

Q. Do you remember your saying to me that he was the kind of person who could have had what you called the glamour lifestyle?

A. Yes.

Q. What did you mean by that?

A. Okay. He was the kind of guy, you know, very low key in the things that he does. He's not into the glamour lifestyle

Howard Thompson - Direct

as we have it, like wanting to be with seven, six different woman at the time, going to the clubs. He'd rather just stay home, be humble, and do what he has to do.

Q. Were you aware of any magazines that Mr. McVeigh read?

A. Yes.

Q. What do you recall about them?

A. Okay. It was like the Soldiers of Fortune and the Guns and=20
Ammo.

Q. Were -- did other peoples read those magazines, too?

A. Yes, pretty much. Just about everyone.

Q. Did you read them?

A. Yes.

Q. What was Soldier of Fortune about?

A. Basically what the military was doing at the time and what we would be doing in the future.

Q. Did you remain in Charlie Company, C Company, the whole time you were in the Army?

A. No, sir.

Q. What happened?

A. Okay. It was November or December of 1990. I had to go to Bravo Company because they needed a sniper, and I was qualified at the time.

Q. You were qualified as a sniper?

A. Yes.

Q. Sniper, is that what you said?

Howard Thompson - Direct

A. Yes.

Q. How did you become qualified to be a sniper?

A. Training in the military. Went to the sniper school.

Q. Was that a form of training that you knew Mr. McVeigh was interested in, too?

A. I'm sure he would.

Q. Why is that?

A. Because he was a soldier's soldier.

Q. Tell us more about that. What do you mean by a soldier's soldier?

A. Okay. He was like a cut above the rest. Whenever you have something to do, he would always go ahead and face it head on, do it, even though sometimes me and the rest of the crew, we'd back away from it. He was like the person that would say, Come on, you know it's got to be done, so let's do it and get it done with.

Q. If you were asked to describe Mr. McVeigh in a way to try to help somebody who had never met him get to know who he really was, how would do you that?

A. Well, I would tell them if you're looking for a relationship where you have honesty, understanding, and someone that would be there for you at all times, he would be the kind of person.

MR. BURR: Thank you, Mr. Thompson. No further questions.

THE COURT: Any cross-examination?

MS. BEHENNA: Just a couple, your Honor.

CROSS-EXAMINATION

BY MS. BEHENNA:

Q. Mr. Thompson, your last contact with Tim McVeigh was in 1991 when you left the military; is that right?

A. Somewhere around there.

Q. June of 1991?

A. Yes.

Q. That's when you left the military and went back to Queens; right?

A. Yes. No, I went to Fort Worth, Texas.

Q. Okay. You had no contact with Tim McVeigh since June of 1991?

A. No.

Q. You don't know what he was planning in 1994 or 1995?

A. No.

MS. BEHENNA: That's all I have, your Honor.

THE COURT: Is the witness excused, I take it?

All right. You may step down, you're excused.

Next, please.

MR. NIGH: Captain Jesus Rodriguez.

THE COURT: Thank you.

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

(Jesus Rodriguez 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: Jesus Angel Rodriguez,
R-O-D-R-I-G-U-E-Z.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Nigh.

MR. NIGH: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. NIGH:

Q. Good morning, Captain Rodriguez.

A. Good morning.

Q. You're currently a captain in the United States Army?

A. That's correct.

Q. Where are you stationed at the present time?

A. Stationed at Fort Lewis, Washington.

Q. How long have you been at Fort Lewis?

A. Approximately three years.

Q. Before we talk about your military career, will you tell us first, please, where you were born and where you grew up.

A. I was born in Las Piedras, Puerto Rico. I was three months -- three months old, I went ahead and my family moved me to Connecticut where I was raised, to elementary, junior high, and high school there, where I graduated.

Jesus Rodriguez - Direct

Q. And after you graduated from high school in Connecticut, was it then that you joined the service?

A. Yes. My family resided in Puerto Rico, and I enlisted there, in 1980.

Q. After you enlisted in 1980, you went to basic training?

A. Yes. I went to basic training at Fort Jackson. Went there -- I was there for about, less than a year. From there I went to -- my first assignment was Germany. I was there for three years. I was enlisted first. From there I left Germany and then went to Fort Riley, Kansas, 1983, about, through 1985. From there I went to the Airborne Ranger training. I was stationed at Fort Lewis, Washington. Spent approximately two years at the Airborne Rangers. From there I went to the language school, the Defense Language Institute, down in Monterey, California, for German. Left there, went to Korea for a year. After Korea -- that was 1988 -- I went to Fort Lewis, Washington, into the Special Forces, where I made my E6, and it was then that I was selected for Officer Candidate School. Went back to Fort Benning, Georgia. I was commissioned in 1989. And from there I went to Fort Riley, Kansas, where I was assigned to Charlie Company, 216 Infantry, Fort Riley. And I was a platoon leader there. I was there through 1992.

Q. When you went to Fort Riley the second time, at that time you were an officer?

Jesus Rodriguez - Direct

A. That is correct. I was platoon leader, second lieutenant, ves. sir.

100, 011.

Q. Was it at that time that you became familiar with Timothy McVeigh?

A. Yes.

Q. Would you tell us in very general terms what kind of shape Charlie Company was in when you got there to Fort Riley.

A. Well, as soon as I got there, I had noticed that the platoon had a lot of problems.

Q. Were they problems with personnel and --

A. Lot of personnel and just basically took -- you know, as platoon leader, you make your initial assessment -- you don't want to step on any toes, so you make your assessment for two to four weeks; and then from there, you start implementing what you think is appropriate for the platoon. But yeah, there was problems, but Sergeant McVeigh was not one of them.

Q. Mr. McVeigh was not among the problems?

A. That's correct.

Q. And at Fort Riley, you became a platoon commander; is that correct?

A. Yes. As a platoon leader in a Bradley company, Bradley infantry fighting company, you're in charge of four vehicles, as a second lieutenant, four fighting vehicles, and that's correct.

Q. How would you describe Mr. McVeigh's performance and work

Jesus Rodriguez - Direct

skills or work habits during that period of time?

A. Well, through my initial assessment and getting to know the -- about 37 soldiers that I had, I was learning the job and learning all the personnel and all the tasks that we were given on a daily basis. But one thing that I noticed was that in the morning, there is -- Sergeant McVeigh would always be -- boots would always be shined, pressed uniform. But what I noticed specifically was that at night, at the end of the day, formation, he was the one that was like pretty filthy, pretty dirty. That's because he really took pride in his work and wasn't, you know, worried about getting dirty. And I was concerned because he was a private, and I'm concerned, Well, why is this guy always getting dirty, and you know, he doesn't make that much money. So, you know, there was a couple other guys, like Sergeant Dilly and other guys, but that's what I had noticed.

Q. How were his skills as a Bradley gunner?

A. Through some other expert gunners in the company and in the battalion, I learned quickly that Sergeant McVeigh was one of my better gunners. That really stood out when we went to live gunnery, and we took first place; and that's when I had noticed that, wait a minute, you know, why is he another track, he needs to be on my track. So I quickly -- and I always noticed, you know, why is this guy still like an E4 when he's -- I recommended for promotion. Everything he did he was -- took

Jesus Rodriguez - Direct

pride in the electronic -- there's a lot of electrical mechanisms inside of the Bradley turret where he took pride and took it personally if you touched his -- his -- his Bradley fighting vehicle, but so did the other gunners in the other platoon.

Q. Now, there came a time when you and Mr. McVeigh went to the Gulf War; is that correct?

A. Yes.

Q. And at that time was he assigned as the gunner on your Bradley unit?

A. Yes. I changed them -- when we found out the -- that there was a possibility of us going, we spent extensive time in the field. And it was then that I decided to go ahead and change him to my Bradley; and not just him, but there was other guys that just made sense on a dismounted, dismounted force and also on the mounted force where they can be more effective. The -- Sergeant McVeigh basically helped me along with some other NCOs build, construct that team.

Q. And that went to Desert Storm --

A. That's correct.

Q. -- and was engaged in the Gulf War; is that right?

A. Yes, that's correct.

Q. And how long were you in the Gulf War?

A. I, myself?

Q. Yes, start with that, please.

Jesus Rodriguez - Direct

A. I personally -- we got in there about January of 1991, and the company returned on or about April or May, I'm not too sure. But around in there.

Q. Now, during that time did you have much contact with Mr. McVeigh while you were stationed in the Persian Gulf?

A. Pretty much every day. There was a little lull there where they picked up the vehicles and they had to drive them across the desert for a short time; but that was about, I would say overnight, through the afternoon, that was about it.

Q. When you were engaged in the actual conflict, was there a time when one of your company was injured?

A. Yes, there was.

Q. And did Mr. McVeigh -- first of all, how did that come about?

A. Well, after the initial contact took place, we were sent out on a scout mission. And we went forward, and basically we -- we had to clear bunkers. And my dismounts, one of my soldiers, Sergeant Roberts, Robertson, he basically launched a 203 round a bit too close to the -- it was a hard surface. Anyway, it bounced back immediately, and there was screaming; and obviously we're doing communication.

I told Sergeant McVeigh to take over the Bradley, I jumped out. I assisted the situation. From there I immediately told Sergeant McVeigh to get the assistant gunner into his position and for him to come out and go ahead and

Jesus Rodriguez - Direct

conduct emergency medical aid on the soldier. Sergeant McVeigh was one of my combat life savers. The result of that was -- from what I get from the medics, he did a really good job.

Q. Helped that soldier?

A. Absolutely. Basically saved his life.

Q. Did you make a record of that at the time?

A. Yes, I did.

MR. NIGH: Your Honor, may I approach the witness?

THE COURT: Yes.

BY MR. NIGH:

Q. Captain Rodriguez, I've put in front of you some file folders, and if you'd look in the one that's marked RR1. Do you recognize that?

A. Yes, I do.

Q. Are those handwritten notes that you took in order to document what was occurring in the Gulf and what was happening with your soldiers?

A. That's correct.

Q. And does this particular one record what occurred with this soldier that was injured?

A. Yes.

MR. NIGH: Your Honor, I'd move for the admission of RR1.

MS. BEHENNA: No objection, your Honor.

THE COURT: Received. You may display it.

Jesus Rodriguez - Direct

BY MR. NIGH:

Q. And in this RR1, Captain Rodriguez, do you indicate that the incident occurred on February of 1991?

A. Yes, on or about, yes.

Q. And you describe essentially what Mr. McVeigh performed there with reference in the injured soldier; is that right?

A. Yes.

Q. Did you also take some photographs while you were in the Gulf?

A. Yes, I did.

Q. And would those photographs -- do those photographs help to show the condition that you and Mr. McVeigh experienced during the time of the Gulf War?

A. Yes.

Q. I'd like to show you what's been marked -- only the witness -- what's been marked for identification as PP50. It should appear on the screen in front of you. Do you recognize that photograph?

A. Yes, I do.

Q. And what does that depict, please.

A. Basically when we received all our vehicles and the Bradleys and the tanks, we lined up to basically zero our weapons prior to the initial attack.

Q. So does that display the type of vehicles that you and Mr. McVeigh were in?

Jesus Rodriguez - Direct

A. Yes. I believe we were looking over the turret right there. Excuse me, not the turret, the TOW launcher.

MR. NIGH: Your Honor, I'd move for the admission of PP50.

MS. BEHENNA: No objection, your Honor.

THE COURT: Received. It may be published.

BY MR. NIGH:

Q. Captain Rodriguez, is this just looking down a line of Bradleys?

A. Yes, Bradleys and I believe there's -- yes, these are the Bradleys to my left flank, would be the first track of my four, and then the tanks are to my right.

Q. And you and Mr. McVeigh would have been at the place where the picture was taken; is that right?

A. Yes, in fact -- yes, would have to -- probably have to ask him to move to the side 'cause he's actually directly to my left when I took the photo.

Q. It appears to me that there is a picture of a Ninja Turtle on the lower right-hand corner of this photograph.

A. Yes, sir.

Q. Is there any particular reason for that?

A. Well, prior to me leaving for the Gulf, my family, my wife's family, the nieces and nephews got together, and they got me this little Ninja Turtle camera. That was when the Ninjas were really hot. And I thought I'd take photos and kind

Jesus Rodriguez - Direct

of monitor all the photos in the desert with the Ninja Turtle so that way I can send them back to the kids.

Q. So this was taken with your Ninja Turtle camera?

A. Yes.

Q. Okay. Now let me ask you, if I may, what kind of close contact were you with Mr. McVeigh during the time that you were in Saudi Arabia and then in Kuwait?

A. In Saudi Arabia, initially, basically we were living out of Al Kobar, basically looked like apartment complexes. I'd see him on and off. I was required to go to the port daily because we were waiting for all the vehicles to arrive at the port. So occasionally I would see him, just like the other -- other soldiers. That was my requirement from my commander.

And basically, you know, at least, you know, during chow time, during hours, you know, eating, I would see him just like all the other guys.

And then we -- once we received all the vehicles, we basically lived together.

Q. In pretty close quarters in a Bradley?

A. Yes, yes, sir. In a Bradley, his position is to my left, the gunner position, and my position is to the right. And then we have the dismounts in the rear, and we have the driver up to the forward left-hand front of the vehicle.

Q. Is there quite a bit of room in a Bradley?

A. No, not at all. Very close quarters.

Jesus Rodriguez - Direct

Q. Where did you sleep?

A. We slept outside, but there was many times that we chose to sleep inside because it was -- contrary to belief, it was very cold in the desert; and even though we had no heaters, we slept in the turret. And we would take turns, and the soldiers would sleep in the back, basically shoulder to shoulder, buddy to buddy, trying to stay warm. A lot more difficult in the turret, though, 'cause there is no space, really. So sometimes we would, you know, either sleep back to back, which is just a old Ranger technique to kind of consolidate the warmth of your body.

Q. From time to time did you receive packages in the mail of extra --

A. Well, yes. I used to receive packages from -- not just my family, my wife's family, and there's a -- two elementary schools that knew about my platoon. I used to receive packages. And the first thing I would do is lower my ramp down and let my soldiers come through and grab what they want. Minus -- minus the Pop Tarts, that is. I had -- we had -- every soldier has their little, you know, peanut butter and jelly, their little preferred what they don't want to share with people. Well, Sergeant McVeigh was one of those that had strawberry Pop Tarts, and I never thought about bringing Pop Tarts, so, of course, he wouldn't share them with me. And, well, he ran out, and then I started getting my additional

Jesus Rodriguez - Direct

packages from the family, and I was getting those six-packers, and I gave him one. And of course all the guys gave him a hard time because they was saying he was -- excuse the expression -- sucking to the commander. So we kind of laughed about that.

