

Wednesday, June 11, 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 145)

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 11th day of June,
1997, in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
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PROCEEDINGS

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

THE COURT: Be seated, please.

Are we ready for the jury?

MR. JONES: We are, your Honor.

THE COURT: All right. We'll bring them in.

(Jury in at 9:01 a.m.)

THE COURT: Members of the jury, good morning.

JURORS: Good morning.

THE COURT: We're ready to resume with further cross-examination of Mr. Reavis.

Mr. Reavis, if you'll please resume the stand under the oath you took yesterday.

(Dick Reavis was recalled to the stand.)

THE COURT: Mr. Ryan.

MR. RYAN: Yes, your Honor.

THE COURT: You may continue.

CROSS-EXAMINATION CONTINUED

BY MR. RYAN:

Q. Good morning, Mr. Reavis.

A. Good morning.

Q. I just have a few more questions for you. You talked about a number of topics yesterday and generally with a view toward what information was available to someone who read Soldier of=20 Fortune magazine back in '93 and '94; do you recall that?

A. Yes, sir.

Q. I'm not going to go over all of the various points that you made, but I do want to ask you about three of them. One of the questions asked of you was what information was available in

Dick Reavis - Cross

the articles that have been introduced in evidence in this hearing with respect to who fired the first shot at the Waco compound. Do you recall that question?

A. No, sir, but let's say I do.

Q. Well, what information was available in the Soldier of=20 Fortune literature with respect to who fired the first shot?

A. There were three theories, at least three. One that it was an accidental discharge, one that it was a shot from the dog team, and one that it was a shot aimed at David Koresh.

Q. Was there a fourth statement of facts as to who fired the first shot contained in the Soldier of Fortune magazine articles?

A. Probably said that there was also reports from the government that the residents fired first.

Q. Did you not report in Soldier of Fortune magazine, yourself, with respect to the findings of the trial judge?

A. I did.

Q. And did you not report that the trial judge found that the Branch Davidians inside the compound fired the first shots on February 28?

A. I reported that the trial judge found that, yes.

Q. So he's the one who had sat through 125 or so witnesses?

A. The jury also sat through and didn't find the same thing, and I reported that, too.

Q. Now, the jury wasn't asked that question, were they,

Dick Reavis - Cross

Mr. Reavis?

A. The jury was asked if they were guilty of murder.

Q. You were also asked who started the fire, and do you remember that question --

A. Yes, sir.

Q. -- what information was available in Soldier of Fortune magazine?

A. Yes, sir.

Q. And you went on and told us about this investigator was on the videotapes that determined that -- well, I don't want to paraphrase what you said, but you basically told us some information, but you didn't give us all the information, did you, in the Soldier of Fortune magazine articles?

A. I did not give the government's point of view.

Q. You didn't tell the jury that the Houston Fire Department arson investigator found that the Branch Davidians used gasoline to set the April 19 fire?

A. I did not.

Q. And that was in the Soldier of Fortune magazine articles, wasn't it?

A. It may have been even in the one I wrote.

Q. And you didn't tell the jury yesterday that Judge Smith found that the Davidians had set the fire in his rulings in open court, and that you reported on those in WW32?

A. That's right.

Dick Reavis - Cross

Q. You were also asked about how the Davidians were killed on April 19 of 1993. You remember telling us about that.

A. Yes, sir.

Q. And you told us some information had been contained in one of the articles concerning the Davidians being shot. Do you recall that testimony?

A. Yes, sir.

Q. Now, you reported, did you not, on the findings of the trial court after the evidence had been presented with respect to this issue, did you not?

A. Yes.

Q. And did you say in your article that the court said finally, by a combination of suicide and murder inflicted Davidian upon Davidian, all but a handful of the Davidians were killed?

A. Yes, sir, I reported the judge said that.

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

THE COURT: Do you have some redirect?

MR. JONES: Yes, your Honor.

REDIRECT EXAMINATION

BY MS. WELCH:

Q. Good morning, Mr. Reavis.

A. Good morning.

Q. When I asked you questions yesterday, we didn't go over each and every thing in each and every article, did we?

each and every thing in each and every article, did we?

Dick Reavis - Redirect

A. No, ma'am.

Q. Do you recall the article that reported the interview with Mr. Zimmermann?

A. Yes, ma'am.

Q. And will you tell us again who Zimmermann was.

A. Mr. Zimmermann was the attorney for Steve Schneider. He's an attorney who went into Mt. Carmel during the siege several times to talk to the people inside.

Q. Do you recall which article that was?

A. I think it's called, "What the Feds Don't Want You to Know About Waco."

Q. Does that article discuss the report from the Houston fireman who -- I'm talking about the man that Mr. Ryan referred to.

A. Yes, ma'am.

Q. Can you tell me a little bit more about that.

A. It discusses the report of Paul Gray who, as Mr. Ryan pointed out, concluded that the residents of Mt. Carmel set the fire.

