

(Jury in at 9:49 a.m.)

THE COURT: Members of the jury, good morning.

JURORS: Good morning.

THE COURT: We're ready to resume with the next witness.

MR. MACKEY: Yes, your Honor. United States would call Matthew Cooper.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.
(Matthew Cooper 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: My name is Matthew Henry Cooper, last name C-O-O-P-E-R.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Ryan.

MR. RYAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. RYAN:

Q. Mr. Cooper, are you in the Marine Corps?

A. Yes, I am.

Q. What is your rank?

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A. My rank is captain, sir.

Q. Where do you live right now?

A. Currently live in Encinitas, California.

Q. Are you assigned there?

A. I'm assigned to Marine Corps base, Camp Pendleton.

Q. What are your current duties?

A. I currently serve as the fire support coordinator for the 11th Marine Expeditionary Unit.

Q. Would you tell us where you were born and raised.

A. I was born in Little Rock, Arkansas, and I grew up in Conway, Arkansas.

Q. And about your education?

A. I graduated from Conway High School in 1986. Upon my graduation, I received an appointment to the United States Naval Academy and graduated from Annapolis in 1990.

Q. What was your degree in?

A. I have a bachelor's of science in economics.

Q. And are you married?

A. I am married.

Q. Would you briefly describe your Marine Corps career following your graduation from Annapolis.

A. Upon graduation from Annapolis, I was commissioned in the Marine Corps as a second lieutenant. I spent the next six months in Quantico, Virginia, at Marine Corps basic school. From there I went to Fort Sill, Oklahoma, for five months at

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artillery training. Spent the next two-and-a-half years in the fleet Marine force in California. From there I was assigned to Recruiting Station, Oklahoma City. I spent two-and-a-half years there, then another year in Quantico, and now back to California.

Q. And when were you assigned to Oklahoma City at the Marine Corps Recruiting Station?

A. I received orders to Oklahoma City in December of '93, and I reported to Oklahoma City in January of 1994.

Q. So prior to April, 19, 1995, approximately how long had you been assigned to the Murrah Building in Oklahoma City?

A. A year and three months.

Q. Now, I'm going to show you what has been previously admitted in evidence as Exhibit 952. It should be on your screen there.

A. Yes.

Q. Do you recognize that?

A. I do recognize that.

Q. What is that?

A. This is the sixth floor of the Alfred P. Murrah Federal Building, which was the headquarters for the Oklahoma City Recruiting Station.

Q. And Marine Corps space is designated by the yellow coloring?

A. Yes, sir.

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Q. Now, it appears that the Marine Corps space is a third or 40 percent or so of that sixth floor space.

A. Yes, sir.

Q. What occupied the remainder of the floor?

A. During the first year I was assigned to Oklahoma City, the remainder of the floor was occupied by the Small Business Administration, the SBA. They moved out, I think probably November or December of 1994. So on April 19, it was not occupied by anybody other than us.

Q. And how many men and women worked in the Marine Corps space there on the sixth floor --

A. We had --

Q. -- in April of '95?

A. We had 14 people assigned to the headquarters in the federal building: 13 Marines, and one civilian.

Q. Now, if you would, can you use the pen there that's on your desk and show us where the elevator doors are that people would arrive to the sixth floor in.

A. Okay, sir. When you came up the elevator, you would -- the doors right here, and you would come out and you would enter our office through this route right here, and you would come into our office through this hatch right there.

Q. Now, if you would, tell the jury about the people that worked in the building, where they officed; and if you would just start with the front door and take us around the office

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space, if you would.

A. Okay. When you came through the main hatch, you could take either a left or a right into our office. If you took a left, this was our -- the foyer of our office, the main part of the office. This first office right here was Sergeant Major Philly Iowa's office. He worked out of it.

We had two administrators who worked in the lobby right here, Staff Sergeant Anthony Elder and Sergeant Max Monty.

This office right here was Captain Randy Guzman's office, our executive officer.

This was our commanding officer's office, Major Don Geffing.

We had two recruiter instructors in this office, Pat Waters and Walter Atwood, a gunnery sergeant and a master sergeant.

And like I said, if you entered the building, you could also come to your right, into this area. This was my office. This portion here was our operations section. My desk was about right here.

I had another Marine who worked with me, Gunnery Sergeant Maureen Kyle whose desk was right next to mine.

My operations clerk, Sergeant Ben Davis, worked in this part of the office.

We had Gunnery Sergeant Paul Cooper, who had a desk in

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this corner.

Our civilian, Barb Hedrick, worked out of this office right here. She was our computer programmer.

And then if you went through to the back, this was our

supply section back here; and we had a supply chief, Gunnery Sergeant Earl Bussel, and the supply clerk, Sergeant Ted Snedicker, who worked back here.

Q. And if you would, please erase the marks on the floor plan. If you would, leave the plan on the screen.

A. Do I erase that from here?

Q. Just, on the side of your pen there is a little mark that if you keep pressing, it will --

A. Okay.

Q. Okay. Now, let's talk about the morning of April 19, 1995. If you would, tell us about your morning, when you got up and what you did.

A. Okay, sir. I was the operations officer for the Recruiting Station. As such, I was normally the first person into the office. I would come in between 6 and 6:30 in the morning. I would unlock the doors and open the office. The other members of the office that I just showed you would trickle in, and normally everybody would arrive by about 8:00. On that particular morning, some of the individuals that I just marked, that I just designated, were not in the office.

Q. All right. Who were those who was not there that day and

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why were they not there?

A. The individuals who were not in the office that day, Sergeant Major Iowa was down in Durant, Oklahoma, with a recruiter, doing some one-on-one instruction. Major Geffing was in Independence, Kansas, conducting one-on-one instruction with a Marine in Kansas. We had our two instructors, Master Sergeant Pat Waters and Gunnery Sergeant Walter Atwood, as well as my ops chief, Gunnery Sergeant Maureen Kyle, three of them were in New Orleans for a conference. That should be it as far as the people that were out of the office that morning.

Two more, Anthony Elder and Max Monty, were not in the office; however, they were on the road, they were en route to the office at the time of the bombing.

Q. All right. If you would, start with about 8:00 and take us through what you did that morning, your work and your duties and who you saw.

A. Okay, sir. My duties required me -- I processed all applicants, all Marine applicants, to boot camp. The early part of the morning is the busiest part of the day for us, because I receive numbers, recruiting numbers and recruiting data, from recruiters on the street, and that covered all of Oklahoma and the southern one-third of Kansas, and so -- and about 8:00 that morning, I was taking phone calls from our street recruiters as well coordinating with a couple of applicants that we were trying to get to the airport to send to

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recruit training at that time.

At about 8:30, a Marine, a recruiter from Oklahoma City, Staff Sergeant Jack Hoxing, came into the office and asked to speak to me privately. He had some personal matters he wanted to discuss. So about 8:30 I went into a side office that I keep to interview applicants, and I was talking to Staff Sergeant Jack Hoxing.

Q. And is that where you were at the time of explosion?

A. Yes, sir, I was.

Q. If you would take your light pen and place a fairly large X where your office was normally; not where you were, but where your office was.

A. My office was normally right here, sir. That's where my desk was. And that's where I worked. And that's where all of my operations people worked.

Q. Now, if you would, place a smaller X where you had moved to to talk to Sergeant Hoxing.

A. Okay, sir. This side office right here is where I moved to talk to Sergeant Hoxing. As I said, it was an office I kept to interview applicants.

Q. Tell us what happened at 9:02.

A. At 9:02, as I said, sir, I was in the office with Staff Sergeant Hoxing, and he and I were talking. And suddenly we just heard a huge explosion and an earth-shattering noise that lasted 30 to 45 seconds. There was an explosion and enormous

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concussion followed by just the sounds of the building falling down around us. And it was an ongoing -- there was no -- there was no split in the noise or two separate explosions. It went from the concussion of the blast to the noise of the building coming down and the floors falling around us.

Q. What happened to you?

A. I was in this office right here, sir, and it lasted -- everything lasted about 45 seconds with the walls falling down, the ceiling tiles, the light fixtures. Everything was coming down on top of us. And when the noise and the explosion finally stopped, I was able -- I was able to dig myself out from under the rubble that had fallen down on top of me.

Q. What did you do next?

A. I stood up and I looked around. First thing I noticed was an enormous amount of black smoke was pouring into the building. I thought the building was on fire. Alarms were going off. And I noticed Barb Hedrick, our computer programmer. She had been in her office right here, and she was standing somewhere in this area, right here, as soon as I was able to dig myself out.

Q. What was her condition?

A. She was screaming and crying very loudly. She appeared to be disoriented and didn't know where she was. She had apparently had her back to the window right here, and her head was covered in blood and her face was covered in blood. And

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she couldn't see, and she was crying, trying to get out of the building.

Q. Did you assist her?

A. Yes, sir, I did. I was able to make my way through the rubble, and I led her to the stairs. She was able to walk even though she was injured. And I led her to the fire escape and sent her down the fire escape.

Q. What did you do after that?

A. After I got Barb to the fire escape, I returned to the office; and on my way back to the office, I passed two Marines. Randy Norfleet was a captain, our officer -- selection officer, who normally worked out of Stillwater, Oklahoma, but he had come down to pick up some supplies; and as I was going back into the office, I passed him, and I passed Gunnery Sergeant Earl Bussel. Both of them were injured severely, injured about the head. Randy had a bandage up to his eye, and he couldn't see very well. Bussel was injured about the head and face, also, covered in blood; but they were both able to move on their own. I passed them.

I went back to where I'd been with Hoxing. About the

I WENT BACK TO WHERE I'D BEEN WITH HOXING. ABOUT THE time I got back to that area, Sergeant Ted Snedicker, who was our supply clerk, had made his way over to Hoxing and he was pulling the rubble off Hoxing. Hoxing was not able to free himself. So the two of us got him out from under the rubble.

Q. What did you do after that?

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A. Hoxing was injured severely. He was cut about the face. His upper lip was almost severed entirely from his face. He had a gash on his arm that apparently had severed a tendon. He couldn't bend his arm, and his leg was severely cut. So I put him over my shoulder and carried him over to the ladder and took him down about three floors. When I got down to about the third deck, there was some other people making their way out of the building; and they took Hoxing out, and I went back up to the sixth floor.

Q. Once you arrived back up to the sixth floor after taking Hoxing down to the third, what did you do then?

A. When I got back up to the building, everybody was out except for one last person, who was Gunnery Sergeant Paul Cooper. His desk was right here. And he was buried under more rubble and heavy rubble than anybody else. He had a lot of concrete that had fallen down on his desk. Fortunately, he was able to shelter himself somewhat with his desk. But it took Snedicker and myself about, I would say, 5 or 10 minutes to get the concrete off of him. And we were right at the edge; right at the lip of the collapsed part of the building, so we were in a precarious position, so we had to take our time to dig Paul Cooper free.

Q. And were you able to free him?

A. Yes, sir, we were able to free him. And his injuries were probably the most severe of any of the people that we got out

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or at least from what I could tell on the spot. His leg had an open cut that was cut almost to the bone. His face was cut severely. Part of his scalp appeared to be pulled back. He couldn't see very well or walk.

Q. How many Marines were in the duty station that morning?

A. There were a total of nine people in the building, eight Marines and Barbara Hedrick.

Q. Now, at this point, after you freed your last colleague, how many people had you accounted for in your space?

A. We'd accounted for seven, sir.

Q. So how many were missing?

A. Two were missing.

Q. And who were they?

A. Captain Randy Guzman and Sergeant Ben Davis.

Q. What did you do to try to locate them?

A. We knew that Captain Guzman and Captain (sic) Davis had been in my portion of the office when it was destroyed. After I got Paul Cooper down to the street, I went back up to the

sixth floor. Sergeant Snedicker was still searching the sixth floor in hopes that they might have been blown clear of the collapsed part of the building. I looked over the edge of the collapsed part of the building and I looked down, and it appeared to me that a lot of the rubble had landed on the third floor or about the third floor. So I thought perhaps if they had fallen, that they might be in that vicinity. So I went

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down to the third floor to continue searching down there.

Q. And to what avail?

A. To no avail. There were two civilians, two females, trapped on the third floor when I got down there. But of course Captain Guzman and Sergeant Davis were not there.

Q. Were you eventually ordered out of the building that morning?

A. Yes, sir, I was eventually ordered out of the building.

Q. Now, if you would erase your marks here on the floor plan. Keep hitting the side of the pen.

A. Does everybody have trouble with this, or is this just Marine-proof?

Q. No, it's everybody.

Thank you.

If you would, Captain Cooper, would you draw a line that approximates the best of your ability where the building had blown away on your space?

A. Based on what we could tell at that time, sir, it appeared that the collapsed part of the building started about right here in this corner of Barb Hedrick's office, went up, all the way through our operations section, and off into this area where it was unoccupied, so all of this part of our office collapsed.

Q. And that included your office?

A. Yes, sir, that included my work space.

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Q. Now, where -- you say Captain Guzman and Sergeant Davis were located where now, again?

A. Captain Guzman was sitting at my desk, which is right here, sir. Sergeant Davis was at his desk, which was located right here.

Q. Thank you. Now, let me show you what has been marked as Exhibit 2101. And if you would, take your light pen and show the jury where the Marine Corps Recruiting Office was and where your office was located.

A. This was the Marine Corps Recruiting Office, the sixth floor; right here. And our office was right here; right here behind this pen mark.

Q. Now, we have -- you've looked at two photographs of Captain Guzman and Sergeant Davis before coming here to court today?

A. Yes, sir.

MR. RYAN: With the marshal's assistance, if I could

display those photographs at this time, your Honor?

THE COURT: All right.

What's the exhibit number?

MR. RYAN: 1168, your Honor.

THE COURT: All right.

Your position with respect to the exhibit is a continuing one.

MR. TIGAR: Yes, your Honor.

THE COURT: 1168 is received.

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MR. RYAN: Thank you, your Honor.

BY MR. RYAN:

Q. Captain Cooper, if you would, just state each person's name, their rank, and how long they'd been with the Marine Corps and their official position with the Marine Corps.

A. Sir, on the left is Sergeant Benjamin Davis. He was a Marine sergeant who had been in the Marine Corps at the time of the bombing approximately eight years.

To his right is Captain Randy Guzman, came into the Marine Corps in 1989, so he spent almost six years in the Marine Corps at the time of the bombing, sir.

Q. And each of these men died on duty?

A. That's correct, sir.

Q. April 19, 1995?

A. That's correct.

Q. My final question is would you tell the jury briefly what effect this explosion and the loss of these two Marines had on operations in the Marine Corps Recruiting Station.

A. It had a tremendous impact on our ability to accomplish our mission, sir. The Marine Corps recruiting -- we work on a monthly -- monthly mission. At the time of the bombing, besides the physical damage of all our files and records being lost, the impact of losing these two Marines had a tremendous morale impact on the entire Recruiting Station. And we did not meet mission the month of April, and we missed mission several

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months after that.

MR. RYAN: Marshal, would you please take the poster down. Thank you.

BY MR. RYAN:

Q. Now, Captain Cooper, prior to coming here today, did you look at a floor plan that had the names of Captain Guzman and Sergeant Davis?

A. Yes, sir, I did.

Q. And were they correctly situated in terms of where these two officers -- these two Marines were at the time of the blast?

A. It is correct, sir.

MR. RYAN: Your Honor, we would offer Exhibit 952 in.

MR. TIGAR: Subject to our discussion.

THE COURT: Yes. It is received.

THE COURT: yes. It's received.

MR. RYAN: Thank you, your Honor. No further questions.

THE COURT: All right. Any cross-examination, Mr. Tigar?

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good morning, Captain.