Q. You shared a few Pop Tarts in the desert?

A. Yeah, that's about it, yeah.

Q. Now, after -- you actually got -- you and Mr. McVeigh actually got engaged in combat with the Iraqis; is that correct?

A. Yes, we did.

Q. And you were under fire and you were firing back?

A. Yes.

Q. How did he perform during --

A. Outstanding.

Q. What kind of things did he do during that conflict?

A. Well, basically as a Bradley commander -- not just because I'm an officer and I'm a commander, but my other commanders in the Bradley that are the senior NCOs, we have proper firing commands that we have to utilize when engaging or trying to identify a target.

Sergeant McVeigh and I, through training, practiced at the Fort Riley, at the live fire ranges; and also we have like

computerized sim net, and we go in there extensively. And the NCOs, they get a kind of a kick about that, because their pitch is that they have to train the platoon leader. Because as a

Jesus Rodriguez - Direct

second lieutenant, you're considered the butter bar, if you will, the young guy. So Sergeant McVeigh used to spend a lot of time with me to ensure that I had my commands down.

We kind of modified them a little bit. We got to a point where I can give him a clock position, and he slid the turret over. That means you just push a button and it just rotates whichever way you want it to go. And I identified a target about 23, 2800 meters -- I can't remember exactly -- could not confirm the target. Basically I knew it was a bunker, and I gave him the fire commands. He -- I mean, blink of an eye, he was right on that target.

And of course I have to report to higher -- even though we're getting fired upon, I have to report to higher, receiving fire, give them the complete sit rep or description of what we're receiving before we can return the fire, because those are the rules of engagement.

So he -- once I got the green light, the authorization from my commander, he authenticated, and I went ahead and told him to fire.

Q. And did he do so?

A. Well, he was right on target. He's an excellent gunner.

Q. So did he perform in that situation the way he was supposed to perform?

A. Yes, he did.

Q. After the -- there came a time when Iraq decided that they

Jesus Rodriguez - Direct

had enough; is that correct?

A. Yes.

Q. And did you and Mr. McVeigh participate in any way at the peace talks?

A. Yes, we did. We were -- understand because we were one of the top platoons that were selected for the task force, organized with the tanks, we were honored by, you know, the request for us to be the security force right around General Schwarzkopf's tents, so those tanks and those Bradleys that you saw there on CNN or television, that was us there.

Q. Let me show you what's been marked for identification as Defendant's PP51. It will be on your television screen. Do you recognize that?

A. Yes.

Q. What's depicted in that?

A. That's Charlie 11, which is my Bradley -- our Bradley. Sergeant McVeigh to the top left, Sergeant -- or Specialist Smith to the right.

Q. Before you describe the whole thing. Is that a picture that was taken at the peace talks of your Bradley?

A. Yes. Yes, it was.

A. Yes. Yes, it was.

MR. NIGH: Your Honor, I'd move to the admission of PP51.

THE WITNESS: We were basically --

THE COURT: Just a moment, please.

Jesus Rodriguez - Direct

MS. BEHENNA: No objection.

THE COURT: All right. Received. You may display.

MR. NIGH: Thank you.

BY MR. NIGH:

Q. Now, if you would, Captain Rodriguez, tell us what's depicted there.

A. Lower left, that's Specialist Anderson. These are my dismounted troops, Witcher, Private Witcher. I think it's Pfc. Hamilton and Specialist Bunch. And up -- like I stated before, Sergeant McVeigh and Specialist Smith on top.

Q. And the Ninja Turtle on the lower right-hand corner?

A. That's correct.

Q. Then after the peace talks, did there come a time that you went home early from the Gulf?

A. Yes. It's before -- right after the peace talks, we -- we were moved -- don't quote me on this -- I believe it's about 30 miles into Iraq or across the Basrah highway, and we were pulling basically security. I think it was north of the refugee camps. We were pulling extensive -- just security, and we acquired -- let's see here. We captured a DRDM motor pool and just basically getting prepared for the word to go back. So we were pulling security basically for our own protection but at the same time trying to get the vehicles packed -- you know, packing things up, ready to move south down to Saudi Arabia.

Jesus Rodriguez - Direct

There was one night specifically where Sergeant McVeigh was pulling security, and I remember this because he

was -- he was one guy that always -- he was one of my soldiers, one of the better soldiers I can rely on not falling asleep. Because one of the things I pitched to my guys is if you stay alert, you stay alive. You don't put your guard down until you're back on neutral soil.

Well, I decided to -- I couldn't sleep. So I went out. It was about 2 or 3:00 in the morning. I sat beside Sergeant McVeigh. And he said, Hey, sir, what you doing here?

And I said, I just feel like pulling security with you.

He said, Why's that? You're an officer.

I said, That doesn't mean anything. I'm a soldier just like you. When the bullets are flying, we've got to rely on each other. And I said, If you don't mind, I'll just sit here for a while.

And he said. Not at all.

So we kind of talked a little bit. And it was then something came over the radio, basically Red Cross message. It was ironic because that day were trying to figure out when, you know, people are going home and everything. They -- we drove back in the dark to the commanders, and I was expecting to receive a Red Cross message for one of my soldiers. But what had happened was the Red Cross message was for me, and I found

Jesus Rodriguez - Direct
out my brother-in-law was killed.

And he, he was killed in a paragliding accident. And he was really close to me. It was the like the brother I never had.

But the problem -- the problem that I was facing was that I was ordered to go back home, and I was pretty distraught, just pretty upset, and commander told me to go home. Well, I went back to the vehicle with some of the soldiers and Sergeant McVeigh and Specialist Smith -- I don't know what it was, but he -- he was just really compassionate. He just went ahead and -- well, good soldiers are judged by the buddy system, and when a soldier acts upon his own accord and he just -- what he did was he just grabbed all my gear, I mean, and this is in the pitch dark, you know, and he grabbed my stuff and he gave it to me, and I had to give him my weapon, all the sensitive items. He collected all those, and he gave them to me. And it was the first time he -- he just kind of -- you know, he -- sympathetic, you know, he was just there. He showed he really cared, you know.

Anyway, I had to leave the Gulf.

Q. All right. Then after you returned and the conflict was over, you had some more contact with Mr. McVeigh back at Fort Riley; is that right?

A. Yes. I found out -- yes. I saw him right after he came back from the assessment course or selection course.

Jesus Rodriguez - Direct

Q. And it's my understanding that you didn't have any real contact with him after 1991 -- is that right --

A. That's correct.

Q. -- after he left the service?

And so you can't tell us anything about what he was like in '92, '93, '94, or '95.

A. No. I had left Fort Riley then.

Q. Captain Rodriguez, during the time that you knew Mr. McVeigh, if you were going to describe him for someone as a soldier and as a person, how would you describe him?

A. At the time, Sergeant McVeigh was an outstanding soldier. I mean he did what he was told. He anticipated what had to be done. He took pride in his work. He had a genuine care for how we looked in front of the company as a platoon and as -- in the brigade, the overall brigade, because it's battalions and brigade. He was an outstanding soldier, yes.

MR. NIGH: Thank you, Captain Rodriguez.

That's all I have, your Honor.

THE COURT: Any cross?

MS. BEHENNA: Just a few questions, your Honor.

THE COURT: All right.

CROSS-EXAMINATION

BY MS. BEHENNA:

Q. Captain Rodriguez, I think that you've identified and mentioned before in interviews that you've given that Tim

Jesus Rodriguez - Cross

McVeigh was very smart, wasn't he?

A. Yes.

Q. Right? Very bright, picked things up very quickly in the military way; right?

A. Yes.

Q. A soldier that you admired, a soldier that you would have liked to have had more of; isn't that right?

A. Yes.

Q. I want to talk real quickly about the engagement that happens in the Gulf, on the second day. You recall that. You testified about it just a few minutes ago. Remember?

A. Yes.

Q. Everybody's on line, or you're moving through the desert and you engage some fire from a bunker; do you recall that?

A. Yes.

Q. And there was some confusion about that engagement, isn't there? Well, there appears to be some Iraqis who are surrendering on one side of you.

A. Yes.

Q. But you all are still receiving fire in front of you?

A. Yes.

Q. And McVeigh receives the order or you receive the order from the commander to fire?

A. Yes.

Q. On the bunker that you're receiving fire from; right?

Jesus Rodriguez - Cross

A. That's right.

Q. And you tell Sergeant McVeigh to fire?

A. Yes.

Q. You also at some point in time understand that there are some Iraqis that are surrendering. They're waving white flags and they're coming out from the bunker?

A. Not that bunker. Right.

Q. Off to your right, I believe?

A. Off to the far right, yes.

Q. And you receive an order to cease fire. Do you recall that?

A. I remember when we were told to cease fire, we were not receiving any more fire to our direct front, yes.

Q. But there is another round that goes off from the Bradley, isn't there?

A. No. Not at all. 'Cause we were shooting coax at the time.

Q. Not the 25-millimeter?

A. Right. Well, the 25-millimeter, when we were engaging the bunker -- that's a 25-millimeter, hitting the hard surface. We're not allowed to shoot 25-millimeter with any troops. We had switched to coax because the soldiers were coming around the side of the bunker and firing.

Q. My question to you, Captain Rodriguez, is did you have a conversation with Sergeant Smith, Jason Smith, who was your driver? Do you recall that?

Jesus Rodriguez - Cross

A. Yes.

Q. -- and Sergeant McVeigh about that engagement that had just occurred. And, in fact, you get upset because McVeigh is firing after a cease-fire order has been received; isn't that right?

A. No. That -- no. I remember it like it was yesterday. What happened was our right flank, which was Bravo Company -- they were, they were still firing forward. We had ceased fire. They kept firing forward. I had talked to the commander and questioning the -- they were still firing on the right-hand side. There was no confirmed hits or anything like that. It was just bullets firing down range. All I know is they got -- when we were told to cease fire, we ceased fire.

There was a time when they were firing back at us. That was the only time we were returning fire. We were told to cease fire, we ceased fire. The only thing I was upset about is I thought -- I can't see everything to my right flank. There are a lot of vehicles. They're in wedge formation. That is a different command to my right. I was only questioning to my guys, saying, you know, why were they still shooting at those guys right there.

Q. But you do recall the conversation that the three of you had about that cease-fire?

A. Yes, sure.

Q. And as you stated earlier, there were no confirmed hits.

Jesus Rodriguez - Cross

You cannot confirm whether there was anybody killed or not killed in that engagement?

A. Yes, because that's somebody else's responsibility, sector fire.

Q. Sergeant Robinson, who was trying to clear a bunker and accidentally, I guess, fired into the bunker, causing shrapnel to come back on himself and injuring himself?

A. Yes.

Q. Just for purpose of clarifying the record, that was merely his hands. I mean, it wasn't a life-threatening injury, was it?

A. Well, he had scrap metal stuck in main arteries. in his --

A. Well, he had scrap metal stuck in main arteries, in his there was large pieces of scrap metal sticking out of his arms. I believe there was a couple in here. I'm not sure. But directly in here. He was screaming. It was a pretty bloody mess.

Q. Understand that; but it's primarily to his hands and his arms -- isn't that right -- the injuries?

A. Yes. I can't -- I'm not a doctor, so I can't confirm. I just know that it was main arteries.

Q. And Sergeant McVeigh didn't receive an award for that life-saving routine that you wrote him up for?

A. That's correct. I put him in for one, but he was not granted one.

Q. You talked earlier about the photographs that you took in

Jesus Rodriguez - Cross

the desert; that you sent those back home to your family as well as to the children, I believe at a school, an elementary school? Right?

A. Right. As soon as I got them developed, yes.

Q. And some of those, you've recently sold to magazines, haven't you?

A. One magazine.

Q. The pictures of you and Sergeant McVeigh in the desert you sold?

A. Yes.

MS. BEHENNA: That's all I have, your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. NIGH:

Q. Captain Rodriguez, so that we're clear about this, was there -- was Mr. McVeigh involved in any way in firing at surrendering Iraqi troops?

A. No, he was not.

Q. When you had the conversation with Mr. McVeigh and Mr. Smith about what had occurred, were you talking about shots that Mr. McVeigh had fired, or that somebody to -- in a different area had fired?

A. I was talking strictly about to my right flank, which was Bravo Company. I had no problems controlling my gunner, because if I needed to control Sergeant McVeigh reference he

Jesus Rodriguez - Redirect

controls all the gun systems within his controls right here, and he looks through the ICU90; I have a commander's control, and I can override anything that he punches up or anything that he tries to fire. So if I had any problems at that time, I could have taken care of it right then.

Q. Did he ever fire after an order to cease fire was given?

A. No, he did not.

Q. And in the notes that you took at the time that these things were occurring, did you also make reference to Mr. McVeigh's performance in reference to engaging the enemy?

A. Yes, I did.

Q. Would you look in the file folder in front of you that's marked Defendant's Exhibit RR2.

A. Yes. That's kind of sloppy notes; but yes.

Q. Are those the notes that you took at the time that were close in time to this incident that you engaged the Iraqis?

A. Yes.

MR. NIGH: Your Honor, I'd move for the admission of RR2.

MS. BEHENNA: No objection.

THE COURT: Received. Display it.

BY MR. NIGH:

Q. And in that -- beginning with the sentence "energetically," would you read that. Tell us what you wrote there in response to Mr. McVeigh's performance.

Jesus Rodriguez - Redirect

A. Okay. "Energetically, he maneuvered against Iraqi defenses, showing the true character of an American fighting soldier."

Q. And continue on, if you would.

A. "His faithful execution of the mission was a display of true professionalism. His performance showed confidence, involved sacrifice, set the example for others to follow, reflects great credit upon himself, 1st Infantry Division, and the United States Army."

Q. Mr. McVeigh ever do anything inconsistent with that?

A. No, he did not.

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

THE COURT: Any other questions?

MS. BEHENNA: No, your Honor.

THE COURT: Excusing the witness, I assume.

MR. NIGH: Yes, your Honor.

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

Next, please.

MR. NIGH: David Dilly.

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

(William Dilly 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: William David Dilly. D-I-L-L-Y.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. NIGH:

Q. Good morning, Mr. Dilly.

A. Good morning.

Q. Will you tell us what city you live in at the present time.

A. I live in Barnesville, Ohio.

Q. How long have you lived in Barnesville?

A. A little over two years now.

Q. Where did you grow up?

A. In southern West Virginia; Logan, West Virginia.

Q. Is that where you went to high school?
A. Yes. I graduated from high school there.
Q. And after that, did you attend a little bit of college?
A. Yes. I attended a college for three years.
Q. A few more classes to go before you get a degree?
A. Right.
Q. And presently you -- I'm sorry. What is the name of the city, again?
A. Barnesville, Ohio.
Q. Barnesville. What is your occupation now in Barnesville?
A. I'm a corrections officer for the State of Ohio.
Q. Would that mean you work at a prison?
A. Yes.