Q. I'm showing you -- am going to show you previously admitted WW15. Is this the article you're referring to?

A. Yes, ma'am. On page 74 it discusses Paul Gray -- 74 and 75.

Q. And I didn't ask you about that, did I?

A. No, ma'am.

Dick Reavis - Redirect

Q. Does it also discuss comments made by Mr. Zimmermann concerning Mr. Gray's report?

A. It quotes Mr. Zimmermann.

Q. And where does it quote him?

A. At the bottom of 74.

Q. Can you point to it.

A. Yes, ma'am. Let's see. Bottom of 74 and then over at the top of the next page.

Q. Could you tell us what he said.

A. Yes. It says that Paul Gray's wife works for the ATF and that Paul Gray and his wife socialized with the ATF in Houston and went to the funeral of one of the dead agents and that Paul Gray for years worked in an ATF office and his business card identified him as ATF.

And then Zimmermann says, "Out of all the independent fire examiners they have in the United States, why didn't they pick someone from Chicago or Philadelphia, New York, Miami, or California; why do they pick a guy from Houston who worked in the ATF office until three years ago?"

Q. Now, I didn't ask you any questions about the reports of Dr. Gray from either perspective, did I?

A. No, ma'am.

Q. Now, you recall yesterday that Mr. Ryan mentioned a book

review from the Military Law Review Journal?

A. Yes, ma'am.

Dick Reavis - Redirect

Q. And you recall that he also quoted to you from a book review of Ashes of Waco that was published in the Washington Post?

A. Yes, ma'am.

Q. Do you have a copy of the Washington Post book review that Mr. Ryan quoted from?

A. Yes, ma'am.

Q. I'm showing you what's -- excuse me, I'm showing you what's been marked as WW61. And tell me what that is.

A. That's the Washington Post review of that book.

Q. Is the portion that Mr. Ryan quoted on the second page?

A. Do you want me to mark where it is?

Q. Not yet, no.

A. It's on the second page, yes.

MS. WELCH: Your Honor, we would move the admission of WW61.

MR. RYAN: Judge, I have no problem -- objection, your Honor.

THE COURT: Overruled, received.

BY MS. WELCH:

Q. Would you mark the portion in that article that -- well, mark the whole paragraph that the quote came from, and then read it to the jury.

A. The pen seems to have quit. Go down on the page. There you go. That's where it starts.

Dick Reavis - Redirect

Q. It starts on the --

A. Continues over.

Q. Okay. Read that and then we'll move it over.

A. "But," it says, "there's far more to Reavis's narrative, a loosely woven -- and often loosely documented -- account of events from February 28, 1993, through the trial of 11 Branch Davidians a year later. Thousands of details, many quirky and insightful, others ridiculous," parentheses, "('she was still shapely at 46, despite having given birth to seven children'), portray life inside the compound and offer a Davidian's perspective of the attacks by federal agents. Others, from autopsy reports and court records, suggest strongly the government's culpability."

Q. Mr. Reavis, do you recall -- well, let me show you first WW23. It's previously admitted.

Is this an article that you summarized yesterday?

A. Yes, ma'am.

Q. Do you recall that Mr. Ryan suggested that you were not fair in your summary of this article that discusses the Department of Justice report because you failed to talk about the conclusions of the independent investigators other than

Dr. Stone?

A. Yes, ma'am.

Q. What is this article about?

A. It's about the Department of Justice report and essentially

Dick Reavis - Redirect

about Dr. Stone's opinion of it.

Q. Have you reviewed that article and highlighted the portions that refer to the other independent experts that you didn't mention?

A. There are no other independent experts mentioned.

Q. Well, there are. They mention them in there, don't they?

A. They mention the existence of others without naming them and saying what they said.

Q. Did you highlight every place in that article that references the presence of other independent experts?

A. Okay. Let me see.

Q. I'm not referring to the one you're looking at. I'm referring to the article that you looked at this morning.

A. Yes, ma'am.

Q. And did you highlight that article?

A. Yes, ma'am.

THE COURT: I'm confused about what article you're talking about.

MS. WELCH: Yes, your Honor. I'm about to show it to Mr. Reavis. I'm sorry.

And this is just to Mr. Reavis.

BY MS. WELCH:

Q. Is this the copy of WW23 that you highlighted?

A. Yes, ma'am.

Q. And you highlighted the portions that refer to other

Dick Reavis - Redirect

independent experts?

A. Yes, ma'am.

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

THE COURT: This is another copy of what's already in evidence, and if you're offering it for the highlighting only --

MS. WELCH: We don't need to offer it if we can just show the highlighted portion and let him read from them to show that the references to the other independent experts were totally insignificant.

THE COURT: Well, what is it you want to do?

MS. WELCH: May we show this to the jury? It's a

highlighted copy of WW23, which was previously admitted.

THE COURT: All right.

MS. WELCH: Thank you, your Honor.

BY MS. WELCH:

Q. Now, would you read the small highlights that do refer to

the other experts.