A. Good morning, sir.

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

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A. Sir.

Q. In that situation there, your primary concern was to care for people who were injured and get them some help if you could; is that correct, sir?

A. That is correct.

Q. And that is a mission that you were trained, starting at the academy and then after that at Quantico and in your service, to perform; is that right, sir?

A. Yes, that's correct, sir.

Q. Now, the injuries that you saw on the people that you -- were there, did some of those injuries appear to have been inflicted by shards or shrapnel-like material that was blown at these people by the force of the blast?

A. Yes, I would say some of their injuries were consistent with that, sir.

MR. TIGAR: Thank you. I have no further questions.

MR. RYAN: He may be excused, your Honor.

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

THE WITNESS: Sir.

THE COURT: Mr. Mackey.

MR. MACKEY: Yes, your Honor, with the Court's permission, at this time we would move to display to the jury the floor plans previously admitted to the jury, 952A through I.

THE COURT: They've been received, so you may publish them to the jury.

All these have been mentioned at times in the testimony of different witnesses who said they placed these names there. What we're doing now is just displaying the results of their work.

That's 950 --

MR. RYAN: Yes, your Honor, this is 952A, which is the first floor of the building.

THE COURT: All right.

MR. RYAN: 952B, which is the second floor of the building.

952C, which is the third floor of the Murrah Building.

952D, which is the fourth floor of the Murrah Building.

952E, which is the fifth floor of the Murrah

Building.

952F, the sixth floor of the Murrah Building.

952G, seventh floor of the Murrah Building.

952H, the eighth floor of the Murrah Building.

952I, the ninth floor of the Murrah Building.

THE COURT: All right. Each of these exhibits has been placed on an easel before the jury box, and the jury has viewed it -- each of them.

Mr. Mackey.

MR. MACKEY: The United States rests its case.

THE COURT: All right.

Now, members of the jury, that means you've heard from the witnesses called by counsel for the Government in the case; and while it is still early in terms of our regular recess scheduling, we're going to take a recess now at this time because before we shift over to the defense case -- that is to say, to call for witnesses called by the defense -- there are some things that I must take up with the lawyers in the case so that we're sort of shifting over. And this will take a few minutes. I can't tell you exactly how long, but it is a necessary interruption before we start with the additional witnesses. So I'm going to excuse you from the courtroom now for this recess.

And of course as I mentioned to you when we recessed yesterday afternoon, the fact that the Government has rested the case and has identified to us that these are the witnesses called by the Government and the evidence that is offered by the Government, the case is far from over. There will be witnesses and exhibits received in evidence offered by the defense; and then of course even beyond that, there are other parts of the trial that go beyond the taking of the testimony and the introduction of exhibits, and that is the arguments of counsel and the instructions that I'll give you about the law.

So we've yet a ways to go. And accordingly, this recess is not different from all other recesses that we've had in the course of the trial, and that is to say that you're subject to the same cautionary instructions that I have routinely given to you every time we've excused you from the courtroom: Do not discuss the case among yourselves or with anyone else, of course, and continue to be careful about anything that you read, see, and hear to avoid anything that could influence your decision on the issues that you will decide. And of course keep open minds, recognize that you haven't heard it all. And until you've heard it all, you should not even in your own minds begin to come to any conclusions about what it is that you have heard and what it means.

So at this time, members of the jury, I'm going to excuse you; and we'll let you know about five minutes ahead of when we're going to bring you back in. So I can't give you an estimate as to exactly how much time this recess will be.

You're now excused from the courtroom.

(Jury out at 9:19 a.m.)

THE COURT: Mr. Tigar.

MR. TIGAR: Mr. Thurschwell will argue.

THE COURT: All right, Mr. Thurschwell. Thank you.

DEFENDANT'S RULE 29 MOTION

DEFENDANT'S ARGUMENT

MR. THURSCHELL: Thank you, your Honor.

May it please the Court, Terry Lynn Nichols moves for judgments of acquittal on all of the counts of the indictment on the grounds that the Government has failed to provide sufficient proof of one of the particularly crucial elements in this particular case, and that is the intent elements.

The indictment charges four distinct crimes in 11 counts, each of which incorporates an intent element that amounts to a specific intent to bring about some prohibited result. In addition to that, as charged, the indictment requires proof that Mr. Nichols knowingly, intentionally, willfully, and maliciously brought about the prohibited result.

The murder -- the first-degree murder counts require proof of a specific intent to kill, and not just a specific intent to kill but a premeditated intent to kill. We have taken the position, as the Court is aware, that the other counts also incorporate a specific intent-to-kill requirement, and we understand that the Court has taken a somewhat different view of the statutes involved.

But even under the Court's reading, there is a specific intent with respect to each of the first three counts, a specific intent in essence to use a truck bomb against both the Murrah Building and the people within it. And the Government has simply failed to provide sufficient evidence to establish that specific intent with respect to each of the 11 counts.

I will not address the evidence in any detail. The Court is familiar with it, and I need not go into it now except to characterize it generally, which I will do. But I wanted to talk about some of the general principles of proof and inference that seem particularly applicable in this case.

Mr. Nichols has been charged as a pure accessory, accomplice -- that is, to use terminology that is still used in some of the state statutes -- pure accessory before the fact. And the Federal Code, as the Court is aware, has abolished the old distinctions within accessorial liability, but I think they are quite useful for these purposes in talking about the kinds of proof that are required and the inferences that are permissible with respect to different conduct that amounts to accessorial liability.

Before I do that, though, there is -- we acknowledge there is one category of proof that, so to speak, cuts across all these lines; and that would certainly be good proof or legitimate -- legitimate proof of intent regardless of the particular role in the offense. That would be, of course, statements by the defendant of his intentions.

For example, if Mr. Fortier is to be credited at all, Mr. McVeigh told him on numerous occasions that he intended to blow up the Murrah Building and was happy to be killing and intended to kill the people within it. That is certainly legitimate -- there is a legitimate inference from that evidence that Mr. McVeigh had the specific intents required by the -- by all of the counts.

But there is no such evidence in this case as to Mr. Nichols. So when we're looking at proof of Mr. Nichols' intent, all we have is the conduct that is proved or not proved by the Government. And with that in mind, I want to turn to these different distinctions within the roles in the offense that are recognized by the common law that I think are illustrative here.

The first -- the highest level of involvement, of course, is the principal, the person that actually goes to the scene of the crime and performs the crime itself. And in the case of an individual who is proved to have committed the crime, we have the corollary principle that one is -- one can be assumed to intend the natural and probable consequences of one's actions. A person who puts a gun to the head of another person and pulls the trigger can be assumed to intend that the other person be killed. A person who drives a truck bomb to the front of a building during a weekday morning and lights a fuse may be permissibly inferred to have the intention -- specific intention to kill the people within the building.

That, of course, also does not apply to Mr. Nichols in this case. Mr. Nichols is charged simply as a pure accessory before the fact.

There is another category, of course -- and I'll just mention briefly -- a principal in the second degree at common law was an individual who accompanied the principal to the scene of the crime and provided aid and assistance at or near the scene of the crime. And for example, an individual who accompanies -- who drives another person to a house and waits outside in the car while that other person goes inside, takes a gun, and shoots and robs the individuals within, there is a much stronger inference of intent than in the case of accessory before the fact because of a proximity to the acts that clearly constitute the crime.

Of course, as the Supreme Court has warned in *Enmund vs. Tison*, (sic) even in that case, the requirements of proof are quite different from that of a principal, and there is no automatic inference of intent to kill in the particular situation I described there. But once again, Mr. Nichols was not charged as a principal in the second degree, he did not accompany Mr. McVeigh, and the Government does not so contend.

Once you get to the category that -- in which Mr. Nichols allegedly falls, accessory before the fact, inferences of intent are far more difficult to make. By way of example, an individual who the defendant -- call him the defendant -- who loans another person, the principal, a gun, whereupon the principal takes the gun, leaves, and premeditatedly kills and intentionally kills another person -- it's not clear at all from those facts what the level of culpability is of the person of the defendant. The defendant may be completely innocent because he had no reason to think that what the defendant -- the principal intended was a first-degree, premeditated murder.

He may be -- have the culpability required for involuntary manslaughter because he knew or had reason to know based on other statements of the principal, perhaps, or other information that there was a substantial risk that the -- that

information that there was a substantial risk that the principal upon getting his gun would go and shoot the victim. He may be guilty of second-degree murder if he, beyond being aware of a substantial risk, was certain or near certain that what the principal intended was a first-degree murder. He himself not intending and premeditating the murder but being callously indifferent that the use that the principal was going to put his gun, I think there would be a argument that he has the culpability required for second-degree murder.

And finally, there is an argument if certainly the defendant was in on the plan and premeditated the murder along with the principal that he might be -- have the culpability required for first-degree murder.

But what is clear is that as the proof -- as the level of culpability ascends, so to speak, the requirements of proof become more difficult and the inferences become more difficult. What we have here is a situation like the proof of the fact that the defendant in the hypothetical I just gave loaned the gun to the principal. Mr. Nichols is allegedly in the position of the individual who loaned the gun; and the inferences of intent, whatever they may legitimately be, our position is the evidence adduced to date does not rise to the level of the specific, either the specific intent to kill or the specific intent to use a truck bomb against the Murrah Building and the people in it.

I -- there simply is not -- and I would just allude to the cases that we cited in our brief, which I think are quite illustrative of the fact that the evidence in this case is strikingly weak for a first-degree murder case. I mean the evidence in the cases that we cite that was found sufficient or insufficient for a second-degree murder had more evidence of intent than has been adduced here.

That's on the assumption, of course, that the Government has even proved the specific episodes of conduct that they have proved. There is no -- there is no basis for inferring that highest degree of specific intent. We do not concede that the Government has successfully proved what they allege to be these episodes that Mr. Nichols was supposedly involved in, and that adds an extra layer of inference, of weak, and we think unsupported, inference to the inference to be then drawn from these episodes to the intent to kill, the intent to use the truck bomb.

And the weakness of the evidence, I will not go into in detail; but suffice it to say that I think it's fair to say the more incriminating the alleged episode in which Mr. Nichols was involved, the weaker the proof. And we could go through that, but I will not tax the Court with that analysis. You're familiar with the -- the Court is familiar with the evidence.

The Supreme Court has warned in the context of proof or conviction of conspiracy that courts should be on guard against convicting an individual by -- quote, "by piling inference on inference," in *Direct Sales Co. vs. United States*. That is precisely what we have here: inferences that are weak and unsupported to prove the specific episodes of conduct and then further weak and unsupported inferences to this highest

level of intent. And given that chain of inferences required, our contention is that the Government has failed to prove that a rational verdict of guilty could be returned by a jury.

With the Court -- we do -- if the Court disagrees, we have an alternative request for relief, which I want to address briefly.

We have contended since the outset of this case that the alleged episode involving Roger Moore and Mr. Nichols (1) not only did not happen but -- or at least did not happen the way Mr. Moore testified it did but that even if it did happen or there was sufficient proof that there was a robbery of the type that Mr. Moore described, there is no rational basis for connecting that episode to the actual charges leveled in the indictment; i.e., the conspiracy to use a truck bomb against the Murrah Building and the people in it. And I think the proof has borne that out very, very clearly.

There is one brief sentence that allegedly connects the Moore robbery to the conspiracy to use the truck bomb, and that occurs in Michael Fortier's testimony at page 8315 of the transcript. He says that it -- that is the robbery, the alleged robbery -- was Mr. -- his, that is Mr. McVeigh's -- way of contributing to their upkeep.

Now, that statement is not only ambiguous on its face and taken alone, but I think in the context of the other proof in which Mr. Nichols' association with Mr. McVeigh for innocent purposes -- i.e., the gun show business and sharing resources and time and traveling together to go to gun shows -- there is simply no basis for inferring his contributing to their upkeep means contributing to their upkeep for purposes of the illegal conspiracy. And there again is a principle, well-established principle, of inference and sufficiency of the evidence that if two inferences are equally well supported, that inference will not, cannot be deemed to suffice to prove beyond a reasonable doubt that the individual was guilty of the crime.

What we have here, I think, is a situation that goes beyond that. The stronger inference is that Mr. -- their -- quote, "their upkeep" refers to the legal business of gun shows, not to the illegal conspiracy. There is no rational basis for connecting the Moore episode to the illegal conspiracy; and therefore in the alternative, we request that the allegations and the evidence relating to this alleged Moore robbery be stricken.

THE COURT: All right. Thank you.

RULING

THE COURT: I am not going to require the Government to answer the argument. The motion under Rule 29(a) is denied; and of course, at this time the Court must accept all of the evidence submitted by the Government without evaluating its credibility or making any findings with respect to it and simply address the question of whether, assuming the truth of all that has been submitted in evidence, there is a basis for the jury to rationally make the inferences that are necessary with respect to a finding of all of the elements of each of the offenses charged in the indictment, which necessarily include the necessary findings with respect to scienter or intent.

It is my view -- and the rule does not require me to

make particularized findings with respect to this -- that a jury could, viewing everything most favorably towards the Government's view of the case -- and that means towards the indictment -- find the requisite elements from this evidence. And in this regard, I'm not particularizing the necessary intent here for this purpose excepting that there has to be a showing of an intention to participate in the conspiracy -- in the formation of the conspiracy and participate -- and to aid and assist Timothy McVeigh in carrying out the objectives, which include the delivery of a bomb to this building and the explosion and the consequences of it.

And of course, this requires that the jury find that Mr. Nichols had full knowledge of what was to take place. And my view of the case is that the jury could make such a finding.

With respect to the alternative motion to strike the evidence relating to this robbery, I'm also denying that motion on the same basis; that there's -- a jury could find and infer that the objective there -- first that the robbery took place; and secondly, that the purpose of it was to support the enterprise outlined in the conspiracy. So the motions, both motions, are denied.

Now, before we proceed with the defense case, counsel for the defense have informed me that two of their witnesses are here and that lawyers are here saying that they are representing them. One of these witnesses is Eldon Elliott.

Is there a lawyer here representing Eldon Elliott?

MR. NEUREITER: They were asked to leave, your Honor. Mr. Manspeaker met them outside.

THE COURT: Well, I didn't ask them to leave the courtroom. All I asked them to do was leave the well of the court.

THE COURTROOM DEPUTY: I'll get them.

THE COURT: Get them.

I'm asking first for -- Defense Counsel have advised me that witnesses Eldon Elliott and Vicki Beemer are here pursuant to subpoena and that they've been informed that counsel has appeared for these witnesses, for Eldon Elliott, are you --

MR. ROBISON: Yes, your Honor. I'm Reid Robison.

I'm here for the witness Eldon Elliott.

THE COURT: All right, Mr. Robison.

And for Vicki Beemer?

MR. MORRIS: John Morris, your Honor.

THE COURT: And counsel for the defendants -- defense has also advised me that you gentlemen have been retained by Ryder Truck Rental and not by these witnesses. Just tell me, please, what the situation is.

MR. ROBISON: Well, your Honor, we are paid -- our fees are paid by Ryder, but we've been retained by the individuals, as we've told defense counsel, so I'm not sure where that information originated.

THE COURT: Well, they've also advised me that these witnesses have refused to speak with them or their representatives pursuant to advice given. That's what I'm informed.

MR. MORRIS: Your Honor, that is not correct. From

MR. MORRIS: YOUR HONOR, THAT IS NOT CORRECT. FROM the very beginning -- I've been representing Mrs. Beemer, since the grand jury in August of 1995; and Mrs. Beemer has chosen, not upon recommendation of counsel, but simply by herself, not to talk to the media, not to talk to defense. And that was true in the McVeigh case, in which I represented her and was present in the courtroom, and that's true today; so I have never recommended that she not talk to defense counsel. That has been her choice. Her choice.