William Dilly - Direct

Q. In a guard capacity?
A. Yes.
Q. How long have you been a corrections officer?
A. I've been a corrections officer for almost six years.
Q. Now, if I could, I'd like to direct your attention to 1988. Is that the time that you enlisted in the United States Army?
A. Yes.

Q. Where were you first assigned?
A. Harmony Church, Fort Benning, Georgia.
Q. Is that where you went through basic training?
A. That was basic training and AIT.
Q. Is that where you met Mr. McVeigh?
A. Yes, that's where I met Tim.
Q. Were you in Mr. McVeigh's cohort unit?
A. Yes.
Q. Does that mean that you underwent basic training together?
A. Right. It was an experiment the Army did, where you go through basic, AIT, and all your duty stations the same from start to finish.
Q. So you would have been with the same group of soldiers throughout your --
A. Yes.
Q. -- enlistment? And Mr. McVeigh was one of the soldiers --
A. Right.
Q. -- that you were with?

William Dilly - Direct

After you had both been to basic training at Fort Benning, did you get assigned to Fort Riley, Kansas?
A. Yes. Fort Riley, Kansas.
Q. And did you have any close association with Mr. McVeigh there?
A. Yes, I did. After -- after about a year, Mr. McVeigh and I were roommates. We made corporal together. Since we became NCOs, they put us in a room to keep us from fraternizing so much with the privates.
Q. Were you the same age as most of the soldiers that were

Q. were you the same age as most of the soldiers that were there in your cohort?

A. No. I was approximately five, six years older than most of them.

Q. Did you go in as an E1 or -- like most of them did?

A. No, I went in as an E3, because I had college.

Q. And how about Mr. McVeigh?

A. He went in as an E1.

Q. Did he catch up with you?

A. He caught up with me pretty quick.

Q. And were you both made corporals at the same time?

A. Yes, same day.

Q. That's why you shared a room together?

A. Right.

Q. What kind of -- how did Mr. McVeigh compare to the other soldiers in your cohort?

William Dilly - Direct

A. Oh, he was -- he was heads above almost all of them, probably the best soldier we had in our company. I think about everybody would say that.

Q. And how many were in your company?

A. It would vary up and down. But 130.

Q. Did -- you said that there came a time after you both had made corporal that you roomed together; is that correct?

A. Yes.

Q. Let me show you what's been marked for identification as Defendant's Exhibit P55. Do you recognize that photograph?

A. Yes. That's a picture of Tim in our room.

MR. NIGH: Your Honor, I'd move for the admission of Defendant's Exhibit PP55.

MS. WILKINSON: No objection.

THE COURT: Received. May be shown.

BY MR. NIGH:

Q. That picture is a picture of Mr. McVeigh in your dorm room or barracks room?

A. Yes.

Q. And do you know approximately when that photograph was taken?

A. I believe that was taken right before we got activated to go to the Gulf, because the bags are combat-loaded.

Q. The bags up on top --

A. Right. We had everything ready, and we didn't know exactly

William Dilly - Direct

what day we'd go; but we had everything ready. The same thing with our Bradleys: We had them ready in the motor pool.

Q. How long did you room with Mr. McVeigh?

A. A little over a year.

Q. And how close quarters were those that you spent --

A. It was close quarters, like a 10-by-14 room. I had one side of the room, he had the other side of the room.

Q. And this picture is his side?

-
A. Right.

Q. Now, while you were both at Fort Benning, did you receive training in reference to Bradley fighting vehicles?

A. No. Actually, we received our training for the Bradley vehicles when we got to Fort Riley.

Q. I misspoke, and I'm sorry about that. That occurred at Fort Riley?

A. Yes.

Q. Let me show you what's been marked for identification as Defendant's Exhibit PP54. Do you recognize that?

A. Yes. That is a Bradley fighting vehicle.

Q. Can you tell where that picture was taken?

A. Oh, I would say Fort Riley, Kansas. It looks like the terrain.

MR. NIGH: Your Honor, I'd move for the admission of Defendant's Exhibit PP54.

MS. WILKINSON: No objection.

William Dilly - Direct

THE COURT: Received. Display it.

BY MR. NIGH:

Q. You say that the terrain makes you think that this was Fort Riley?

A. Right. It's basically prairie, a few bushes, hardly a tree.

Q. And the vehicle depicted there is a Bradley?

A. Yes.

Q. Is that the vehicle that you and Mr. McVeigh both trained in reference to?

A. Vehicle similar to that. I don't know if it's the exact vehicle.

Q. Yeah. I didn't mean that. Same kind of vehicle?

A. Yes.

Q. How did you and Mr. McVeigh train? I mean, when I say how did you train, what occupation or part of use of a Bradley did you train?

A. Tim and I were both gunners.

Q. Both of you were gunners at the same time?

A. Yes.

Q. So you were not in the same Bradley unit?

A. No. We were in the same platoon. We had four Bradleys in our platoon. Tim was the gunner for the platoon leader, Captain Rodriguez. Now; he was a lieutenant then. And I was the gunner for our platoon sergeant, Sergeant Daniels.

William Dilly - Direct

Q. Why was it that Mr. McVeigh was the gunner for the platoon leader?

A. Because he was the best gunner in the battalion.

Q. Even better than you?

A. Oh, he was better than me.

Q. Now, there came a time that you were sent to the Gulf War?

A. Yes.

Q. Is that right? And were you stationed close to Tim McVeigh at the same time that you were there?

A. Yes. Our platoon was detached from our company, and we were put with an M-1 tank company for the duration of the fighting. So it was just our platoon, four Bradleys.

Q. And so ordinarily, would you have been with tanks?

A. No. We were a Bradley unit. But as they attached a platoon of tanks with a Bradley company and a platoon of Bradleys with a tank company.

Q. What was the reason for that, if you know?

A. I don't know. We had trained previously probably six months before the Gulf. It was like a little experiment they were doing; and since we had trained that way, we had been training with the tank company. So they -- when we went, we went that way.

Q. So were you in close proximity, you and Mr. McVeigh, together with your Bradleys?

A. Yes. Yes.

William Dilly - Direct

Q. Yesterday I showed you a videotape which is marked Defendant's Exhibit VV7, which is a documentary about some of the action in the Gulf War.

A. Yes.

Q. Do you remember looking at that?

A. Yes.

Q. Did that accurately depict some of the sights that you and Mr. McVeigh saw in connection with your attachment to the tank unit?

A. Yes. Very accurately.

MR. NIGH: Your Honor, I'd move for the admission of Defendant's Exhibit VV7. It's a videotape that will last about 4 minutes long.

MS. WILKINSON: No objection, your Honor.

THE COURT: All right. Received, and you may play it.

MR. NIGH: Your Honor, there is no sound on the videotape, and I'd ask the Court's permission to have Mr. Dilly describe what's being shown.

THE COURT: All right.

MR. NIGH: There's a short leader on the tape, your Honor, so it doesn't start instantly, but it's pretty quick.

BY MR. NIGH:

Q. Can you see the monitor in front of you, Mr. Dilly?

A. Yes.

Q. If you would, just as the scene starts, just tell us what

William Dilly - Direct

we're observing.

(Exhibit VV7 played.)

THE WITNESS: That's an M-1 tank going its full speed on the open terrain.

you see the armored personnel carriers in the back.
That's a formation, their moving formation.

That's a M-1 company moving in formation there.

Now they're going into an echelon. That's like a diagonal formation.

They're moving at full speed.

That's the M-1's firing there.

It looks like a heat round.

That's a breach, dismounts going to breach. We had eight dismounts on every Bradley.

Those are night sights there. We did a lot of -- as a matter of fact, we did the breach and everything at night because they had no night vision, and we had very good night vision.

We could actually see a little bit better with that night vision with ours.

I believe this is probably the day we started the ground attack. That was the only time we had this much action at one time.

That was a Huey there. The Iraqis giving up. We had a lot of that. We had so many, we couldn't even hardly handle

William Dilly - Direct

it. I'm sure this is on the first day, to be that many at one time.

That's an armored personnel carrier taking the POWs back.

These are dismounts clearing out bunker. And some prisoners. We would had to group them up like that, we had so many. We'd drop off like a couple of dismounts and just have then stay with them until the engineers caught up.

That's the M-1's moving in formation again.

This is a breach after we've already went through it. You see where MCLIC was blown up, blown a hole through it.

Those are armored personnel carriers.

That's an Iraqi vehicle that's blown up.

That's more Iraqi vehicles. Probably hit by Apaches, I would say. The way they burnt, the Hellfire Missiles would just burn them up.

That looks like it's a round from the M-1.

That's a Cobra, helicopter. That's an Apache helicopter. We had Apaches attached to us. And a lot of this looks like maybe the road from Kuwait. There was miles and miles of that.

And that's the M-1 company moving in formation again.

So this is just more Iraqi vehicles.

They were everywhere, certain spots you just -- they just be a whole battlefield full of them.

William Dilly - Direct

And this is just more of the M-1's in formation.

BY MR. NIGH:

O. Were those the kinds of sights that you and Mr. McVeigh saw

Q. Were there any kinds of signs that you and Mr. McVeigh saw while you were there in the Gulf?

A. Yes.

Q. You made reference to the breach -- what was the breach?

A. That's when we started the ground attack. They had like a fortified line of defense, and that's -- our company, our Bradleys, actually, from the tank company, put -- we oversaw while the engineers went in, they had a thing called a MCLIC, like a tube of C-4 they would throw over it and it would blow, and it would leave like a hundred-foot wide area to go through, and that's how we got all our armored carriers through.

Q. And there were some soldiers that were on foot that were going what looked like through a fence. What was that?

A. That was engineers. Engineers did the actual breach 'cause they handled most of the explosives and stuff.

Q. How close was your Bradley to Mr. McVeigh's Bradley during the course of that conflict?

A. Well, in different formations it would vary. Either beside him or one farther down the line, but close proximity, within 200 meters, 150 meters.

Q. Did there ever come a time when Mr. McVeigh fired after a cease-fire had been given?

William Dilly - Direct

A. After a cease-fire had been given.

Q. Yeah, cease-fire order.

A. Not that I recall.

Q. Did you ever hear any discussion about that or anything like that?

A. After a cease-fire. Are you in reference to the one soldier that he shot at the long distance --

Q. Or any other.

A. No, I never remember -- recall any of that.

Q. Okay. Were you in close proximity to him?

A. Yes, we were -- we had the same platoon leader, his platoon leader was my platoon leader, so we got all the orders from his track.

Q. Would that have been Captain Rodriguez?

A. Or Lieutenant Rodriguez at the time.

Q. Now, there came a time that Mr. McVeigh left the Persian Gulf; is that right?

A. Yes. He was called to go to Special Forces.

Q. And he left before most other soldiers; is that right?

A. Yes. Uh-huh. Approximately a month and a half ahead of us.

Q. When he left to go back for Special Forces training, who took over the Bradley vehicle that he had been assigned to?

A. I did.

Q. What kind of condition did you find that Bradley in?

William Dilly - Direct

A. Much better than -- than the condition my Bradley was in

when I left. I felt I was kind of lucky there. Especially the 25-millimeter and all the weapons were immaculately clean, which was almost impossible over there.

Q. Describe for us, if you would, what it was like to try to clean one of those guns.

A. The 25-millimeter was really a monster. It was so heavy, but you would have to take the insides out. It was packed with grease. Over there the sand was murder. As a matter of fact, we'd even wrap our 7.62 machine gun in plastic. We tried to keep it clean, because we knew when we were leaving, there couldn't be a spec of dirt on anything. But the 25-millimeter, you couldn't do that.

Q. Let me stop you for a second, if I may, and show you what's been marked Defendant's Exhibit PP56.

Is that a Bradley vehicle?

A. Yes, it is.

Q. Would it help you to describe the cleaning process if you could make reference to this photograph at the time?

A. Okay. In reference to the 25-millimeter --

Q. Hang on just a second, Mr. Dilly. It's not in evidence yet.

MR. NIGH: Your Honor, I'd move for the admission.
PP56.

MS. WILKINSON: No objection.

William Dilly - Direct

THE COURT: Received; may be displayed.

THE WITNESS: Yes, the 25-millimeter, you would have to take the --

BY MR. NIGH:

Q. Let me stop you again. There's a light pen on the witness stand, a pen that has a cord on it. If you'll put it under the glass and write directly on the television screen. Why don't you circle the 25-millimeter.

A. This is the -- right here is the --

Q. Not working?

A. Not working.

Q. Press down on the glass.

All right. Why don't you tell us which gun is the 25-millimeter.

A. It's the one in the center of the turret. It is the one with the large barrel. The barrel weighs approximately a hundred pounds.

Q. How would you go about cleaning the 25-millimeter?

A. You would have to take the barrel out, and then you would have to go inside and take the body of it out and then disassemble the body of it, to bring the insides out where all the grease and the packing and the chain -- it's a chain gun which is the reason you had the chain inside, that you kept greased up. That's where you'd really get dirty. So it was a long, drawn-out thing, three hours, maybe, to do a good job on

William Dilly - Direct

it.

Q. How often did you have to do that in the desert?

A. If you wanted to keep it clean, once a day.

Q. Was there a reason to keep them clean?

A. Oh, yes. Yes, there was. Especially in the beginning, because we never knew when we were going to have to fire them. The first four days, we fought constant, so we didn't get to clean them. But after that, we really were told to keep them clean at all times. Because the war was not over, you know.

Q. Do you know how much one of those vehicles is worth?

A. Oh, I'm not sure. It's in the -- way in the millions.

Q. Were you concerned about that when Mr. McVeigh left and --

A. Yes, 'cause it had to be signed over. In the Army, everything is signed over. And so when I went over -- I was lucky because it was Tim, and I didn't feel like everything -- I knew everything would be there and luckily it was all clean, too. I was kind of nervous about taking over a track. I was just kind of lucky it was him.

Q. What kind of condition did he leave it in for you?

A. He left it in very good condition.

Q. You had some more contact with Mr. McVeigh after the Gulf War; is that right?

A. Yes, when I came back, he was -- he was already back. He was already back from Special Forces, so he was at Fort Riley when I came back.

William Dilly - Direct

Q. And there came a time when he decided to leave the Army?

A. Yes, I heard that through Mr. Littleton, a couple people I kept in contact with the Army, that Tim also wrote a few letters to and stuff.

Q. Was it unusual for soldiers to be leaving the Army after the Gulf War?

A. No, not really. They were doing a really big cutback, they were trying to get people out of the Army, so they were offering early drops.

