

## Friday, June 13, 1997 Sentencing Verdict

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Criminal Action No. 96-CR-68

United States Of America,  
Plaintiff,

vs.

TIMOTHY JAMES McVEIGH,  
Defendant.

REPORTER'S TRANSCRIPT  
(Trial to Jury - Volume 151)

Proceedings before the HONORABLE RICHARD P. MATSCH,  
Judge, United States District Court for the District of  
Colorado, commencing at 3:20 p.m., on the 13th day of June,  
1997, in Chambers C-234, United States Courthouse, Denver,  
Colorado.

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

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, SEAN CONNELLY, 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., ROBERT WYATT, MICHAEL  
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STEVEN ENGLAND, and ROBERT WARREN, 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  
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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, and MAURIE A. LEVIN, P.O. Box 280,

Austin, Texas, 78767-0280, appearing for Defendant McVeigh.

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PROCEEDINGS

(In open court at 3:20 p.m.)

THE COURT: Please be seated.

The jury has informed that they have arrived at their findings and recommendation. I caution all present to avoid any reaction to these findings and the recommendation, either audibly or visibly. And if anyone violates that, we'll have to remove them.

Obviously, it will take some time to read these findings, and the recommendation is the last thing read; so please be careful and comply with this request.

We'll return the jury.

(Jury in at 3:22 p.m.)

THE COURT: Members of the jury, have you arrived at your special findings and recommendation?

JURORS: Yes.

THE COURT: If the foreman will please hand that to Mr. Manspeaker, who will hand it to me.

Members of the jury, you will please listen to the reading of your Special Findings Form A. These findings apply to all 11 counts.

Under Section I, Intent to Cause Death:

Question (1) The defendant intentionally killed the victims. Answer: Yes.

(2) The defendant intentionally inflicted serious body injury that resulted in the death of the victims. Answer: Yes.

(3) The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used against a person, and the victims died as a result of that act. Answer: Yes.

(4) The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than a participant in the offense, such that participation in the act constituted a reckless disregard for human life and the victims died as a direct result of the act. Answer: Yes.

Section II, Statutory Aggravating Factors:

(1) The deaths or injuries resulting in death occurred during the commission of an offense under 18 United States Code Section 844(d), transportation of explosives in interstate commerce for certain purposes. Answer: Yes.

(2) The defendant, in the commission of the offenses, knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Answer: Yes.

(3) The defendant committed the offenses after substantial planning and premeditation to cause the death of one or more persons and to commit an act of terrorism. Answer: Yes.

(4) The defendant committed the offenses against one or more federal law enforcement officers because of such victims' status as federal law enforcement officers. Answer:

Yes.

Third section, Non-statutory Aggravating Factors:

- (1) The offenses committed by the defendant resulted in the deaths of 168 persons. Answer: Yes.
- (2) In committing the offenses, the defendant caused serious physical and emotional injury, including maiming, disfigurement, and permanent disability to numerous individuals. Answer: Yes.
- (3) That by committing the offenses, the defendant caused severe injuries and losses suffered by the victims' families. Answer: Yes.

Mitigating factors in Section IV:

- (1) Timothy McVeigh believed deeply in the ideals upon which the United States was founded. Number of jurors who so find: Zero.
  - (2) Timothy McVeigh believed that the ATF and FBI were responsible for the deaths of everyone who lost their lives at Mt. Carmel, near Waco, Texas, between February 28 and April 19, 1993. Number of jurors who so find: 12.
- Excuse me.
- (3) Timothy McVeigh believed that federal law enforcement agents murdered Sammy Weaver and Vicki Weaver near Ruby Ridge, Idaho, in August, 1992. Number of jurors who so find: 12.
  - (4) Timothy McVeigh believed that the increasing use of military-style force and tactics by federal law enforcement agencies against American citizens threatened an approaching police state. Number of jurors who so find: 12.
  - (5) Timothy McVeigh's belief that federal law enforcement agencies failed to take responsibilities for their actions at Ruby Ridge and Waco and failed to punish those persons responsible added to his growing concerns regarding the existence of a police state and a loss of constitutional liberties. Number of jurors who so find: 12.
  - (6) Timothy McVeigh served honorably and with great distinction in the United States Army from May, 1988, until December, 1991. Number of jurors who so find: 10.
  - (7) Timothy McVeigh received the Army's Bronze Star for his heroic service in operation Desert Storm in Kuwait and Iraq. Number of jurors who so find: 12.
  - (8) Timothy McVeigh is a reliable and dependable person in work and in his personal affairs and relations with others. Number of jurors who so find: 2.
  - (9) Timothy McVeigh is a person who deals honestly with others in interpersonal relations. Number of jurors who so find: 1.
  - (10) Timothy McVeigh is a patient and effective teacher when he is working in a supervisory role. Number of jurors who so find: 12.
  - (11) Timothy McVeigh is a good and loyal friend. Number of jurors who so find: Zero.
  - (12) Over the course of his life, Timothy McVeigh has done good deeds for and helped others, including a number of strangers who needed assistance. Number of jurors who so find:

4.