MR. ROBISON: Same with Mr. Elliott, your Honor. We have not given him any advice on that. Whatever he has done on that count has been his own choice.

MR. WOODS: Well, your Honor, the two gentlemen represented to me at quarter to 9 that they would not allow their clients to talk with me.

MR. ROBISON: No, your Honor, that's not true.

THE COURT: Just one at a time, please.

MR. WOODS: And the grand jury transcript reflects that Vicki Beemer related to the grand jury that Reid Robison was her lawyer at that time.

MR. ROBISON: Your Honor, I told counsel this morning that our clients didn't want to talk to them. He came over to us as we came in and said -- I had not even met the man at that time -- said, "Your clients won't talk to us. Is that right?"

MR. WOODS: The question was, "You're not going to allow us to talk to your clients, is that's correct?"

And their answer was, "Yes, that's correct."

MR. ROBISON: No, that's not what I said. I said, "It is their choice, Counsel."

MR. WOODS: You didn't say that, sir.

THE COURT: Well, you know, it should be their choice, obviously. And that's why I've called -- taken the strange and unusual step of calling on counsel to ask them directly both, you know, who retained them and, secondly, what their instructions are. I don't mean to interfere with the attorney/client privilege, but at the same time it's important to find out here that there's -- what the situation is. And you've both represented to me that your respective clients are taking this position after conferring with you but making their own decision.

Is that the situation?

MR. ROBISON: Yes, sir.

MR. MORRIS: That is correct, your Honor.

THE COURT: All right. You may be present in the courtroom when they are called.

MR. ROBISON: Thank you, sir.

THE COURT: I'm not precluding you from that. The reason that I moved you -- and I didn't mean to move you clear out of the courtroom -- was that counsel were objecting, for the defense, to your being with those who are in the well of the courtroom representing the defendant. That was the reason why I rather abruptly instructed that you be moved.

MR. MORRIS: Yes, your Honor. When we were here for the McVeigh trial, I sat on both sides, inside the well, including the defense, when Mrs. Beemer was called for

Mr. Jones. We didn't realize that we were doing anything to infringe on the defense.

THE COURT: Okay.

MR. TIGAR: Your Honor, please, with respect to the record here, counsel have represented that they were retained by the respective witnesses. That still doesn't answer the question by whom were they contacted, what is the arrangement, how is the money paid, do the clients review the bills, if there is reimbursement situation; that is to say, is this truly a lawyer/client relationship between the witnesses and these lawyers or is this in fact counsel selected by Ryder and directed as to what they do by Ryder.

THE COURT: Well, counsel said they're paid by Ryder. Correct?

MR. ROBISON: Correct, your Honor.

MR. MORRIS: Correct.

THE COURT: And I simply -- I don't have to go through all of these individual questions suggested by Mr. Tigar.

Of what bar are you gentlemen members?

MR. ROBISON: Actually, your Honor, I'm a member of the bar of both this state and the state of Oklahoma.

MR. MORRIS: The state of Oklahoma and several federal bars, including the Supreme Court.

THE COURT: Well, the Rules of Professional Responsibility are relatively the same for both Oklahoma and Colorado and the Federal District Court in the Western District of Oklahoma and in this district, and I simply ask directly of each of you if your fidelity under the rule is with respect to the clients who are witnesses in this case.

MR. MORRIS: Absolutely, your Honor.

MR. ROBISON: Yes, sir.

THE COURT: All right. Well, I'm satisfied with your statement there. I'm not going to inquire beyond it. So, as members of the bar, as identified, I'm entitled to rely upon your conclusory representations.

MR. ROBISON: But as relatively new in this proceeding this morning, your Honor, where does that leave us with regard to where we can sit when the proceedings resume?

THE COURT: Find a place.

MR. ROBISON: All right.

MR. MORRIS: Thank you.

THE COURT: All right.

MR. MORRIS: Thank you, your Honor.

THE COURT: Now, perhaps we can arrange a place for you here. Mr. Manspeaker will help you with that.

MR. ROBISON: Thank you, Judge.

THE COURT: I don't know when these witnesses are going to be called.

MR. ROBISON: We were told very soon.

MR. WOODS: They'll be very soon, your Honor. The first witness is Lea McGown -- excuse, second witnesses, after Mr. Burmeister.

THE COURT: Yes.

MR. WOODS: Lea McGown and then David Ferris, David D'Albini, Vicki Beemer, Eldon Elliott.

THE COURT: Does that sound like it's going to be this morning?

MR. WOODS: Yes, your Honor. These are very short witnesses.

THE COURT: We'll work out the seating arrangement during the recess which we're about to take.

MR. ROBISON: Thank you, your Honor.

THE COURT: Well, I think we'll take -- we probably should take about 20 minutes.

MR. TIGAR: Your Honor, so that our record is protected -- and I'm not attempting to insult these gentlemen. It's my duty to protect the record here -- we would ask for an evidentiary hearing with respect to the circumstances of retention, your Honor.

THE COURT: All right. Well, that request is denied. We'll take a 20-minute recess.

(Recess at 9:45 a.m.)

(Reconvened at 10:04 a.m.)

THE COURT: Be seated, please.

MR. TIGAR: May we approach the bench, your Honor?

THE COURT: Yes, Mr. Tigar.

(At the bench:)

(Bench Conference 101B2 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

(Jury in at 10:57 a.m.)

THE COURT: All right, members of the jury. We're ready to proceed.

MR. TIGAR: Call Steven Burmeister.

THE COURT: All right.

Agent Burmeister, you're being re-called to the stand under the oath earlier taken.

Mr. Tigar.

(Steven Burmeister was re-called.)

(Steven Burmeister was re-called.)

DIRECT EXAMINATION

BY MR. TIGAR:

Q. Mr. Burmeister, you have training as an arson investigator?

A. Yes, I do.

Q. And you described your qualifications on direct examination by the Government. Do you recall that, sir?

A. Yes, I do.

Q. And in how many bombing crime-scene investigations have you participated in your career as an FBI agent?

A. Are you referring to scenes in which I've gone out and collected physical evidence?

Q. How many bombing crime-scene investigations have you participated in any way in your career as an FBI agent?

A. Is that -- you're referring to ones which I've traveled out to from the field office?

Steven Burmeister - Direct

Q. Well, let's start with that. How many have you traveled out to?

A. Right at this point, I'm coming up with approximately seven.

Q. And how many bombing crime-scene evidence analyses have you participated in in addition to the seven?

A. Evidence that I've received in the office, several hundred actual cases.

Q. Do you believe yourself qualified, sir, by your knowledge, skill, experience, training, or education to give an opinion to a reasonable scientific certainty as to what was in the device that exploded in front of the Murrah Building on April 19?

A. My expertise would be able to say based on the chemical findings what chemicals may have been present within that particular device.

Q. All right. And what chemicals -- you say "may have been present." I asked you whether you could give an opinion to a reasonable scientific certainty what was in the device. Would you be able to do that?

A. Based on the chemical findings, yes.

Q. What chemicals did you find present there?

MS. WILKINSON: Objection, your Honor. May I voir dire the expert before he's qualified to give his opinion?

THE COURT: Yes.

VOIR DIRE EXAMINATION

Steven Burmeister - Voir Dire

BY MS. WILKINSON:

Q. Agent Burmeister, in the FBI Laboratory are you given guidance on your area of expertise to which you may testify?

A. We understand the areas and our limitations as to what we can testify to, yes.

Q. And can you tell us what you're qualified to testify about.

A. The chemical findings. the chemical-residue analysis of

... THE CHEMICAL FINDINGS, THE CHEMICAL RESIDUE ANALYSIS OF particular items and materials that are submitted for explosives analysis.

Q. Is it beyond your area of expertise to tell the jury what the bomb was constructed of?

A. Absolutely.

Q. Is it beyond your area of expertise to tell them the type of damage and whether that's consistent with a certain type of explosive?

A. Yes.

Q. And are there others that are qualified to do that for the FBI Laboratory?

A. Yes.

Q. And is that how the work is divided up at the FBI Laboratory?

A. Yes.

Q. Are your qualifications and the division of labor in the FBI Laboratory different from those in DERA where Ms. Jones is employed?

Steven Burmeister - Voir Dire

A. Yes.

MS. WILKINSON: Your Honor, we would object to using Mr. Burmeister for this purpose.

THE COURT: Mr. Tigar?

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. Mr. Burmeister, when you say "division of responsibility," you mean the courtroom testimony policy, don't you, sir?

A. No, it's within the FBI Laboratory and those personnel in the FBI Laboratory.

Q. So there are regulations that say when you're called out to testify on behalf of the Government: These are the areas in which the Government can offer your testimony. Correct?

A. The regulations are guided by the individual's expertise and how far that individual can testify based on that person's background and training.

Q. Okay. Do you possess knowledge concerning the components of improvised explosive devices?

A. I'm aware of components that can go into those devices.

Q. You know how to build them, don't you?

A. Yes.

Q. You've read books on it; correct?

A. Some texts, yes.

Q. Do you possess skill with respect to the construction of improvised explosive devices?

Steven Burmeister - Direct

A. I don't know what you mean by a "skill."

Q. Could you build one that would work?

A. I could certainly build something that would work, yes.

Q. Have you built one that would work, an improvised explosive device?

A. I have been present during the construction of devices, some of which I haven't placed all of the pieces together, only parts of the pieces together.

Q. Have you been present at and assisted in the construction of any improvised explosive device that you blew up?

A. Yes.

Q. So you have experience in the construction and detonation of improvised explosive devices; correct?

A. I would say that the experience is present but not extensive.

Q. In order to be able to construct the explosive device, you had training; correct?

A. I have -- I have had no official training in the actual construction of devices.

Q. You worked with more senior FBI agents than yourself in the construction of the improvised explosive devices that you made; correct?

A. These are individuals in another unit of the FBI Laboratory which I associate with during the course of investigations.

Q. And you have read publications concerning the components of

Steven Burmeister - Direct

improvised explosive devices; correct?

A. I've read texts on that, yes.

Q. Have you attended conferences where that was discussed?

A. I have attended some conferences in which some devices were presented as interesting devices but not specifically on the design and manufacture or creation of particular devices.

MR. TIGAR: Your Honor, I'd like to ask him his opinion.

THE COURT: Well, with respect to what exactly?

MR. TIGAR: Whether or not he's able to say what this was made of, this device.

THE COURT: All right. And are you objecting to that?

MS. WILKINSON: I am. I don't believe he's qualified.

THE COURT: Well, your objection is overruled.

MS. WILKINSON: Okay.

THE COURT: Now, let me make it clear to you you're not here under some FBI directive about what you can or can't say. You're here as a scientist. Understand?

THE WITNESS: I do.

THE COURT: So the question is being asked of you as a scientist whether you have an opinion.

Correct?

MR. TIGAR: That's right.

BY MR. TIGAR:

Q. And I want to give you -- I'm going to ask you the

Steven Burmeister - Direct

question: Is it possible as a scientist to say what were the components of the device that destroyed the Murrah Building? Can you say it?

A. Now you're outside of where I would view myself as an expert. I can only give the chemical side, and that's the -- that's the scope of which I want to keep myself within. When you start talking components, you're getting out into an area which is broadened beyond my scope.

Q. Elements, then. You tell me what -- tell the jury: What are you able to tell us about it? That's what we want to know. What are you able to tell us based on your best science?

A. What would you like me -- can you give me some direction as to what area you would like me --

Q. Do you think ammonium nitrate was present in the device?

A. Yes.

Q. And you base that on Q507; correct?

A. Based on the findings on Q507, the device -- it's my opinion that it contained ammonium nitrate.

Q. Are you able -- are you able to make a conclusion that Tovex was present?

A. That's the part of --

Q. As a scientist. I'm just talking as a scientist, based on the analyses that you've done and seen. Are you able to tell us that Tovex was present?

A. Based on the chemical findings, one would have to go back

Steven Burmeister - Direct

and basically -- there is ammonium nitrate present on the particular sample. Back-stepping and trying to decide what type of explosive that could have originated from -- first of all, you would say whether nitroglycerin was present. There was none present on Q507.

Q. Uh-huh.

A. So in essence, it's consistent that dynamite could be ruled out.

If we look at the area of Tovex --

Q. Dynamite can be ruled out based on Q507. Correct?

A. If we're looking at the ammonium nitrate on Q507, yes.

Q. Now, did you -- when you tell us dynamite can be ruled out, did you take into account the finding of a dynamite wrapper in the building?

A. I'm not qualified to say that the wrapper was, in fact, dynamite wrapper.

Q. Did you look at -- You look at the work of other agents -- correct -- when you do your work?

A. Only the agents that are within my particular section.

Q. And were you ever asked to examine something that was thought to be a dynamite wrapper?

A. Yes.

Q. And when you tell us that you can rule dynamite out, you rule that out because you didn't find any nitroglycerin anywhere -- right -- at the crime scene?

Steven Burmeister - Direct

A. The evidence that I reviewed, I did not find dynamite -- or I did not find nitroglycerin present.

Q. Anywhere at the crime scene.

A. At the crime scene, yes.

Q. Now, the question we started was: Did you find chemical evidence that would indicate that Tovex was present?

A. Again, we'll fall back on the ammonium nitrate that was found on Q507. Based on my past experience with residues of Tovex, I would find other chemicals substances that would be present on that; for example, metallic particles of aluminum. This is being the shiny particles that are just like aluminum. Typically, I would find that. None was found in this particular situation.

Q. Okay. And are you able based on your science to say that Primadet was or wasn't used?

A. I can't make any determination on that.

Q. Are you able based on your science to say that any particular type of blasting cap was used?

A. I can't talk about that, either.

Q. Are you able based on your science to say that a timing device was or wasn't used?

A. I can't talk about that area.

MR. TIGAR: Thank you.

THE COURT: When you say you can't talk about it, you're talking about your own qualifications and testing?

Steven Burmeister - Direct

THE WITNESS: Yes.

BY MR. TIGAR:

Q. Based on what you feel qualified to talk about. And you understand, sir, that other -- other experts have looked at this and indeed other experts have testified in this case; right?

A. I'm aware of that, yes.

MR. TIGAR: All I'm asking you is to just do your best.

Thank you. I have no further questions.

THE COURT: All right. Is there any cross-examination?

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

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Mr. Burmeister, you were asked about a wrapper that you examined. Is that correct?

A. Yes.

Q. And do you recall what color that wrapper was?

A. It was a brown -- slightly brown-paper-type material.

Q. You tested that for high-explosives residue?

A. Yes.

Q. Did you find any?

A. No.

Q. And if it had been a dynamite wrapper, would you expect to

Steven Burmeister - Cross

find certain explosives residue?

A. Yes.

Q. What residues would you have expected to find?

A. Typically nitroglycerin would be the leading explosive. There could also be EGDN, ethylene glycol dinitrate, as well as any inorganic material such as sodium nitrate or ammonium nitrate.

Q. Now, nitroglycerin as well as EGDN are both vaporous high explosives; right?

A. Yes.

Q. If this had been a dynamite wrapper, would you expect those residues to have seeped into the brown paper?

A. Yes.

Q. And you didn't find any of those?

A. No.

MR. TIGAR: Object to leading.

MS. WILKINSON: I believe it's cross.

THE COURT: This is cross-examination.

MR. TIGAR: I would like him declared an adverse witness, your Honor. He's employed by the adversary.

THE COURT: Objection is overruled.

MS. WILKINSON: No further questions.

REDIRECT EXAMINATION

BY MR. TIGAR:

Q. Did you test all of the items that came into your

Steven Burmeister - Redirect

laboratory from the crime scene for nitroglycerin?