A. It says, "Stone, one of ten unpaid experts empaneled to weigh the wisdom of DOJ's decision in this case, quickly hit a stone wall."

Q. Now, the caption under Dr. Stone's photo is also highlighted?

A. Yes, ma'am.

Dick Reavis - Redirect

Q. And I assume that's because it also refers to other independent experts, and would you read that.

A. "Dr. Alan Stone of Harvard's medical and law school faculties was first of government panel of experts to conclude the feds deserve some blame for the Waco standoff's fiery end. His judgment prompted FBI denial claiming Stone's independent study went awry." Photo courtesy Alan Stone, or A. Stone.

Q. Now, I'm going to show you the second page of that article that has two portions highlighted.

A. Yes, ma'am.

Q. Are those also highlights that were made of references to other independent experts in that article?

A. Yes, ma'am.

Q. Would you please read them.

A. It says, "After he and other experts questioned the FBI's assault with tanks and CS chemical agent, Stone noted that the FBI," quote, "'misled panel members.'"

Then in the lower highlight it says: "Instead of having this information available initially, DOJ's investigative panel was provided with a rewritten evaluation that tagged Koresh as an ordinary criminal who was a 'con man' and whose followers were 'dupes.'"

Q. And this whole article is admitted into evidence, isn't it, Mr. Reavis?

A. Yes, ma'am.

Dick Reavis - Redirect

Q. Now, you recall that Mr. Ryan asked you whether or not Dr. Stone had concluded that the fire was not started by the FBI? You remember that question?

A. Yes, ma'am.

Q. And your answer was at that point he did.

A. That's right.

Q. What do you mean by "at that point"?

A. Dr. Stone's initial impressions when he had talked only to FBI people were that the residents of the Mt. Carmel had set themselves on fire.

Q. Now, you didn't report that in your summary of the article, did you?

A. I did not.

Q. Is there a reference to Dr. Stone changing his mind in the article?

A. Yes, ma'am. On page 55. Or 65, I guess. Yeah, 65.

Q. Would you circle the reference to Dr. Stone's later

Q. Would you check the reference to Dr. Stone's expert opinion.

A. Yes, ma'am.

THE COURTROOM DEPUTY: What exhibit?

MS. WELCH: I'm sorry, this is WW23. It's the same exhibit. Page 94.

BY MS. WELCH:

Q. Would you -- this is page 65. Would you please read from that.

Dick Reavis - Redirect

A. It says, "After viewing a video analysis prepared by the California Organization for Public Safety --" it includes those pictures of the gym we showed yesterday "-- Stone told SOF the video suggests to me -- plus what other people have told me -- that the tanks destroyed the gym area, where there might have been people who got crushed to death. It may be that the FBI, with the clumsiness with which they carried out this portion of the breaching operation, may have accidentally ignited a fire."

Q. And I didn't ask you about that, either, did I?

A. No, ma'am.

Q. Now, the article's about Dr. Stone, isn't it? And that's what you summarized?

A. Yes, ma'am.

Q. Does it report information from another expert?

A. Yes, ma'am.

Q. And who was that?

A. Dr. Rodney Crow.

Q. And don't go into the details, but just tell me basically what his reports were about.

A. Rodney Crow is a forensic dentist, was identifying the bodies at Mt. Carmel. Soldier of Fortune interviews him to the effect that there were people killed by falling debris when the tanks came ramming into the building.

Q. And I didn't ask you to summarize that information, either, did I, Mr. Reavis?

Dick Reavis - Redirect

A. No, ma'am.

Q. The article that you wrote about the trial in Waco is in evidence also, isn't it, Mr. Reavis?

A. I believe it is.

Q. What is the name of it?

A. "Justice Takes a Holiday."

MS. WELCH: I'm sorry, your Honor, this will take one second.

BY MS. WELCH:

Q. WW32. It has been admitted as WW32, Mr. Reavis.

A. Okay.

Q. And the jury can read that article for itself, can it not?

A. Yes, ma'am.

MS. WELCH: I have no further questions, your Honor.

THE COURT: Any recross?

MR. RYAN: One question, your Honor. May I do it from here?

THE COURT: Yes.

MS. WELCH: I'm sorry. It has not been admitted? It has not been admitted. I'm sorry. Then I will show Mr. Reavis WW32.

BY MS. WELCH:

Q. Is this the article that you wrote for Soldier of Fortune?

A. Yes, ma'am.

Q. And is this the article that Mr. Ryan referenced?

Dick Reavis - Redirect

A. Yes, ma'am.

MS. WELCH: We would move its admission, your Honor.

MR. RYAN: No objection.

THE COURT: Received.

MS. WELCH: Thank you, your Honor. No further questions.

THE COURT: Now, you may ask it from there, Mr. Ryan.

MR. RYAN: Thank you, your Honor.

RECROSS EXAMINATION

BY MR. RYAN:

Q. Mr. Reavis, following your cross-examination last night, did you meet with defense counsel?

A. Yes, sir.

Q. And go over the testimony that you will give today?

A. Yes, sir.

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

THE COURT: Is the witness excused now?

