

MR. RYAN: Thank you, your Honor.

(Videotape deposition of Thomas Ralph Manning resumed.)

MR. RYAN: It's very difficult to read this document. It's a carbon copy. May I be permitted to read the -- what's stated here?

THE COURT: It's been redesignated?

MR. RYAN: It has been redesignated from Manning 13

to

Government's Exhibit 273M.

THE COURT: 273?

MR. RYAN: M.

THE COURT: M? All right. Any objection to --

MR. WOODS: No, your Honor.

THE COURT: -- reading it?

Go ahead.

MR. RYAN: It says, "Tim McVeigh, 43616 Van Dyke."

It

appears to say "Becker, Michigan, 48426." Firestone store that we've been speaking of. Time in is 9:00 a.m.

THE COURT: All right.

(Videotape deposition of Thomas Ralph Manning resumed.)

MR. RYAN: Manning Exhibit 14 has been remarked, your Honor, as Exhibit 273N.

Manning Exhibit 15 has been remarked as Exhibit 273-O.

THE COURT: If you're playing them, they haven't been admitted. Why don't you tell me what they are, and we'll see if there is any objection.

MR. RYAN: Manning 14, 15, 16, 17, which are Government's Exhibit 273N through 273Q.

THE COURT: Any objection?

MR. WOODS: No objection, your Honor.

THE COURT: They're received, and you may display it.

MR. RYAN: Again, this is Government's Exhibit 273N. 273-O, 273P, 273Q.

(Videotape deposition of Thomas Ralph Manning resumed.)

MR. RYAN: It's been remarked as Government Exhibit 273T. I move its admission.

MR. WOODS: No objection.

THE COURT: Received, may be shown.

MR. RYAN: Front page. The back page.

(Videotape deposition of Thomas Ralph Manning resumed.)

MR. RYAN: Government's Exhibit 18 in the Manning deposition's been remarked as Exhibit 273R. The Government moves its admission.

MR. WOODS: No objection.

THE COURT: Received. May be shown.

(Videotape deposition of Thomas Ralph Manning resumed.)

MR. RYAN: Manning Exhibit No. 10 has been remarked as

Government's Exhibit 273J, and we offer it at this time.

MR. WOODS: No objection.

THE COURT: Received. May be shown.

THE COURT: Received. May be shown.

(Videotape deposition of Thomas Ralph Manning resumed.)

MR. RYAN: Your Honor, at this time the Government would offer what is marked as Manning Exhibit No. 19, which has been remarked as Government's Exhibit 273S.

MR. WOODS: No objection.

THE COURT: 273S received; may be shown.

MR. WOODS: I'm not sure that was the right exhibit, your Honor.

MR. RYAN: It's Exhibit No. 19 in the Manning deposition, page 51.

MR. WOODS: Well, it didn't have anything to do with Nichols' repair. I thought that was what you were on.

MR. RYAN: It's -- the colloquy of counsel has been deleted. That's why it seems out of place.

THE COURT: I understand. I believe the point Mr. Woods is making is so that the jury will understand, the exhibit does not relate to what Mr. Manning was saying at the time of the interruption.

MR. RYAN: That is true, your Honor.

MR. WOODS: Thank you, your Honor.

(Videotape deposition of Thomas Ralph Manning resumed.)

THE COURT: All right. That concludes the testimony of Mr. Manning. I think we'll take the recess at this point, members of the jury. Once more, I advise you that insofar as it can be done, you should consider his testimony in the same fashion as other -- as the testimony of witnesses who come in here and testify in the courtroom. Also, just to make it clear to you, there was a voice that came in there several times, and I don't think it was clear what the voice said, but then Mr. Manning repeated; and that was the court reporter who was taking it because what is done at these depositions is that in addition to its being on tape, there's a court reporter present who takes it down. So that's who that voice was, so that you don't get confused, and some court reporters are faster and better than others.

We will recess at this time for our usual 20-minute break during which, of course, you will continue to follow the cautions given at all recesses of keeping open minds, avoiding discussion of witnesses, or anything that goes on in the trial until you've heard it all and avoiding anything outside of our evidence.

You're excused now, 20 minutes.

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

THE COURT: Will counsel approach.

(At the bench:)

(Bench Conference 83B1 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: We will recess, 20 minutes.

(Recess at 10:15 a.m.)

(Reconvened at 10:35 a.m.)

THE COURT: Be seated, please.

(Jury in at 10:35 a.m.)

THE COURT: Next witness, please.

THE COURT: None witness, please.

MR. MACKEY: Your Honor, if I might make a record --

THE COURT: Oh, yes. You have some exhibits.

MR. MACKEY: -- as to certain exhibits.

THE COURT: All right.

MR. MACKEY: Your Honor, for the record, the original videotape deposition of Mr. Manning is marked Government's Exhibit 273. 273. It consists of two disks (sic), and that's the original unedited version.

THE COURT: All right. Well, of course, this won't go to the jury. This is just to complete the record.

MR. MACKEY: Yes, your Honor. Mr. Woods and I have promised not to play it again.

THE COURT: All right.

MR. MACKEY: 273A, Judge, is the written transcript of that video deposition in its entirety.

THE COURT: All right.

MR. MACKEY: And 273AA is the videotape deposition displayed to the jury edited as to this case only.

THE COURT: All right. And is there a transcript of that?

MR. MACKEY: It is a portion of 273A.

THE COURT: Well, do we have edited what was played at this trial?

MR. MACKEY: Not in transcript form. I certainly can prepare one.

THE COURT: I think we should so that the record is complete.

MR. TIGAR: Yes, your Honor. And Counsel can arrange that.

THE COURT: Arrange that, yes. And this really, members of the jury, has nothing to do with you. This is a part of making the record because we didn't have the court reporter take that down as it was being played.

Okay.

MR. MACKEY: Next, your Honor, I'd like to move into admission without further testimony certain motel records relating to Timothy McVeigh.

MR. TIGAR: May I stand beside Counsel, your Honor, with his permission?

THE COURT: Sure. That will help.

MR. TIGAR: And we'll get this . . .

MR. MACKEY: First, your Honor, for the record, I move to admit Government's Exhibit 260 and 261, being registration cards from the Imperial Motel in Kingman, Arizona.

MR. TIGAR: No objection, your Honor.

THE COURT: All right. They are received.

MR. MACKEY: May I show those to the jury, please.

THE COURT: Yes.

MR. MACKEY: And, your Honor, for the record, may I describe or read into the record the general nature of the information shown?

THE COURT: Yes. Is this 260?

MR. MACKEY: We're displaying at this time Government's Exhibit 260. 260.

THE COURT: All right.

MR. MACKEY: And it shows a registration of Mr. Tim McVeigh for the time period of March 31, 1995, through April 7, 1995.

It's the agreement of the parties that the handwriting that appears in the registration portion, including the street, city, and make of car, was authored by Mr. Timothy James McVeigh.

THE COURT: That's agreed, Mr. Tigar?

MR. TIGAR: Yes, your Honor.

THE COURT: All right.

MR. MACKEY: If I could show now, your Honor, please, Government's Exhibit 261. And for the record, this document, your Honor, is the registration card again to the Imperial Motel in the name of -- for the guest Tim McVeigh for the time period April 7, 1995, with out date of April 12, 1995.

THE COURT: All right.

MR. MACKEY: As to the Imperial Motel, we'd also move to admit two photographs of that motel, Government's Exhibits 262 and 263.

MR. TIGAR: No objection, your Honor.

THE COURT: They're received without objection, may be displayed.

MR. MACKEY: For the record, we're displaying now to the jury a photograph of the Imperial Motel in Kingman, Arizona. This exhibit is 262. Shows the entrance and the sign.

And for the record, Exhibit 263 is now being shown, a frontal view of the Imperial Motel in Kingman, Arizona.

THE COURT: Very well.

MR. MACKEY: Next, your Honor, I'd like to offer into evidence certain records from the Dreamland Motel in Junction City, Kansas. First Government's Exhibit 294.

MR. TIGAR: No objection, your Honor.

THE COURT: All right. 294 is received, may be shown.

MR. MACKEY: Your Honor, we're displaying to the jury at this time Government's Exhibit 294, registration card for Tim McVeigh at the Dreamland Motel. This exhibit reflects the check-in date of April 14, 1995, with an out date of April 18, stays of the 14th, 15th, 16th and 17th. It's the agreement of the parties that the handwriting that appears in the upper portion listing the name, the address, the car license, the make of the car, and the reference to pets was authored by Timothy James McVeigh.

THE COURT: That is the agreement?

MR. TIGAR: Yes, your Honor.

THE COURT: Very well.

MR. MACKEY: Your Honor, at this time we'd move to admit Government's Exhibit 295, that being the records from the Dreamland Motel of telephone calls generated from their motel rooms including Room 25 during the time period of Mr. McVeigh's stay.

MR. TIGAR: No objection, your Honor.

THE COURT: 295 is received, may be shown.

MR. MACKEY: Your Honor, it's a computer listing and not easily displayed, so I'll pass on that.