A. I would say 90 percent of the items that came in were tested for nitroglycerin.

Q. Is nitroglycerin -- are polyethylene bags permeable for nitroglycerin?

A. Yes, they would be.

MR. TIGAR: No further questions.

MS. WILKINSON: No further questions.

THE COURT: Now is he excused?

MR. TIGAR: He is excused, your Honor.

THE COURT: Now you are excused.

Next witness, please.

MR. WOODS: Lea McGown.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Lea McGown 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: Lea McGown. M-C-G-O-W-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Woods.

DIRECT EXAMINATION

BY MR. WOODS:

Q. Good morning, Ms. McGown.
A. Good morning.

Lea McGown - Direct

Q. Would you tell the jury where you live, please.
A. I live in Junction City, Kansas.
Q. Will you speak into that microphone a little louder so that everyone can hear you.
How long have you lived in Junction City?
A. Since 1981.
Q. Do you own and operate a business in Junction City?
A. Yes, I do.
Q. And what is the name of the business?
A. Dreamland Motel.
Q. Where is it located?
A. On Flint Hills Boulevard, 520, on Exit 300, I-70.
Q. And how long have you owned that business?
A. Since 1988.
Q. If you will look on the envelope in front of you there, the first exhibit in the front of it. Do you recognize the exhibit, and is it accurate?
A. Yes, I do. Yes, it is correct.
Q. Have you seen it before?
A. Yes, sir.
Q. Is that a map of the Junction City area?
A. Yes, it is.

MR. WOODS: Your Honor, we would offer into evidence Defense Exhibit 1697 identified by the witness as a map of the area.

Lea McGown - Direct

THE COURT: Is it D1657?
MR. WOODS: 1697, your Honor.
THE COURT: Excuse me. All right. Any objection?
MR. MACKEY: None, your Honor.
THE COURT: Received.
MR. WOODS: May I publish it to the jury?
THE COURT: Sure.
MR. WOODS: Thank you.

BY MR. WOODS:

Q. Now, Ms. McGown, do you see the map that's in front of you there?
A. Yes, I do.
Q. We'll move it up a little bit.
Does that show the location where the Dreamland Motel is?
A. Yes, sir.
Q. Would you point out for the jury -- there is a pen there, and you can operate it by going under the top and onto the screen directly. And if you'll hold your pen straight up as much as you can. Point out for the jury where the Dreamland Motel is.

Right here on Exit 300

A. Right here on EXIT 300.

Q. And what is the main highway that goes by the Dreamland Motel?

A. 57.

Lea McGown - Direct

Q. All right. And is there an interstate that goes by?

A. Right above is I-70.

Q. All right. Is that the interstate that goes east and west?

A. That's correct.

Q. Okay. Now, there are other businesses marked on this map provided by the Government. And I'll ask you to look at -- down in the bottom, there is an indication of a location for a McDonald's restaurant.

A. Yes, sir.

Q. Would you point that out for the jury, please.

And is that restaurant -- what street is that on?

A. It's on Madison.

Q. Is it near the intersection of the highway?

A. Yes. It's right on Exit 296, right off the ramp.

Q. And is -- where is Washington Street on that map?

A. Washington Street is the extension of Madison.

Q. So is the restaurant -- McDonald's restaurant located on Washington, or Madison?

A. It's actually Madison.

Q. And Washington is the extension of it?

A. Yes. It fills into it.

Q. Have you been to that restaurant before?

A. Yes, sir.

Q. And was it in operation in April of '95?

A. Yes, sir.

Lea McGown - Direct

Q. All right. And there is also an indication on the map there of Elliott's Body Shop. Would you mark for the jury where that is.

I'll move it up a little bit for you.

And have you done business at Elliott's Body Shop during your stay in Junction City?

A. Yes, sir.

Q. So you're familiar with the location?

A. Yes, sir.

Q. Can you give us an estimation how far it is from the McDonald's restaurant to Elliott's Body Shop --

A. 4, 5 minutes.

Q. -- in time? Can you --

A. Driving, 1 mile.

Q. Approximately 1 mile?

A. 1 mile.

Q. Okay. Now, there is also an indication on the map of a Firestone store. Do you see that?

A. Yes, sir.

O. Have you visited and done business at that Firestone store

during your stay in Junction City?

A. Yes, sir.

Q. And would you point that out for the jury, please.

Now, there is one other location on the map, Hunam Palace, Chinese restaurant. Would you point that out for the

Lea McGown - Direct

jury, please. Approximately how far is that from your motel?

A. 10, 15 minutes.

Q. Now, would you point out for the jury where Fort Riley is in relation to Junction City and your business?

A. It would be in the upper right-hand corner, in between Grand Avenue and Grandview Plaza.

Q. Is Fort Riley a large area that encompasses several acres around Junction City?

A. Yes, it does.

Q. Or several square miles, shall I say?

A. Several square miles.

Q. Is this marked on the map accurately?

A. Yes. It's correct.

Q. Now, how long have you owned the Dreamland Motel?

A. Since August, '88.

Q. And if you will, inside that envelope, the next five exhibits are a series of photographs. And two of them have already been admitted into evidence as G283 and G287. I would ask you to look at three photographs that are identified as D1700, 1701, and 1702.

A. Yes, sir.

Q. Those three that begin with D have not been admitted into evidence yet. Have you seen those photos before, Ms. McGown?

A. Yes, sir.

Q. And do they accurately depict the scene that is

Lea McGown - Direct

photographed therein?

A. Yes, sir.

Q. And have you seen that scene before?

A. Yes, sir.

Q. Is that a scene of your motel?

A. That's correct.

MR. WOODS: Your Honor, we would offer into evidence those three photos that haven't been admitted yet, D1700, 1701 and 1702.

MR. MACKEY: No objection.

THE COURT: They are received.

MR. WOODS: And we would like to publish those three along with the two that have not been published yet.

THE COURT: Those being 283 and 287?

MR. WOODS: Yes, your Honor.

THE COURT: All right. You may do so.

MR. WOODS: Thank you.

BY MR. WOODS:

Q. If you'll click the pen --

MR. WOODS: Well, she's already done it.

THE COURT: Yes, she did.

BY MR. WOODS:

Q. Ms. McGown, I'm going to show you first what is -- this has been admitted into evidence as Government's Exhibit 283, which is an aerial view. And can you describe for the jury the

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layout of your motel?

A. On the beginning is 57, which is on construction with the bridge to your left side. Then the round drive going into the motel parking lot, the motel itself, and the back area and is a driveway on the right-hand side, is going into the church area.

Q. Let me take it out of the plastic envelope. It may be clearer.

Now, how many rooms do you have in your motel, the Dreamland?

A. 24.

Q. And where is your office located there at the motel?

A. In the middle right across the grass area.

Q. Would you point out for the jury with that pen where your office is.

All right. And do you live at the motel, Mrs.

McGown?

A. Yes, I do.

Q. Would you point out for the jury where you live.

Okay. Do you have children?

A. Yes, I do.

Q. How many?

A. Two.

Q. And what are their names and ages?

A. Kathleen McGown is 17. Eric McGown, 19.

Q. During April, 1995, were your two children living with you there at the motel?

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A. That's correct.

Q. Was there another person that was staying there with one of your children?

A. Renda Truong, a girlfriend of my daughter.

Q. Would you say that slowly for the jury, please.

A. Renda Truong.

Q. How do you spell the last name?

A. T-R-U-O-N-G.

Q. She was living with your daughter?

A. That's correct.

Q. Would you point out for the jury where Room 25 is.

And is that the first room next to your office?

A. That's correct.

Q. How are your rooms numbered across both sides there from your office?

A. To the west wing, 25 through 34. The east wing, 24 through 10.

Q. Would you point out for the jury which one is the west wing.

And those numbers are 25 through what?

A. 34.

Q. All right. And then the east wing?

A. 24 through 10.

Q. And do all the rooms have doors that open up on the parking area?

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A. Yes, sir.

Q. And again if you point out for the jury where the parking area is for a car that comes to an individual room.

All right. Let me show you the other exhibit that previously has been admitted, Government's 287. And if you would click the pen so that those marks go off.

Would you point out again where your office is and where Room 25 is. All right.

And you have a large sign there in front. Is that correct?

A. Yes, sir.

Q. And is there a parking area near that sign?

A. Yes, sir.

Q. Let me show you also Defense Exhibit 1701. If you would click the pen again. This photo shows a new bridge there. In April of 1995, was that bridge there at the time?

A. No, sir.

Q. Was it under construction?

A. Yes, sir.

Q. Do you remember approximately what date the construction started?

A. 14th of April.

Q. And I'll show you Defense Exhibit 1700. Would you point out for the jury where the bridge was being constructed at that time.

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All right. Now, where -- how did one get to your motel from the interstate, I-70?

A. You take the Exit Ramp 300, and this ramp will lead more or less straight into the motel.

Q. All right. And this frontage road in front of your motel -- what's the name of it again?

A. K-57.

Q. Okay. Now, within your office -- I'll show you what's marked as 1702. Is your office all windows surrounding all sides?

A. Three sides of my office have windows.

Q. And where is your apartment or home located in relation to your office?

A. To the north

A. To the north.

Q. Is it right behind your office?

A. That's correct.

Q. Is there a door that enters from your home into the office?

A. Two doors. Three doors. I'm sorry. Three doors.

Q. All right. And this one photo that shows the windows:

Approximately what level do they start from the floor up?

A. At chair-high level.

Q. Do the windows then open up to view the whole front of your motel, both the east wing and the west wing and the front?

A. That's correct.

Q. Okay. Now, if you would click that pen again.

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I want to call your attention to the period of April, 1995. Do you recall the day of the bombing in Oklahoma City, April 19?

A. Yes, sir.

Q. Okay. Had you seen any news broadcasts or heard anything about the news concerning the Oklahoma City bombing on that day, April 19?

A. I don't recall.

Q. Did you receive a visit the following day, on Thursday, April 20, from any law enforcement officials?

A. Yes, sir.

Q. Okay. Do you recall who they were, what agency they were with?

A. Mr. Burgess from the local police, and later I was told Mark Bouton from the FBI.

Q. So there were two individuals that visited with you?

A. Yes, sir.

Q. Did they show you any objects at that time?

A. Yes, sir.

Q. What did they show you?

A. Two composite drawings.

Q. Composite drawings?

A. Two drawings of --

Q. And were the drawings of males, or females?

A. Two male.

Lea McGown - Direct

Q. Would you look at the envelope that's in front of you. And there is an exhibit marked D1706 and an exhibit marked D1699.

I'm sorry. It should be marked 1731 and 1699. Do

you

see those two exhibits?

A. Yes, sir.

Q. Have you seen those exhibits before?

A. Yes, sir.

Q. Were those the two composite drawings that were shown you by the law enforcement authorities on Thursday, April 20?

A. Yes, sir.

MR. WOODS: Your Honor, we would move into evidence

the composite drawing of Un. Sub. No. 1, which is D1699, and composite drawing of Un. Sub. No. 2, which is D1731.

MR. MACKEY: No objection.

THE COURT: All right. They're received. I'm a little confused, though. On my list I had D1698 as the --

MR. WOODS: Yes, your Honor. That was a composite drawing of John Doe No. 2 that was drawn later.

THE COURT: Oh.

MR. WOODS: We've substituted with the first drawing.

THE COURT: The identified exhibits are received.

MR. WOODS: Thank you. May I publish, your Honor?

THE COURT: Yes.

BY MR. WOODS:

Q. Ms. McGown, I'm showing you now that's been marked and

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admitted as D1699. Was this one of the drawings that was shown to you by the law enforcement officials on Thursday, the day after the bombing?

A. Yes, sir.

Q. Had you seen that sketch on the news, on television, or in the newspaper that day at all?

A. No, sir.

Q. That was the first time you saw it?

A. Yes, sir.

Q. And I'll show you also what's been marked as D1731. Is that the composite -- the second composite that was shown to you?

A. Yes, sir.

Q. Had you seen an individual with the likeness of John Doe No. 1 as of that date on April 20?

A. Yes, sir.

Q. And did you advise the law enforcement officials of that?

A. Yes, sir.

Q. Did you provide them a copy of a registration form from your business records there at the Dreamland Motel?

A. Yes, sir.

MR. WOODS: Okay. Your Honor, Exhibit -- Government's Exhibit 294A, the clean copy, has previously been admitted into evidence, and we would like to publish that to the jury.

THE COURT: You may.

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MR. WOODS: And if we could pull that up on the screen.

BY MR. WOODS:

Q. Now, Ms. McGown, I don't know if you can read that clearly on the screen there.

There. It's blown up a little bit.

Do you recognize that form?

A. Yes, sir.

Q. That is a form that you've designed yourself?

A. Yes, sir.

Q. And is that the form that you provided to the law enforcement officials on Thursday?

A. Yes, sir.

Q. And would you read into the record who the individual was that registered there at that time?

A. Tim McVeigh.

Q. And did he give an address?

A. "3616 North Van Decker -- Van Dyke, Decker, Michigan; car license LCC034, Arizona; make, Mercury; number of people, 1; pets, none."

Q. Now, the writing on the top half before that line: Is that done by you from what the individual gives you, or is that done by the individual that's registering there at your motel?

A. The individual writes the address and all the information.

Q. Okay. Now, below that line: Who fills that part in?

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A. I do.

Q. Okay. Now, what time did -- excuse me. What date did the individual register at your motel, the Dreamland Motel in Junction City?

A. Friday, April 14.

Q. All right. Do you recall the time of the day that it was?

A. Late afternoon around 4 p.m.

Q. All right. Now, do you recall and at that time did you recall specifically this individual, Timothy McVeigh?

A. Yes, sir.

Q. And did you advise the law enforcement officials of what you recalled at that time?

A. Yes, sir.

Q. Okay. Now, will you tell the jury what you recall when you first saw Mr. McVeigh on the 14th of April. What conversation did you have with him and when did you first notice him?

A. He came into the office and I asked what I can do for you; and he said, "I would like to have a room for one person." And then he stated he wants to stay several days, if he would get a discount, because I quoted the regular rate.

Q. What was your regular rate at that time?

A. 24.

Q. And did you negotiate a discount with him after discussing a discount?

A. Yes, we did.

Lea McGown - Direct

Q. How many days did he want to stay?

A. Four nights.

Q. And what negotiated rate did you arrive at?

A. \$20.

Q. What was his appearance?

A. Very neat and clean.

MR. WOODS: Okay. Your Honor, we would ask that we

MR. WOODS: Okay. In our honor, we would ask that we publish the photograph of Mr. McVeigh, which has previously been admitted into evidence as Government's Exhibit 318.

THE COURT: You may.

BY MR. WOODS:

Q. Now, Mrs. McGown, do you recognize the individual that's depicted in that photograph?

A. Yes, sir.

Q. Is that the Timothy McVeigh that registered on that day, April 14?

A. Yes, sir.

Q. Okay. Thank you. We can turn that off now.

Was there further discussion other than arriving at a discount rate for four days?

A. No. We have all the time exchange of words. He wanted to know if he can park a van, if it would matter if he brings two cars and he would bring a van in to where Gracie's Beauty Shop is.

Q. When he said "a van," did he describe it in any way?

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A. No.