(13) Timothy McVeigh has no prior criminal record.

Number of jurors who so find: 12.

With respect to the provision of extra spaces to write in additional mitigating factors, if any, found by any one or more jurors, the jury has answered none with respect to both of those and stricken them out.

Recommendation, V:

The jury has considered whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury recommends by unanimous vote that the following sentence be imposed:

The defendant, Timothy James McVeigh, shall be sentenced to death.

The Special Findings appear to be signed by all jurors and dated June 13, 1997.

VI. Certification:

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victims was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crimes in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or the victims.

Apparently signed by all jurors and also dated June 13, 1997.

Mr. Foreman, was this and -- were these and are these the jury's special findings and recommendation?

JURY FOREMAN: Yes, they are.

THE COURT: And so say you all?

JURORS: Yes.

THE COURT: I will poll the jury on these recommendations as I did with the verdict.

So the juror seated in Chair No. 1: Were these and are these your special findings and recommendation?

JUROR NO. 1: Yes.

THE COURT: Juror seated in Chair No. 2: Were these and are these your special findings and recommendation?

JUROR NO. 2: Yes, sir.

THE COURT: The juror seated in Chair No. 3: Were these and are these your special findings and recommendation?

JUROR NO. 3: Yes, sir.

THE COURT: The juror seated in Chair No. 4: Were these and are these your special findings and recommendations?

JUROR NO. 4: Yes.

THE COURT: Juror seated in Chair No. 5: Were these and are these your special findings and recommendation?

JUROR NO. 5: Yes, sir.

THE COURT: The juror seated in Chair No. 6: Were these and are these your special findings and recommendation?

JUROR NO. 6: Yes.

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THE COURT: The juror seated in Chair No. 7: Were these and are these your special findings and recommendation?  
JUROR NO. 7: Yes.

THE COURT: The juror seated in Chair No. 8: Were these and are these your special findings and recommendation?  
JUROR NO. 8: Yes, sir.

THE COURT: The juror seated in chair No. 9: Were these and are these your special findings and recommendation?  
JUROR NO. 9: Yes, sir.

THE COURT: Juror seated in Chair No. 10: Were these and are these your special findings and recommendation?  
JUROR NO. 10: Yes.

THE COURT: The juror seated in Chair No. 11: Were these and are these your special findings and recommendation?  
JUROR NO. 11: Yes, sir.

THE COURT: The juror seated in Chair No. 12: Were these and are these your special findings and recommendation?  
JUROR NO. 12: Yes.

THE COURT: Members of the jury, the Court will, as I instructed you in the instructions, sentence in accordance with your recommendation, sentencing the defendant to death. The sentence will be imposed at a hearing at a later time.

Mr. McVeigh may be excused from the courtroom.

(Defendant leaves at 3:31 p.m.)

THE COURT: Members of the jury, you have now discharged your duty in this case, having rendered first of all your verdict with respect to the charges and then, of course, these findings and recommendation with respect to the sentence. Before excusing you from the courtroom, however, there are some things that I want to say to you and do wish to say them publicly.

First of all, I want to thank you on behalf of all of the people of the United States. You have served your country and you have served the system, as we've so often referred to it; but the system is really the democratic system that is our form of government, wherein people are brought together from all walks of life and background and given the responsibility for making the decision. And you have done that.

Now, it may be a matter for you now or at some later time to wonder: Did we do the right thing?

The answer to that question is yes, you did the right thing, not because I believe it one way or the other but because you did it. And that is what we rely upon, 12 people coming together, hearing the evidence, following the law, and reaching the decision.

So therefore, it is done. And you, as the jurors, are the final authority. You are not answerable to anyone for your verdict and your sentencing decision. No one of you can change it or undermine it or impeach it by anything that you may say or do after this. The decision is final.

Now, obviously, this decision will be commented upon, both your verdict and your recommendation. And that, as you well know, is a part of living in a free society. People are free to comment whether they know anything about it or not, including people who have not sat here as you have, heard all

of the evidence, heard the law, and deliberated.

What you said to each other in that jury room when you deliberated for the several days before you arrived at a verdict and as you have deliberated for hours before you have reached this recommendation for sentence is a matter that, I suggest to you, should be kept among you.

Now, you know, as a part of that, we have a local rule in this court that provides that no attorney shall communicate with you to ask you any questions with respect to your deliberations or your decision; and that rule is imposed. The lawyers are not permitted to question you.