THE COURT: Okay.

MR. MACKEY: I do have two photographs of the Dreamland, your Honor, that are marked respectively Exhibits 283 and 287 I'd like to offer.

MR. TIGAR: No objection, your Honor.

THE COURT: 283 and 287 received by agreement, may be displayed.

MR. MACKEY: The jury is now seeing Government's Exhibit 287, which is a view from the ground-level frontage road of the Dreamland Motel in Junction City, Kansas.

Exhibit 283 now being shown is an aerial view of that same motel, the Dreamland Motel, in Junction City, Kansas.

At this time we'd call Richard Wahl.

THE COURT: Okay. And you understand these agreements we accept as being factually correct; and of course, when it's agreed for a particular exhibit that we don't need a witness to explain it to us, we accept it for what it is.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Richard Wahl affirmed.)

THE COURTROOM DEPUTY: Have a seat, please.

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

THE WITNESS: Richard Norman Wahl, W-A-H-L.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mearns.

MR. MEARNS: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MEARNS:

Q. Good morning, Mr. Wahl.

A. Good morning.

Q. How are you employed?

A. I'm in the U.S. Army.

Q. How long have you been in the Army?

Richard Wahl - Direct

A. Since 1983.

Q. And where are you presently stationed?

A. At Fort Stewart, Georgia.

Q. What is your present rank or title?

A. Warrant Officer 1. I'm a unit maintenance technician.

Q. How long have you been assigned in Fort Stewart?

A. I've been at Fort Stewart since June of 1986.

Q. What are your responsibilities? What do you do as a warrant officer?

A. My current job, I'm responsible for ensuring all of the UM maintenance is done on our wheel vehicle fleet and generators.

Q. By "wheel vehicle fleet," do you mean trucks and cars and things like that?

A. Yes.

Q. How long since you've been in the military -- how long have

Q. How long since you've been in the military how long have you been responsible for motor vehicle maintenance?

A. My whole career.

Q. Were you ever assigned to Fort Riley in Junction City, Kansas?

A. Yes, I was.

Q. When did you report -- first report to Fort Riley?

A. In September of '94.

Q. Were you assigned to Fort Riley in April of 1995?

A. Yes, I was.

Q. How long did you remain assigned to Fort Riley?

Richard Wahl - Direct

A. Until December of '95.

Q. What was your assignment when you were at Fort Riley?

A. I was a company motor sergeant.

Q. Are you presently married, Mr. Wahl?

A. Yes, I am.

Q. How long have you been married?

A. For about 18 months.

Q. Were you ever married previously?

A. Yes, I was.

Q. When were you first married?

A. In 1974.

Q. And that first marriage ended in a divorce?

A. Yes, it did.

Q. When were you divorced from your first wife?

A. In July of '95.

Q. Do you have any children as a result of your first marriage?

A. Yes, I do. I have two sons.

Q. And what are your sons' names and ages?

A. Jeremy who is 22 and Benjamin who is 13.

Q. Does either of your sons, Jeremy or Benjamin, live with you?

A. No, they do not.

Q. Who do they live with?

A. My oldest son lives in Washington state, and my youngest

Richard Wahl - Direct

son lives with my former spouse in Georgia.

Q. In 1995, how often did you get to see your younger son, Ben?

A. Every four months or so, whenever he had a break from school.

Q. I want to direct your attention now to April of 1995, if I may. Where was your son Ben living at that time?

A. He was living in Detroit, Michigan.

Q. And in April of 1995, did there come a time when your son Ben came to visit you in Kansas?

A. Yes, he did, when he had spring break.

Q. And approximately when was that?

A. Easter and the week after Easter.

Q. How long did he stay with you?
A. The whole week that he was out of school.
Q. During that week that your son was with you, did you ever go fishing with him?
A. Yes, I did.
Q. Where did you go fishing?
A. To Geary State Lake.
Q. Where is Geary State Lake?
A. It's about 10 or 12 miles south of Junction City, Kansas.
Q. Prior to when you went fishing in April of 1995 with your son, had you ever been to Geary Lake before?
A. No, I hadn't. I had only been by it.

Richard Wahl - Direct

Q. When had you gone by Geary Lake?
A. It was on the route I used to go to work, and I usually went by it three or four times a week.
Q. Where were you living at that time in April of '95?
A. In White City, Kansas.
Q. And where is White City located in relation to Fort Riley?
A. It's about 20, 25 miles south of Fort Riley.
Q. What I'd like to do now is show you what is in evidence as Government's Exhibit 2045. And do you recognize that as a map of central Kansas?
A. Yes, I do.
Q. You've got a light pen there that if you touch to -- actually to the screen underneath your desk -- if you could indicate with the light pen approximately where on this map Fort Riley is.
A. Fort Riley is in this general area.
Q. I don't see your mark.
A. Is it working? There it goes.
Right there.
Q. Okay. Essentially north of Manhattan -- excuse me -- west of Manhattan and north of Junction City?
A. Correct.
Q. Could you indicate approximately where on this map White City would be?
A. Right in there.

Richard Wahl - Direct

Q. And could you show us how you would normally drive from your home in White City to Fort Riley.
And that's Geary Lake, that blue dot off just to the west of Route 77. Is that correct?
A. Correct.
Q. And about how often would you drive by Geary Lake on your way to Fort Riley?
A. Three or four times a week.
Q. How many different times did you go fishing with your son Ben in April of 1995?
A. On three different occasions.

Q. And did you go on all three of those occasions -- did you go to Geary State Lake?

A. Yes, I did.

Q. When was the first time that you went fishing?

A. On Easter Sunday.

Q. About what time did you go?

A. We went out there about 8 in the morning.

Q. And where did you fish when you were at Geary Lake that day?

A. At the end of the lower entrance to the park in a little lagoon right there.

Q. Did you have a boat with you on that occasion?

A. No, I did not.

Q. So how did you fish?

Richard Wahl - Direct

A. From the shore.

Q. How long did you stay there on Easter Sunday, April 16?

A. We stayed there until about 2 in the afternoon.

Q. When you were there during the time that you were there, did you see any other people or vehicles?

A. Yes, I did.

Q. Who or what did you see?

A. Just people there enjoying the park on a Sunday afternoon, and I also saw an individual from the Department of Natural Resources.

Q. Who are you referring to?

A. I don't really -- I don't really know the person's name. I just know that he was doing a survey of the people that were fishing in the lake for the Department of Natural Resources, and I spoke to him for a few minutes about fishing.

Q. So you spoke to him?

A. Yes.

Q. Do you recall how old he was?

A. No, I do not. I would say early 20's.

Q. What time did you arrive at the lake on Sunday?

A. On or about 8:00 in the morning, I believe.

Q. And tell us again what time you left.

A. At about 2 in the afternoon.

Q. When was the second time that you went fishing at Geary Lake?

Richard Wahl - Direct

A. The following day, on Monday.

Q. What time did you get to Geary Lake on Monday, April 17?

A. A little after 5 in the evening.

Q. And where did you fish on that occasion?

A. On that day, we took and went fishing in the center of the lake.

Q. How did you get out to the center of the lake?

A. I had rented a boat earlier in the day.

Q. Where did you rent the boat?

A. At the Fort Riley MFR facility.

A. At the Fort Riley MWR facility.

Q. What is an MWR?

A. It's the Morale, Welfare, and Recreation facility.

Q. What kind of a boat did you rent there?

A. About 14-foot boat with an electric trawling motor.

Q. I'd like you to look in that folder that you have there and look for Government's Exhibit 1981. Do you have that in front of you?

A. Yes, I do.

Q. Do you recognize that document?

A. Yes, I do.

Q. What is it?

A. It is the rental receipt from where I rented the boat.

Q. And do you recognize it because it has your handwriting on it?

A. It has my handwriting, my signature.

Richard Wahl - Direct

MR. MEARNS: Your Honor, we would offer Government's Exhibit 1981.

MR. TIGAR: No objection your Honor.

THE COURT: 1981 is received.

MR. MEARNS: With the Court's permission, I'd like to publish that.

THE COURT: All right.

BY MR. MEARNS:

Q. Mr. Wahl, if you could click your pen and clear those red marks.

And up at the top, could you tell us what we see at the top of this form.

A. My name, my address, my rank, where I worked at, my phone number.

Q. Okay. And a little bit below that, if we could focus in the middle of the document -- that's your signature there in the middle?

A. My signature and the date.

Q. And what is that date?

A. 17 of April.

Q. And what time does it indicate that you rented the boat?

A. At 1700.

Q. And what would that be in non-military time?

A. 5:00.

Q. How did you get the boat that you rented that day? How did

Richard Wahl - Direct

you get it to the lake?

A. I have a trailer hitch on my car, and I pulled it out there.

Q. And where did you take the boat when you got to Geary Lake?

A. To the boat launch that we had seen on Sunday.

Q. Was that near where you were fishing on Sunday?

A. Yes, in the general area.

Q. How long did you and your son fish on April 17 -- Monday.

April 17?