Q. Is it usual, or unusual that people bring a van to your motel?

A. No, sir.

Q. "No, sir," is it usual, or unusual?

A. It's usual that somebody brings a van.

Q. And why is that?

A. We have Fort Riley next door, which means many people move in and out. They most of the time have a moving van.

Q. And sometimes they stay at your motel; is that correct?

A. Quite often.

Q. And he asked you where Gracie's was? Is that correct?

A. Yes, sir.

Q. And what is Gracie's?

A. A beauty shop.

Q. Is that a place where men get haircuts?

A. Sometimes.

Q. All right. Any further discussion that you had with Mr. McVeigh at that time?

A. I noticed the discrepancy between the two states, Michigan and Arizona, and I asked him --

Q. When you say "discrepancies," what are you speaking of between the two states?

A. Most people do have the same state and the same number on the license plate as home address, if they're not military,

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except then. So I ask him how come he has two different states.

Q. And you're speaking of he gave an address of Michigan but he had an automobile with an Arizona tag; is that correct?

A. That's correct.

Q. What explanation did he give?

A. He says he travels quite a bit in the last one-and-a-half, two years, and he said that's a friend's address.

Q. He said that's a friend's address?

A. Yes.

Q. Okay. Did you notice the automobile that he was driving?

A. Yes, sir.

Q. And can you describe that automobile for us?

A. It was an older, yellowish-grayish -- yellowish-beigish-looking Mercury, and it has had some spots where you fix it with some plaster.

MR. WOODS: Your Honor, we would ask that Government's Exhibit 414, which has previously been admitted into evidence, be published again.

THE COURT: All right.

BY MR. WOODS:

Q. Ms. McGown, will you look at this photograph which is in evidence as Government's Exhibit 414. Do you recognize that car?

A. Yes, sir.

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Q. And where have you seen that car previously?

A. On the parking lot at Dreamland Motel.

Q. Was that the automobile that Mr. McVeigh was driving?

A. Yes, sir.

Q. Okay. Did you ever see the license plate of that automobile while he was there during those four days?

A. Yes, sir.

Q. What day did you first notice it, if you recall?

A. I don't recall exactly if it was the first afternoon or the second. I recall he's driving out of the driveway and the license plate was hanging sideways, was only secured with one bolt.

Q. So normally license plates -- is fastened on both sides and you're saying it was only fastened on one side?

A. Yeah. It was hanging sideways.

Q. Could you see the number of it?

A. Yes. I saw the numbers, and I made myself a mental note because I looked on the registration slip. The numbers will be kind of turned around, not quite correct; and I wanted him to come in and correct it in his handwriting.

Q. So you saw the number clearly and then looked at your registration receipt?

A. Yes.

Q. Could you tell if it was an Arizona?

A. I don't recall.

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Q. You were just looking at the letters and numbers?

A. That's correct.

Q. And was it totally wrong, or was it close, or do you recall?

A. It was very close. It was, as I recall, the numbers turned around.

Q. And you made a mental note to yourself?

A. Yes, sir.

Q. Did you ever talk to Mr. McVeigh after that time about the license number and the correct number?

A. No, sir.

Q. And what day is it that you recall that happened?

A. Friday or Saturday afternoon.

Q. All right. Now, based on Mr. McVeigh's appearance and based on the appearance of the automobile -- and we can turn that off now -- did you make any decision as to which room to assign him to?

A. Yes, sir.

Q. And which room did you assign him to?

A. No. 25, next to the office.

Q. And why was that?

A. Because there was a difference between his appearance and the appearance of his car.

Q. All right. And why would you assign him a room close to the office?

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A. To keep an eye on the person.

Q. Why would you want to keep an eye on the person?

A. He was very neat, the car was very raggedy; so I thought in case he's not a good client, I can ask him to leave.

Q. And you try to judge your clients that way when they check in?

A. I -- yes, I do.

Q. And do you have clients that are there full-time pretty much?

A. Yes, sir.

Q. You have 24 rooms; is that correct?

A. Yes, sir.

Q. Approximately how many people are living there on a full-time basis?

A. Four.

Q. So you assigned Mr. McVeigh Room 25, which is closest to the office. Is that correct?

A. Yes, sir.

Q. Is that the first one to the west?

A. First one on the west wing.

Q. Now, did you -- what further discussion did you have with Mr. McVeigh before he left the office that day when he checked in?

A. I don't recall any.

Q. Did you collect any money from him or a credit card or a

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check?

A. I collected money, all the payment for four days in advance.

Q. And how much was that?

A. \$88.95.

Q. Now, on your registration receipt, you circled several dates. Is that correct?

A. That's correct.

Q. Is that a form that you designed?

A. Yes, sir.

Q. And you also had the dates April 14 through April what marked down?

A. I wrote down 14, 15, 16, 17.

Q. All right. And what time -- what date was he to check out?

A. On the 18th morning.

Q. And this is information that he provided to you?

A. Correct.

Q. Did you -- since his room was right next to the office, did you observe Mr. McVeigh unload his car when he checked in?

A. Yes, sir.

Q. What, if anything, did you see him taking into his room?

A. I only noticed how the trunk opened, and he grabbed something and hold it with both arms. That's all I observed.

Q. And did you ever go into his room during those four days that he stayed there?

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A. No, sir.

Q. Did you have a conversation at all with Mr. McVeigh further on that day, Friday, April 14?

A. No, sir.

Q. Did you see him the next day on Saturday, the 15th?

A. I don't recall.

Q. Okay. Did you see his automobile present there at the motel on Saturday, April 15?

A. I don't recall specific times.

Q. All right. On the following day, April 16, did you see Mr. McVeigh, which is Easter Sunday?

A. Yes, sir.

Q. What time did you first see Mr. McVeigh on Sunday, April 16?

A. Shortly before 11 a.m.

Q. And how are you able to recall the time?

A. It's Easter Sunday. We were getting ready to go to church.

Q. And who was going to church with you?

A. My daughter and I.

Q. And your son, Eric: Was he present at the motel at that time?

A. Yes. He stayed to watch the place.

Q. And when you saw Mr. McVeigh -- with your daughter, Kathleen -- where was he?

A. He was at his car.

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- Q. And where was his car?
- A. Next to our car. We were parked in front of the side door.
- Q. Was his car parked in front of Room 25?
- A. That's correct.
- Q. Did Mr. McVeigh say anything?
- A. He said hi to my daughter. I turned, looked at him, and opened the door for my daughter to get in the car.
- Q. All right. And did you say anything to Mr. McVeigh?
- A. No, sir.
- Q. And did the two of you then go to church?
- A. Yes, sir.
- Q. After church, did you return back to the motel?
- A. That's correct.
- Q. Did you notice whether or not Mr. McVeigh's automobile was there at that time?
- A. I don't recall.
- Q. Okay. After returning home from church, what did you next do?
- A. We got ready to go out to go to Carlos O'Kelly.
- Q. What is Carlos O'Kelly?
- A. A Mexican restaurant in Manhattan.
- Q. Who went with you?
- A. Eric, Renda, Kathleen, myself.
- Q. Renda is the girl living with your daughter?
- A. Yes, sir.

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- Q. Was anyone left in the motel to run the office?
- A. No, sir.
- Q. Do you have any employees, Mrs. McGown, that help you run the office other than the maid service?
- A. No, sir.
- Q. You do that pretty much by yourself?
- A. Yes, sir.
- Q. So did you lock up the motel at that time?
- A. Yes, sir.
- Q. And you went to Carlos O'Kelly's; is that correct?
- A. That's correct.
- Q. Now, did you provide to the law enforcement officers a receipt showing that day that you had been to Carlos O'Kelly's and the time?
- A. Yes, sir.
- Q. If you would look in that envelope to the next exhibit, do you see a receipt in there?
- A. Yes, sir.
- Q. And what's the D number on that?
- A. 1704.
- Q. I'm sorry?
- A. 1704.
- Q. Okay. And is that the receipt that you provided to the law enforcement officers?
- A. Yes, sir.

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Q. Did you do that on Thursday when they were there for the first visit?

A. No, sir.

Q. What day do you recall doing that?

A. It was later on. I do not recall the date.

Q. Did those two law enforcement officers and/or others come back and interview you on a number of occasions?

A. Yes, sir.

MR. WOODS: Your Honor, we would offer into evidence D1704, the receipt that -- Carlos O'Kelly's that she's identified.

MR. MACKEY: No objection.

THE COURT: Received, D1704.

MR. WOODS: And we'd like to publish it.

THE COURT: You may.

MR. WOODS: Thank you.

BY MR. WOODS:

Q. Now, Mrs. McGown, can you read that off of the screen that's in front of you?

A. Yes, sir.

Q. And does that give a date and time at which you paid at Carlos O'Kelly's?

A. Yes, sir.

Q. What date and time is reflected on the receipt?

A. Date, 04-16-95; time, 1434.

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Q. And do you recognize what 1434 is?

A. 2:30 -- 2:34.

Q. Is that afternoon time?

A. Yes, sir.

Q. Okay. After having lunch there at Carlos O'Kelly's, what did you next do?

A. Returned home.

Q. And how long did that take?

A. Approximately half an hour.

Q. Did you notice anything in the parking lot when you arrived back to your motel that was out of the ordinary?

A. No, sir.

Q. Okay. Later on in that afternoon, did you notice a Ryder van in your parking lot or approaching your parking lot?

A. I don't recall. I only recall whenever the truck came in.

Q. You recall what?

A. I recall what -- as the Ryder truck came in, but I do not recall exact what date.

Q. Have you previously told the officers and grand jury that it was on April 16, Easter Sunday, after you returned home?

A. Yes, sir.

Q. Okay. And what did you notice when the -- where was the Ryder truck when you first noticed it?

A. As I stepped out in the office, I seen a Ryder truck with

the back backing down the driveway towards the office.

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Q. Okay.

A. And it was in very short, jerky motions. And I waited until the Ryder truck turned around the swimming pool towards the west.

Q. Was it backing towards the swimming pool?

A. It was backing, yes, sir.

Q. Okay.

A. And as the Ryder truck backed around the curve, I saw Mr. McVeigh sitting in the truck; and I told my son, "Please tell Mr. McVeigh to park under the sign."

Q. Okay. Where was Mr. McVeigh trying to park the Ryder truck?

A. The end of the west building towards the end of the swimming pool.

Q. And why did you not want him to park in that area?

A. For two reasons. On the end of this area is a high ditch of 50 feet dropoff, and the clientele who lives on that wing cannot get in and out if a big vehicle is parked there.

Q. And was there an individual back there who lives there full-time?

A. Yes, sir.

Q. And who was that?

A. Mr. Bigelow.

Q. And was the Ryder truck then moved to your knowledge?

A. Yes, sir.

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Q. Where was it moved to?

A. Right underneath the big display sign up front, right across the office.

Q. Now, on Monday, the following day, April 17, did you notice whether or not Mr. McVeigh's automobile or Ryder van was present?

A. I recall writing on the maid's list "gone" after I seen the truck early in the morning. I got up around 5, make coffee. I seen it very early; and later on, as I make the maid's list, the car and the truck wasn't there; so I write -- wrote on the maid's list "gone," which means the clientele will not return to the room.

Q. And does that mean that they're supposed to go clean the room?

A. That's correct.

Q. And who was that you instructed to clean the room?

A. Hilda Sostre.

Q. And did you have a conversation with her, then, later that day?

A. She came in later on and said somebody is in the room.

Q. In Room 25?

A. Yes.

Q. So did you do anything concerning your records as to

Q. So did you do anything concerning your records as to whether or not Mr. McVeigh was still present on Monday, April 17?

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A. No, I -- I just told the maid to take care of the room.

Q. Okay. Did you see the Ryder truck, then, on Monday coming and going at any time, Monday, April 17?

A. Not that I recall.

Q. Do you recall telling the grand jury and also the law enforcement authorities that you saw the Ryder truck several times on Monday, April 17; would be there and then it wouldn't be there?

A. It's normal people come and go, so I didn't pay any attention when he came, when he did go.

Q. Now, Tuesday morning in the early hours, did you have an occasion to see Mr. McVeigh in the Ryder truck?

A. Yes, sir.

Q. Okay. What time was that?

A. Around 4 in the morning.

Q. Okay. And what was the occasion that you were up at 4 in the morning?

A. I heard doors getting opened and closed and car doors various times, so I got up and did go to the front office to check what's going on. And the room right next on the east wing, Room 24, David King was standing at the car door with a bunch of young people; and I rolled the shades up to be able to see everything, and I saw a Ryder truck sitting underneath the sign.

Q. And did you see anybody in the Ryder truck?

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A. Yes, sir.

Q. Who did you see?

A. Mr. McVeigh.

Q. How could you tell -- what was the lighting? How could you tell someone was there and how were you able to identify them?

A. I have two flat lights. One on top of the building shines onto the parking lot, one on the sign itself on the side who (sic) shines onto the parking lot; and the door was open on the cabby and the dome light was on, so I could see the person sitting in there.

Q. What did he appear to be doing?

A. He looked at something on his lap, seemingly a map. I assumed a map.

Q. All right. Now, what did you do then after 4 a.m.? Did you go out and talk to Mr. King and his guests, or did they depart?

A. No, they did go in the car, and that's why I returned back into my house. And shortly after that, around 5:00, my alarm normally rings. I got up and make coffee, and there was no truck anymore.

Q. So at 5 a.m. your alarm goes off. And it's your habit to

make coffee for the guests and yourself in the office there?

A. Yes, sir.

Q. And through the open windows, could you determine whether or not the van was still there?

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A. The van was gone.

Q. And was that the last time that you saw Mr. McVeigh or the moving van, at 5 a.m. on Tuesday morning, the 18th?

A. Yes, sir.

Q. Okay. Now -- what is your son's birthday?

A. April 14.

Q. Okay. Is it your habit to normally walk the premises of your motel at night?

A. Yes, sir.

Q. And what -- why do you do that?

A. To keep security and know if anything is going wrong.

Q. And by "walk the premises," what do you mean by that?

A. I walk the whole length of the building very close to the doors and windows so I can observe any problems within the room.

Q. And do you recall whether or not you walked the premises on Friday, the day of your son's birthday?

A. I did not.

Q. And why was that?

A. I have had family problems.

Q. Okay. Concerning an automobile?

A. Yes, sir.

Q. Okay. Did you walk the premises, then, on Saturday and Sunday?

A. I walked it one of the following nights.

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Q. And do you recall walking by Mr. McVeigh's room, Room 25?

A. Yes, sir.

Q. Do you recall approximately what time it was?

A. Around midnight.

Q. And do you recall which day it was?

A. Sunday night, which is after midnight.

Q. Are you sure as to that date?

A. No, sir.

Q. All right. Do you recall telling law enforcement officials it was on Saturday night?

A. I don't recall.

Q. Okay. At any rate, Saturday or Sunday night, you heard a conversation. Is that correct?

A. That's correct.

Q. Did you walk by rapidly, or did you stop, or did you pause, or what did you do?

A. On my way from the office to 34, I walked normal pace. And as I walked by, I heard several voices in 25. And I thought about it walking to the end of the building; and it's supposed

to be one voice, but it could be a TV in there going. So on my way back I decided to walk very slow by the door and the window to hear better. And I could hear several voices in the room because the seating is right next to the window, and I could hear the voice on the window side talking and the answering voice right across where the bed is, and the TV is to your left

Lea McGown - Direct

side against the bathroom wall.

Q. Okay. From listening to the voices, could you determine how many people were talking?

A. I know by (sic) sure it was two people and possible three.

Q. And did you recognize Mr. McVeigh's voice?

A. I do believe the voice on the window was Mr. McVeigh's.

Q. All right. Did you recognize the other voice or voices?

A. Not clearly.

Q. How would you describe the other voice?

A. Kind of velvety deep voice.

Q. And that's the description you gave the law enforcement authorities; is that correct?

A. Yes, sir.

Q. Had you heard the voice before, the velvety deep voice?

A. I don't recall.

Q. Do you recall whether or not you told the law enforcement authorities that this voice sounded like the one that had called Mr. McVeigh two or three times previously while he was staying there?