Q. Now, my understanding is that you didn't have any contact with Mr. McVeigh after 1991?

A. No.

Q. So you can't tell us anything about his life after 1991?

A. No, I cannot.

Q. But you became fairly familiar with him through your cohort unit and living with him?

A. Yes, I did.

Q. If you were going to describe him for someone, how would you describe Mr. McVeigh?

A. He was the most professional guy we had in our company. Took everything serious. You know, they -- anything that was a hard mission, they'd always give it to him because they knew he'd get it done.

Q. That describes his abilities as a soldier. How about as a person?

William Dilly - Direct

A. Tim was a very good friend of mine. Like I said, we lived in the same room for over a year. So, you know, it was kind of like a brother atmosphere. So I was -- I was with him more -- well, probably for that year, more than anybody in the company.

Q. Let me ask you -- let me go back for a moment and ask you something about training. Did you and Mr. McVeigh undergo any training that involved CS gas?

A. Yes, yes, at Fort Benning, and also later, we had to have refreshers at Fort Riley.

Q. Please describe for us what the CS gas was and how you were exposed to it.

A. It's a -- CS gas is a gas that makes your eyes burn so bad you can't even open them up. It makes your skin burn. It's a chemical weapon, a low-grade chemical weapon.

Q. How did they expose you to that?

A. The first time we were at Benning, and they would take us in five at a time, and it was like an enclosed room where they had filled it up with CS gas.

They would take you in and then they would take your mask off, and they would make you stay there until the last person breathed in. They want everyone to get it into their lungs.

Q. How long did it take for the last person to breathe in?

A. It's according to how tough the last person was. With me it was two or three minutes. I was one of them that was trying

William Dilly - Direct

to hold their breath.

Q. What was the sensation?

A. Oh, it was terrible. You literally couldn't open your eyes. They had to guide you out of the room. Your lungs would burn, nose would run, skin would burn. You get outside, you couldn't open your eyes for a couple minutes after you got outside in the air.

Q. Was this a feeling that you remember?

A. Oh, yeah, I remember it. I used to try to get out of it at Fort Riley when they do the refreshers.

Q. Mr. McVeigh didn't much like football, did he?

A. He liked the Buffalo Bills.

Q. And that was your favorite team as well?

A. No, it wasn't. Miami Dolphins was my favorite team. I had a rough three years.

Q. Why did you have a rough three years?

A. Buffalo beat them every time, I think, out of the whole three years.

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

THE COURT: Miss Wilkinson.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good morning, Mr. Dilly.

A. Good morning.

Q. You know that Mr. McVeigh flunked out of Special Forces

William Dilly - Cross

after two days; right?

A. I heard that he quit.

Q. He didn't make it physically; correct? He had physical problems, he couldn't make the physical?

A. Actually, I wasn't there. I heard that he quit. You know.

Q. And you know he quit after two days?

A. Yes, I had heard that, yes.

Q. Now, you were just telling us about your training with CS gas. That's something that every soldier goes through, isn't it?

A. Every infantry soldier, yes.

Q. Even ROTC cadets undergo that training at summer camp, don't they?

A. Yes, I would say they would because they're all liable to be infantry.

Q. You did a lot of training together; isn't that right?

A. Yes, we did.

Q. Trained out in the field?

A. Yes, in the field.

Q. And when you went out for field maneuvers, you carried all of your own gear and your rucksack; isn't that right?

A. Your TA50, yes. TA50.

Q. And you only brought with you what you actually would need; correct?

A. Usually the first sergeant would put out a requirement of

William Dilly - Cross

what you had to have, you know, due to the weather. He would make that decision. And, you know, if you had room, you could take extra stuff that you personally wanted to take.

Q. But you only took that personal stuff that you really wanted, because you didn't want your rucksack to be any heavier than it had to be; right?

A. True. And you wanted room for food.

Q. That was one of your priorities -- right -- bring a few snacks?

A. Yes.

Q. Now, when you were out with Mr. McVeigh in the field, he brought The Turner Diaries with him, didn't he?

A. He had The Turner Diaries once at a -- it wasn't really the field. It was a firing competition we had, which we would go and we would stay for four or five days.

Q. And he was reading it at that time, wasn't he?

A. Yes.

Q. And you know that he read that book quite often, while you were living with him, didn't he?

A. He read that book on that trip, he read it the whole time on the trip.

Q. You've talked to the press about Mr. McVeigh before --

A. Yes.

Q. -- haven't you? And you've mentioned that he was quite fond of The Turner Diaries, wasn't he?

William Dilly - Cross

A. Yes, he tried to get me to read it.

Q. He tried to get you to read it on several occasions?

A. Right.

Q. And that was way back in 1990; right?

A. In '90.

Q. That was before you went to the Gulf.

A. Yes, right, right before the last firing competition we had before the Gulf.

MS. WILKINSON: I don't have any other questions, your Honor.

THE COURT: Anything further of this witness?

MR. NIGH: Briefly, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. NIGH:

Q. Mr. Dilly, do you know how long Mr. McVeigh was in the desert before he tried out for Special Forces?

A. Probably four and a half months.

Q. Do you know what his physical condition was?

A. We didn't do -- we had no facilities to do real PT. We would do jumping jacks and try -- we couldn't run, could do no running because of the sand. We would do approximately 15 minutes of PT in the morning. So he was not in very good condition. I wasn't in good condition when I came back.

Q. Was anybody that had been there in good condition?

William Dilly - Redirect

A. No, when I came back, I was 158 pounds. When I went, I was 188 pounds.

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

REXCROSS-EXAMINATION

BY MS. WILKINSON:

Q. Mr. Dilly, while you were in the Gulf, did Mr. McVeigh have his camera with him?

A. Yes, yes, he did.

Q. And didn't you tell the Washington Post that Mr. McVeigh took pictures of dead Iraqis when he was there?

A. Yes, he took -- him and Lieutenant Rodriguez were the only people that thought to bring cameras before. We all got them after the battles, and the first four days was the only time we saw the bodies. They cleaned them up real quick. So him and Lieutenant Rodriguez were the only ones that got pictures of any dead Iraqis.

MS. WILKINSON: No further questions.

THE COURT: The witness excused now?

MR. NIGH: Yes, your Honor.

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

We'll take our morning recess at this point, please.

we'll take our morning recess at this point, also -- excuse me -- also, members of the jury, per the usual for the 20 minutes and also with the usual cautions, remembering that you haven't heard it all, and you should avoid discussing any aspect of what you are hearing and what you are here to do. Wait until we've completed all of the submission of information and I've instructed you about how you approach this question.

You're excused now, 20 minutes.

(Jury out at 10:19 a.m.)

THE COURT: All right. Recess, 10:40.

(Recess at 10:20 a.m.)

(Reconvened at 10:40 a.m.)

THE COURT: Be seated, please.

(Jury in at 10:40 a.m.)

THE COURT: Next witness.

MR. BURR: Ted Thorne.

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

(Theodore Thorne 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: Theodore Robert Thorne, T-H-O-R-N-E.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Burr.

DIRECT EXAMINATION

BY MR. BURR:

Q. Good morning, Mr. Thorne.

Excuse me.

How are you?

Theodore Thorne - Direct

A. Good.

Q. Where were you born?

A. Pendleton, Oregon.

Q. Did you grow up there?

A. Yes, I did.

Q. Where do you live now?

A. I still live in Pendleton, Oregon.

Q. How do you make your living now?

A. I'm a courier for Federal Express Corporation.

Q. How long have you had that job?

A. Six years.

Q. What did you do before that?

A. Prior to that, I was a sheet metal installer for three months at Fleetwood.

Q. And what about before that?

A. Prior to that, I was with the United States Army.

Q. What period of time did you serve in the United States Army?

A. May of '88 to May of '91.

Q. Where did you have your basic and advanced infantry training?

A. Fort Benning, Georgia.

Q. Did you meet Timothy McVeigh there?

2. --- ,--- --- --- --- ---
A. Yes, I did.
Q. Were you a member of the same cohort unit?

Theodore Thorne - Direct

A. Yes, we were.
Q. What do you recall about meeting Timothy McVeigh?
A. As I recall, the first meeting was based -- we had found out that we were both from towns with the same name, both small, rural communities.
Q. Do you remember anything else -- excuse me -- about basic training in relation to Mr. McVeigh?
A. Very foggy memories of basic.
Q. After basic training, where was your cohort unit assigned?
A. Fort Riley, Kansas.
Q. Do you recall the unit there at Fort Riley?
A. Charlie Company, 216 Infantry.
Q. Were you in the same platoon as Mr. McVeigh?
A. No, I was not. He was in 1st Platoon while I was in 3d Platoon.
Q. Did you have much contact with people in the other platoons?
A. Yes, we did. It was all -- each platoon supported the other platoon throughout all phases of training.
Q. Was your contact with Mr. McVeigh any more or less than it was with other people outside your platoon?
A. Outside of my platoon, I talked to Tim quite frequently when I pulled charge of quarter or CQ duty there in the barracks.
Q. What's that?

Theodore Thorne - Direct

A. It's a 24-hour rotated duty where you sit at the front desk, answer the phones, take messages for squad leaders, platoon sergeants, any of the individual soldiers, making sure they're keeping up on what's going on around them.
Q. And is that seven days a week that that happens?
A. Yes, it is.
Q. And you often had contact with Tim during that period of time when you were on CQ duty?
A. Yeah. Through the nights, there is nothing to do. You're not really sitting and watching TV; so you would talk to individual soldiers as they passed through the halls, or they would sit there at the desk with you while the NCO in charge was out making his inspections.
Q. Did he seem to like to sit and chat with you when you had that duty?
A. Yes, he did.
Q. Were there other ways in which you had more regular contact with Tim than with other people outside your platoon?
A. Well, I did a short stint as the company armorer, and so I would talk to Tim on a regular basis as he was coming in to inspect weapons for his squad or weapons for the platoon or to

see who was assigned what or to make new assignments of weapons. And then I was also in charge of resourcing and utilities, or R&U, which was barracks maintenance; so if any of his soldiers had problems with rooms, be it broken windows,

Theodore Thorne - Direct

door locks, bunks, he would come to me and I would take care of the problem.

Q. Did you learn that you both had an interest in firearms?

A. Yes. Yes.

Q. Can you tell us about your interest and his interest and how they compared to each other.

A. We had a common interest in the full spectrum of weapons. Tim's primary interest was into the exotics or the assault styles, where I basically stayed with tool-type, which were rifles and pistols designed for hunting.

Q. Do you know what magazines Mr. McVeigh read?

A. Oh, there was a full spectrum of everything, from Guns and=20 Ammo to Gun World to Soldier of Fortune, S.W.A.T. Nothing out of the ordinary from anything anyone else would read at the CQ desk.

Q. Did you read those magazines yourself?

A. Yes, I did.

Q. What kind of magazine was Soldier of Fortune?

A. It was a survivallist-type magazine, weapons and tactics for certain kinds of missions or whatever. It basically gave in-depth things on new weapons that the military was possibly thinking of integrating into the Army system.

Q. Did you read it pretty regularly yourself?

A. Yes, I did.

Q. Did that interest continue after you got out of the Army?

Theodore Thorne - Direct

A. No.

Q. What other kinds of things did you all talk about? Did you look into the future a little bit?

A. Tim and I both considered ourselves career soldiers. We were going to stay in for the 20-plus, hopefully make sergeant major. It was a big picture of retirement, providing for family, that kind of thing.

Q. But that didn't work out for either one of you, did it?

A. No.

Q. Did you have other interests or things about yourselves that you found out were in common?

A. Just a small, hometown style of upbringing, where you're raised that your word is your word, it's as good as a signature or a contract, you're responsible for your own actions.

Q. Did you feel like Tim McVeigh had those values in him?

A. Yes, he did.

Q. How did they show themselves to you?

A. Well, while I was in the headquarters platoon, opportunities would come up where details or duties that needed

to be accomplished were argued around by the commander or the first sergeant or the supply sergeant, where they needed something done and they would be wondering, Well, who are we going to give this duty to.

Tim's name would come up quite frequently because they knew it would be done.

Theodore Thorne - Direct

Q. Were you aware of how Tim progressed in the promotion chain?

A. I was fairly familiar with it.

Q. Did he get promoted quicker than most of the other members in the cohort?

A. Yes, he did.

Q. Did that create any difficulties or awkwardness for him?

A. Speaking from a personal standpoint, I think that being promoted up through a peer group, where you've gone your whole military career with the same soldiers, same individuals, and then to be put in charge of those same soldiers that you had been friends, buddies, would be very difficult to handle.

Q. Did he talk with you about some of those feelings himself?

A. Yes, he did.

Q. What did he say? Do you recall?

A. He had a hard time being in charge of these soldiers on a 9-to-5 basis or whatever through the week and not being able to leave the barracks and get away from the same individuals. It was hard for him to be friends with them again because it would be considered fraternization.

Q. And were -- NCOs were not supposed to fraternize with the enlisted people?

A. Exactly.

Q. Do you know how he handled that tension?

A. He would talk to me about it at the CQ desk or he would go

Theodore Thorne - Direct

out with some of the other NCOs.

Q. Were you an NCO along at about the same time he was?

A. No, I was not.

Q. Did you develop a sense in this time you and Mr. McVeigh spent together of how he handled sort of new and unexpected situations?

A. Unexpected situations were somewhat difficult. Tim was a very good textbook soldier. He could give standards. He knew exactly what to do by the book. If something didn't follow the book exactly, it would take a matter of thought process for him to accommodate that.

Q. It didn't come automatically to him?

A. No.

Q. Now, were you a gunner also?

A. Yes, I was.

Q. Did you and he ever have any friendly competition as gunners?

A. It was friendly competition between all gunners in the

A. It was friendly competition between all gunners in the company.

Q. Can you tell us more about the competition from your perspective.

A. I remember that Tim was a gunner during one of the second gunneries we had since the new equipment training -- he was one of the first individuals to shoot a 998 score, which means he missed one target, one round.

Theodore Thorne - Direct

Q. Out of how many targets would that have been?

A. Out of a thousand points possible.

Q. Did there ever get to be a joke between you about an incident that occurred during a gunnery practice?

A. Yes. On the same gunnery, I was moving down range during a night scenario, engaging a troop infantry-type target. And in -- between the target assimilation (sic), where the gunner accepts the target from the commander, and the actual engagement, an improper switch was flipped. Thereby, we engaged the target with sabot rounds instead of the optimum coax rounds.