A. Up until about 8:15, 8:20.

Q. And what time did you arrive at the lake?

A. A little after 5. As soon as we rented the boat, we went out there.

Q. So you were there sometime a little after 5 to about 8:15, 8:20?

A. Yes.

Q. Where did you go after you left Geary Lake?

A. After we left Geary Lake, we went back to Junction City to go to the Wal-Mart store there in town.

Q. And what did you do at that Wal-Mart?

A. Earlier we had seen a fishing -- depth-finder/fish-finder, and we went back to purchase it.

Q. Why did you do that?

A. We figured we could use all the help we could get fishing.

Q. I take it you hadn't been too successful on Sunday or

Richard Wahl - Direct

Monday.

A. No, we had not.

Q. What did you do the next morning, April 18?

A. We were going to get up and go out fishing earlier since we bought the fish-finder; but the night before, thunderstorms had rolled through and was lightning and thundering and raining all night, so we slept in a little bit and went out -- were going to still go fishing later on in the day.

Q. What time had you planned to go fishing with your son on Tuesday, April 18?

A. We planned to go out there at first light, but we ended up not going out there till about 9:00 in the morning.

Q. Tell us what the weather was like when you woke up on Tuesday, April 18?

A. The temperature had dropped from the previous day. It was 45, 50 degrees outside. The wind was blowing real hard; plus with the storms that went through the night before, I didn't think fishing would be very beneficial at all that day.

Q. Was it still raining when you woke up?

A. No, it wasn't. It was still overcast a little bit but wasn't raining.

Q. What time did you -- but you, in fact, went to Geary Lake. You didn't go right away, but you in fact went there that morning?

A. Yes, we did.

Richard Wahl - Direct

Q. What time did you get to Geary Lake that morning, April 18?

A. We left and we got there about 9 in the morning.

Q. And where did you enter the lake?

A. We entered the lake at the southern entrance off of Highway 77.

Q. Describe what that entrance looks like.

A. Highway 77 is a north/south highway, so we turned left off of it and were heading west down a gravel road; and as soon as you pull in there, they have a sign that says the name of the park and the regulations and all. And I turned to the right, just following the road; and as I got about 2- or 300 meters into the park through a clearing of trees, that's when I saw -- first observed a Ryder truck parked in there.

Q. Tell us what you saw.

A. As I cleared the trees where we were fishing at on Sunday, there was a Ryder truck parked down in there; and I slowed down and came to a stop because I was very apprehensive of going down it any more for the safety of myself and my son.

Q. You say you were apprehensive. What were you concerned about?

A. The truck shouldn't have been there. It should have been somebody in a car or pickup, somebody fishing, not a Ryder truck.

Q. What color was that Ryder truck?

A. It was the yellow color that comes on Ryder trucks.

Richard Wahl - Direct

Q. At that point, could you tell how large it was?

A. No, I couldn't. I was just visually looking at the Ryder truck and wondering why it was there.

Q. When you first saw the Ryder truck, what did you do?

A. I slowed down and came to a stop to look, see, if there was a place to turn around in case it got ugly.

Q. How long did you stop there?

A. Momentarily. It could have been a minute.

Q. What did you do?

MR. TIGAR: Your Honor, I object to any further discussion of the witness' feelings about the situation.

THE COURT: Yes. You should be just talking about what you saw and heard and smelled or any of those things through your senses, not your mental processes.

THE WITNESS: Yes, your Honor.

THE COURT: Proceed.

MR. MEARNES: Yes, your Honor.

BY MR. MEARNES:

Q. What did you do next, Mr. Wahl?

A. We continued on down the road, and there is a cement bridge or dam. I again slowed down before I crossed the bridge to turn around if I needed to. Everything looked the same. Nothing had changed, so I continued on and pulled down to where there is a cul-de-sac at the boat ramp and parked in the center of it in preparation to launch the boat.

Richard Wahl - Direct

Q. As you were driving from the location where you first stopped to the location -- that second location, did you continue to look at the Ryder truck?

A. Continually because I was concerned --

THE COURT: No, please. The question is what you did.

You've answered that you looked at it, but not what you thought.

BY MR. MEARNS:

Q. What else did you observe at that time about the Ryder truck?

A. I'm confused on the question.

Q. Did you note -- as you came -- when you stopped at the second location where you say -- did you park at that second location?

A. The second location being at the boat ramp?

Q. Right.

A. Yes, I did park there.

Q. Did you after you parked -- did you continue to look at the Ryder truck?

A. Yes, I did.

Q. Did you notice anything more about the Ryder truck that you hadn't observed when you stopped at the first place?

A. When I stopped at the boat launch getting ready, I sat in the car for a moment looking at the Ryder truck and observed that the left side of the truck had a bulge on it of some sort.

Richard Wahl - Direct

Q. At that time, which direction was the truck facing in relation to the way you were driving?

A. I was looking at the very front of the trucks -- they were off to my left.

Q. You said "trucks." What are you referring to?

A. There were two trucks there.

Q. Tell us about the other truck that you saw there.

A. The other truck was a late-model General Motors product, Chevrolet or GMC. It was dark blue or brown in color. It was an early 80's model because it had square headlights on it with parking lights below that. Above the cab I could see a little bit of white sticking up from the back that I couldn't make out what it was.

Q. Which direction was this pickup truck, the dark-colored pickup truck, facing?

A. It was parked the exact same direction as the Ryder truck.

Q. So which direction were those two trucks facing in relation to the highway, Route 77?

A. They were facing towards the east.

Q. So does that mean -- back towards the highway?

A. Back towards Highway 77.

Q. Where was the pickup truck parked in relation to the Ryder truck?

A. From the view I had, the Ryder truck was on the left and the pickup truck was on the right, or the Ryder truck was

Richard Wahl - Direct

closest to the water and the pickup was closer to the hill that was next to the area

was next to the area.

Q. And where -- how close was the Ryder truck parked in relation to the water?

A. It was on the edge of the road. I'm not sure of the distance.

Q. When did you first notice the pickup truck parked next to the Ryder truck?

A. When I had come to a full stop parking there, I had seen it as I was pulling in but didn't pay it any attention.

Q. When you parked there by the boat ramp, did you see any people near either of the trucks?

A. No, I did not.

Q. What did you do next?

A. Because the temperature was cold outside, we went ahead and started putting on some warmer clothes, loaded our equipment in the boat and proceeded to launch the boat.

Q. And you launched the boat there at the boat ramp?

A. At the boat ramp, yes.

Q. What did you do next?

A. With my son holding the rope for the boat down there at the dock, I went and parked the car back up in about the same location that we were in before we launched it.

Q. What happened next?

A. I observed the trucks for one last time to make sure that

Richard Wahl - Direct

there was nothing strange going on and went back down to the boat launch to where my son was waiting and proceeded to go fishing.

Q. Did you observe anything -- any activity around the truck -- the trucks at that time?

A. No, I did not.

Q. And so you proceeded to go fishing?

A. Correct.

Q. Tell us about that.

A. Like I said earlier, the wind was blowing real strong, 20 or 30 miles an hour; and when I got down to the boat, it was pushed up onto the dock partially, so we got it off the dock and proceeded to push it offshore. And as soon as we cleared the dock, the wind took over and just started blowing us towards the shore.

Q. Which direction did the wind blow you?

A. The wind was blowing towards Highway 77, so it blew us back towards the entrance of the park.

Q. So it blew you back towards the east?

A. Yes.

Q. Did it blow you in either direction in terms of north or south?

A. No, it was just basically towards the east.

Q. Did you have a motor in the boat?

A. I had an electric trawling motor.

Richard Wahl - Direct

Q. And were you making any headway against the wind with that motor?

A. It wouldn't even hold its own.

Q. So what did you do next?

A. We just let the wind take its toll and looked for the best possible place to crash the boat onto the shore onto the other side.

Q. And did the boat in fact get pushed up on the shore?

A. Yes, it did.

Q. So what did you do?

A. At that point, we were concerned about how we were going to get the boat back to the boat launch, the shore condition being all soggy around the edge of the lake. And we tried to use the paddle to push the boat away from the shore and the -- to push the boat back around the cove we were in to get back towards the boat launch. We made it about 20 or 30 feet, and it wasn't

working; so my son got out and pulled the rope along the shore while I used the motor. And eventually, I even had to get out of the boat and push it with the paddle.

Q. Were you able to get the boat back around to the dock and the boat launch?

A. Yes, we were. We finally got back around to the boat launch, where I tied the boat up. My son wasn't ready to go home, so we put the fish-finder on the dock and he continued to fish from the dock.

Richard Wahl - Direct

Q. About how long was it from when you launched the boat and tried to go fishing to when you were able to pull the boat back around to the boat launch?