MS. WELCH: Yes, your Honor.

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

MR. BURR: Sheila Nicholas.

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

(Sheila Nicholas 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: Sheila Vianne Nicholas, N-I-C-H-O-L-A-S.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Proceed.

MR. BURR: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. BURR:

Q. Good morning, Miss Nicholas.

A. Hi.

Q. If you would, get a little bit closer to the microphone so everybody can hear you fine. Where do you live?

A. In Vassar, Michigan.

Q. And what part of Michigan is that in?

A. The Thumb area.

Q. Have you lived there all your life?

A. No. I've lived in the general area all my life with the

exception of a couple years.

Q. Where did you live for that couple of years, and when was it in your lifetime?

A. North Carolina from about '89 to '93 or '94.

Q. What was the reason for you to be living there in that period?

A. I was married to a military man who was stationed in Fayetteville.

Sheila Nicholas - Direct

Q. Did you move back to Michigan after that?

A. Yes, I did.

Q. And why did you move back?

A. That's where I'm originally from, all my family's there.

Q. Did something happen with that marriage?

A. Yes. It ended.

Q. After you got back to Michigan, did you develop a new relationship with somebody else?

A. Yes, I did.

Q. Who was that person?

A. Kevin Nicholas.

Q. Did you and Kevin eventually marry?

A. Yes, we did.

Q. Now, has Kevin, your husband, testified in this case before?

A. Yes, he did.

Q. As a witness for the Government in the first part of the case?

A. Yes.

Q. Ms. Nicholas, do you have any children?

A. Yes, I do. I have two.

Q. What are their ages?

A. My daughter is six, and my son is almost two.

Q. Do you know Timothy McVeigh?

A. Yes, I do.

Sheila Nicholas - Direct

Q. Before you first met Tim, had your husband, Kevin, told you anything about him?

A. Very little.

Q. Had he said something?

A. Yes, he mentioned he had a friend who resided everywhere, wandered around, popped in now and then.

Q. Did he say that you often did not know when he might pop in?

A. Yes, he did.

Q. Did there come a time when Tim popped in?

A. Yes, there was.

Q. When was that?

A. Late fall of 1994. I believe it was October, November.

Q. Was that the first time you had the occasion to meet Tim McVeigh?

A. Yes, it was.

A. Yes, it was.

Q. What were you doing at the time that he popped in?

A. I was in the process of moving in with Kevin. I had just decided I was going to do that.

Q. Tell us about that first meeting with Tim, if you would.

A. Well, he just kind of popped in. He was very nice, friendly, instantly just someone that you are kind of drawn to, you know. Like him.

Q. I'm sorry, go ahead.

A. That's okay.

Sheila Nicholas - Direct

Q. Were you actually in the process of making the move by putting things into trucks at the time?

A. No, not at that time. I had just decided that that's what we would do. Nothing was moved as of yet.

Q. Within a short time after Tim arrived, did you actually do the move?

A. Yes, I did.

Q. Did he help you do it?

A. Yes, Tim and I did it. My husband was working at the time, full-time, so Tim was my moving partner.

Q. How long did it take you to move?

A. With Tim's help, not long. I think maybe a week. Two at the most.

Q. What were your first impressions? You've given a little bit of it, but I think I interrupted you. What were your first impressions of Tim at that time?

A. He's very likable, you know. Someone when you meet them for the first time, you're drawn to them.

Q. Did you have a chance to spend more time with Tim after that?

A. Yes, I did. I spent quite a bit of time with him during the days when my husband was at work.

Q. Were you working at that time?

A. Yes, part-time at a Wal-Mart.

Q. How did it work out? Was it part of each day or some

Sheila Nicholas - Direct

days --

A. No, just a couple days a week, you know, two or three days.

Q. And those other days, where were you?

A. Usually at home with Tim -- you know, we traveled together.

Q. You and Tim would travel about together?

A. Yeah, we visited relatives, my family, Kevin's family.

Q. How did it happen to be that he traveled around to visit with other people with you?

A. Well, like I said, he's really likable, so we just -- you know, we hit it off, we were friends. So when I went somewhere, he went.

Q. Was he with you nearly every day, or were there some days he was gone?

A. There was some days -- I mean he had a life of his own to

lead. I mean he went places and came back.

Q. Were there times that he left town and then came back?

A. Yes, twice, I believe.

Q. Do you know where he went during those times?

A. One time I believe he went to his grandfather's or New York where his grandfather had passed. The other time, I'm not sure.

Q. Was he gone very long each of those times?

A. No. Maybe a week.

Q. A week total?

A. No, I'm not sure, but I believe about a week each time.

Sheila Nicholas - Direct

Q. Now, in the time that you and Tim spent together, did you talk very much?

A. Yes. It was kind of like a confidant -- you know, I was moving. We went through my personal effects and sorted out what was old and I wasn't going to need. You know, I confided in him and I was going through a lot at that time with the divorce and Kevin; and, you know, we just -- we talked about everything.