A. It could be the same voice.

Q. Now, when a -- one of your tenants in the room receives a phone call, does the call come in to you there in the office and then you move it over or dispatch it over to the room?

A. That's correct.

Q. So if an individual is receiving a phone call, you answer

Lea McGown - Direct

it first?

A. Yes, sir.

Q. And did Mr. McVeigh receive several phone calls?

A. Yes, sir.

Q. Do you recall how many?

A. No. It was a few phone calls.

Q. Okay. And did you describe this voice as someone that had called him on two or three occasions earlier?

A. It could be the same voice.

Q. Okay. Now, why did you provide the law enforcement officials your receipt for Sunday, April -- Sunday -- Easter Sunday, the Carlos O'Kelly's receipt?

A. Later on, I do not recall the exact date.

Q. No. Why did you give it to them?

A. Because I was asked what time I returned from O'Kelly's. To check with myself, I pulled the receipt out of my file.

Q. Have you earlier described to law enforcement authorities

Q. Have you earlier described to law enforcement authorities that you saw Mr. McVeigh in the Ryder van shortly after returning from that Easter lunch?

A. I tied it to the activity of my son getting ready to work on the pool.

Q. And when your son came back from the Easter Sunday, did he change clothes to work on the pool?

A. That's correct.

Q. Now, have you ever seen Terry Nichols before, Mrs. McGown?

Lea McGown - Direct

A. No, sir.

Q. Didn't see him there present with Mr. McVeigh at any time that he was there?

A. No, sir.

Q. In April, '95?

A. No, sir.

MR. WOODS: Thank you very much, Mrs. McGown.

THE COURT: Mr. Mackey.

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

THE COURT: Yes.

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Good morning, Ms. McGown.

A. Good morning, Mr. Mackey.

Q. You and I have met before?

A. Yes, sir.

Q. And I'm going to ask a question that might reveal the obvious. Were you born in Germany?

A. Yes, sir.

Q. Fell in love with a U.S. soldier?

A. Yes, sir.

Q. And came to Kansas in 1976?

A. That's correct.

Q. Divorced in 1981?

A. Correct.

Lea McGown - Cross

Q. And been raising your two kids ever since?

A. Yes, sir.

Q. Have owned and operated the Dreamland Motel since August, 1988?

A. That's correct.

Q. Place of business and your home?

A. Yes, sir.

Q. Throughout that time?

A. Yes, sir.

Q. I have some other pictures that I'd like for you to identify, Ms. McGown. Take a look, please, at Government's Exhibit -- we'll start with 288.

THE COURT: I'm sorry. I missed the number.

MR. MACKEY: 288.

THE COURT: Thank you.

BY MR. MACKEY:

Q. Do you find that, Ms. McGown?

A. Yes, sir.

Q. Is that another photograph of the front of the Dreamland Motel?

A. That's correct.

Q. Concentrating on two doors immediately west of the office area?

A. That's correct.

MR. MACKEY: Your Honor, we'd move to admit

Lea McGown - Cross

Government's Exhibit 288.

MR. WOODS: No objection.

THE COURT: Received, may be shown.

BY MR. MACKEY:

Q. Ms. McGown, with the pen, just take a moment and orient the jury as to where the office area is as shown in this photograph.

And moving west, do we see a white door?

A. Yes, sir.

Q. All right. Circle that, please.

A. Not quite.

Q. We got the idea.

And immediately to the left of that on the photograph -- that would be again moving west -- what is that room?

A. 25.

Q. Now, the white door, Ms. McGown, leads where?

A. Into the laundry room.

Q. And that is not a guest room?

A. No. And into my house.

Q. Do you use that door on repeated occasions?

A. This is our in-and-out door.

Q. It's like your front door?

A. Yes.

Q. You can get into your home and to your office from that

Lea McGown - Cross

door?

A. Yes, sir.

Q. Do you use that door in fact more often than the front door to the office area itself?

A. We don't use the front office door. We use the side door.

Q. So is the closest motel door as shown in this photograph to the door that you use most often Room 25?

A. Yes, sir.

Q. And circle that, please, for the jury as well.

Let's turn now, Ms. McGown, to Government's Exhibits 290 and 289. They should be together there. A couple more photographs.

Do you have those as well? And also 292. Do you

find

that as well?

You have all three of those?

A. Yes, sir.

Q. Do each of those photographs show views from inside the office area looking out into various parts of the parking lot of the Dreamland?

A. Yes, sir.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibits 289, 290, and 292.

MR. WOODS: No objection.

THE COURT: They are received.

BY MR. MACKEY:

Lea McGown - Cross

Q. Let's start with 280 -- excuse me -- 292, please. See that in front of us?

A. Yes, sir.

Q. The door that appears in the far right-hand corner of that photograph: Is that the door through which guests come and go?

A. Yes, sir.

Q. And mark on the photograph where the registration counter is. That would be the far right-hand part of this photograph?

A. Yes, sir.

Q. So if I were a guest coming into your motel, I'd walk through the door, turn to my left?

A. Yes, sir.

Q. Would I find a registration counter running perpendicular then to the wall of windows we see?

A. Yes, sir.

Q. What do we see in the foreground of this photograph? What's there?

A. The windows and the seating.

Q. And is that provided for your guests?

A. Yes, sir.

Q. What sorts of things do you keep in that area?

A. The coffee machine, candy machine, and the ice machine.

Q. And how large an area is that, the waiting area?

A. It's a small area.

Q. And can you gain access to your home through that same

Lea McGown - Cross

area?

A. There is a door leading into the lobby from my living room.

Q. Let's take a look now, Ms. McGown, at Government's Exhibit 290. And tell us the view that we are showing the jury at this time. Where are we standing to see this view?

A. Looking out to the west wing from 25 through 34.

Q. So if I were at your registration counter behind the counter as if I were you, if I were turning around, I'd see this view; is that correct?

A. Yes, sir.

Q. Which direction are we looking?

A. West.

Q. In this photograph?

A. West, towards the bridge and towards --

Q. Would this be your view as you stood behind the registration counter looking towards Room 25?

A. Yes, sir.

Q. Now, in this particular photograph, there is a car down there, looks to be yellow, beige in color. Do you recognize that vehicle?

A. Yes, sir.

Q. And in April of 1995, including the time period that Mr. McVeigh was there, was that particular vehicle parked on a daily basis at various places throughout the Dreamland area?

A. Yes, sir.

Lea McGown - Cross

Q. Let's take a look now at 289. And we shift our line of sight just a little bit in this photograph?

A. Yes, sir.

Q. And now what are we seeing?

A. You look out to the south and partially to the west towards the interstate and towards the bridge and 57.

Q. So we're still looking west?

A. Yes, sir.

Q. But we've shifted our view just a little bit left from your --

A. Southwest.

Q. There is a driveway, is there not, that appears in this exhibit, 289?

A. Yes. That's the west driveway.

Q. That is the driveway that you observed the Ryder truck jerk, jerk, jerk, backing down the driveway?

A. Yes, sir.

Q. What sort of grade, if any, is there between the level of the Dreamland Motel and the Flint Hills Boulevard?

A. Several feet, 7 or 8.

Q. Thank you, Ms. McGown.

Mr. Woods asked you to look at a diagram of some areas

inside Junction City, including some businesses. Do you remember that photograph?

A. Yes, sir.

Lea McGown - Cross

Q. The diagram? And there was a couple sites for the Firestone store and the J & K Bus Depot. Do you remember that?

A. Yes, sir.

Q. You've been to both those places?

A. Yes, sir.

Q. If you stand at the Firestone store in downtown Junction City, can you see the bus depot?

City, can you see the bus depot.

A. If I go to the alley on the back of the building at the parking, where they park the cars.

Q. And if you stand at that location at the Firestone in downtown Junction City, can you see the pay phone at the bus depot?

A. Yes, sir.

Q. You recall April 14, 1995, for a number of reasons. Correct?

A. Yes, sir.

Q. It's your son's birthday?

A. Yes, sir.

Q. And they put up the barricades at the bridge that would lead to your place of business; correct?

A. Yes, sir.

Q. How long were the barricades up before they actually tore down the bridge?

A. Close to two weeks.

Q. Incidentally, Ms. McGown, do you know where the Sunset

Lea McGown - Cross

Motel is?

A. Yes, sir.

Q. And where?

A. West of me right over the bridge, right over the ditch on the other side. It's visible from my place.

Q. As you're heading back into Junction City, is it the first motel you come to as you cross that bridge?

A. Yes, sir.

Q. You were asked some questions about your clientele at the Dreamland. Do you recall those questions?

A. Yes, sir.

Q. And you know about business in Junction City. You've been on the Board of Tourism and the Chamber of Commerce; correct?

A. Board of Tourism, Preservation Board and Public Health.

Q. And it is a community, we'd agree -- depends in large part upon business derived from Fort Riley?

A. Yes, sir.

Q. A lot of military traffic?

A. Yes, sir.

Q. And that's business that comes your way, is it not, with military personnel coming in and out of the Dreamland Motel?

A. Yes, sir.

Q. And with those ins and outs, those individuals bring in large moving vehicles, do they not?

A. Yes, sir.

Lea McGown - Cross

Q. And have you estimated before that on 20 to 60 occasions every year you'll have a guest who will bring in a large moving vehicle?

A. Yes, sir.

Q. Is that a correct estimate?

A. Yeah.

Q. When Mr. McVeigh checked in on Friday, April 14, 1995, did you ask him whether he was in the Army?

A. No, sir.

Q. But you do recall part of the conversation included his intent to bring in a moving truck and moving van?

A. Correct.

Q. Do you remember any instructions you gave to Mr. McVeigh at that moment in time about what he should do with that vehicle?

A. Yes. I told him to park it under the sign and pointed at the sign and showed him where.

Q. Ms. McGown, as part of your cooperation with law enforcement, did you provide a listing from your motel records of all phone call activity recorded by your computer on-site?

A. Yes, sir.

Q. And let me show you Government's Exhibit 295, if I can.

Is that the list of telephone activity at the Dreamland Motel for the time period including that of the stay of Mr. McVeigh?

A. Yes, sir.

Lea McGown - Cross

Q. And at the Dreamland, is every outgoing phone call recorded by your computer?

A. Yes, sir.

Q. Does it record information about incoming phone calls?

A. No, sir.

Q. Have you reviewed Government's Exhibit 295 before coming to court today?

A. Yes, sir.

Q. And does it contain or include entries concerning phone activity from Room 25?

A. Yes, sir.

Q. During the time period of Mr. McVeigh's stay?

A. Yes, sir.

MR. MACKEY: Your Honor, I'd move to admit Government's Exhibit 295.

MR. WOODS: No objection.

THE COURT: Received, 295; may be shown.

BY MR. MACKEY:

Q. You'd agree, Ms. McGown, this detail is a little bit too small to really show the jury; correct?

Can you read it?

A. Yes, sir.

Q. Feel free to pull out of Government's Exhibit 295, from the plastic, the document itself and turn to Saturday, April 15, 1995.

Lea McGown - Cross

Do you see in front of you highlighted for the members

of the jury from your records two entries for a phone call -- two phone calls I should say from Room 25 to No. 238-8888? Do you see those?

A. Yes, sir.

Q. Would you circle on the screen, Ms. McGown, what it is about the record that tells you those calls were made from Room 25?

A. The No. 25 indicating it.

Q. Do you recognize the phone number 238-8888?

A. No.

It's a Hunam express phone number to restaurant, delivery restaurant.

Q. Is that the Hunam Palace Chinese restaurant in Junction City?

A. That's correct.

Q. In April of '95, did you at your desk -- or in the waiting area have brochures of various restaurants?

A. Yes, sir.

Q. Including the Hunam Palace?

A. Yes, sir.

Q. According to this record, were the two phone calls made to that Hunam Palace restaurant on Saturday evening sometime, early in the evening?

A. Yes, sir.

Lea McGown - Cross

Q. Circle for the jury the time of those two phone calls.

Ms. McGown, do you know whether the time that's printed or was printed on your record by your computer was precisely accurate on April 15, 1995?

A. No. It's quite often half hour to an hour off.

Q. Do you recall after the bombing doing a test call to determine that your clock was approximately 15 minutes fast?

A. That's correct.

Q. I want to direct your attention to another entry for Saturday, April 15. Do you see that highlighted before the jury?

A. Yes, sir.

Q. Tell us, please, what's shown there.

A. April 15, 9:50, (800) 793-3377, station to station, Room 25, 36 seconds, no payment.

Q. If a guest is in a room and makes a phone call to a 1-800 number, is that information -- or was it then recorded by your computer?

A. Yes, it is; correct.

Q. Is that all the information that the computer records, that which is shown on this piece of paper?

A. That's correct.

Q. Can you tell what time of morning the phone call from Room 25 was made to that particular number?

A. Printer shows 10 minutes before 10.

Lea McGown - Cross

Q. With the adjustment, it would be approximately 9:35 or thereabouts?

A. Yes.

Q. Let me show you an entry from Government's Exhibit 1888 for Saturday, April 15, 1995. Can you read that?

A. Yes, sir.

Q. This shows, does it not, that that phone call originated from the Dreamland Motel to the residence of Terry Nichols at or about 9:36 that morning; correct?

A. That's correct.

Q. You see the phone number under the Dreamland Motel?

A. Yes, sir.

Q. And was that your phone number on April 15, 1995?

A. That is our phone number, one of the lines.

Q. Let's return our attention again with the phone records to Monday, April 17, 1995. I'll show you a record from your record, 295. Do you see what's highlighted there?

A. Yes, sir.

Q. Can you tell from this record that the guest in Room 25 dialed the same 800 number that you previously told us about?

A. Yes, sir.

Q. On Monday, April 17?

A. Yes, sir.

Q. Again, about 9:35 -- excuse me. Earlier than that. About 9:25 that morning?

A. 9:40, yes.

Q. Let me show you a page from Government's Exhibit 1888 for the same day. You see the first entry for Monday, April 17?

A. Yes, sir.

Q. The phone call at 9:25 a.m. lasting 57 seconds placed from your motel to the residence of Terry Nichols?

A. That's correct.

Q. See that?

A. Yes, sir.

Q. Ms. McGown, on April 20, 1995, do you recall being visited by two law enforcement officers, as Mr. Woods has elicited?

A. Yes, sir.

Q. They asked you some questions about whether a man by the name of Kling had been a registered guest at your motel?

A. Yes, sir.

Q. Did you check your records and determine that nobody by that name had registered at the Dreamland Motel?

A. Nobody was registered with that name.

Q. Do you recall them asking you some questions about whether any guests had recently been at your motel driving a Ryder truck? Do you recall them asking that question?

A. No, sir.

Q. Do you remember them asking you whether you had a guest who you had seen driving a Ryder truck at any point in time?

A. Yes, sir.

Lea McGown - Cross

- Q. And did Mr. McVeigh's name come to your mind at that time?
- A. Yes, sir.
- Q. And at that point in time, Ms. McGown, did you reach into your records and find the registration card that we've shown to this jury previously?
- A. Yes, sir.
- Q. It was there on hand?
- A. Yes.
- Q. And at that time, did you give a copy or perhaps an original, then, to the law enforcement officers?
- A. I gave the original.
- Q. And kept a copy for your own records?
- A. Yes, sir.
- Q. On that same occasion, Ms. McGown, they showed you two composites. Recall those questions by Mr. Woods?
- A. Yes, sir.
- Q. Artist's drawings of two male individuals?
- A. Yes, sir.
- Q. You looked at Un. Sub. No. 1 carefully?
- A. Yes, sir.
- Q. And you told the law enforcement officers, "That picture bears a real likeness to a man who had stayed in my motel for several days"?
- A. I said, "This looks like very much like Mr. McVeigh who stayed in 25."