A. It was around an hour's time.

Q. What did do you after you got the boat back to the boat launch and the dock?

A. I put the fish-finder on the dock, and Ben fished there for a short while. And with no luck.

Q. When you were out on the lake or pulling the boat around, did you at all look over where the two trucks were parked?

A. No, I did not.

Q. When you -- when you got back to the -- got the boat back to the boat launch, did you look at all at the two trucks?

A. I glanced over, didn't see anything, and just felt -- rest assured to go ahead and fish.

Q. How long did you and your son fish then from the boat dock?

A. We were there about half hour or so, with no results.

Q. Meaning you didn't catch anything?

A. Didn't catch anything.

Q. So what did you do next?

A. I convinced Ben that we weren't going to catch anything and went up to the car and backed it down to load the boat up.

Q. And did you do that?

A. Yes, I did.

Q. Prior to doing that, did you look back at the Ryder truck?

Richard Wahl - Direct

A. Yes, I did.

Q. Did you notice anything different about the appearance of the Ryder truck at that time?

A. When I looked at the Ryder truck now, the left side of it, the bulge was gone. The side of the truck was perfectly smooth.

Q. Now, when you say "the left side," are you referring to the side of the cargo box?

A. Correct, of the passenger side of the cargo box.

Q. And the bulge that you had seen previously was gone?

A. Was gone.

Q. What did you do conclude then?

A. I didn't conclude anything. I thought maybe it was a shadow or something. I had seen side doors on commercial delivery trucks but never on a Ryder truck before.

Q. Was the pickup truck still parked in the vicinity of the Ryder truck?

A. It was in the vicinity, but it looked like it had been moved.

Q. What do you mean?

A. When I -- the original picture I saw of them when I arrived in the morning, they were lined up with the cabs lined up. Now the pickup truck was backed up so that the back of it would be lined up with the back of the Ryder truck.

Q. About what distance had the pickup truck been moved back?

Richard Wahl - Direct

A. 5 or 10 feet.

Q. What did you do next?

A. After we got the boat back on the trailer, I pulled back up there to a similar position and went ahead and tied down the boat and secured our equipment and got ready to leave.

Q. What did you do?

A. We went ahead and went on back to the house because my son's birthday was in May and I bought him an early birthday present since he wasn't going to be at the house then.

Q. What time did you leave Geary Lake that day, April 18?

A. It was about noon.

Q. Where were the two trucks when you left?

A. In that second position that I described.

Q. During the time that you were at Geary Lake on April 18, did you ever see anyone in or around those two trucks?

A. No, I did not.

Q. What I'd like you to do now, Mr. Wahl, is to look into your folder again and look for Government's Exhibits 1982A, B, and

C.

Do you recognize those?

A. Yes, I do.

Q. What are they?

A. They're aerial photographs of Geary Lake.

Q. And do they fairly and accurately show what Geary Lake looked like in April of 1982?

LOOKED LIKE IN APRIL OF 1995?

Richard Wahl - Direct

A. Yes, they do.

MR. MEARNS: Your Honor, we would offer 1982A, B, and

C.

MR. TIGAR: May I inquire, your Honor?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Good morning, sir. My name is Michael Tigar. I'm one of the lawyers appointed to help Terry Nichols.

I just want to be clear. There is a lot of vegetation shown on these photographs. Is that correct, sir?

A. Yes, there is.

Q. And is -- was -- is that evergreen vegetation?

A. No, it's not.

Q. Were the trees leafed out to this extent on the 18th of April of '95?

A. No, they were not.

Q. Okay. So that -- so if we were to look at these pictures, we should imagine that these trees were -- what, they were bare at the time?

A. Correct.

Q. In other words -- and I'm referring to all this along the rim of the lake here. Those are deciduous trees; correct?

A. I'm not an expert on what kind of trees are at the lake.

Q. They're -- well, they're kind of trees that the leaves fall

Richard Wahl - Voir Dire

off in the fall and come back in the spring?

A. Correct.

MR. TIGAR: With that understanding, your Honor, we have no objection to the admission of these photographs.

THE COURT: All right. They're received with that understanding.

DIRECT EXAMINATION CONTINUED

BY MR. MEARNS:

Q. Mr. Wahl, we're looking first at Government's Exhibit 1982A. And do you see Route 77, the highway, on that photograph?

A. Yes, I do.

Q. Could you use with your light pen -- show us where that highway is.

It's essentially that road running from the left light up to the right?

A. Correct. That's Highway 77.

Q. And which direction is the road going as you go to the right?

A. It's going north towards Junction City.

Q. Do you see the road or the gravel road that you took to get into Geary Lake?

A. Yes, I do.
Q. To go fishing?
A. Yes, I do.

Richard Wahl - Direct

Q. If you would clear that first mark and show the entrance to the roadway that you took into Geary Lake.

And how does it continue? If you could show us with your pen.

Okay. And if you could clear your pen.

MR. MEARNS: Now if we could have 1982B, please.

BY MR. MEARNS:

Q. And is the road, Route 77 now, a little bit closer but still running north to the right there?

A. Yes, it is.

Q. Could you put an X where you went fishing on Easter Sunday, when you didn't have the boat.

Okay. And if you could clear that and show us where you -- did you launch the boat from the same place both on the evening of Monday, April 17, and the morning of April 18?

A. Yes, I did.

Q. Could you show us where you launched the boat on those two occasions.

And if you could clear that X.

Just to the left of where you wrote that X, we see something sticking out into the water. What is that?

A. It's a -- an earth dam that they built so that you can fish off of it.

Q. And can you show us on that 1982B where it was that you saw the two trucks parked on the morning of April 18?

Richard Wahl - Direct

MR. TIGAR: Your Honor, may we have one of those magic pictures of that X, please.

THE COURT: We'll sure try it.

MR. TIGAR: Thank you.

BY MR. MEARNS:

Q. And where was it -- where on the roadway were you when you first saw the Ryder truck parked in that location?

A. Right when I came through that clearing, or those trees.

Q. And that's where you first stopped?

A. That's where I first slowed down and stopped, yes.

THE COURT: That mark got made while the process was going.

THE COURTROOM DEPUTY: No, that's all right.

THE COURT: All right.

MR. MEARNS: Did you want that mark as well, Mr. Tigar?

MR. TIGAR: No, just that first one. Thank you.

THE COURT: All right.

MR. MEARNS: Now if we could have 1982C, please.

THE COURT: Let's try to finish this -- whatever this process is called.

MR. MEARNS: Okay.

THE COURT: Is that adequate for your purposes?

MR. TIGAR: Your Honor, the magic didn't quite work, but we have another way to do the same thing. I can do it on

Richard Wahl - Direct

cross.

THE COURT: We can take a copy of the exhibit and he can mark it.

MR. TIGAR: I'll just do that at cross, your Honor, the old-fashioned way.

THE COURT: Yeah. That's better.

Next.

MR. MEARNS: If I may have 1982C.

BY MR. MEARNS:

Q. And if you would clear the light pen, Mr. Wahl.

Do you see on that photograph the location where you saw the two trucks parked?

A. Yes, I do.

Q. Could you see an X where you saw those two trucks parked? Does that roadway, that entrance roadway, dead-end at that location?

A. There is a trail that goes off of there. If you had a sheep or a goat or something, you could go up it, but that's the end of where a normal car could go.

Q. And could you show us on that photograph where it was you parked and launched the boat?

Could you estimate for us what the distance is between those two locations?

A. 2- to 300 meters.

Q. Now, Mr. Wahl, I'd like you to look into your folder for

Richard Wahl - Direct

Government's Exhibits 1984A and B. Do you have those?

A. 1984?

Q. 1984A and B?

A. Yes, I do.

Q. And what are those?

A. These are pictures of Geary Lake from the position where I first saw the Ryder truck and from where I launched the boat at.

Q. And does this fairly and accurately depict the condition of the lake in April of 1995 when you were there?

A. Yes, it does.

MR. MEARNS: We'd offer '84A and B.

MR. TIGAR: May I inquire, your Honor?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. TIGAR:

Q. Hello again, sir.

When you say "fairly and accurately," in these pictures there are no leaves on the trees. Correct?

A. Correct.

Q. So that is the condition in which you saw the area at that time; is that right?

A. I couldn't say it would be exactly because of -- there could have been other trees that the park service cut down.

Q. I understand, but in terms of -- I'm not asking you to

Richard Wahl - Voir Dire

remember tree for tree, but in terms of the no leaves being on the branches, that's what you recall?

A. That's correct.

Q. Correct?

A. That's correct.

Q. And then this scruffy vegetation here: It looked like that; right?

A. Correct.

Q. It was not like a full lawn that would have come on later in the spring?

A. No, it was not.

MR. TIGAR: No objection, your Honor.

THE COURT: All right. 1984A and B received.

DIRECT EXAMINATION CONTINUED

BY MR. MEARNS:

Q. Again, if you could clear your marks there.

This photograph shows the relationship between two observation points?

A. This photograph is from where I was launching the boat from to where I observed the Ryder trucks (sic) at.

Q. And where was the Ryder truck and the pickup truck parked in this photograph.

A. In that general vicinity.

Q. You told us that you initially saw a bulge on the side of the Ryder truck?

Richard Wahl - Direct

A. Correct.

Q. Was that on the cab portion of the truck, or the cargo portion of the truck?

A. It was on the cargo portion.

Q. When you saw it smooth, what area of the truck were you referring to on that occasion?

A. On the carg -- left cargo side, passenger's side.

MR. MEARNS: Now, if we could have 1984B, please.