Q. How did you find him in those conversations about what was happening in your life?

A. Very receptive. He was very caring, you know. He listened to whatever I had to say, whether he was interested or not. He helped me, you know. I mean sometimes you just need somebody to talk to that's going to listen and care, and he did.

Q. Did he seem interested in what you were talking about?

A. Yes. Yes.

Q. How long would these conversations typically last?

A. You know, sometimes a couple hours. You know, we spent most of the days together.

Q. In these conversations, did you talk very much about his life?

A. Not much. A little bit. But I was going through a lot, and I think he was more interested in what I needed to talk about.

Q. Did you talk with him enough about himself to learn what

Sheila Nicholas - Direct

his -- his important interests were in life?

A. Somewhat. I knew he was interested in guns. He attended a lot of gun shows, but we really didn't talk about it much. I don't know much about guns, and I don't have an interest in them, so --

Q. Did you find out anything else that he was particularly interested in?

A. No. Not that I'm aware of.

Q. Did you ever have occasion to talk with him about Waco?

A. I heard about it, and I'm sure he probably spoke about it some, but I really didn't pay much attention. I really -- I mean I knew it happened and I knew that he didn't like what

happened, but there wasn't many people that did. You know, it just happened. You couldn't do nothing about it.

Q. Were you aware of whether he and Kevin talked about Waco when he was with you this time -- this period of time?

A. I'm not sure. They probably did some.

Q. Do you know whether he had a videotape or tapes about Waco?

A. I believe he had one.

Q. Did you see it?

A. No. It was probably on some when I was at home, but I didn't watch it. I didn't sit and watch it.

Q. Did you ever in your conversations with Tim -- excuse me -- did you ever talk with him about his views about the government or politics?

Sheila Nicholas - Direct

A. Somewhat. I knew that he was unhappy with some of the things that are going on, you know, in our government; but, you know, everybody has their opinion.

Q. Did he talk with you about individual liberty and freedom?

A. I don't believe so.

Q. When Tim was -- what period of time was he around in the time we're talking about?

A. You mean around how?

Q. I'm sorry. What length of time did he stay with you?

A. He stayed about two months with the exception of his couple, you know, trips that he took.

Q. Do you remember when he last was with you?

A. January. I'm not sure what time in January. Super Bowl time.

Q. And that would be 1995?

A. Yes.

Q. In the time that -- I meant to ask you this before. I'm sorry.

In this period of time, was Tim living somewhere else and visiting with you, or was he staying at your house?

A. He lived with us.

Q. Did he have any interaction with your daughter --

A. Yes.

Q. -- at that time?

A. They played horseplay, games probably. She liked him.

Sheila Nicholas - Direct

Q. Did you trust him with your daughter?

A. Yes. He was -- I just trusted him with everything. You know, I mean he came and went in my house and

Q. In the time that you spent with Tim McVeigh, do you feel like you got to know him pretty well?

A. Yes, I felt like I did.

Q. If you were trying to describe Tim to somebody who had never met him before and never had a chance to spend the kind of time with him that you did, what would you tell them?

A. He's a likable guy. He's full of fun. He's always funny. He's caring. He cares about -- you know, like I said, whatever

he's caring. He cares about -- you know, like I said, whatever you want to talk about, even if he really didn't know or

MR. BURR: I have no other questions, your Honor.
Thank you, Ms. Nicholas.

THE COURT: Mr. Mackey.

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Good morning, Miss Nicholas. How are you?

A. Fine, thanks.

Q. This is your first time in this courtroom, is it not?

A. Yes, sir.

Q. So you've not heard the testimony of upwards of 200 different witnesses from that witness stand talk about the activities of Tim McVeigh, have you?

Sheila Nicholas - Cross

A. No.

Q. You've not seen the hundreds of exhibits that have been admitted in this trial?

A. No.

Q. Your view of Tim McVeigh is drawn solely from about two months' exposure to him in late 1994; is that correct?

A. Yes.

Q. A period where you shared residence with him in Michigan?

A. Yes.

Q. You and your husband or soon-to-be husband, Kevin?

A. Uh-huh.

Q. And even during that time period, Mr. McVeigh was gone on occasion to gun shows; correct?

A. Yes.

Q. Took more than one trip out of the state with James Nichols; correct?

A. Yes.

Q. So when you count up the number of hours that you spent with Tim McVeigh, it's not very many, is it?

A. In two months, a considerable amount of hours, but not if you go by months or years.

Q. Even in that limited exposure to Tim McVeigh, it's your testimony that he was open and honest with you in his dealings with you?

A. Yes, sir, I felt like he was.

Sheila Nicholas - Cross

Q. Did he tell you that he stored explosives in your garage?

A. No, he did not.

MR. MACKEY: Nothing else.

MR. BURR: No further questions, your Honor.

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

Next.