Q. What is a sabot round?

A. A sabot is the round that you would use for light-skinned armored vehicles.

Q. And not for troops?

A. Not for troops.

Q. Did Tim say something to you about that later?

A. Yeah. He let me know that I just violated the Geneva Convention.

Q. Was that an ongoing source of joking between you?

A. Yes, it was.

Q. Once you all got to the Gulf, the 1st Platoon separated and joined the tank company; is that right?

A. Yes, they did.

Q. Did you see Tim much after that?

Theodore Thorne - Direct

A. Very limited contact.

Q. What about after the Gulf and you were back at Fort Riley? Did you run into him much at all there?

A. I believe that I ran into him one time. I don't know if it was prior to him going to the Special Forces Q course or after his return.

Q. When did you discharge?

A. I discharged in May of '91.

Q. Did you have any contact with Tim after that, after May of '91?

A. No, other than a pack of mail that I received from him.

Q. Do you recall about when that was?

A. I would say February of maybe '92 or '93.

Q. What was in the packet? Do you remember?

A. I don't recall even opening the packet until after the incident.

Q. But -- the incident that he's being tried for?

A. Yes.

Q. Did you feel like over the roughly three years that you were in contact with Tim McVeigh that you came to know him pretty well?

A. Yes, I do, very well.

Q. For folks who have not had that opportunity, how would you describe him in a way that would help them get to know him?

A. Tim was honest with me, straightforward. I considered him

Theodore Thorne - Direct

a friend. Out of the many people that I knew in the unit, Tim and two others were the only ones that I ever allowed to come back to my house. I lived off post. I was not in the barracks. I didn't allow contact with my family with the majority of the people in my unit, and I wanted to keep them separate from the military so that they would have a civilian lifestyle.

MR. BURR: Thank you, Mr. Thorne. No other questions.

THE COURT: Ms. Behenna?

MS. BEHENNA: No questions, your Honor.

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

Next, please.

MS. WELCH: Vicki Hodge.

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

(Vicki Hodge 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: Vicki Hodge, H-O-D-G-E.

THE COURT: Thank you.

Proceed, please.

DIRECT EXAMINATION

BY MS. WELCH:

Vicki Hodge - Direct

Q. Good morning, Ms. Hodge.

A. Good morning.

Q. How are you this morning?

A. A little nervous.

Q. Where are you from, Ms. Hodge?

A. I'm from Buffalo, New York, area.

Q. How long have you lived in Buffalo?

A. My entire live.

Q. Is Buffalo near Pendleton and Lockport?

A. Yeah.

Q. And where did you actually grow up?

A. I actually grew up in Pendleton.

Q. How far from Buffalo is Pendleton?

A. Half hour.

Q. Tell me about the size of Pendleton.
A. It's a small town. I don't know. Graduating class from the high school is about 150 kids, so it's pretty small.
Q. Rural area?
A. Yeah, rural.
Q. And you live in Buffalo now?
A. Well, Amherst, which is a suburb.
Q. A suburb of Buffalo?
Where are you working right now?
A. I'm currently employed by the Buffalo Zoo.
Q. Your college degree was in wildlife management; is that

Vicki Hodge - Direct

right?
A. Yes.
Q. And so working at a zoo sort of falls in --
A. Yeah, it falls in the cracks there, right.
Q. How long have you been working there?
A. It will be four years in August.
Q. Do you like your job?
A. Yes, I love it, actually.
Q. Do you know Timothy McVeigh?
A. Yes, I grew up with him.
Q. How long have you known him?
A. I've known him since we met in fourth grade. We graduated from high school together, and he lived across the street from me.
Q. You were in the same class as Tim?
A. Yeah. In fourth grade, that was the year that they moved across the street from us; and we had an assignment to draw a picture of our house, and we put it on the overhead projector. And when Tim was going over his, he said, "This is the house we're building, and there is this big pond over here."
And I interrupted, and I said, "Is there a house across the street with big pine trees?"
He said, "Yes."
I said, "That's my house." So that's when we kind of met, then.

Vicki Hodge - Direct

Q. That's the first time the two of you met?
A. Yeah, we were in class. That was when we kind of clicked as friends.
Q. Did you get to know each other better after that?
A. Oh, yeah. We spent all our time together goofing around, you know, what kids do. When other -- when his parents were building the house across the street, he'd come with them and we would play King of the Mountain on the dirt mounds and do that kind of stuff, you know, things kids do.
Q. Tell us what "King of the Mountain" is.
A. That's a game where someone gets up on top and says, "I am King of the Mountain. Who can knock me down?" And someone else comes up and everybody tries to push you off the top so

else comes, up and everybody tries to push you off the top so they can be King of the Mountain.

Q. Who all played with you?

A. Oh, you know, everybody in the neighborhood, you know. I think we might have even let Jennifer play, too.

Q. How long did you and Tim remain really good friends?

A. We've -- were good friends all throughout high school and even on through -- well, I went away to college and Tim joined the service; but we've always remained friends, so it's only in the last couple years that I haven't been in good touch with him.

Q. Can you describe your friendship for us.

A. Yeah. We were very close friends. I would consider Tim my

Vicki Hodge - Direct

second brother growing up. He was always around, and he was like a brother to me.

Q. Was he in your house often?

A. Yeah. He lived over there. He made himself at home. First thing he did when he come in the house, he'd go upstairs and open the refrigerator and help himself, you know, and made himself at home. It was home for him.

Q. And what about you in his home?

A. Same way. I think oftentimes his dad would make dinner early; so I'd end up eating dinner there if it was something I liked and go home and eat dinner at my house, too.

Q. What was Tim like in grade school and junior high?

A. He -- he was a clown, always a happy person and in -- he went through like that awkward stage where his arms and legs were longer than the rest of his body and kind of gangly kid; but growing up, he was always someone who, you know, had his -- a good scam going to make a little money. He used to -- I think in seventh grade when we first moved up into the high school, he always had -- he'd always come in with packs of gum because he knew kids would want gum and he'd sell a piece of gum for 25 cents, or something like that; so everybody knew where to find the gum: Go to Tim, he's got it.

Q. Because of his sort of gangly physical appearance, did he acquire a nickname?

A. Yeah. When we were in ninth grade, Tim and I ran track,

Vicki Hodge - Direct

and he -- I don't know how he got the name, but they started calling him "Chicken McVeigh," kind of like -- I think it was about the time Chicken McNuggets came out, so it was "Chicken McVeigh," Chicken McNuggets; so it got shortened to "Chicken." When he'd be running a race, everybody would be going, "Go, Chicken."

Q. What was he like as a teenager?

A. He was a good guy, always wants to help people, friendly, talkative.

Q. Did he have a sense of humor?

A. Very good sense of humor.

Q. Can you think of examples of his sense of humor?

A. I think one of the best examples is when we were growing up, his little sister and her friends used to bother us. You know, they'd hang out with us and we'd kind of get, "Ah, they'd been tagging along long enough; and he just came up with the idea of tying their bicycles in the tree so they couldn't follow us. So we took their bikes and hung them up in the tree and left them behind in the dust.

Q. Did Jennifer laugh about that?

A. Not at first, but I think she probably does now. I know the other kids do.

Q. Did you and Tim find other ways to make money?

A. Yeah. We were always doing some sort of scam. My -- usually around Halloween we would make a haunted house in the

Vicki Hodge - Direct

basement over at Tim's parents' house. We divided up -- the place up with sheets, hang sheets and make little rooms; and my brother and I would run the special effects. And Tim would always do the -- he'd be the tour guide, and he'd take the neighborhood kids, you know, for a quarter or whatever. We'd take them on a little tour of the haunted house, and we'd run all the special effects with the ghost coming down the stairs, to scare them, on a string and stuff like that. The kids in the neighborhood always thought it was great. They'd come back a couple times and we'd always try to figure out another way to change it just a little bit so we could scare them again. We'd do that.

Something else we did one time, we -- after Tim's parents moved in, they still had a bunch of dishes that were all packed in the basement. And I don't -- I don't know if we got permission or not, but we decided we'd get rid of them; and we made -- it was almost like going to a Catholic bazaar. We had all these penny pitches and stuff. You get a penny on the plate, you take it home. Kids in the neighborhood were lined up with their piggy banks ready to toss their pennies. We got rid of all the plates. I don't know if Bill and Mickey missed their dishes, but they were gone.

Q. Did -- was there any difference between your household and Tim's household in terms of discipline or freedom?

A. Yeah, there was a little difference. Usually when we were

Vicki Hodge - Direct

over at Tim's house because his dad worked nights, his dad would be there, but he'd be sleeping and his mom would be working, so we tended to -- when we wanted to get into a little bit of trouble, we had more of a leeway to get away with things over there.

At my house, not that my parents were always around, like especially during the summer, but there tended to be a little bit more discipline over there as far as what you could get away with. You didn't have as much leeway.

Q. How did Tim respond to the discipline in your house?

A. Oh, he was fine with it. I mean, whatever -- whatever the rules were, he stuck to them, you know.

Q. Do you know whether or not Tim was interested in guns as a teenager?

A. Oh, yeah. Growing up, he was always interested in guns.

Q. Do you know how he became interested in them?

A. I don't know exactly what started it; but on over at my house, my dad is interested in guns, too. And I know that it wasn't unusual for my dad to take him and my brother to Johnson's Country Store and go and look at the guns. And I think, you know, growing up in our area, too, there is a lot of kids hunt and stuff, so it's a natural thing.

Q. Was it your father who actually taught Tim about guns?

A. Yeah, I think he taught him a lot about guns. I can remember my dad giving us all lessons about how to shoot in the

Vicki Hodge - Direct

backyard, teaching us, you know, the rules and the way to handle a gun.

Q. Did his interest in guns seem at all unusual to you?

A. Not really. I guess growing up where I did, my dad -- I mean typically -- I don't know, it's hard to say now because it was so long ago; but it seemed like every six months my dad, when he was in the store, he said, "I'm going to change guns." And he'd trade in one of his guns for something else and -- you know, and that was the same way Tim was, you know. He would find -- he would have one gun for a while. And then I think he want to try something else, because, you know -- so I didn't think that was unusual and I don't think -- like he had as far as guns, a lot of guns. I know people who hunt that have, you know -- they have a different gun for duck hunting, for, you know -- they've got all kinds of stuff, so . . .

Q. Was Tim respectful of guns?

A. Very respectful, yeah. That's one thing my dad taught, was to respect -- respect the gun and never fool around with it, you know. And you know, all those simple rules: Don't point a gun at anybody, always treat it like it's loaded. Yeah, he was very respectful.

Q. Did you get to know Tim's dad, Bill?

A. Yeah. Spent a lot of time with him.

Q. You were around him a lot?

A. Yeah.

Vicki Hodge - Direct

Q. Can you describe some of the times that you had an opportunity to be with Bill and his family.

A. Oh, sure. I mean, we spent all of our -- I mean during the summer and stuff, we spent all of our stuff between my house and his house; and usually in the summer for a week, his family would go to, like, Darien Lake.

Q. Where is Darien Lake?

A. That's in Darien, New York. That's where -- That's where they had that

A. It's in Darien, New York. It's by us. It's probably about 45 minutes from Buffalo. And it's a campgrounds, but it's also an amusement park; so you could camp there and spend a week -- a week. And his dad would always say each of the kids could bring a friend with them. And so sometimes I would go as Tim's friend, sometimes I'd go as his older sister's, Patty's, friend, because I was pretty good friends with her too. And we'd spend the week there, and his dad always was so generous. He would pay for us like we were his own kids as far as letting us into the theme park and stuff.

Q. Do you have an opinion about how Bill felt about his children?

A. Oh, he loved his kids very much. I mean, I know he still loves all of his kids very much. He's a very caring man.

He doesn't -- he has a hard time showing his emotion, but he cares very much. You know, he's not an outwardly affectionate guy; but he loves his kids.

Q. Does he have a garden?

Vicki Hodge - Direct

A. Yes, he does.

Q. Tell us about Bill's garden.

A. He's got a green thumb. He's always out there working in the garden, planting in the spring; and I mean, there is not a weed in his garden. And he grows great vegetables. He used to always bring stuff over to our house. When we lived on Meyer Road, you know, he'd bring us zucchini over. He'd bring zucchini, and my mom would bake zucchini bread for him; and even after they moved on to Campbell Boulevard, he'd still bring a bag of vegetables over to our house, even though we weren't in as close contact with them.

Q. Did you continue to remain friends with Tim after high school?

A. Oh, yeah. Sure.

Q. What did you do when you got out of high school?

A. I went right to college.

Q. And where did you go to college?

A. Michigan State University.

Q. And do you know what Tim did?

A. Right after college -- well, I mean right after high school, he did a little -- I think he tried some college for a little bit, and he didn't like that. He worked a little bit; and after that, he joined the service probably about two years after he graduated.

Q. Did you see him while you were in college?

Vicki Hodge - Direct

A. Yeah, I would see him when I was home on breaks. And I would see him then. One time when I was away at college and he was in the service, he was on a break; and I heard this knock on my apartment door, and I looked through the hole and Tim is standing out there. I said, "What are you doing here?"

"Well. I was on leave and I was driving through

well, I was on leave and I was driving through Michigan; and I stopped to use your bathroom."

I'm like, "All right. Come on in." And we'd talk for about five minutes and he'd use the bathroom, and he was on his way. "Got to go, got to be back."

Q. He was in the military then?

A. Yes.

Q. Did you ever visit him in Kansas while he was in the Army?

A. Yeah. One time a friend of mine and I -- we took a trip in the summer, looking for jobs, to Denver, Colorado; and we spent two weeks here in Denver. And on our way back, we had a great idea: We would swing down through the lower states and stop in Kansas and see Tim for a day and continue on our way.

Q. What did you do while you were there?

A. Oh, well, when we -- when we told Tim we were coming, he said, "It will be a lot of fun; and it's Friday night and the guys are getting paid, and you guys will be the only girls in town with all your teeth, so you'll get a lot of attention."

And so we -- when we first got there, we were miserable because it was so hot. And we said, "Just take us

Vicki Hodge - Direct

someplace where there is air-conditioning and we can get a cold beer."

And Tim, being the jokester that he was, took us to a topless bar just to see what our reaction would be. "Ah, there is beer here. We'll sit down for a while," but we ended up going to a few of the bars and hanging out.

Q. Did Tim drink?

A. No. Never.

Q. Did he -- just not that night, or ever?

A. No, he -- as far as I've known Tim, he's never drank. He has always been the designated driver, takes you, makes sure everybody gets home safe.

Q. Do you remember you and Tim ever talking about his views about the government?

A. We didn't really talk much about the government, you know.

Q. What about gun control?

A. Yeah. We talked about gun control. He was very --

Q. What were his views about gun control?

A. He believed that the Second Amendment -- that everybody had the right to have -- bear their arms; and he really, really stuck to that.

And as far as his view on guns and gun control, I think one of his biggest arguments was it's not the gun that does the killing, it's the person that pulls the trigger that does it, you know.