BY MR. MEARNS:

Q. And what do we see in that photograph, Mr. Wahl?

A. This is taken after you come through the first clearing of trees at the entrance of the park looking all the way across.

Q. And this essentially shows what you saw on the first time that you saw the Ryder truck?

A. Correct.

... 0011000.

Q. Do we see the boat launch in this photograph?

A. Yes, I do.

Q. Could you put an X by the boat launch.

And then if you in this photograph could put an X where you saw the two trucks parked that day.

Thank you, Mr. Wahl.

When you were fishing at Geary Lake on Sunday, the 16th, or Monday, the 17th, did you see a Ryder truck at Geary Lake?

A. No, I did not.

Richard Wahl - Direct

Q. Had you ever seen a Ryder truck at Geary Lake prior to Tuesday, April 18?

A. No, I did not.

MR. MEARNS: I have no further questions, your Honor.

THE COURT: Mr. Tigar?

MR. TIGAR: With the Court's permission, I'm going to take a copy of Government's Exhibit 1982C, and I'm going to mark it D1654 and hand it to the witness, your Honor, to make the marks on it.

THE COURT: Yes. Fine. So we'll receive D1654.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. And, sir, I'm going to hand you this marker pen; and would you put an R on there where you saw the Ryder truck and a -- now, your son's name is Ben? Put a B where you and Ben were launching your boat.

THE COURT: Show that to Mr. Mearns, please.

MR. TIGAR: Yes. Of course.

MR. MEARNS: Thank you.

THE COURT: All right.

BY MR. TIGAR:

Q. Put this up on the display. This is now D1654, which has been received. I've gone out -- now I'm going to zoom in here.

You put an R where the Ryder truck was and a B where you and Ben were launching. Correct?

Richard Wahl - Cross

A. Correct.

Q. And this little earthworks that we can see jutting out there: That's where you can go stand out and fish if you want; correct?

A. That's correct.

Q. Okay. Now, you got there at -- let's see. What day of the week was that? A Tuesday?

A. Tuesday.

Q. Tuesday morning. And you say the night before it had been storming; right?

A. Correct.

Q. And so you got to the lake about 9:00; correct?

A. Correct.

Q. And you noticed the Ryder truck as you pulled in. Correct?
A. That's correct.
Q. Now, this highway that we see here -- excuse me. Let me put that back up -- on Defendant's D1654 -- this is the highway that I'm running my finger along; correct?
A. That's correct.
Q. That's Highway 77?
A. That's Highway 77.
Q. And that runs, does it not, between Herington and Junction City; correct?
A. It does.
Q. Now, do you take that highway when you go to work in the

Richard Wahl - Cross

morning?

A. Three or four times a week.
Q. Three or four times -- so that is a regular route of passage for you as you're going back and forth to your duties; is that correct?
A. That's correct.
Q. What time do you usually go to work in the morning there, sir?
A. Usually before dark, before the sun comes up in the morning. I have to be at work 6:30; and when I get home that time of year, it could be up to 8, 9:00 at night.
Q. So you work long days?
A. Usually.
Q. And so that you would not have had the opportunity to see things over in the Geary State Park at the time you would pass in the morning; correct?
A. During the wintertime when it was dark out, no.
Q. Now, you originally were interviewed by the FBI -- is that correct -- sometime in April of 1995?
A. That's true.
Q. Now, how was it that you made contact with the FBI?
A. I called the 1-800 number that was on the television screen after the bombing took place.
Q. Did you ever notice during April or May of 1995 a roadblock set up on Highway 77?

Richard Wahl - Cross

A. No, I did not.
Q. Now, you -- on this day, then, you got to the park -- and refresh me again. About 9:00, you say?
A. About 9:00.
Q. And you left about noon?
A. Correct.
Q. And throughout that whole time so far as you were aware, that Ryder truck was there; right?
A. Correct.
Q. And there is no question in your mind that that was a Ryder truck; is that fair to say?

A. That's true.
Q. And that's because it's a big, yellow truck and it says "Ryder" on it. Correct?
A. Correct.
Q. Had you ever rented a Ryder truck before?
A. I had.
Q. So there is another reason you're familiar; right?
A. Correct.
Q. Now, the -- the pickup truck that -- that you saw -- excuse me -- the Ryder truck was definitely a Ford; correct?
A. Correct.
Q. And it was definitely bigger than the panel-type truck that Ryder also rents; correct?
A. Correct.

Richard Wahl - Cross

Q. This was a big one like you'd use to move your household goods; correct?
A. Yeah, correct.
Q. And you said that you saw something that you thought of as a bulge on the side. Correct?
A. Correct.
Q. And then later on, it wasn't there. Right?
A. That's correct.
Q. So would that be consistent with a door on the side that had been opened for a part of the time and hooked back and then closed at a later time?
A. I believe it would, yes.
Q. Okay. Now, you also said that -- or you didn't. Did this Ryder truck have an overhang over the cab, or, you know, one of those things that's sometimes called a "grandma's attic" that goes up and over the cab?
A. It didn't have that, but it just looked strange. I couldn't -- it was like the bulge on the side. I didn't understand what I was seeing.
Q. Okay.
A. In that one area.
Q. But you're very sure that's a Ryder truck; correct?
A. Absolutely.
Q. All right. Now, it's also true, isn't it, that you didn't see any people; right?

Richard Wahl - Cross

A. That's true.
Q. Nobody in any of those vehicles, nobody inside and so on; right?
A. Correct.
Q. Now, you also said that you saw a pickup truck; correct?
A. Correct.
Q. And here today, you said that pickup was a blue or a brown, dark color. Correct?
A. Correct.
Q. And do you remember that it had some tones of both?

Q. And do you remember that it had some tones of both?

A. Correct.

Q. So what you saw was something that was a blue or a brown, dark colors, you couldn't tell which. Correct?

A. Correct.

Q. And you just knew that it had some tones of both?

A. Correct.

Q. And you could also see a white line way across the top like a camper on the back or something like that; correct?

A. Correct.

Q. But it was just a white line that you could see from the front but you couldn't see what that was; correct?

A. Correct.

Q. Did you think -- Was what you saw consistent with this being a Blazer-type vehicle?

A. From the front view of the truck that I saw, it was a

Richard Wahl - Cross

Blazer or a pickup with a camper shell on the back.

Q. When you say a Blazer-type vehicle, you mean something that resembles a pickup truck because it's on the -- You're a motor-pool person.

A. Right.

Q. So you tell me what a Blazer is.

A. A Blazer is basically just a pickup that has a factory-built-on camper shell on the back.

Q. Okay. Now, this is a state park; correct?

A. I believe it is.

Q. And -- but this is the first time you had ever been there was when you went with Ben to do the fishing; correct?

A. Correct.

Q. Do you know whether or not Route 77 is a well-traveled route?

A. It's a U.S. highway. It's always in good repair. They plow it for the snow, so I would assume it would be.

Q. And at any rate, it's -- the highway that you use for your commute to work on the days when you go from your -- or did go from your home in White City, Kansas, up to Fort Riley?

A. It was one of the routes I took.

Q. Now, you returned your boat at -- according to the contract, at 1700 hours, which would be 5 p.m.; correct?

A. Correct.

Q. Before you returned the boat, you went to your home; right?

Richard Wahl - Cross

A. Correct.

Q. Now, what route did you take to get from your home back to Fort Riley to return the boat?

A. There is a road -- I believe it's called the Skiddy Road. It's a small town called Skiddy, and it's just a back country road that we took going back to Junction City.

Q. And Skiddy is spelled S-K-I-D-D-Y?

A. I believe so.

Q. Taking the Skiddy Road back, did you go past the entrance to the Geary Lake State Park?

A. No, you never go on Highway 77 at all.

Q. And from -- when you take the Skiddy Road and you're headed up towards the Fort Riley/Junction City area, are you in a position to observe anything about Geary Lake?

A. No, you are not.

Q. Okay. So when you left the park at noon that day, that's the last time that you ever had a chance to see Geary Lake that day; correct?

A. No, that's not correct.

Q. Oh, it's not correct. Well, then you tell me: When is the next time you saw Geary Lake on the 18th?

A. When we came home that night, we drove by it.

Q. Okay. So if we can look at the rental contract -- and that is in evidence as Government's 1981 -- you see the turn-in time is 1700; correct?

Richard Wahl - Cross

A. Correct.

Q. And whoever made that out, J. W., that checked you in -- that's accurate, isn't it?

A. That's accurate, yes.

Q. Now, we're in April, so it's Daylight Savings Time. Correct?

A. Correct.

Q. When you came back by Geary Lake that night, what time was it?

A. I'm not sure of the time. I just know it was dark out, because after we had turned the boat in, we had went to see a movie in town at the local movie theater and when it got out at 9 or 9:30, it was already dark.