MR. BURR: Mildred Frazer.

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

-----, F-----
(Mildred Frazer affirmed.)

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

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

THE WITNESS: Mildred N. Frazer. F, like Frank, R-A-Z-E-R.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Burr.

DIRECT EXAMINATION

BY MR. BURR:

Q. Good morning, Miss Frazer.

A. Good morning.

Q. How are you doing?

A. Very nervous.

Q. We'll try to help that.

A. Okay.

Mildred Frazer - Direct

Q. Where were you born?

A. In Niagara Falls, New York.

Q. Can you move a little bit closer to the microphone so everybody can hear you.

A. Okay.

Q. Let's try that again. Where were you born?

A. Niagara Falls, New York.

Q. Where did you grow up?

A. In Pekin, New York.

Q. Is that very far from Niagara Falls, New York?

A. It's about a 30-minute drive.

Q. Did you attend school and go through high school in Pekin?

A. I went to school in Wilson and DeSales High School, Catholic high school, in Lockport, New York.

Q. Did there come a time when you met a man named Bill McVeigh?

A. Yes. That was in 1963, March of 1963, when I was a senior.

Q. A senior in high school?

A. Yes.

Q. Did you and Bill become friends and develop a relationship?

A. Yes, we did.

Q. Did you eventually marry each other?

A. Yes, we did.

Q. And when was that?

A. We married on August 28, 1965.

Mildred Frazer - Direct

Q. Did you have any children in the course of your marriage?

A. We had three children.

Q. And can you tell us what their names are and their ages today?

A. Patricia Davis is 31 years old. And Timothy is 29 years old. And Jennifer is 23.

Q. Timothy McVeigh is your son?

A. Yes, he is.
Q. Did there come a time when you and Bill divorced?
A. We divorced in 1986.
Q. And did you take up residence somewhere else shortly after that?
A. Yes. I lived in Lockport, New York, still. I moved 5 miles away from our home.
Q. Did there come a time when you moved to another state?
A. I moved to Florida in 1989.
Q. Is that where you now live?
A. Yes, I do.
Q. What town do you live in in Florida?
A. I live in Ft. Pierce, Florida.
Q. What part of the state is that in?
A. It's in south Florida.
Q. What kind of work do you do in the Ft. Pierce area, Ms. Frazer?
A. I work on school buses. I transport -- help -- I'm a bus

Mildred Frazer - Direct

assistant, transporting physically, mentally, and emotionally disturbed and disabled children.

Q. How long have you been doing that?
A. Since 1994.
Q. Do you like your job?
A. I love my job. It's very rewarding.
Q. In preparing to testify today, did you and I meet some?
A. Yes, we did.
Q. What did I ask you to do to prepare?
A. You asked me to write a little . . . letter or note on my feelings about what's going to happen to my son.
Q. Have you done that?
A. Yes, I have.
Q. Is what you wrote all in your own words?
A. Yes, it definitely is. It took me three hours. Three copies to get it done.
Q. Do you have that with you?
A. Yes, I do.
Q. Would you take a look at it?
Would you tell the jury what you'd like them to know.
A. Can I look at them?

THE COURT: We can't hear you.

THE WITNESS: I cannot even imagine the pain and suffering the people from Oklahoma City have endured since April 19th of 1995.

Mildred Frazer - Direct

BY MR. BURR:

Q. Ms. Frazer, let me just interrupt a minute. Why don't you just take a breath.
A. Okay.
Q. Relax.

A. This tragedy has affected many people around the world, including myself. I also understand the anger many people feel.

I cannot tell you about Tim McVeigh, the son I love, any better than it already has been told the last three and a half days. He has -- he was a loving son and a happy child as he grew up. He was a child any mother could be proud of. I still to this very day cannot believe he could have caused this devastation. There are too many unanswered questions and loose ends. He has seen human loss in the past, and it has torn him apart. He is not the monster he has been portrayed as. He is also a mother and father's son, a brother to two sisters, a cousin to many, and a friend to many more. Yes, I am pleading for my son's life. He is a human being, just as we all are. You must make this very difficult decision on my son's life or death, and I hope and pray that God helps you make the right one.

MR. BURR: Thank you, Miss Frazer.

THE WITNESS: Okay.

MR. BURR: No other questions, your Honor.

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

THE WITNESS: Thank you.

THE COURT: Next witness.

MR. BURR: William McVeigh.

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

(William McVeigh 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 E. McVeigh. M-C-V-E-I-G-H.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. BURR:

Q. Good morning, Mr. McVeigh.

A. Good morning.

Q. How are you doing?

A. All right.

Q. Where were you born?

A. Lockport, New York.

Q. Where did you grow up?

A. Lockport, New York. The town of Lockport.

Q. Have you lived in that area all your life?

A. Yes.

William McVeigh - Direct

Q. Was there a time that you lived somewhere else when you were serving your country?

A. Just in the service, 1963 to 1965, Ft. Campbell, Kentucky.

Q. What branch of the service were you in?

A. Army.

Q. Have you and I met on a number of occasions since we've been involved in this together?

A. Yes

44. 103.