Vicki Hodge - Direct

Q. Did -- were his beliefs what you might consider extreme?

A. No, I didn't think they were extreme.

Q. Do you remember him ever taking any action with respect to his beliefs about guns?

A. Yeah. One time I think I was home on a break from college, and we were -- he was downstairs using my brother's computer, writing a r=82sum=82. I think I was working on my r=82sum=82 and he came over; and he's like, "I got to use this for a little bit." And he wrote out a letter to the editor that he was working on, basically in response to somebody else's letter to the editor about gun control.

Q. I'm going to show you on the screen in front of you what has been marked as Defendant's Exhibit LL7. And do you recognize that?

A. It's not up.

Okay.

Q. Do you see it now?

A. Yes.

Q. Is that the letter that Tim wrote on your computer?

A. Yes.

Q. Do you know approximately when that letter was written?

A. From the records on my computer, probably somewhere in '89; and I was -- I think I was home over Christmas break, so Christmas.

MS. WELCH: Your Honor, we would move the admission of

Vicki Hodge - Direct

LL7.

MR. MACKEY: No objection.

THE COURT: LL7 is received. You may publish it.

MS. WELCH: We don't wish to publish it at this time, your Honor. Thank you.

THE COURT: All right.

BY MS. WELCH:

Q. Did you ever consider Tim an angry person?

A. No, never.

Q. You are aware that he served in the Gulf War?

A. Yes.

Q. Did you ever talk with Tim about his experience while he was in the Gulf?

A. A little bit, but not too much.

Q. Did you -- did you receive letters from him while he was there?

A. Yeah, we corresponded back and forth when he was in the Gulf War.

Q. In any of those letters, did he describe to you how he felt about his experiences there?

A. Yeah. There was one particular letter where I think he was talking about Saddam Hussein, and he really expressed how much he hated Saddam Hussein because he made him shoot and kill someone who he felt didn't even want to be there, didn't want to fight him, and --

Vicki Hodge - Direct

Q. I'm going to ask you to look at Defendant's Exhibit LL1 on your screen.

Is that the letter that you're talking about?

A. Yes.

MS. WELCH: We'd move the admission of LL1, your Honor.

MR. MACKEY: No objection.

THE COURT: Received, LL1.

MS. WELCH: May we publish it?

THE COURT: Yes.

BY MS. WELCH:

Q. Do you see the portion of the letter that you were referring to?

A. Yes.

Q. And would you read it for us, please.

A. Just want that little part there?

Q. Yes, just that little part.

A. It says, "Saddam -- Saddam, if he ever showed up -- he didn't, chicken shit bastard. Because of him, I killed a man who didn't want to fight us but was forced to."

Q. Are there other experiences that he wrote you about from the Gulf?

A. Yeah. He wrote several things. There is one where he wrote about what -- he gave some MREs to some of the locals.

Q. Do you know what MREs are?

Vicki Hodge - Direct

A. Those are Meals Ready to Eat.

Q. I want to direct your attention to Defendant's Exhibit LL3 on your screen, and tell me if that's the letter you're referring to.

A. Yes.

MS. WELCH: We'd move the admission of LL3, your Honor.

MR. MACKEY: No objection.

THE COURT: Received. Excuse me. Received.

MS. WELCH: May we publish it?

THE COURT: Yes.

BY MS. WELCH:

Q. Do you see that portion of the letter?

A. Uh-huh.

Q. Can you read that, or do we need to make it a little larger?

A. No, I can read that.

It says, "Since I'm in charge, I gave the locals six cases of MREs before we left. Is that good or bad, you ask. I just hope they didn't get sick eating something their stomachs aren't used to. I know they'll definitely be farting a lot."

Q. Based on your letters from Tim and your knowledge of him, do you have an opinion about how he responded to the people that he saw in the Gulf War, what he called the "locals"?

A. Yeah. He responded to them out of compassion. He -- you

Vicki Hodge - Direct

know he wanted to help them out. You know he felt bad for

know, he wanted to help them out. You know, he left Dad for the situation they were in.

Q. What is it about Tim that causes you to come to that conclusion?

A. Tim has always been someone who -- he always looked out for the underdog, found a cause to champion, you know, and he took care of people who needed help.

Q. Are there some examples that you can give us?

A. Sure. I know when he would just be driving in his car and he saw someone broke down on the side of the road, he'd stop and see if he can give a hand.

One time when drawing up -- I think my grandfather called over to our house because his sump pump wasn't working and his basement was flooding, so he called to see if he could get some help from my dad. And my dad wasn't around; just he and my brother were there. And they jumped in the car and went over to rescue my grandfather from the flood in his basement. He was always willing to do that.

Q. Did you have much contact with Tim after he returned from the Gulf War?

A. No. Our contact was pretty limited. I had moved out of the house, and I was kind of doing my own thing. I saw him when he first came back from Saudi. Then after that, when chance would have it, we'd both be like at my parents' house, I might see him, that sort of thing. But he was pretty busy, and

Vicki Hodge - Direct

so was I, doing my thing.

Q. Did you have an impression about whether or not Tim had changed?

A. I thought he had changed a little bit. He seemed maybe just a little bit disillusioned by the things that happened out in the war.

Q. Were you aware that he tried out for the Special Forces?

A. I knew that he was supposed to, but I -- as far as the whole story behind Special Forces, I didn't know too much about it.

Q. Did you ever talk to him about it?

A. No.

Q. Did you have any contact with Tim after he left New York?

A. No.

Q. Do you recall when that was?

A. Sometime in the end of '91, '92, I think. Sometime in '92.

Q. Despite not having any contact with him after that point, have you remained friends with Tim?

A. Yeah. Tim's always been my friend, always will be my friend.

Q. And how do you feel about him today?

A. I love Tim. He's my second brother, and I still always will love him.

MS. WELCH: No further questions, your Honor.

THE COURT: Cross-examination.

Vicki Hodge - Cross
CROSS-EXAMINATION

BY MR. MACKEY:

Q. Good morning, Ms. Hodge. How are you?

A. Good.

Q. You understand that we are in the middle of a penalty hearing following the conviction of Tim McVeigh for the Oklahoma City bombing that took place in April of 1995.

A. Yes.

Q. You understand that. And in April of 1995, you had no contact with Tim McVeigh; is that right?

A. Right.

Q. And all of 1994, no contact?

A. Right.

Q. 1993, no contact?

A. Right.

Q. You would agree, Ms. Hodge, that even the best of childhood friends can change over time?

A. Yes, I suppose they can.

Q. And you have, as you sit there now as a witness, no way to tell this jury whether Tim McVeigh changed in the time period that you lost touch?

A. No.

Q. You have an older brother named Steve?

A. Yes, I do.

Q. And one year older?

Vicki Hodge - Cross

A. He's actually two years older.

Q. Were he and Tim McVeigh good friends?

A. Yeah, they were very good friends.

Q. Were they, in fact, better friends than you and Tim?

A. Yeah, I would say so.

Q. They spent more time together?

A. Yeah.

Q. Talked more often; correct?

A. Right.

Q. Did more activities together?

A. Uh-huh.

Q. Corresponded a much, much longer period of time than you and Tim McVeigh; correct?

A. Yes.

Q. You told the jury that you located a letter, one that Ms. Welch identified for you, LL7.

A. Uh-huh.

Q. That was on a computer at your home?

A. Yes.

Q. Tell the jury when you found that letter to the editor.

A. I just found it probably -- it was probably in 1996 I found it, when I was going over -- I put my disk in and was just kind of flipping through and seeing what I could delete off of it, and I found that on there.

Q. So an entirely accidental discovery of this letter?

Vicki Hodge - Cross

A. Yes.

Q. In 1996, long after the bombing?

A. Yes.

Q. And when you looked at that letter, of course, the name "Tim McVeigh" is not on there.

A. No.

Q. So what was it that triggered in your mind a letter that you found in 1996 being the writing of Tim McVeigh?

A. Because I was there when he did it, you know, when he wrote it; so I mean when I read it, I knew it was his.

Q. So you looked at the content and there was something about the content that told you this is Tim McVeigh speaking; correct?

A. I -- I just knew it was his letter because it was -- I guess from the content, but because I was there when he wrote it and I knew it was his.

Q. Have you ever written a letter to the editor?

A. As a high school project as a senior.

Q. Have you ever written a letter to the editor on gun control?

A. No.

Q. But Tim McVeigh did?

A. Yes.

Q. Did you as you searched through this disk find any other documents that you have reason to believe were written by Tim

Vicki Hodge - Cross

McVeigh?

A. No.

Q. This was the only document that you found?

A. Yes.

Q. Let me show you LL7. I think that I can put it back up.

It starts out at the top saying, "Regarding the article by Richard Reeves in Friday's paper --" correct?

A. Yes.

Q. I just want to direct your attention to matters that I have highlighted so you can read it. Okay. It says, "Richard Reeves, like most people who want to outlaw guns, is afraid of something he has no knowledge about."

Did I read that right?

A. Do you want me to read it?

Q. Did I read it correctly?

A. Yes.

Q. And following along, then, down at the paragraph, "The problem is not the gun laws, Mr. Reeves. In fact, there are over 20,000 gun laws on the books as we speak. The problem lies in the criminal justice system. Everyone knows it. They just don't want to face the truth. Our current system is failing us, letting rapists and murderers off with two-week sentences because," quote, "'the jail is over-crowded.'"

Did I read that correctly?

A. Yes.

A. Yes.

Vicki Hodge - Cross

Q. Further down that highlighted portion, it says, "Richard Reeves is right about one thing," quote, "'We, the people,'" quote, "are the problem, for it is not a gun acting by itself that kills someone, just like it's not a knife's fault when someone gets stabbed. There is always a person pulling the trigger or thrusting the blade. Should we ban all knives when someone gets stabbed, or maybe just ban assault knives? I guess it wouldn't make any sense to punish the person holding the knife or firing the gun. Do you get it? A gun is a tool, just a simple piece of steel, as is a knife or a car, just a tool, to be manipulated in order to function by a living, breathing person."

Those are the words you discovered of Tim McVeigh on this letter. Is that right?

A. Yes.

Q. Thinking back to the time that you were there when he was drafting it, did have you a conversation with Tim McVeigh about the subject matter of this?

A. I may have. I don't recall if I did or not.

Q. All right. Well, this is just two-and-a-half years after the two of you graduated from high school, or thereabouts?

A. Yeah, somewhere around there.

Q. Very serious subject; correct?

A. Yeah.

Q. And you would agree that at least part of this letter takes

Vicki Hodge - Cross

the position that people should be accountable for their actions?

A. Yes.

Q. Responsible for their actions?

A. Uh-huh.

Q. Is that right?

Have you and Tim McVeigh over the years ever had a conversation about the accountability of people who engage in criminal activity?

A. No, I can't say that we have.

Q. You told Ms. Welch that the two of you have not talked about the government. Why, Ms. Hodge, have you and Tim McVeigh not talked about the government?

A. I don't know. It just wasn't ever a topic that came up between us.

Q. Did you over time make clear to Tim McVeigh you were far less interested in political topics than he was?

A. Yeah. I'm sure he was aware I really wasn't into politics.

Q. And you made that clear to him?

A. I don't know if I made that clear to him, or just could assume it himself.

Q. You know that Tim McVeigh wrote other letters to the editor?

A. Yeah. I've heard that from the media.
MR. MACKEY: May I approach, your Honor?

Vicki Hodge - Cross

THE COURT: Yes.

BY MR. MACKEY:

Q. Take a look, Ms. Hodge, at Government's Exhibit 1540. Do you see that on top there?

A. Uh-huh.

Q. And you recognize that to be a letter with the signature of Tim McVeigh at the bottom?

A. Yes.

Q. Dated at the top February of 1992?

A. Yeah.

Q. And addressed to "Dear Editor" --

A. Uh-huh.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibit 1540.

MS. WELCH: Your Honor, may we voir dire the witness?

THE COURT: Yes.

MS. WELCH: May I do it from here?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MS. WELCH:

Q. Have you ever seen this before, Ms. Hodge?

A. No.

Q. Do you recognize the letter? Do you know anything about the letter other than it has what appears to be Tim McVeigh's signature on it?

Vicki Hodge - Voir Dire

A. No, I don't know anything at all about it.

Q. Have you ever seen it before today?

A. No.

Q. Do you have any idea where it came from or what it was used for?

A. No.

MS. WELCH: We would object, your Honor.

THE COURT: Sustained.

CROSS-EXAMINATION CONTINUED

BY MR. MACKEY:

Q. The other letters that you referred to in your earlier testimony that Tim McVeigh wrote to the editor: What were you talking about?

A. What's that?

Q. You mentioned that you were aware of yet other letters that he wrote to the editor?

A. Yeah.

Q. What were they?

A. I don't know exactly what they are, but just from what I heard from the media that he had -- they had uncovered letters to the editor.

Q. And you've not since seen those?

A. No.

Q. Ms. Hodge, have you talked to your brother about correspondence he's received over time with or from Tim

Vicki Hodge - Cross

McVeigh?

A. Yes, I have.

Q. And have you talked to your brother about written materials that over time he has received from Tim McVeigh?

A. Yeah, a little bit.

Q. Are you aware that Tim McVeigh provided The Turner Diaries

to your brother, Steve Hodge?

A. Yes, I am aware of that.

Q. Did your brother read The Turner Diaries?

A. I think he began reading it but never finished it.

Q. Read enough to know that he didn't want to read more?

A. Yeah. I don't think it was the type of novel he reads.

Q. Did that subject matter become a subject of discussion between Tim McVeigh and Steve Hodge?

A. I don't know.

Q. Do you know whether Tim McVeigh was upset at your brother for refusing to finish reading The Turner Diaries?

A. As far as I know, I mean, I only know from what you've told me.

Q. You've not talked to your brother about the subject matter of The Turner Diaries?

A. Not The Turner Diaries. I just know the only thing that my brother told him after Tim's arrest and the subject of it came up was that Tim had given him a copy and no, he hadn't read it.

Q. You do remember talking to your brother about

Vicki Hodge - Cross

correspondence that he received in approximately the summer of 1994?

A. Yes.

Q. Correspondence that after he got it, he told you, "I don't expect to hear from Tim McVeigh again"; correct?

A. Yeah. I mean, basically, that's what he thought, he probably wouldn't hear from him for a while.

MR. MACKEY: May I approach, your Honor?

THE COURT: Yes.

BY MR. MACKEY:

Q. Ms. Hodge, I've handed you Government's Exhibit No. 5, handwritten letter dated July 14, 1994, addressed to Steve. Before coming to the witness stand today, did I give you an opportunity to examine Government's Exhibit No. 5?