Q. So when you came back that night, did you look over there to see if that truck was still there?

A. I would say I looked over there but not to see if the truck was there. Every time I drive by Geary Lake, I always looked over there.

Q. It's pretty, isn't it?

A. It is.

Q. But when you looked over there, do you remember seeing the Ryder truck at that hour of the night, when you came back after you and Ben had gone to the movie?

A. I just looked out at the street light that was out there illuminating the lake. That's all.

Richard Wahl - Cross

Q. But you didn't see it?

A. I didn't look for it.

Q. I understand you didn't look for it and I'll get to that, but you didn't see it; correct?

A. Correct.

Q. And the situation was that even if you had looked for it,

the lighting was such that you might or might not have seen it.
Is that fair to say?

A. You wouldn't have seen it.

Q. Pardon me?

A. You wouldn't see it.

MR. TIGAR: One would not have.

Thank you very much, sir. I have no further
questions.

MR. MEARNS: Very briefly, your Honor.

Your Honor, may I approach the witness?

THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. MEARNS:

Q. Mr. Wahl, I want to show you what's now been introduced
into evidence as Defendant's Exhibit 1654 that you put the
markings, the B and the R on. Could I also ask you to put
where -- with a P -- put where you saw the pickup truck in
relation to those markings that you've put there.

THE COURT: Do you have any objection to marking on

Richard Wahl - Redirect

the same exhibit?

MR. TIGAR: I'd prefer not, your Honor. He's doing it
with the same pen.

THE COURT: Well, we can take another copy of it.

MR. TIGAR: Or a different color.

No objection if it's a different color, your Honor;
just so we know who made what mark.

MR. MEARNS: Let's see if the black will show up.

THE COURT: Probably won't on a picture.

Here's a yellow grease pen.

MR. MEARNS: Thank you, your Honor.

BY MR. MEARNS:

Q. With the yellow pen, would you put a P for where you saw
the pickup truck.

Did that show up, Mr. Wahl?

A. It showed up; but because of where the R is, I can't put
the P in the exact location, so it's right next to it.

Q. Okay.

THE COURT: You want to show that to Mr. Tigar,
please.

MR. MEARNS: I'm sorry.

BY MR. MEARNS:

Q. Now, your P, there, Mr. Wahl, is a little bit in the grass.
Is that where the pickup was?

MR. TIGAR: Excuse me, your Honor. Misstates the

Richard Wahl - Redirect

testimony. He says a pickup or a Blazer.

MR. MEARNS: Excuse me.

BY MR. MEARNS:

Q. The other vehicle that was with the Biden. You've put the

Q. The other vehicle that was with the Ryder. You've put the P there in the grass. Was it parked in the grass?

A. No, it wasn't. It was on the road.

Q. And so your P is a little bit off to the left because of just the size of the letters that you wrote?

A. Correct.

Q. Were you -- when you were in the location where the B is, were you looking directly on to the front of those vehicles?

A. The whole time, yes.

Q. And were you able to see the entire -- the whole other vehicle that was next to the Ryder?

A. No, I was not.

Q. How much of the rear behind the cab were you able to see of the other vehicle?

A. Only thing I saw of it past the cab was the white above the cab.

Q. And where was that white that you saw in relation to the height of the cab?

A. Of the other vehicle?

Q. Yes.

A. It was just right on the very top of it, like a halo.

Q. About how much of that white were you able to see?

Richard Wahl - Redirect

A. It wasn't across the entire width of the cab.

Q. And how far back behind the cab?

A. I couldn't tell distance. It was just above the cab.

Q. You were asked questions about the -- that vehicle and whether it had blue tones and brown tones. Do you recall those questions?

A. Yes, I do.

Q. Did you ever go back out to Geary Lake after -- in 1996?

A. Yes, I did.

Q. Did you -- were there any vehicles out there that day?

A. I don't understand the question.

Q. When you went to Geary Lake on (sic) April of 1996 --

A. Okay.

Q. -- were there vehicles there that were similar to the ones that you saw in April of 1995?

A. Yes, there were.

MR. TIGAR: I object to the relevance of this, your Honor.

THE COURT: Well, it's a little late for the objection.

Following up on that?

MR. MEARNS: Yes, I am, your Honor.

THE COURT: The objection to relevance is sustained.

BY MR. MEARNS:

Q. You were asked by Mr. Tigar when you first contacted anyone

Richard Wahl - Redirect

in law enforcement.

A. Yes, I was.

--- ---, - ----

Q. Do you recall when that was?

A. On Saturday morning after the Oklahoma bombing.

Q. When you say was it -- which Saturday after the bombing?

A. The first Saturday.

Q. What time did you call the FBI?

A. Between midnight and 4 in the morning.

Q. Prior to calling the FBI on that occasion, had you heard anything about observations of a Ryder truck at Geary Lake?

A. No, I had not.

MR. MEARNS: I have no further questions, your Honor.

THE COURT: Mr. Tigar?

MR. TIGAR: Thank you, your Honor.

RE-CROSS-EXAMINATION

BY MR. TIGAR:

Q. Sir, when you were first interviewed by the FBI, you described the truck as a Chevrolet, possibly a GMC. Do you remember that?

A. I do.

Q. And now, Chevys and GMCs are the same?

A. Right.

Q. The same body style; correct?

A. Correct.

Q. Now, were you looking at this truck head-on? Is that

Richard Wahl - Recross

right?

A. Correct.

Q. Now, the difference -- isn't it a fact the only difference between a Chevy and a GMC in that 1980-model range in the pickups is what's on the grille and then some of the little trim details?

A. Correct.

Q. And what's on the grille of a GMC?

A. It says, "GMC."

Q. And what's on the grille of the Chevy?

A. It says, "Chevrolet."

Q. Well, it's a Chevy logo, isn't it?

A. Correct.

Q. The modified cross like we see on the television.

And just -- one thing: You were there on the 17th;

is

that right?

A. The 17th being Monday.

Q. The Monday? Were you there at the lake on the Monday?

A. Yes.

Q. What time did you get there that day?

A. At 5:00, or right after that.

Q. And that's the first time you had been there that day; correct?

A. Correct.

MR. TIGAR: Thank you very much. No further questions.

MR. MEARNS: No further questions. He may be excused.

THE COURT: Agree to excuse?

MR. TIGAR: Yes, your Honor.

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

Next, please.

MR. MACKEY: Your Honor, we call Mr. Robert Nelson.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Robert Nelson 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: Robert L. Nelson, N-E-L-S-O-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mearns.

MR. MEARNS: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. MEARNS:

Q. Mr. Nelson, where do you live?

A. White City, Kansas.

Q. How long have you lived in White City?

A. All my life.

Q. Where is it?

A. It's about 18 miles southeast of Junction City.

Q. And are you married?

Robert Nelson - Direct

A. Yes.

Q. Do you have any children?

A. Two girls.

Q. And what do your girls do? How old are they?

A. One is a CPA, and the other one is a secretary.

Q. Where do you work, Mr. Nelson?

A. I'm self-employed.

Q. And what do you do?

A. I work on cars, body work.

Q. And where -- where do you work on cars? Where is your shop?

A. At my home.

Q. How long have you operated your own body shop?

A. A year and a half.

Q. Where did you work prior to that?

A. Elliott's Body Shop.

Q. Where is Elliott's Body Shop?

A. In Junction City.

Q. What kind of work did you do there?

A. Same thing.

Q. How long have you been working on cars?

A. 23 years, 24.

Q. And so how long did you work at Elliott's?

A. 13 years.

Q. From when to when?

Robert Nelson - Direct

A. Oh, first part of the 80's to '96. March of '96.

Q. What hours did you work at Elliott's in April of 1995?

A. 8 to 5.

Q. I want to show you what is in evidence as Government's Exhibit 2045. Do you recognize that as a map of central Kansas?

A. Yes.

Q. You've got a light pen up there on your desk. If you could show us approximately where you lived in White City in April of 1995.

A. Oh, about there. Shaking so bad, you can't tell.

Q. Okay. Relax a little bit.

A. Two handed.

I hit the spot pretty close.

Q. And where was Elliott's located in relation to White City there that we see on the map?

A. Straight up 77 to the north.

Q. Was Elliott's located on the east side or the west side of Junction City?

A. Southwest side.

Q. And in April of 1995, how would you get to work? What route would you take?

A. Normally down 77 highway.

Q. See if you can relax a moment, take that pen and see if you can show us the route that you took.

Robert Nelson - Direct

A. I doubt if I can.

About right over there -- see, there. Right at Junction City. Because there is a little -- there is a road that we call "Skiddy." It's a little town, and it's about 6 miles east of the state lake.