But, of course, there are others who will feel free to question you or to contact you and ask you a number of things. I have throughout the course of this trial taken what some believe to be extraordinary and some believe to be unconstitutional measures to protect your privacy as you have served on this jury. I can no longer do so; and I believe that it -- well, as a matter of fact, there has been a motion filed on behalf of counsel for the co-defendant, Terry Nichols, that indicates that he has information that the media people have obtained identification of you -- through computers, I guess; but a lot of sources are available, you see.

Now, to be frank with you and open and honest with you, as I've tried to be throughout, you may very well find people at your doorstep when you get home, wanting to talk to you or people calling you on the phone. You can expect that. And I suggest only this to you: I cannot -- they have a constitutional right to try to talk with you. You have a constitutional right to decide to whom you wish to talk; but as you each make that decision for yourselves, I suggest that you consider certain things.

First of all, Terry Nichols: He's named as a co-defendant in this indictment, as you well know. His name came up in the course of the trial in the evidence that was presented. This has not been a trial about Terry Nichols. You have not been asked to decide the charges made with respect to Terry Nichols. Indeed, I separated the defendants for trial and ordered that there be two separate trials because I concluded that there could not be a fair trial with both defendants tried at the same time; that it would not be fair as to either one of them.

As you can well appreciate, there are matters that relate to him that had no relationship to Mr. McVeigh. His lawyers, Mr. Nichols' lawyers, have not been here during the trial. They have not had any opportunity to cross-examine any of the witnesses who said anything that could implicate Terry Nichols. They have not had any opportunity to present any witnesses to you with respect to Terry Nichols; and indeed, the only evidence that you've heard with respect to Mr. Nichols are those things that related more particularly to Timothy McVeigh and some of their conversations and that sort of thing.

It is likely that some people will be asking of you, Well, what do you think about Terry Nichols? Do you think he's guilty?

Now, I suggest to you the only honest answer that you can give to that is you don't know, because you haven't tried

him, you haven't heard him, he hasn't had a fair trial in front of you.

And think of the importance of that trial, which will be conducted next. And of course, just as we went through the jury selection process in selecting you folks for this case, so will we be doing that for the charges against Terry Nichols.

And so people will be answering questionnaires, people will be going through the same process that you went through, so that we can find the people who will fairly and impartially consider the case with respect to him.

So, you know -- you know what it's like to have gone through that. Think about that before you express any opinions with respect to that.

And think also about what I've said with respect to this case. You've decided this as a group of 12. No one of you can change it. And therefore, you know, you don't have to explain it to anybody, either.

Now, the -- it is common in matters that generate a lot of public interest to ask, Well, what went on in the jury room and how many votes did you take and who was the principal spokesperson and all that sort of thing. Well, again, I can't order you not to talk about that; but, of course, I think that all of you have respect for each other. And I suggest that you think about that before you answer any questions or volunteer any statements about how you worked together in performing your duty in this case and meeting the heavy responsibilities that were placed upon you and that were placed upon you by chance. You're here -- you were selected from a number of people; but at bottom, you're here because your name came up in the draw, and it was a matter of chance that brought you here. And that's really a part of the genius of this system; that people not selected by anybody come together and function as a jury.

So you have done your duty, and you have done it well.

And all of us involved -- and as I said, it's my privilege to speak for all the people of the United States, to compliment you on a job well done and service well performed.

So with that, members of the jury, different from every other time that I've excused you from the courtroom, you may now leave, talk about the case as you see fit, with anybody and everybody. And you can refuse to talk to everybody and anybody as well.

Thank you very much. You're now excused.

(Jury out at 3:42 p.m.)

THE COURT: I've previously set the time for the filing of motions to be on or before July 7; and that time, of course, stands.

I will -- I believe that we should determine a date for sentencing that will correspond with the motions so that it is all done at one time and there is no confusion with respect to the time for the filing of a notice of appeal.

With respect to what I've just said to the jury, I will also vacate the order prohibiting out-of-court comments that was entered April 16, 1997, thereby permitting those persons who were enjoined in that order from making public comments. You may now make them; although, of course, I expect

COMMENTS. You may now make them, although, of course, I expect that counsel will have in mind that another case is to be tried and another defendant's rights are involved.

I do also remind counsel of that which I said to the jurors: That you are by local rule prohibited from communicating with the jurors.

Do either counsel -- counsel for either side have anything further at this time?

MR. JONES: No, your Honor.

THE COURT: Mr. Hartzler?

MR. HARTZLER: No. Thank you, your Honor.

THE COURT: Well, I wish to say publicly that I compliment and commend counsel for their conduct in this case. People have commented upon the manner in which this trial has proceeded without delays and in a time that some people thought was much more efficient and faster than other persons contemplated who were not involved in the case.

That was accomplished because of the professionalism of the lawyers in this case on both sides. And I appreciate working with you in this matter.

Court is in recess.

(Recess at 3:44 p.m.)

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#### REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 13th day of June, 1997.

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Paul A. Zuckerman