Lea McGown - Cross

- Q. And then you gave the same degree of attention, did you not, to the second photograph -- or excuse me, the second composite?
- A. Yes, sir.
- Q. And do you remember telling the law enforcement officers, "That's nobody I've seen"?
- A. Yes, sir.
- Q. Ms. McGown, you've been asked any number of occasions before your appearance here this morning about when it was that you first saw Tim McVeigh in a Ryder truck.
- A. Yes, sir.
- Q. And your testimony today is what date did you first see Mr. McVeigh in a Ryder truck?
- A. Sunday or Monday.
- Q. Do you recall being asked questions about what event was going on such that you fixed in time the sighting of Mr. McVeigh in a Ryder truck on a Sunday?
- A. Because my son changed clothes. We had been working on the pool for 14 days, and the only way to change clothes is after you have had different clothes on. That's what I tied it to.
- Q. On Easter Sunday, in fact, the family dressed up and went out to dinner in Manhattan?
- A. That's correct.
- Q. And when you came back, in fact, Eric worked on the pool?

A. Yes, sir.

Lea McGown - Cross

Q. Now, the pool project took a number of days, did it not?

A. Yes, sir.

Q. And the next day, on Monday, he would have been at school, would he not?

A. Yes, sir.

Q. Would have gotten home sometime after 3 p.m., would he not?

A. At 3:15, yes, sir.

Q. Did Eric McGown on Monday afternoon, April 17, change his clothes, his school clothes and go work on the pool?

A. Yes, sir.

Q. Ms. McGown, as you've reflected on the events involving you and Tim McVeigh, you have relied, have you not, on the entries on that registration card that you made on April 14 as the best evidence of when Tim McVeigh first checked in your motel; correct?

A. I remember because my son has had birthday and I write the dates down.

Q. And that was a record that you made on the day that he checked in?

A. Yes, sir.

Q. And that you had on hand several days later when the law enforcement officers came back to ask you?

A. Yes, sir.

Q. Have you ever seen any record of when it was that Tim McVeigh first rented a Ryder truck?

Lea McGown - Cross

A. No, sir.

Q. Ms. McGown, you told us earlier that you live and work at the Dreamland Motel; correct?

A. Yes, sir.

Q. Which means you're there virtually every hour of the day?

A. Yes, sir.

Q. In fact, it's very uncommon for you to be away from the Dreamland Motel?

A. I try not to.

Q. Given that, Ms. McGown, you have frequent opportunity to see the guests?

A. Yes, sir.

Q. And anybody who comes to see those guests at the Dreamland; correct?

A. Yes. I go in front some, in the front office, yes, sir.

Q. It's part of your business interest to keep in mind or keep tabs on who it is that's using your business premises; correct?

A. I step quite often in the front office if I hear noise or anything.

Q. And you told us earlier with the aid of the photograph that the door that you use when you come and go at the Dreamland is the one right next to Room 25; correct?

A. Correct.

Q. So if you need to run out to the grocery store, you're going in and out of that door; correct?

Lea McGown - Cross

A. That's correct.

Q. If you need to run down and pick Kathleen at the high school up, that's the door you're going to use?

A. Yes, sir.

Q. If you're going to run down to the hardware store and pick up some lightbulbs for the motel, that's the door you're going to use?

A. Yes, sir.

Q. On frequent occasions, you're going to be coming and going within a few feet of Room 25; is that correct?

A. Yes, sir.

Q. Ms. McGown, let me direct your attention back to the composite -- I'll ask that it be displayed -- of Un. Sub.

No. 2.

THE COURT: Is this D1731?

MR. MACKEY: Yes, it is, your Honor.

THE COURT: All right.

MR. MACKEY: It's been previously admitted as Defense

Exhibit 1731.

BY MR. MACKEY:

Q. Ms. McGown, this is the composite that the law enforcement officer showed you Thursday afternoon, a few hours after the bombing in Oklahoma City, is it not?

A. Yes, sir.

Q. This is the composite that you looked at and studied in

Lea McGown - Cross

your waiting area on that afternoon. Is that correct?

A. Yes, sir.

Q. Now, thinking back on all of the opportunities you had to see and observe the people in and around Room 25 at the Dreamland Motel, had you ever seen this person?

A. No, sir.

Q. Take a look, Ms. McGown, as well at Government's Exhibit 1629. Do you have that up there in front of you?

A. Yes, sir.

Q. It's not yet in evidence, Ms. McGown, so I'm simply going to ask you to study the photograph -- excuse me -- the composite. See that? Government's Exhibit 1629?

A. Yes, sir.

Q. And I'd ask you the very same questions about this composite as the one I've just showed you. Had you ever seen a person of this likeness at the Dreamland Motel at any point in time during the stay of Tim McVeigh?

A. No, sir.

MR. WOODS: I'm sorry. Was that one shown to the jury?

MR. MACKEY: No. It's not yet admitted.

MR. MACKKEY: No. Is it not you admitted.

THE COURT: It's not in evidence. 1629 wasn't displayed.

BY MR. MACKKEY:

Q. Ms. McGown, as you reflect on the events that took place at

Lea McGown - Cross

your motel back in April, 1995, are you positive that Tim McVeigh checked in as a guest on Friday, April 14?

A. Yes, sir.

Q. And are you positive that you saw him leave in the early morning hours of Tuesday, April 18?

A. Yes, sir.

Q. Are you positive that when he drove in, it was in a Mercury?

A. Yes, sir.

Q. And are you positive that you did not see that Mercury at any point in time after Easter Sunday, 1995.

A. Yes, sir.

Q. And are you positive, Ms. McGown, that the last vehicle that you saw Tim McVeigh in was a Ryder truck outside your window in the early morning hours of Tuesday, April 18?

A. Yes, sir.

MR. MACKKEY: I have nothing else.

THE COURT: Mr. Woods, do you have any follow-up?

MR. WOODS: Yes, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. WOODS:

Q. Ms. McGown, Mr. Mackey asked you is it true that you and he have met a number of times. Is that correct?

A. Yes, sir.

Lea McGown - Redirect

Q. And have you met a number of times?

A. Yes, sir.

Q. How many times would you estimate that you've met with Mr. Mackey?

A. 10 times.

Q. How many times did you meet with the FBI agents?

A. 30 times.

Q. Okay. And after the event occurred in April, '95, did you decline to be interviewed by representatives from the defense side?

A. Yes, sir.

Q. Okay. And until yesterday -- was the first time that we were able to talk; is that correct?

A. Yes, sir.

Q. Okay. Do you recall going to Oklahoma City in August of '95, shortly after the bombing, and testifying in front of a grand jury?

A. I recall going to Oklahoma.

Q. Okay. And do you recall the date being August 2 of '95?

A. No, sir.

Q. Do you know which day it was?

A. No.

Q. Okay. Is August approximately the time that you went to Oklahoma City?

A. It was high summertime, yes.

Lea McGown - Redirect

Q. Did you meet with some prosecutors there before you went in to testify to the grand jury?

A. I don't recall.

Q. Okay. Do you recall the people that were inside the grand jury, the prosecutors that were questioning you when you were inside the grand jury?

A. No, sir.

Q. Okay. Who do you recall questioning you when you went inside the grand jury?

A. I think it was a female that asked questions.

Q. Did she ever identify herself as an assistant U.S. attorney to you?

A. I don't recall.

Q. Okay. And had you met with that lady previously to going into the room there with the grand jury?

A. I don't recall.

Q. Do you recall going over your statements that the FBI had taken from you refreshing your memory before you went into the grand jury?

A. I don't recall those events.

Q. Do you recall being asked the question there in grand -- were you placed under oath? Do you recall that?

A. Yes, sir.

Q. And you recall some individuals that were sitting in front of you that were members of the grand jury?

Lea McGown - Redirect

A. Yes, sir.

Q. And the lady was asking you questions; is that correct?

A. That's correct.

Q. Do you know whether or not she worked for the Government?

A. No, sir, I don't recall that.

Q. All right. Was there just one person that was asking you questions in front of the grand jury?

A. I do believe so.

Q. Okay. Do you recall being asked the question: "Did you see Mr. McVeigh that Easter Sunday when you got back?" Do you recall that question?

A. No, sir.

Q. Do you recall giving the answer: "Yes, later on that afternoon, I seen a Ryder truck. My son and I -- we stepped in front office to -- I don't know -- to discuss something; and we stood there and we seen a Ryder truck with the back where the door is coming down the driveway very jerky. And right away --

no, that's Mr. McVeigh. Why, I don't, because probably he asked me earlier"?

Do you recall making that statement to the grand jury that you saw McVeigh in the Ryder truck on Sunday?

A. Yes, sir.

Q. Okay. And was your memory fresher at that time in August of '95 than it is today?

A. I do believe so.

Lea McGown - Redirect

Q. Pardon me?

A. I think so.

Q. Okay. And was your memory fresh when the FBI was interviewing you on Thursday and Friday and Saturday, April 20, and -- Friday, the 21st, and Saturday, the 22d, concerning events of that week?

A. Yes, sir.

Q. Was that the time that your memory was the freshest?

A. Yes, sir.

Q. Okay. And you mentioned that the agents was Mark Bouton with the FBI?

A. Yes, sir.

Q. And you came to know him fairly well because he interviewed you a number of times; is that correct?

A. Correct.

Q. Did you already know Detective Sergeant Gary Burgess with the police department there in Junction City?

A. Yes, sir.

Q. How long had you known him?

A. Several years.

Q. And do you recall on April 25, which would be the following Tuesday, telling Agent Mark Bouton that you first saw the yellow Ryder truck parked at the Dreamland Motel in Junction City, Kansas, on Sunday, April 16, "when she came back to the Dreamland Motel after going to church and then to a restaurant

Lea McGown - Redirect

in Manhattan, Kansas. She and her son, Eric McGown, her daughter, Kathleen McGown, and Kathleen's friend, Renda Truong, all ate together at Carlos O'Kelly's restaurant in Manhattan, Kansas"?

Do you recall telling Agent Bouton that on Tuesday, April 25?

A. No, sir.

Q. And do you recall telling Detective Sergeant Gary Burgess and Mark Bouton that "on Monday, April 17, at about 7 a.m. to 8 a.m., she noticed that neither the Ryder truck which she associated with Tim McVeigh or the yellow car he drove when he arrived at the motel were parked at the motel lot; therefore, she thought McVeigh had left a day early. She wrote 'gone' on the maid's list to indicate that the maid should clean the room. She threw away this maid's list and no longer has the list since the trash was picked up"?

1150 SINCE THE CRASH WAS PICKED UP :

And that -- do you recall telling the agents that?

A. Yes, sir.

Q. And that again is Ms. Sostre?

A. Yes. Hilda Sostre.

Q. And she was the person who went to clean the room?

A. Yes, sir.

Q. Now, do you recall being asked in the grand jury again back in August, 1995 -- do you remember during the course of that day if you saw the truck again or another Ryder truck and your

Lea McGown - Redirect

answer, "On Monday?"

And the question: "Yes, on Monday."

MR. WOODS: And this is page 32 of her grand jury testimony.

BY MR. WOODS:

Q. And your answer was, "I saw it setting there, but it came and stood there. And, you know, he was like most people who bring moving trucks: They come and go to empty buildings. I figured he has an apartment somewhere and he's packing up and taking a break, coming back, taking a map, going back out there. That's what I figured."

"All right. But we're focusing now just on Monday.

Would that be true of Monday?"

"Answer: Yes."

And the question was, "Was it your impression that --"

And you answered that "He's packing up."

The question continued, "There was a truck there and he left and he came back?"

Your answer was, "He comes back in and he brings the

truck, and then he leaves again and then he comes back in."

Do you recall giving those answers to the grand jury back in August, '95?

A. Yes.

Q. Concerning Monday's activities?

A. Yes, sir.

Lea McGown - Redirect

Q. Now, there is one other exhibit I wanted to go over with you that Mr. Mackey talked on. In that envelope there, there is a summary chart of the phone calls in the defense exhibit. It's a color chart showing the four phone calls.

Yes. And what's the defense number on that?

A. 1706.

Q. Okay. And did you help compile that chart by going through your computer records and singling out the four calls for Room 25?

A. I only recall providing the phone records and marking 25 so it's easily visible.

Q. And that is an accurate summary that the Government prepared showing the four calls?

A. Yes, sir.

MR. WOODS: Your Honor, we would move into evidence Defendant's Exhibit 170 -- what was that number?

THE WITNESS: 6.

MR. MACKEY: No objection.

THE COURT: All right. Received, may be used. 1706.

BY MR. WOODS:

Q. Now, this gives us a little bit better summary of the four calls. As Mr. Mackey pointed out, there was a call on Saturday, the 15th, to an 800 number. And you recall when you look at that record that was on the screen, it showed a duration of "00" for seconds, the duration of the call?

Lea McGown - Redirect

A. I don't recall the duration.

Q. Okay. We'll come back to that in a second.

Then there were two calls to Hunam Palace; is that correct?

A. Yes, sir.

Q. And you have brochures in your room about that restaurant and the menu?

A. I have brochures in the front office.

Q. There is no restaurant connected with your motel; is that correct?

A. Yes, sir.

Q. So you have brochures in case anybody wants to phone an order out?

A. Yes, sir.

Q. And you recognize that number as being the Hunam Palace?

A. Yes, sir.

Q. And you had earlier pointed out on the map where that is; is that correct?

A. Yes, sir.

Q. And then there is a last call on the 17th in the morning, 9:40 in the morning, to an 800 number. Is that correct?

A. Yes, sir.

Q. I'm going to put in front of you what is already in evidence as Government's Exhibit 555.

THE COURT: 1888?

Lea McGown - Redirect

THE COURTROOM DEPUTY: Oh, 1888.

MR. WOODS: We have it marked --

THE COURT: I think 1888 comes out of 555.

MR. WOODS: Thank you, your Honor.

BY MR. WOODS:

Q. Now I'm going to direct your attention there to that call Mr. Mackey asked you about, the call on the morning of the 15th, which would have been Saturday. Is that correct?

A. Yes, sir.

Q. Okay. And he asked you about the first call there in the morning to the residence of Terry Nichols. Do the records of

the Government's summary there reflect that the duration of the call was "00"?

A. It reflects on this record.

Q. Okay. And then on the 17th, the other call, Mr. Mackey did bring out the duration of that, and it was 57 seconds, a call to Terry Nichols' residence. Is that correct?

A. Yes, sir.

MR. WOODS: Thank you, Mrs. McGown.

No further questions, your Honor.

MR. MACKEY: Just three questions, your Honor.

THE COURT: Recross? All right.

REXCROSS-EXAMINATION

BY MR. MACKEY:

Q. Ms. McGown, in my oversight, we'll go back to that phone

Lea McGown - Recross

record, 1888, on Monday, April 17. And both myself and Mr. Woods have asked you about that phone call from the Dreamland to the residence of Terry Nichols, that first entry; correct?

A. Yes, sir.

Q. The second entry shows a phone call to the Dreamland Motel on that same day, does it not?

A. Yes, sir.

Q. At approximately 10:35 p.m.?

A. Yes, sir.

Q. And that has a duration as well of slightly less than a minute?

A. Yes, sir.

Q. All right. Ms. McGown, you have been asked before to describe the Ryder truck you saw Mr. McVeigh in while he was at the Dreamland?

A. Yes, sir.

Q. Have you previously described it as the second largest -- that is, from the top down -- the second largest Ryder truck available?

A. That's correct.

Q. At any time while Mr. McVeigh was a guest at your motel, did you ever see his Mercury and a Ryder truck at the same time?