Q. At the end of last year, did we talk about making a videotape about the places that your son grew up?

A. Yes.

Q. Is Timothy McVeigh your son?

A. Yes, he is.

Q. Did you help us in the production of that videotape?

A. Yes.

Q. Do you remember about when it was that the tape was taken?

A. There was two occasions. The last one was on Veterans' Day.

Q. That would have been --

A. A couple weeks before that.

Q. -- November?

A. Last week in October, first couple of weeks in November.

Q. Did you provide some materials to go into the videotape?

A. Yes, I did.

Q. What were they? Do you remember?

William McVeigh - Direct

A. Pictures, tapes, film, film reels from my grand -- from my father that he had -- that I had got when he had died. They went through that and picked pictures out.

Q. What we think of as home movies?

A. Home movies, yes.

Q. Have you seen the videotape?

A. I don't believe I've seen a final production.

Q. In the one that you saw, were the images that you saw there accurate representations?

A. Yes. Yes.

Q. And do you appear on the videotape?

A. Yes, I do.

MR. BURR: Your Honor, we would like to introduce and publish videotape, Exhibit V, as in Victor -- VV6.

MR. HARTZLER: No objection.

THE COURT: All right. VV6 is received and may be published to the jury.

(Exhibit VV6 played.)

MR. BURR: I'd like to show a photograph, just to Mr. McVeigh, for identification.

BY MR. BURR:

Q. Mr. McVeigh, do you see the photograph on the monitor in front of you?

A. Yes.

Q. Can you identify that photograph? Just tell us what it is.

William McVeigh - Direct

A. It's myself and my son, Tim.

MR. BURR: Your Honor, this is PP4. We'd move for admission.

MR. HARTZLER: No objection.

THE COURT: Received.

MR. BURR: May we publish?

THE COURT: Yes.

BY MR. BURR:

Q. Mr. McVeigh, do you remember about when this photograph was taken?

A. I believe it was in '92. Somewhere between December of '89 and '92. I can't really put a picture (sic) on it.

Q. Where are you and Tim standing?

A. It's in the kitchen of my house.

Q. And is that the house that you presently live in?

A. Yes, it is.

Q. Is there a garden back behind that house?

A. Yes, there is.

Q. How big is it?

A. About 90 by 90.

Q. Is it a pretty successful garden each year?

A. Usually.

Q. Looking at this photograph and just focusing on it, does it bring back memories?

A. Yes.

William McVeigh - Direct

Q. Can you tell us about some of the memories that it brings back?

A. Well, it's -- to me, it's a happy Tim. It's a Tim I remember most of my life.

Q. Can you tell us about that Tim that you remember?

A. Oh, he's always good-natured, fun, always fun to be with, always in a pretty good mood.

Q. Is the Tim that we see in this picture the Tim that you know?

A. Yes. The Tim that I know most of my life.

Q. Is the Tim that we see in this picture still alive to you?

A. I believe so.

Q. Do you love the Tim --

A. Yes, I love Tim.

Q. -- in this picture? Do you love the Tim in this courtroom?

A. Yes, I do.

Q. Do you want him to stay alive?

A. Yes, I do.

MR. BURR: Thank you, Mr. McVeigh.

No further questions.

THE COURT: Are there any questions?

MR. HARTZLER: No questions.

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

THE WITNESS: Thank you.

MR. JONES: Defense rests.

THE COURT: All right. Defense rests.

Are there any rebuttal witnesses?

MR. HARTZLER: No witnesses. Mr. Mackey has an exhibit we would like to offer.

THE COURT: All right. And I'm not certain where we were on this stipulation on defense exhibits. I believe AA2, 3, 4, 5, 6, 7, 8, 9, 10, 11; SS2 and VV5A; WW43, 44, 45, 46,

48, 49, 50, and 51 are to be received.

MR. JONES: Yes, your Honor.

THE COURT: In this case. And that's stipulated to.

MR. HARTZLER: Yes.

MR. JONES: And there is no objection to the introduction of 1542, the Government Exhibit 1542.

THE COURT: All right. And what is 1542?

MR. MACKEY: Your Honor, it's the letter to the editor by Tim McVeigh dated February 11, 1992, published in the Union=20

Sun and Journal newspaper, Lockport, New York. We'd ask permission to publish just the first and last paragraphs of that letter.

THE COURT: All right. Well, it's received without objection, so you may publish.

MR. MACKEY: Your Honor, if the Court permits, I'll just simply read into the record the first and last paragraphs.

THE COURT: All right.

MR. MACKEY: This is the letter addressed -- or entitled, "America Faces Problems," from Tim McVeigh.

"Crime is out of control. Criminals have no fear of punishment. Prisons are overcrowded so they know they will not be in prison long. This breeds more crime in a escalating cyclic pattern."