A. Uh-huh. Yes.

Q. Do you recognize the handwriting of Tim McVeigh?

A. Yes. It looks to be his handwriting.

Q. Same handwriting of correspondence you personally received?

- ..

A. Yes.

MR. MACKEY: Your Honor, I'd move to admit
Government's Exhibit No. 5.

MS. WELCH: Your Honor, may I voir dire the witness?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MS. WELCH:

Vicki Hodge - Voir Dire

Q. Ms. Hodge, have you ever seen this document before?

A. Only as far as yesterday, first time I saw it.

Q. You saw it yesterday for the first time?

A. Yes.

Q. Where was that?

A. It was in the legal office.

Q. In Mr. Mackey's office?

A. In Mr. Mackey's office.

Q. Other than the fact that it looks like Tim's handwriting
and was shown to you by Mr. Mackey, do you know anything else

at all about this document?

A. I don't know anything about the content of it, no.

MS. WELCH: We object, your Honor.

THE COURT: Sustained.

CROSS-EXAMINATION CONTINUED

BY MR. MACKEY:

Q. Ms. Hodge, to your knowledge, after July or the summer of
1994, did Tim McVeigh and your brother, Steve Hodge,
correspond?

A. No.

MR. MACKEY: Nothing else.

THE COURT: Anything else of this witness?

MS. WELCH: No, your Honor.

THE COURT: Then she's excused, I take it.

You may step down. You're excused.

Next, please.

MR. COYNE: Defense calls Bruce Williams.

THE COURT: Thank you.

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

(Bruce Williams 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: Bruce Sidney Williams, W-I-L-L-I-A-M-S.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Coyne.

MR. COYNE: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. COYNE:

Q. Good morning, Mr. Williams.

A. Good morning.

Q. Mr. Williams, will you tell the ladies and gentlemen of the
jury where you were born.

A. I was born in Brooklyn, New York, Kings County Hospital.

A. I was born in Brooklyn, New York, Kings County Hospital, but I grew up in Queens -- Jamaica Queens, New York.

Q. What year were you born, sir?

A. In the year of 1966.

Q. Are you married?

A. Yes, I am.

Bruce Williams - Direct

Q. Any children from that marriage?

A. I was married twice. I have a daughter from my first wife. She's six years old. And a son from my wife now. He's one.

Q. And where do you now live?

A. In Statesboro, Georgia.

Q. Is there a large city near Statesboro?

A. Savannah is the large city. Statesboro is the home of Georgia Southern University.

Q. How long have you lived in Statesboro?

A. Three years.

Q. Are you employed?

A. Yes, I am.

Q. And your present occupation is what?

A. I work at Wal-Mart at the distribution center in receiving, unload trucks.

Q. Are you also currently enrolled in school?

A. Yes, I am.

Q. Where are you enrolled?

A. At Ogeekee (phonetic) Tech. Institute. I'm studying to be an industrial maintenance technologist.

Q. Thank you. Have you ever served in the United States Army?

A. Yes, I have.

Q. During what years were you in the United States Army?

A. From '86 to '94.

Q. So you first enlisted in 1986?

Bruce Williams - Direct

A. Yes.

Q. Why did you join the U.S. Army?

A. Why did I join the United States Army? Well, basically, it was a way out of New York City. It was an outlet, you know, a way to get out, see the world, see things I had never seen before.

Q. Is there anyone who particularly influenced you to join the Army?

A. My mother.

Q. How did she go about influencing you to do that?

A. Well, you know, she would meet with the recruiters, she would have my uncles come over and talk to me; and they would tell me, you know: "It's a better life for you than this here. You need to go ahead and get out of the city and see things. Just do four years. If you don't like it, you can come back home." And I liked it, so I did another four years after that.

Q. You actually enlisted twice?

A. Yes.

Q. Your first term of enlistment was for a four-year stretch?

A. Yes.

Q. In 1986 then to 1990?

A. Yes.

Q. And did you receive an honorable discharge at the end of that first term of duty?

A. Yes, I did.

Bruce Williams - Direct

Q. Then you mentioned, I think, that you had reenlisted?

A. I reenlisted for the infantry.

Q. Okay. And was that for another four-year term?

A. Yes, it was.

Q. That would be 1990 through 1994?

A. Yes.

Q. And did you receive an honorable discharge at that point?

A. Yes, I did.

Q. Did you enlist for a third term?

A. I started a third term. Yes, I did. I enlisted.

Q. You started but did not finish it?

A. No, I did not.

Q. Tell us a little bit that, if you would.

A. Well, I had reenlisted for a third term. Then it started getting to me. Me and my wife, we had some problems -- my first wife; and I had some problems with the military. I asked them to help me out and let me stay back. I was an NCO. I asked them to let me stay back and not take me to the field, because I wanted to work out some problems with my wife, but they chose to take me to the field anyway.

So when I got home, all my furniture was gone, my wife was gone, my daughter was gone. So I was kind of bitter, and --

Q. You were a little bit angry at the Army for not letting you stay back?

Bruce Williams - Direct

A. Yes. So I just wanted out, so I just went to my commander and asked him, could he let me out. He told me, "No, you just started a term and you just reenlisted. I don't see what we can do."

I know that the military lets you go for just about anything. Two bad checks and they'll kick you out, miss enough formations, get enough counseling statements, they'll kick you out; so that's what I did, I just started missing counts, missing formations, come in late. Finally, they let me go.

Q. Back up just a little bit before you were actually discharged from the Army for the third time. When you said the Army refused to hold you back, where was your unit sent to?

A. We were sent to Egypt, to Operation Bright Star.

Q. So you were going to have to leave the United States, leave your first wife with whom you were having difficulties, and

ship out to Egypt?

A. Yes.

Q. Okay. Is that in fact what happened?

A. That's what happened.

Q. Okay. Did you actually go to Egypt?

A. Yes, I did.

Q. Okay. But then there came a time when you returned and at some point you were able to get out of the military?

A. Yes.

Q. Did you approach anyone to help you at all?

Bruce Williams - Direct

A. My company commander, my lieutenant, my platoon leader, and my first sergeant, everybody I asked.

Q. Okay. Do you know the nature of that discharge, your third discharge from the Army?

A. It was a general under honorable conditions.

Q. Okay. Backing up to the beginning of your military career, then now that we've taken you through sort of the sequence of your different enlistments, what was your first duty assignment in the military?

A. My first duty assignment was 29 November. I was a telephone central office repairman, which was signal.

Q. Would that be 1986?

A. That was 1986, yes.

Q. This was the 121st Signal Battalion?

A. Yes.

Q. What were the responsibilities of that battalion?

A. Okay. We kept the area signal up for just about the whole battalion. That's what it was, battalion signal unit there. We fixed commo equipment for everybody, infantry, whoever had problems. They shipped it to -- we was called the third shop maintenance or depot, and we got the equipment and we had to fix it and repair it and send it back out to them.

Q. So you were the fix-it folks?

A. Yes.

Q. You would take care of combat equipment that had --

Bruce Williams - Direct

THE COURT: Is this part of his testimony relevant?

MR. COYNE: Your Honor, I think it is. I think we will show it's relevant in a moment when we connect it up with the very different duties he undertook at the time he first --

THE COURT: Let's get on to the different duties.

MR. COYNE: Yes, sir. We certainly will.

BY MR. COYNE:

Q. Did there come a time, Mr. Williams, when you were sent to Fort Benning for retraining?

A. Yes, I reenlisted for infantry, and they sent me to Fort Benning, Georgia.

Q. How did that come about?

A. What do you mean? Ask the question again, please.

Q. How is it that you happened to be reassigned to Fort

Q. Now is it that you happened to be reassigned to Fort Benning, to change your positions?

A. Okay. I reenlisted and I wanted to be an infantryman.

Q. Okay.

A. So I reenlisted for the infantry.

Q. When you arrived at Fort Benning, were you, in fact, trained for infantry purposes?

A. Yes.

Q. And then where were you sent?

A. I was sent back to Fort Riley, Kansas.

Q. And at Fort Riley, did you come to meet Mr. McVeigh?

A. Yes, I did.

Bruce Williams - Direct

Q. How did you happen to meet Mr. McVeigh?

A. We were in the same platoon, 1st Platoon, second Charlie Company, 216th Infantry.

Q. So you folks were in the same company within the same platoon?

A. Yes.

Q. That was 1st Platoon?

A. Yes.

Q. How many soldiers were there in that particular platoon?

A. In 1st Platoon?

Q. Yes.

A. 30 or so.

Q. Were you able to come to know Mr. McVeigh fairly well?

A. Yes. We rode on the same Bradley.

Q. And tell the members of the jury what that means to ride in the same Bradley. How many people would be inside a Bradley?

A. Okay. You have a dismount element that may consist of three people in the back and -- three to six people in the back. And you have the mounted element, which is the crew, and that's three people. You have the driver, you have the Bradley commander, and the gunner, which was Timothy McVeigh.

Q. Tim McVeigh was the gunner.

A. Yes.

Q. Did Tim ever share with you the reason why he enlisted in the Army?

Bruce Williams - Direct

A. We spoke about it once or twice.

Q. Do you remember what he told you, the reasons he enlisted?

A. Well, it wasn't -- we basically didn't get into the reasons that he enlisted. You know, Tim was pretty smart. He's a pretty smart guy, so I asked him why was he in the infantry; and he said that he had liked weapons, and this was a way to do his job, you know, and do what he was enjoying, do what he had enjoyed doing at the same time.

Q. Did you come to form an opinion about Mr. McVeigh's ability as a soldier?

A. Yes. Yes, I did.

Q. What was your opinion?

A. I felt that Tim McVeigh was a good soldier. He was a good soldier. Great soldier.
Q. Great soldier?
A. Yes.
Q. Better than most?
A. Better than most.
Q. What do you base that opinion on?
A. His standards. He kept high standards. You know, he was -- you know, he was a good soldier. He kept high standards. He took everything serious. It wasn't a joke, you know. When it was time to perform, he performed. He performed well, whatever the case may be.
Q. Now, your duties in the Bradley unit were quite different

Bruce Williams - Direct

than your duties at the 121st Signal Battalion, were they not?
A. Yes, they were.
Q. And were you looking to others for instruction and help and assistance in getting up to speed before you might ship out for the Gulf?
A. Right.
Q. Did you look to Mr. McVeigh for such instruction?
A. Yes, I did.
Q. And was he helpful?
A. Well, yeah. He didn't -- we didn't much talk about, "Tim, I need your help," or anything like that. I just kind of sat back and watched how the infantry soldiers conducted their business, because that's what I was now, infantryman, no longer a signalman. So I had to kind of learn quick, because we was on our way to war.
Q. Was Mr. McVeigh an example for your trying to learn quick before you shipped out to war?
A. Yes, he was.
Q. What sort of things did you notice by watching Mr. McVeigh, by observing the example he set?
A. Okay. I remember one time -- he was a pretty fair soldier, real good. He used to walk around without a sling on his weapon.
Q. A sling being that strap?
A. The strap that you throw -- you can get kind of lazy with a

Bruce Williams - Direct

sling. You can sling a weapon across your shoulder, across your back, look kind of slouchy with it; and Tim never had a sling on his weapon. So I would ask him, you know, it -- so one day I asked him: "Tim, where is your sling? McVeigh, where is your sling?"

And he told me he didn't have one. He took it off just where he wouldn't have to carry it on his back, because an infantryman always carries his weapon in his hand.

Q. For what purpose?
A. To always be ready.

Q. Did you follow that example?

A. Yeah. I took a couple of weeks, then I finally took my sling off. I didn't want to let him know that I was following him directly; but a couple of weeks later, I just decided to take my sling off.

Q. All right. Did other soldiers in the unit seem to look up to Mr. McVeigh as an example?

A. Yes, they did. I believe they did.

Q. Do you think he had any particular status within the platoon?

A. He was the lieutenant's gunner; but like I told you, the lieutenant was a -- how can I say? He was an exceptional human being. He was kind of like a wild man.

Q. This would be Lieutenant Rodriguez?

A. Lieutenant Rodriguez. But Sergeant McVeigh, you know, he

Bruce Williams - Direct

handled it well. He was his gunner, he knew how to talk with him, he knew how to calm him down when he went off the deep end and got a little wild at times.

Q. Did Sergeant McVeigh ever have disagreements with Lieutenant Rodriguez?

A. They may have. You're in the turret six months. It's a small, confined area. They may have. I don't know for sure, but they may have.

Q. Did you ever have an agreement (sic) with Mr. McVeigh while you were serving together?

A. We got into an argument one day. This was when I was an E4 and he was a corporal. I don't remember exactly what transpired other than he had wanted me to do something, but I felt that he was an E4 and I was an E4 and I didn't want to do it for him. So, you know, he had kind of like got in my face and forcefully stated that I should do what he stated to do because he was an NCO, and I got back in his face and stated that I wasn't going to do what I was wanted me to do. Lieutenant Rodriguez kind of intervened. We broke it off. We never had an incident again.

Q. Did Mr. McVeigh, in fact, outrank you so he had a right to order you?

A. Yes, he did.

Q. So was he, in fact, right at that time?

A. Yes, he was.

Bruce Williams - Direct

Q. Did you bear a grudge after the incident?

A. No.

Q. Did you bear a grudge against him?

A. No. That was dead. We never had a problem again.

Q. Never affected your relationship in the future?

A. No.

Q. And in the future, there came a time when you shipped off to the Gulf with Charlie Company. Is that true?

A. Yes.

Q. And you explained that you were assigned to a Bradley unit along with Mr. McVeigh. Mr. McVeigh was the gunner?

A. Yes.

Q. And he was the lieutenant's gunner?

A. Yes.

Q. Did that have any particular significance that he would be selected by Lieutenant Rodriguez as his gunner?

A. Okay. Well, as the lieutenant -- he was the lieutenant, the platoon leader, over all, overseer of the platoon; so naturally, his gunner should be the best gunner in that platoon and also a good example for the rest of the platoon, because, like I said, the lieutenant -- he's the top man of that platoon.

Q. Okay. Did you have confidence in Mr. McVeigh's ability as a gunner?

A. Oh, yes, definitely.

Bruce Williams - Direct

Q. What did you draw that confidence from?

A. He qualified a thousand, I believe. That was a top gun. He had his name plaques and infantry, Bradley infantry gunnery.

Q. You say he qualified as a thousand, meaning he shot a score of a thousand or close to 1,000?

A. A thousand. That was -- it was called -- let me see. It's been a while since I've been in. They called it "top gun" and distinguished, or so to speak, meaning you was it, the man, the top dog of the company.