Q. Is it south -- is it south of that line that you just drew?

A. Way south. About 10 miles.

Q. When you take that road west from White City west, do you hit Route 77?

A. Yes.

Q. Where do you intersect Route 77 in relation to Geary Lake, north or south of the lake?

A. South of the lake about a half mile.

Q. What would you do when you got to Route 77?

A. Turn right and go north.

Q. Would you pass by Geary Lake?

A. Yes, within a half a mile.

Q. In April of 1995 did you always take this route from your home to work at Elliott's?

A. Most of the time; not all of the time.

Q. When you say most the time, what do you mean?

A. Three-fourths of the time.

Q. What route did you take on the other occasions?

A. Straight north of my house, we call the "Creek Road" that goes up by -- well, you come in on the east side of Junction

Robert Nelson - Direct

City, is what you do.

Q. When you took the route that you took most of the time over to Route 77, you passed by Geary Lake?

A. Yes.

Q. And Geary Lake is on the west side of Route 77?

A. Yes.

Q. So as you were driving to work, it would be off to your left side?

A. Yes.

Q. Were you familiar with the lake back in April of 1995?

A. Yes.

Q. Did you ever go fishing at that lake?

A. A couple of times.

Q. I want to direct your attention now to Tuesday, April 18, 1995. Do you recall that day?

A. Yes.

Q. And do you recall driving to work that morning?

A. Yes.

Q. Why do you recall driving to work that morning?

A. Because I went by the lake and seen a yellow truck down there.

Q. What time did you leave your home that morning?

A. Quarter after 7 to 20 after 7.

Q. Was that the normal time you left?

A. Yes.

Robert Nelson - Direct

Q. And what route did you take to work that morning?

A. The one -- the 77.

Q. And so you passed by Geary Lake?

A. Yes.

Q. What time did you pass by Geary Lake that morning, April 18?

A. Between 7:30 and 20 minutes till 8.

Q. What did you see as you drove past Geary Lake that morning?

A. A yellow Ryder truck.

Q. Describe, if you can, any other features of the truck that you saw.

A. Just that it was yellow and the front was straight up and down.

Q. What do you mean by straight up and down?

A. Didn't have an overhang, you know, going onto the roof.

Q. None of the cargo compartment was over the roof of the cab?

A. No.

Q. Was it a large truck or a small truck?

A. Large.

Q. And where was it parked?

A. On the furthest little boat ramp back as you could see.

Q. Was it parked on any of the roadways that connected or entered into Geary Lake?

A. Yeah. That's what it is. You go in the entrance of Geary Lake and it just winds around in. It was the very last boat or

Robert Nelson - Direct

picnic area, whatever you want to call it.

Q. Did you see any other vehicles in the vicinity of that Ryder truck?

A. Yes.

Q. What did you see?

A. A dark-colored vehicle parked back -- backed back into it, back to back.

Q. What kind of a vehicle?

A. Just a pickup truck.

Q. And when you say it was parked back to back, what do you mean?

A. Their beds were back to back.

Q. Which direction was the Ryder truck facing?

A. Facing towards the highway going east.

Q. So which side of the truck -- which side of the Ryder truck were you looking at?

A. The cab.

Q. And which direction was the pickup truck facing?

A. West.

Q. And you said that the -- was the pickup truck parked directly behind the Ryder truck?

A. I don't remember being directly behind it. I think it was just a bit to the north of it.

Q. And you were looking at the back of the pickup truck?

A. Correct.

Robert Nelson - Direct

Q. Was the bed of the pickup truck open?

A. I don't remember.

Q. Did you see any people in the vicinity of those two trucks?

A. No.

Q. What did you do after you saw them?

A. Well, there was a little entrance to right up above where the trucks was at; and I drove in there and just drove in just a little ways, but I couldn't see nothing, so I just turned around went out and went to work.

Q. Why did you drive into that other roadway?

A. Curiosity.

Q. You were able when you drove into that roadway -- you were able to see the two trucks?

A. No.

Q. Why not?

A. I didn't go in that far. I just went in just a short ways, like maybe 50 to 100 feet, and couldn't see nothing because of the trees and the hills; so I just turned around and left.

Q. How long were you off of the highway, Route 77?

A. Just a couple minutes at the very most.

Q. And what time did you get to work?

A. Probably 5 minutes to 8, because that's about when I always get there.

Q. I'm sorry?

A. That's about the time I always get there, about 5 minutes

Robert Nelson - Direct

to 8. I'm always early.

Q. Let me show you what is in evidence as Government's Exhibit 1982A.

If you could click your pen to clear your line that you drew.

Do you see Route 77 in that photograph?

A. Yes.

Q. Where do you see it in the photograph?

A. Right there. You've got to click this thing?

Q. If you touch it right to the screen.

A. Okay.

Q. You made a mark there. What is that road that we see just to the right of where you made that mark?

A. That's the entrance to the state lake.

Q. And where was that entrance in relation to where you saw the two trucks on the morning of April 18?

A. Southwest of where I pointed is where I was at. I mean southeast. Excuse me.

Q. You were southeast of where they were?

A. Uh-huh.

Q. Let me show you 1982B.

Can you show us the -- the roadway that you first pass

as you're driving north there. Could you just put an X at the entrance to that.

And in this photograph, do you see the roadway where

Robert Nelson - Direct

you turned off to try to get a better look at the two trucks?

A. Uh-huh.

Q. Where is that?

A. You have to push this to do this?

Q. You just have to touch it to the screen, Mr. Nelson. There you go.

About how far did you drive in that roadway that day?

A. Just to that little curve there, that first curve. Do you want me to mark that?

Q. I'm sorry.

A. Do you want me to mark that?

Q. No, that's okay.

MR. MEARNS: And now if I could have 1982C, please.

BY MR. MEARNS:

Q. If you could clear the pen.

Could you indicate with the pen where you saw the two trucks that you saw that morning.

A. Right there. Well, it's in that -- let me click that off.

Right there. It's in the grove. I was shaking so bad, I can't hit the spot.

Q. Were they parked on the grass, or on the dirt roadway?

A. On the dirt roadway.

A. On the upper roadway.

Q. And which side -- you said that the pickup truck was slightly to the north of Ryder truck?

A. Correct.

Robert Nelson - Direct

Q. Which would that be? Which way would that be as we look at this picture?

A. Be the north from --

Q. Would that to be to the left, to the right?

A. To the right.

Q. Can you continue beyond that spot on that lower roadway?

A. No.

Q. Why not?

A. Dead end.

Q. Up to the left there: That is the upper roadway that you turned in?

A. Yes.

Q. Is there any elevation difference between those two roadways?

A. Yes, quite a bit.

Q. What do you mean?

A. Well, a hill, I couldn't tell you how many feet, but I'd say 40, 50 feet maybe high.

Q. Would you describe it as a gentle incline or a steep incline?

A. Some of it is straight up and down.

Q. On the morning that you drove by and saw the two trucks there, about how long did you have an opportunity to see those two vehicles?

A. Maybe 10 seconds.

Robert Nelson - Direct

Q. In the days prior to April 18, 1995, did you regularly drive by Geary Lake on your way to work?

A. Yes.

Q. Did you ever see a Ryder truck parked in this area of Geary Lake on any of those occasions?

A. On this part of it?

Q. Yes.

A. No.

Q. When were you first interviewed by anyone in the FBI about what you saw at Geary Lake on April 18?

A. Probably 10 days after the bombing.

Q. Do you recall what day of the week it was?

A. I believe it was on a Friday.

Q. Was it the first Friday after the bombing?

A. No, the following Friday.

MR. MEARNS: I have no further questions, your Honor.

THE COURT: Mr. Tigar?

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good morning, Mr. Nelson. My name is Michael Tigar. I'm

one of the lawyers appointed by the court to help Terry Nichols.

Now, you were shown this picture, which is Government's Exhibit 1982A, and I just want to make sure: This shows all these trees are leafed out. Right?

Robert Nelson - Cross

A. Right.

Q. Now, on that day of April 18, 1995, the trees were not leafed out. Correct?

A. No, they weren't.

Q. And that's how -- that's the reason you could get a view from the highway. Correct?

A. That's right.

Q. And then there had been another occasion when you had seen a yellow Ryder truck up there at Geary Lake; right?

A. Yes.

Q. And it was in a somewhat different location?

A. Yes.

Q. But you could still see it from the highway?

A. No, you can't.

Q. No. That other time when you saw the Ryder truck: How was it that you came to see it?

A. You have to go down to the dam entrance to see the other truck I seen.

Q. All right. And that was way back in '94. Is that correct?

A. Let's see. Yes.

Q. Fall of '94?

A. Yeah. But he asked me -- he asked me if I had ever seen one in that location, and I hadn't.

Q. I understand. I'm not arguing with you about it. I just wanted to be sure.

Robert Nelson - Cross

A. Yeah.

Q. Now, you work for Eldon Elliott's Body Shop; correct?

A. Used to.

Q. Used to. Until what -- about how many months ago?

A. March of -- year and a half ago possibly.

Q. All the time that you worked up there with Mr. Elliott, he rented those Ryder trucks; correct?

A. Yes, he did.

Q. So there is no mistake in your mind what a Ryder truck looks like; right?

A. Yeah, I know what they look like, yes.

Q. And the one you saw there on April 18 was a 20-foot Ryder truck; correct?

A. I didn't say 20-foot. It was a bigger truck.

Q. It was a bigger truck. I'm not trying to argue with you, sir; I'm just asking you your best recollection. Did it have one of those parts that goes up over the cab?