The last paragraph is: "We have no proverbial tea to dump; should we instead sink a ship of Japanese imports? Is a Civil War imminent? Do we have to shed blood to reform the current system? I hope it doesn't come to that! But it might."

Thank you, your Honor.

THE COURT: All right, and I perhaps with respect to this stipulation on the defense exhibits should just identify what they are so the jury is not confused about it. Some of these things you've already heard reference to; but the exhibits that are received in the defense case through stipulation are the Bronze Star and other -- two more medals, Certificate of Achievement, other awards, diplomas, certificate of promotion, photograph of award ceremony. Some of these things were received during the taking of testimony: certificate of commendation, certificate of training, the video splice and "Day" which we also received. And then I believe these others are all articles from Soldier of Fortune, Wall=20 Street Journal newspaper, and the seven-page compilation of political quotations. Those things were previously referred to in the course of the taking of information.

So that completes the presentation of information by both sides of the case. Where we are, then, members of the jury, is that you've now heard all that you're going to hear with respect to evidence and information, evidence from the trial and information from this sentencing hearing. But rather than proceed directly to the arguments and instructions, we've agreed to do that tomorrow, and give an opportunity for both sides to prepare their remarks and also to review the instructions that I'll give you with respect to the law and then do it all at one time.

I don't mean at one time literally; I mean within the same day and the sequence. And what you'll hear is just as

same day and the sequence. And what you will hear is just as what you did at the trial, and it's as I've already described to you when we started this sentencing hearing: You will hear argument from the Government first. And then from the defense counsel, then from the Government, and then instructions on the law from me.

And then so that you'll have some understanding of what lies ahead -- then you will have a form that's not quite like the verdict form that was given to you in the other -- in the trial. This will be called a special findings form. And it will ask you a number of specific questions, and also consistent with the instructions, it will give you some guidance as to how under the law you must approach the questions that will be before you; and those questions will be, of course, whether the penalty in this case should be death, life in prison without any possibility of release, or another sentence to be imposed by the Court. And you will select among those three choices.

But as I say, the findings -- it isn't just something that we ask you now, go out and tell us what to do. The instructions and the findings will guide you so that you can make a reasoned, principled, and moral decision based upon the evidence and the information that was presented to you within the course of the trial and the hearing.

Now, we know that this is a heavy responsibility, and you know that you have to address the questions in an orderly way and also follow what I have to say to you about it. So even though you've now heard the witnesses and even though the exhibits that will be available to you have been identified, a good many of them have been published to you -- that is to say, that is our word for letting you look at them -- and also portions have been read to you, they will all be available to you for your consideration during the deliberations on the question of sentence.

So what I want to ask each of you now -- and, you know, I can understand your perhaps wanting to get right to it -- but please give us the indulgence of allowing counsel the time to prepare and also to permit us to make sure that we're all on the same understanding with respect to the law. It's only fair to the lawyers on both sides of the case that they know exactly what I'm going to tell you, read to you; and what I'll be doing is just as I did with instructions during the trial, at the close of the trial. I'll be giving you, when you deliberate, copies of what I read to you in the instructions and of course the Special Findings Forms.

And what you must do now is withhold the natural human reaction to your situation which is, Well, what do I think about it and maybe to ask other jurors, What do you think about it? Please do not do that. In fact, I'm not -- I'm saying it, please, but you understand I mean more than please: You are directed not to do that.

And also continue of course during this recess, which will be overnight of course and come back in the morning, to be very careful now about the things that you may read, see, and hear, not only to avoid anything that could influence you with respect to the reports concerning the trial or other people's opinions that may be published about what they think you should

do as the jury in this case, but also anything that's really outside of the evidence and the information that you've heard, and certainly anything with respect to the law because you're duty-bound under your oath to follow the law as I tell it to you, not as you may understand it or interpret it from any other source.

So what we would like to do, with your permission, is to start at 8:30 in the morning and start with the arguments at 8:30 in the morning and proceed directly through so that -- I can't tell you specifically at what time we would be completed with the arguments and the instructions, but certainly there will be time for deliberation tomorrow. We should complete that well within the day and give you some time in the day to deliberate. And of course the way in which deliberations will be conducted will be explained to you then and also the amount of time that you take to deliberate, as you well know now, is the same as it was during the trial when you deliberated with respect to the issues of guilt or innocence. The time it takes for you to deliberate are up to the folks that are doing the deliberation.

So with all of that, members of the jury, I think it's time perhaps for you during this recess to sort of take a deep breath and wait to hear from us now with these arguments and instructions before even in your own minds you attempt to answer the questions that will be put to you.

So you're excused now until 8:30 tomorrow morning.

(Jury out at 10:09 a.m.)

THE COURT: We'll be in recess. 8:30, tomorrow morning.

(Recess at 10:10 a.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
1542					

DEFENDANT'S EXHIBITS

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Exhibit	Offered	Received	Refused	Reserved	Withdrawn
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REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 11th day of June, 1997.

Kara Spitler