Q. And this was a competition before you shipped off to the Gulf among all platoons and all gunners and platoons?

A. It wasn't a competition. It was a training exercise. You had to qualify as a gunner.

Q. And at the end of that exercise, Mr. McVeigh's scores were at the very top of his platoon?

A. Yeah. He always scored high at gunnery.

Q. So he was in the best in the entire platoon?

A. Yes.

Q. Would he have at one point been the best in the entire battalion?

A. At one point or another, he had his name on a plaque in the battalion as being the top Bradley crew, top Bradley gunner in the battalion.

Q. Where would that plaque be located?

A. In battalion headquarters.

Bruce Williams - Direct

Q. Okay. What was the mission of the folks in your Bradley in Saudi Arabia?

A. The mission of my folks?

Q. As a dismounted troop. Let's put it that way.

A. Okay. As dismount, our job was to be overwatched by the Bradley, get on the ground, and basically go where the Bradley couldn't go. be the eyes and ears on the ground that the

couldn't go, so the eyes and ears on the ground that the Bradley couldn't see, do the things that the Bradley couldn't do, like go into the trenches and clear them out.

Q. And what significance did the position of a gunner have to your job as a dismounted troop?

A. Okay. He was the overwatch, the overseer. While we was on the ground, he had to be ever so alert to see far out in the great distances. I mean, he had an ISU, Integrated Sight Unit; and they seen way further than the naked eye could see; so he was our eyes and ears for far off, and we was his eyes and ears for up close and the little holes that he couldn't get into.

Q. So was he providing protection for you?

A. Yes.

Q. Okay. The men that lived together inside the Bradley: How long a period of time were they confined together?

A. You mean live together?

Q. Well, just inside the Bradley unit itself. How long a period of time were you and Mr. McVeigh within the same Bradley?

Bruce Williams - Direct

A. We -- when we first got -- it must have been about a month or two, first month or two, and then they consolidated and reorganized and I moved to another --

Q. You were shipped to a different Bradley?

A. Yes.

Q. Assigned to a different Bradley?

A. Yes.

Q. But for that month -- at least a month, you were in the same Bradley as Mr. McVeigh?

A. Yes.

Q. Along with seven or eight other people?

A. Right.

Q. Do you feel you got to know those seven or eight people fairly well --

A. Fairly well.

Q. -- during that period of time?

How big is the inside of a Bradley? You're now at a modest motel here in town. How does it compare to your hotel room?

A. I mean there is no room inside of a Bradley. There is six metal seats in the back, two in the hole; and it's tight, it's confined. I mean once you in there, there is not a whole lot of moving you can do.

Q. Is it fair to say you're going to get to know someone inside a Bradley whether you want to or not under those

Bruce Williams - Direct

conditions?

A. Yes, definitely.

Q. Where would you all sleep?

A. We slept in a tent. We would pitch a tent and sleep in a tent or outside on the ground along the Bradley or whatever.

Q. Did Mr. McVeigh sleep in the tent outside, also?

A. He slept in the Bradley. At first he slept in the tent for a couple of nights, and then that's when they put down -- put out nobody, you know, would do this or that, sleep in the Bradley; but then days later, he was gone back up in the Bradley.

Q. Why would he return to the Bradley to sleep? Is that a more comfortable place to sleep?

A. No, it's not comfortable at all.

Q. Why not?

A. I guess to be ready in case something would happen.

Q. But why isn't the inside of the Bradley comfortable?

A. Because it's steel. The back is steel, it's hard steel, it's cold.

Q. No cots to pull out or anything?

A. No cots, nothing. I mean, you can't even lay the seats down and lay across them because they got backs to them and they don't lay in the same order.

Q. So the purpose of sleeping in the Bradley for Mr. McVeigh was as you understood it?

Bruce Williams - Direct

A. To be ready.

Q. To be ready for what?

A. For if anything -- we was -- like I said, we was in a combat situation. It was a real-world situation. It wasn't a training exercise, and anything could happen at any given time.

Q. Would you say Mr. McVeigh took his position as a Bradley gunner seriously?

A. Yes, I think -- I think he loved his job.

Q. The jury heard earlier from another witness about the necessity of keeping the weaponry in top condition in terms of it being clean; that it was a daily ritual. Is that true of the Bradley that you were in with Mr. McVeigh?

A. Yes.

Q. And did Mr. McVeigh take care to see, though, that his weapons were clean?

A. Yes, he did.

Q. Did he have the ability to assign that task to someone else?

A. He could have. He could have had his -- his driver pretty much help him or do the job, but he done it hisself.

Q. Why do you suppose he did it himself? Any idea? Did you come to know?

A. Well, I mean why do I think he done it hisself? So this is an opinion question?

Q. Do you have an opinion based upon what you observed of

Bruce Williams - Direct

Mr. McVeigh?

A. Okay. Well, then I feel like -- I mean, if you do your own weapon system, you clean it, you know -- you know what is --

what is -- what is functioning and it's going to work when it's time to work, when it's time to use it, you know, because you did the work on it yourself.

Q. Did Tim McVeigh ever mention his family to you?

A. He used to show me pictures of his dad, you know. I remember a picture, one in particular, when there was -- you know, he showed me a picket fence and his dad was working out on the truck. It had snowed, white snow and everything.

Q. Okay.

A. But, yeah, he talked about his dad and hunting and stuff like that.

Q. Do you remember anything else what he said about his dad, whether he shared an opinion?

A. No, I can't.

Q. Did he ever tell you how he felt about his father?

A. I guess from the way he talked about him, they were close.

Q. Okay.

A. That's what I gathered from --

Q. Did Mr. McVeigh ever receive any packages from home?

A. Yes, he got packages from home.

Q. What sorts of packages?

A. They were like care packages. They had cookies and candies

Bruce Williams - Direct

and stuff like that, cakes, doughnuts, whatever you can get, you know, deodorant, soap, stuff like that.

Q. What did he do with those?

A. He'd share. We was all on the Bradley. We'd share his cookies and his candies with him if they came.

Q. It was common for other troops to do the same thing, was it not?

A. Yes.

Q. You and Mr. McVeigh have something in common. You were both born in New York. Is that true?

A. Right.

Q. Did that become a source of a joke between you two, or a bit of a conflict?

A. That was the same year that the Giants beat the Bills in the Super Bowl.

Q. Okay. Now, I take it you're a Buffalo Bill fan.

A. No.

Q. You know that Mr. McVeigh, though, is a Buffalo Bill fan?

A. Yes.

Q. You didn't happen to root for the Giants, did you?

A. Yeah, I was rooting for the Giants.

Q. Did you happen to kid Mr. McVeigh about that?

A. We picked and teased about that every now and then.

Q. Okay. Apart from the Bradley and his responsibilities as a gunner, did Mr. McVeigh have an interest in guns otherwise that

Bruce Williams - Direct

you were aware of?

A. Yeah. He said he liked guns. He was quite fond of them

A. Yeah. He said he liked guns. He was quite fond of them. He knew a lot about them. He can tell you about them and what they would do and stuff like that.

Q. Before you shipped out to the Gulf, did he have guns on the base?

A. I believe he had one in the arms room. They say he had several in the arms room, but I believe he showed me one one day in the arms room.

Q. So you were aware of at least one?

A. Yes.

Q. Was his interest in guns any more extreme than anyone else in the military?

A. No.

Q. Was it unusual for someone in the military to have an interest in guns?

A. No, we handled them every day.

Q. Do you currently own a gun?

A. Yes, I do.

Q. After the Gulf War -- just before we do that -- did Mr. McVeigh ever mention anything about gun control to you?

A. No, I don't remember anything like that.

Q. Never shared any opinions about restrictions on firearm ownership?

A. No.

Bruce Williams - Direct

Q. After the Gulf War ended, what did you do?

A. After the Gulf War ended?

Q. Yeah.

A. We came back to Fort Riley, Kansas. I then later PCS'd to Fort Stewart, Georgia.

Q. Did you see Mr. McVeigh much after the Gulf War?

A. Well, yeah, we still worked together when we came back and up until the time he left. I don't know who left first. I did, or maybe he got out before I left; but we still worked -- we still had a few gunneries to go to and everything.

Q. Do you recall what Mr. McVeigh would do in his spare time, moments when he wasn't on duty while at the base, Fort Riley?

A. Sergeant McVeigh, Tim, he didn't have many distractions. I know he just stayed in his room, playing Nintendo, I guess.

Q. Okay. What would other soldiers do? What would you do?

A. Me? I'd hang out and go to the parties and drink Budweiser.

Q. Nothing stronger than Budweiser?

A. Nothing stronger than Budweiser.

Q. But other soldiers might have had something stronger than Budweiser?

A. Maybe.

Q. How about Mr. McVeigh?

A. I never seen him drink or smoke. I don't know if he did or didn't.

Bruce Williams - Direct

Q. When was the last time you had contact with Tim McVeigh?
A. When he got out of the military.
Q. That would have been 1991?
A. That was 1991, yes.
Q. So you don't know anything about Mr. McVeigh or his activities in 1992, 1993, 1994, or 1995 that you can share with the jury.
A. No, I can't.
Q. Did you have any expectations for Tim after he left the military?
A. I just assumed that he would go on and do great things because of the type of person he was, the disposition he had.
Q. Okay. And during the time you were acquainted with Mr. McVeigh, while both you and Tim were in the military, how would you describe Tim in your own words?
A. As an infantry soldier, he was a great soldier. He was more or less to me like the epitome of infantry. In Fort Benning you have a statue, and it's called "Iron Mike." And I kind of thought of him as an Iron-Mike-type of fellow, you know, the extremist, follow-me kind of guy.
Q. Now, Fort Benning is where basic training takes place?
A. Yes.
Q. And then there is a statue of an infantryman?
A. Yes.
Q. And what is that infantryman doing in the statue?

Bruce Williams - Direct

A. He's kind of gesturing, "Follow me." He has a weapon in one hand, and he's like waving his hand, like a hand and arm signal of "Follow me." That's the logo of the infantry.
Q. Was Mr. McVeigh someone who you could comfortably follow into battle?
A. Yes.
Q. Was he someone that you could put your life in his hands as a soldier?
A. Yes.
Q. He would look out after you.
When did you first learn that Tim McVeigh was a suspect in the Oklahoma City bombing?
A. When the FBI came and got me for investigation purposes.
Q. The FBI contacted you and interviewed you in connection with your knowledge of Tim McVeigh?
A. Yes.
Q. And what did you think when you were informed by the FBI that Tim McVeigh was a suspect in the Oklahoma City bombing?
A. Okay. When they told me, you know, does the name "Tim McVeigh" ring a bell; and I was like, yes, it does.
And they was like, Well, he's the guy that is a suspect in the Oklahoma City bombing.
And I was like, you know, no way, couldn't be. And that was that. I mean, I didn't see it. I didn't see it coming.

Bruce Williams - Direct

Q. Why not?

A. Because it -- I just didn't. He wasn't that type of person.

MR. COYNE: No more questions, your Honor.

THE COURT: Any cross?

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good morning, Mr. Williams.

A. Good morning.

Q. You told us at the beginning of your testimony that you did not receive an honorable discharge when you finally left the Army. Is that right?

A. No, I did not.

Q. And you said that it was because you stopped going to formation and things like that. Correct?

A. Correct.

Q. That wasn't really the only reason why you were kicked out of the Army, was it?

A. That was. What was the other reason?

Q. Well, in the Army -- let's talk about it for a minute. In the Army, there is a lot of paperwork, isn't there?

A. Right.

Q. And when they were getting ready to kick you out of the Army, they put you on notice, don't they?

A. Yes.

Bruce Williams - Cross

Q. And they tell you exactly the reasons why you're going to get kicked out of the Army, don't they?

A. Right.

Q. And you received a letter from Captain Beakman, didn't you, telling you that your separation was specifically recommended because of your indebtedness, your substandard duty performance, your failure to obey orders, your disrespect towards NCOs, assault, communicating threats, dishonored check, and a failure to pay child support? Isn't that right?

A. Assault?

Q. Is that that the letter that you received?

A. No, I don't remember that letter, but --

MS. WILKINSON: No further questions, your Honor.

THE WITNESS: Okay.

MR. COYNE: Nothing further, your Honor.

THE COURT: All right. Witness excused?

Is the witness excused?

MR. COYNE: Yes, sir.

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

How long will the testimony of the next witness be?

MS. WELCH: It will be approximately 20 to 30 minutes, your Honor.

THE COURT: We'll take the recess at this point, members of the jury, during which you're excused with the usual conditions of take the time to rest and relax, eat, and avoid discussion of this part of the case or actually any part of the

discussion of this part of the case or actually any part of the case. And remember that it isn't until you've heard it all and you've heard me instruct you about how you're to go about your responsibilities that you should talk about anything connected with this. And of course, continue to avoid anything outside the evidence in any form that could influence you in your decisions.

You're excused now, 1:30.

(Jury out at 11:58 a.m.)

THE COURT: We'll take the affidavit up at 1:30 before we bring the jury back. I have some comments on it myself.

We'll recess to 1:30.

(Recess at 11:59 a.m.)

* * * * *

INDEX

Item	Page
WITNESSES	
Howard Thompson	
Direct Examination by Mr. Burr	
Cross-examination by Ms. Behenna	
Jesus Rodriguez	
Direct Examination by Mr. Nigh	
Cross-examination by Ms. Behenna	
Redirect Examination by Mr. Nigh	
WITNESSES (continued)	
William Dilly	
Direct Examination by Mr. Nigh	
Cross-examination by Ms. Wilkinson	
Redirect Examination by Mr. Nigh	
Recross-examination by Ms. Wilkinson	
Theodore Thorne	
Direct Examination by Mr. Burr	
Vicki Hodge	
Direct Examination by Ms. Welch	
Cross-examination by Mr. Mackey	
Voir Dire Examination by Ms. Welch	
Cross-examination Continued by Mr. Mackey	12579
Voir Dire Examination by Ms. Welch	
Cross-examination Continued by Mr. Mackey	12582
Bruce Williams	
Direct Examination by Mr. Coyne	
Cross-examination by Ms. Wilkinson	
PLAINTIFF'S EXHIBITS	
Exhibit	Offered Received Refused Reserved Withdrawn
5	12581
1540	12578
DEFENDANT'S EXHIBITS	
Exhibit	Offered Received Refused Reserved Withdrawn
LL1	12568 12568
DEFENDANT'S EXHIBITS (continued)	
Exhibit	Offered Received Refused Reserved Withdrawn
LL3	12569 12569
LL7	12566 12567
PP50	12504 12504
PP51	12509 12510
PP54	12525 12526

-----	-----	-----
PP55	12524	12524
PP56	12533	12534
RR1	12502	12502
RR2	12519	12519
VV7	12528	12528

* * * * *

REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 9th day of June, 1997.

Paul Zuckerman

Kara Spitler