A. No, it did not.

Q. Now, what do you call those in the business?
A. I think they call them overhangs, but I wouldn't swear to it.
Q. Okay.
A. Because see, I worked as a body shop (sic). I didn't --
Q. But it didn't have one of those?
A. No.

Robert Nelson - Cross

Q. Now, up there at Elliott's Body Shop, in addition to Mr. Elliott, there is a Vicki Beemer that works there; correct?
A. Yes.
Q. And she works in the office?
A. Yes.
Q. And you remember -- you talked to her about seeing that Ryder truck; correct?
A. Yes.
Q. Shortly after it happened; right?
A. Yes.
Q. And did you also work alongside a fellow named Tom Kessinger up there?
A. Yes, I did.
Q. And of course, Mr. Eldon Elliott -- he owns the business; correct?
A. Yes.
Q. How was it that the FBI contacted you about 10 days after the bombing in Oklahoma City?
A. Because I told the Ryder people that interviewed us about seeing this truck out there, and I was standing right alongside of them, seeing what they was writing. And they wasn't writing down anything I told them, so I figured it wasn't important.
So I told Vicki Beemer this, and she kept hounding me that I better tell somebody. I didn't think it was no big deal because nobody else had wrote it down.

Robert Nelson - Cross

So finally, I told Stuart -- Stuart is all I know him by. That's why --
Q. That's the FB --
A. That's the FBI agent.
Q. The FBI man. So you first started talking about all this when all the Ryder truck people were up there shortly after the bombing trying to get the contract and figure out what happened and so on; right?
A. No, I talked to the Ryder people when they come to see what we knew.
Q. Oh.
A. Or something like that. I don't know what the Ryder people -- it was just a whole bunch of people from Ryder.
Q. More people than you had ever seen in that little office; right?
A. Yeah.

Q. yean.

A. They took us apart, separately, and interviewed us, talked to us.

Q. Okay. Now, you said that you saw in addition to the Ryder truck a dark-colored truck facing west and they were back to back; correct?

A. Yes.

Q. And now as you go along that highway there, the Ryder truck would be pointed with its grille towards you; correct?

Robert Nelson - Cross

A. Yes.

Q. And the other truck would be pointed with its -- with its back towards you. Is that about --

A. Yes.

Q. Now, in addition to that, did you get a side view of the pickup truck?

A. Just an instant. Just for a -- just for a short time.

Q. Now, you're sure it was a pickup truck; correct?

A. The one behind the Ryder truck?

Q. Yes, sir.

A. Yes.

Q. Now, what kind of vehicle do you drive?

A. I drive a '85 Chevy short-bed.

Q. A pickup truck?

A. Yes.

Q. That is the vehicle of choice in farm country?

A. Pretty much.

Q. And when you noticed this truck, you remembered it was a dark color that could have been black, it could have been a dark blue or a dark green, you just didn't know; right?

A. Yes.

Q. And that's your recollection today. Could be black, blue or green; right?

A. Yes -- well, dark color.

Q. Dark color. And also, you also couldn't tell the make of

Robert Nelson - Cross

it. Correct?

A. No.

Q. It could have been -- just as a guess -- it could have been a Ford or Chevrolet, but you really don't know. Is that fair to say?

A. That's right.

Q. And in addition to that, sir, you don't remember whether they had any kind of a topper or camper shell on it; right?

A. I don't remember.

Q. All right. Now, you do -- you drive by that lake, you say, when you were working at Elliott's, pretty much every day; correct?

A. Yeah. I'd say three-fourths of the time I do when I worked there.

Q. What's the speed limit along that highway there?

Q. And at the speed limit along that highway, correct?
A. At that time, it was 55 mile (sic) an hour.
Q. And folks generally observed it, or --
A. Not everybody. I did. I drove slower than that.
Q. Well, I wasn't arguing with you.
A. Yeah.
Q. But your -- the point is that it's pretty easy if the leaves are off the trees and it's daylight to see a truck there; right?
A. Yes.
Q. And so from your opportunity to see, there is no question

Robert Nelson - Cross

in your mind that that's a Ryder truck; correct?
A. Yes.
Q. And about how many seconds would you say that you had the opportunity to observe the truck as you're driving by?
A. Maybe 10 seconds at the very, very most.
Q. All right. Now, I want to put this back up here again, this Government's Exhibit 1982A. And did you get one glimpse, or two glimpses of the trucks as you went north there, sir?
A. Two.
Q. And could you point out -- I'm going to run my hand along here. Is the first glimpse you'd get from kind of south of the entrance to the lake?
A. Just a little north of your finger there.
Q. Just a little north of where you'd go; right?
A. Uh-huh.
Q. And where my finger is moving in here: That's the entrance you go into the lake; correct?
A. Correct.
Q. That is, if you want to go fishing in there, is there some kind of sign that says, "Welcome to Geary Lake," and so on?
A. I think there is right there where your finger is there, yes.
Q. So just north of there, then you can get a view off up in this direction here; correct? Up in a northerly direction.
And then as you're driving, your Chevy short-bed.

Robert Nelson - Cross

A. Right there is where --
Q. You're up a little further off the ground than a Mazda; right?
A. I think I am, yes.
Q. You got a pretty good view, so you come along here and then you can then see kind of a glimpse back?
A. No, you went too far.
Q. I went too far?
A. Right there. Right in there.
Q. Right here?
A. Yeah.
Q. So that would be where you got the second view; right?
A. Yes.

Q. As you were looking at that pickup truck, you couldn't tell if it was a half-ton or three-quarter-ton; correct?

A. No, not at that distance.

MR. TIGAR: Thank you very much, sir. I have no further questions.

MR. MEARNS: Very briefly.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. MEARNS:

Q. Do you recall the name of the person from Ryder who you first told about what you had seen at Geary Lake?

A. All I remember is her first name was Lana.

Robert Nelson - Redirect

Q. Do you recall when that was in relation to the explosion in Oklahoma City?

A. The day after the bombing. I believe it was the day after.

Q. And then you -- I think you told us that you first spoke to the FBI the following Friday?

A. Yes.

Q. Prior to when you spoke to the FBI or when you spoke to Lana, had you heard anything in the news media about sightings of a Ryder truck at Geary Lake?

A. No.

MR. MEARNS: Thank you.

MR. TIGAR: Just --

THE COURT: All right.

REXCROSS-EXAMINATION

BY MR. TIGAR:

Q. Lana: That's not Lana Padilla, is it, that you talked to?

A. No.

Q. That's somebody from Ryder truck?

A. No, this is -- this is an attorney. Ryder -- one of Ryder's attorneys.

MR. TIGAR: All right. Thank you very much. No further questions.

MR. MEARNS: No further questions. He may be excused?

THE COURT: All right.

You may step down.

I take it you're excusing this witness.

MR. MEARNS: Yes, sir.

MR. TIGAR: Yes, your Honor.

Thank you, Mr. Nelson.

THE COURT: Breathe deeply and step down.

Members of the jury, we'll take our recess at this time, it being almost noon, before we start another witness; so, of course, during this time, please continue to follow the cautions that I always give you at recesses -- and you're tired of hearing me say it, but you know it's important and that's why I say it. And also, the rules tell me I have to repeat it for the record. So be careful, avoid discussion of anything about the case and among yourselves and with all other persons,

and avoid anything outside the evidence which could in any way influence your decision.

We'll recess till about 1:28.

(Jury out at 11:58 a.m.)

THE COURT: All right. Recess.

(Recess at 11:59 a.m.)

* * * * *

INDEX

Item

Page

WITNESSES

Videotape Deposition of Thomas Ralph Manning Resumed 9751

Richard Wahl

Direct Examination by Mr. Mearns

Voir Dire Examination by Mr. Tigar

Direct Examination Continued by Mr. Mearns 9787

Voir Dire Examination by Mr. Tigar

Direct Examination Continued by Mr. Mearns 9792

Cross-examination by Mr. Tigar

Redirect Examination by Mr. Mearns

Recross-examination by Mr. Tigar

Robert Nelson

Direct Examination by Mr. Mearns

Cross-examination by Mr. Tigar

Redirect Examination by Mr. Mearns

Recross-examination by Mr. Tigar

PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
260-261	9761	9762			
261	9762	9763			
262-263	9763	9763			
273M					
273N-273Q					

PLAINTIFF'S EXHIBITS (continued)

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
273T	9752	9752			
273R	9752	9752			
273J	9752	9753			
273S	9753	9753			
283	9764	9764			
287	9764	9764			
294	9763	9763			
295	9764	9764			
1981	9773	9773			
1982A-1982C	9786	9787			
1984A-1984B	9791	9792			

DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D165A	979A	979A			

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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 20th day of November, 1997.

Paul Zuckerman

Kara Spitler

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