A. No, sir.

MR. MACKEY: Nothing else.

MR. WOODS: Just one question.

THE COURT: All right.

MR. WOODS: It's not a tennis match, your Honor.

REDIRECT EXAMINATION

BY MR. WOODS:

Q. Ms. McGown, you testified that you have no employees; is that correct?

A. That's correct.

Q. And you work every day of the year except two; is that correct?

A. Yes, sir.

Q. And that's Easter and Christmas?

A. Easter half day, Christmas half day.

A. Easter nail day, Christmas nail day.

Q. Is that how you're able to remember the events of Easter Sunday?

A. Yes, sir.

MR. WOODS: Thank you. No further questions, your Honor.

MR. MACKEY: Nothing else.

THE COURT: May she be excused?

MR. WOODS: Yes, your Honor.

THE COURT: Agreed?

MR. MACKEY: Yes, your Honor.

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

MR. WOODS: Dave Ferris. Mr. Neureiter will handle the questions.

THE COURT: Thank you. Mr. Ferris.

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

(David Ferris affirmed.)

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

Are you okay?

THE WITNESS: Yes.

THE COURT: Mr. Neureiter.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Mr. Ferris.

A. Hi.

Q. If you could lean forward and speak into that microphone. It's important that everybody be able to hear you.

Are you a little nervous today?

A. Yes.

Q. There is no monopoly on nerves.

Do you drive a cab for a living, Mr. Ferris?

A. Yes, I do.

Q. Do you do that in Junction City, Kansas?

A. Yes, I do.

Q. For what company do you drive your cab?

David Ferris - Direct

A. Bell Taxi.

Q. How long have you done that?

A. 30 years, 3 months.

Q. Let me show you a picture that's been previously admitted as Government's Exhibit 318. It should appear on that screen in front of you.

Do you recognize that individual, sir?

A. Yes, I do.

Q. How do you recognize that individual?

A. I picked him up in the cab on April 17, '95.

Q. There came a time when you gave this individual a ride in your cab?

A. Right.

Q. Have you subsequently come to learn that individual's name is Timothy McVeigh?

A. Right.

--- --g---

- Q. Now, you say you gave him a ride in your cab?
A. Right.
Q. What time or -- and what date, first, did you give him a ride in the cab?
A. April 17, '95.
Q. At what time did you give Mr. McVeigh a ride?
A. At 3:29.
Q. Excuse me?
A. 3:29.

David Ferris - Direct

- Q. 3:29?
A. Uh-huh.
Q. Okay. Where did you pick Mr. McVeigh up?
A. Shop 'n Stop, Grandview Plaza.
Q. You're going to have to go a little slower.
A. Shop 'n Stop at Grandview Plaza.
Q. Shop 'n Stop --
A. Uh-huh.
Q. -- at Grandview Plaza.
A. Uh-huh.
Q. Is that what you said?
All right. Now, where did he ask to be dropped off?
A. McDonald's South.
Q. How many Donald's are there in Junction City?
A. Two of them.
Q. And what are their names? What do you refer to them as?
A. Well, I call them Mickey D's or McDonald's or 6th Street off Washington -- we call them.
Q. So there are two McDonald's, and there is one on 6th Street?
A. We call it sometimes Mickey D's on I-70. McDonald's or whatever like that and got --
Q. Okay. Just to clarify, there are two McDonald's; right?
A. Uh-huh.
Q. The first one is called McDonald's on 6th Street?

David Ferris - Direct

- A. Right.
Q. And there's another one called the McDonald's on I-70?
A. That's south.
Q. And you also call that one McDonald's South?
A. Right.
Q. Okay. Let me show you a picture which has not previously been admitted, and tell me if you recognize this. It's Defense Exhibit D1733.
A. Yes, I do.
Q. And what do you recognize that as?
A. McDonald's South.
Q. Is that the one on I-70?
A. Right.

MR. NEUREITER: Move to admit.

MR. MACKEY: No objection.

THE COURT: D1733 received, may be shown.

BY MR. NEUREITER:

Q. Is that the McDonald's that Mr. McVeigh asked to be dropped off at?

A. Yes.

Q. And did you drop him off at that McDonald's?

A. Yes, I did.

Q. Do you remember what time you dropped him off?

A. A 10-minute drive.

Q. So you picked him up around 3:30 and it's a 10-minute

David Ferris - Direct

drive, so around 3:40, you think?

A. Right.

Q. Okay. How much did he pay you -- or did he pay you?

A. Yes, he did.

Q. How much did he pay you?

A. 6 -- excuse me. 3.65.

Q. \$3.65?

A. Uh-huh.

Q. Do you remember how he paid you?

A. 5.

Q. Gave you a 5?

A. Right.

Q. Did he give you any tip?

A. No.

Q. You had to give him his change back?

A. Uh-huh.

Q. Okay. I want to show you another exhibit which has been marked and admitted as Defense Exhibit 1697. Have you seen this before?

A. Yes.

Q. And what is that?

A. That's the map to Grandview Plaza.

Q. Is that a map of Junction City, Kansas?

A. No, it's not. It's the Dreamland and --

Q. Let's go through this slowly. There are a number of

David Ferris - Direct

locations indicated on this map; is that right?

A. Yeah. There is Plaza, Junction City.

Q. All right. Let me ask the questions and you answer. Okay? There are a number of locations on this map. Right?

A. Uh-huh.

Q. And I'm indicating with this pen here a shaded gray area -- or tan area, I guess. And there is a word there that says "Dreamland Motel."

A. Right.

Q. Do you know that the Dreamland Motel is located in that area on that map?

A. Yes, I do.

Q. And what do you call that shaded tan area? Is that called the Dream -- is that called the Grandview Plaza, that whole area?

A. Yes.

Q. And is that around the location where you picked up Mr. McVeigh on that day?

A. Right.

Q. All right. Now, I'm indicating with the pen another location here. I'm trying to, anyway. And that says "McDonald's restaurant."

A. Right.

Q. Now, you told us before that there are two McDonald's in Junction City. Is that the 6th Street McDonald's, or is that

David Ferris - Direct

the I-70 McDonald's?

A. The I-70 McDonald's.

Q. The one indicated by the pen is the I-70 McDonald's?

A. Right.

Q. And is that the McDonald's where you took Mr. McVeigh?

A. Right.

Q. Okay. Now, do you have a way of keeping track of your fares in your job there at Bell Taxi?

A. We have a log sheet.

Q. Excuse me?

A. Use a log sheet.

Q. You use a log sheet?

A. Uh-huh.

Q. And do you -- is it your job to maintain that accurately and turn it in at the end of the day?

A. Right.

Q. What happens if you don't keep an accurate log?

A. You get chewed out.

Q. Okay. I'm going to show you an exhibit, D352, which has not previously been admitted.

Do you recognize that document?

A. Yes, I do.

Q. All right. Is that your handwriting at the top?

A. Yep.

Q. That is a log sheet for April 17, 1995?

David Ferris - Direct

A. Yep.

Q. And did you prepare it?

A. Yes, I did.

Q. Did you prepare it in the ordinary course of your business?

A. Uh-huh.

MR. NEUREITER: All right. Move to admit.

MR. MACKEY: No objection.

MR. NEUREITER: Ask to publish.

THE COURT: D352 is received, may be shown.

BY MR. NEUREITER:

Q. Actually, I'm going to start at the top. Mr. Ferris, I've

Q. Actually, I'm going to start at the top. Mr. Ferris, I've got my pen up there. Can you tell me what the pen is indicating?

A. The date.

Q. What was that date?

A. April 4 -- 17, '95.

Q. Is April the fourth month of 1995?

A. Right.

Q. So it says 4-17, 1995?

A. Uh-huh.

Q. And right here: What is that?

A. My name, Dave Ferris.

Q. Did you write that?

A. Yes, I did.

Q. That's your handwriting, isn't it?

David Ferris - Direct

A. Uh-huh.

Q. And this entire log sheet was prepared on that day; correct?

A. Right.

Q. All right. Let's go down to line No. 20. We'll start on the left. And column by column, if you could just describe to the jury what those various numbers mean; and as we get to the end, we'll move it over so that they can see the whole document. So start with the first column. What is that?

A. That's the Fare 1 -- Fare 20.

Q. So Fare 20?

A. Uh-huh.

Q. And the first column that you wrote in, did you write in "one passenger"?

A. Right.

Q. All right. And if we look at the top here, we see that it says "number of passengers"; correct?

A. Right.

Q. So then go down to the next one. What -- I see some numbers.

A. 80 there, 60. That's where I add them up, you know.

Q. Is that your total?

A. That's my total.

Q. Total amount of money that you've accumulated for the whole day?

David Ferris - Direct

A. That's what it is, yes.

Q. And then what's the next column say?

A. "Plaza."

Q. "Plaza." And if we look at the top, that's the "from" column?

A. Right.

Q. And right there it says "Plaza." Now, do you write in shorthand for the locations that you pick people up?

Is "Plaza" your word for Grandview Plaza?

A. Used to be till I picked this McVeigh up. That's why I write the address out now.

Q. So now you write out the whole address?

A. Uh-huh.

Q. So you know precisely where you picked somebody up?

A. Yes. That's the reason to.

Q. But on this occasion you wrote down "Plaza," and you meant Grandview Plaza when you wrote that down; right?

A. Yeah.

Q. Okay. And the next column, if we look at the top, it says "2." Is that right?

A. Right.

Q. And then if you look down on line 20, what do those letters indicate?

A. "MD," short for McDonald's. That's South.

Q. So there is a letter "S" after the two letters "MD"?

David Ferris - Direct

A. For South.

Q. And does that indicate the I-70 McDonald's?

A. Right.

Q. The one that you've previously identified the picture of?

A. Right.

Q. And the last column is -- what is that?

A. It's 365.

Q. That's the fare that he paid you that day?

A. Right.

Q. Okay. Now, did there come a time after the bombing in Oklahoma City that you were contacted by the FBI?

A. Let's see. Let me see now. First time was --

Q. Just a yes or no is fine.

A. Yes.

Q. They came and talked to you?

A. Yes.

Q. And did they ask you about your fare -- your log sheet, April 17 from 1995?

A. Yes.

Q. Did they ask you about that line 20 on that log sheet?

A. Yes, they did.

Q. And the first time that you talked with them, did you -- did you admit to them that you had given Mr. McVeigh a ride?

A. No, I didn't.

Q. Okay. And the first time that you talked with the FBI, did

David Ferris - Direct

you tell them that you drove to the Grandview Plaza -- that the man you picked up at the Grandview Plaza was a black gentleman who worked on (sic) the McDonald's on 6th Street?

A. Uh-huh.

Q. Is that yes?

A. No.

Q. You didn't say that?

A. At the one -- down on I-70 south.

Q. You told them that you picked up a black gentleman? The first time that you talked to the FBI, is that what you told them?

A. I told them yes, and I was a little nervous, too.

Q. You were a little nervous?

A. Uh-huh.

Q. A little scared?

A. Yes.

Q. Didn't want to be involved in the bombing?

A. No, I didn't want to be involved. But they told me I hauled him -- two of them asked me down on May 10, and they told me I hauled him, but --

Q. They told you that you picked up Mr. McVeigh?

A. Uh-huh. They had checked out the trip sheets like that. And I picked him up -- one night after I was thinking about it, you know, I saw his picture, you know.

Q. Okay. Let me just ask a couple more questions. The

David Ferris - Direct

last -- the first time that you spoke with the FBI, did you sort of blurt out spontaneously, "I never picked up McVeigh"?

A. I may have.

Q. Do you remember doing that?

A. I think so, yeah.

Q. Okay. And you did it because you were scared?

A. Uh-huh.

Q. And you were nervous and you didn't want to be involved in the bombing, but you knew you had given Tim McVeigh a ride; right?

A. Uh-huh.

MR. NEUREITER: Okay. No further questions.

THE COURT: Any questions, Mr. Mackey?

MR. MACKEY: Just a few.

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Mr. Ferris, in all your years of being a taxi driver, have you ever had to come to court and talk about a passenger? Is this the first time?

A. First time.

Q. All right. I just have a few questions.

I want to show you, Mr. Ferris, a portion of an exhibit that's already been admitted, 553, and I'm going to direct your attention to one entry. And I'll just show it to you.

David Ferris - Cross

Mr. Ferris, this is a record of phone activity for Monday, April 17. Do you see an entry here "Plaza stop pay phone"?

A. Uh-huh.

Q. Shows a 30-second phone call?

A. Uh-huh.

A. Oh-huh.

Q. It was placed at approximately 3:29, Monday afternoon?

A. Right.

Q. Do you see over here a listing as to where that pay phone -- or excuse me -- where that call was placed to?

A. Yes, I do.

Q. And is that the number that a person who needed a ride might call to catch a cab at Bell Taxi in April of '95?

A. Right.

Q. And would you get fares through your dispatcher in April of '95?

A. Yes.

Q. And is that how you picked up Mr. McVeigh on Monday afternoon, April 17?

A. Yes.

Q. When you got to the Plaza Stop 'n Shop, Mr. Ferris, do you remember seeing Mr. McVeigh standing there?

A. Yes, I do.

Q. Was he with anybody?

A. By himself.

David Ferris - Cross

Q. He got in the cab with you?

A. Right.

Q. By himself?

A. Right.

Q. You drove immediately down to the McDonald's South?

A. Right.

Q. Correct? Dropped him off?

A. Right.

Q. Did you see him join with anyone? Did you see him meet anyone when he got out of your cab at McDonald's?

A. No, I was just looking down at my log sheet, writing my call down, and -- down till the car ran out of the other side there and didn't see anybody in there, took off, left.

Q. So the answer is no?

A. No.

Q. The Plaza Stop 'n Shop is about how far, Mr. Ferris, from the Dreamland Motel?

A. It's about 3 miles.

Q. 3 miles?

A. I estimate that, yeah.

THE COURT: Maybe you didn't hear the question.

THE WITNESS: What was the question?

BY MR. MACKEY:

Q. I added a new business in here. Let's talk about the Dreamland Motel. Do you know where that is?

David Ferris - Cross

A. Yes, I do.

Q. All righty. That's out in Grandview Plaza; right?

A. Right.

Q. And if you're going east back into town from the Dreamland,

you're going to cross the bridge; correct?

A. Right.

Q. And on your right-hand side, you'll see the Sunset Motel; correct?

A. Right.

Q. And just a few yards down the road from the Sunset Motel, we'd find the Plaza Stop 'n Shop; right?

A. Right.

Q. Short walking distance, Mr. Ferris, from the Dreamland to the Plaza Stop 'n Shop?

A. Yes.

MR. MACKEY: Thanks.

THE COURT: Mr. Neureiter, anything else?

MR. NEUREITER: No cross (sic), your Honor.

THE COURT: May he be excused?

MR. NEUREITER: Yes, sir.

MR. MACKEY: Yes.

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

We'll take our noon recess at this time, members of the jury, during which once again please, of course, recognize you're going to hear a lot more than you've heard so far, so please avoid discussion of the case among yourselves and with all others, keep open minds, and avoid anything outside of our evidence.

You're excused now till about 1:32.

(Jury out at 12:02 p.m.)

THE COURT: All right. 1:32, recess.

(Recess at 12:03 p.m.)

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
288	11840	11841			
289-290	11842	11842			
292	11842	11842			
295	11849	11849			
952	11767	11767			
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DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D1697	11804	11805			
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D1704	11829	11829			
D1706	11867	11867			
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DEFENDANT'S EXHIBITS (continued)

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D352	11879	11879			

* * * * *

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 2d day of December, 1997.

Paul Zuckerman

Kara Spitler

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