

DIRECT EXAMINATION

BY MR. THURSCHELL:

Q. Good morning, Mrs. Johnston.

A. Good morning.

Q. Mrs. Johnston, are you employed by the federal government?

A. Yes, I am.

Q. Could you tell the jury what your position is.

A. I'm the chief of multi-family asset management for the U.S. Department of Housing and Urban Development in Oklahoma.

Q. Briefly tell them what your responsibilities are in connection with that position.

A. I am the branch chief, and what we do is oversee FHA loans and subsidized property, all the multi-family housing in Oklahoma. We have over 300 properties, and we just oversee all aspects of their management.

Q. And that's for the entire state of Oklahoma?

A. Yes.

Q. Could you lean in a little bit. It's a little bit hard to hear you. Thank you, ma'am.

A. Oh, okay.

Q. Now, did you have that same position in April of 1995?

A. Yes, I did.

Q. Were you in the Murrah Building at 9:02 a.m. in the morning

Germaine Johnston - Direct

on that day?

A. Yes, I was.

Q. Were you injured in the blast?

A. I was -- I had some glass embedded in my scalp, and I had some cuts, and I had some ear and lung problems right afterwards; but my injuries were very minor, relatively.

Q. What -- the ear and lung problems, do you know what that was caused by?

A. I think it was caused by the pressure of the bomb forcing things into my ear and then -- the lung problem, I had pleurisy several times, was caused by the walking down the stairway and inhaling all of the glasses and pulverized concrete and all of those things that were in the stairwell.

Q. Were you treated that day for your injuries?

A. Yes.

Q. Were you released that day?

A. Yes.

Q. Ma'am, I'm going to show you what's been previously admitted as Government Exhibit G940. Now, were you able to get out of the Murrah Building that morning?

A. Yes.

Q. Could you show the jury on the map, using the pen that's connected to a wire on your desk -- there should be one -- that's the one. And then if you reach under -- You have to reach under and actually touch the screen.

Germaine Johnston - Direct

A. On, okay.

Q. Can you show them where you emerged from the Murrah Building?

A. Right here on the south side out of the east stairwell.

Q. Okay. And onto the plaza area there?

A. Yes. Out onto the plaza area.

Q. Do you know what time you got -- managed to get out of the building?

A. I'm not sure. I think it was 5 or 10 minutes after the blast.

Q. Okay. Now, did you have a particular concern when you emerged apart from your own injuries and --

A. Well, first, our first thought was that we were supposed to go over to where our group would meet. We had evacuation drills for emergencies; and when we would leave the building, we were supposed to go across on Robinson -- this is going up a little bit here -- we were to go across on Robinson and meet in a certain spot. So Bob Smart and I walked over there to meet people, and there was nobody else there from our agency.

Q. When you got there, did you eventually decide to try to find your husband?

A. Yes. Well, not from there. From there we walked up to 5th Street and over in front of the Y. We thought maybe some of our people might be over here. And we walked over there, and there were medical people set up and things like that.

Germaine Johnston - Direct

But Bob's wife, Terry Rees, had worked in this part of the building, and he was concerned about her; and she was killed. But he decided he was going to go back over in front of the building and see if there was word about her. And I decided that I needed to go down to the Kerr-McGee building where my husband works and find him.

Q. Okay. Now, then can you pause. Can you see -- is the Kerr-McGee building marked in any way on this -- I'm sorry.

A. No, it's down here. It's down here on the McGee Avenue.

Q. And is it actually on that block?

A. Oh, is it on -- it's right here.

Q. It is. Okay.

A. Uh-huh.

Q. Tell the jury how you proceeded to go to that building.

A. Okay. There's an alley -- there's an alley that doesn't show on this map. You can see it up here between 5th and 6th Street, but -- right here.

Q. Can you show --

A. You can see it right here. But it actually goes all the way through here.

Q. How far --

A. Between the two Southwestern Bell buildings and to the Kerr-McGee plaza; and from where I was, that would be the shortest way to get to McGee Tower.

Q. Did you take that route down the alley?

Germaine Johnston - Direct

A. Yes, I did.

Q. Did you have an encounter with someone that stood out in your mind?

A. Yes, I did. When I got down here, to the Southwestern Bell property, there was a car sitting facing north, and there were two young men standing by it. And as -- approached them.

Q. Let me just stop you there and try to get a time.

A. Okay.

Q. Do you know about how long after the bombing that would have been?

A. My estimate would be that it was 20 or 25 minutes afterwards. I think between 9:25 and 9:35 or something like that.

Q. Okay. Now, you said that there were two young men that you saw?

A. Uh-huh, there were two men standing by the passenger side of this car. It was yellow car. It was parked in the alley, close to this building right here, facing north; and they were standing by the driver's door.

Q. It was -- could you show -- point in the direction? Which direction is north on this map?

A. I can't figure out how this thing works here.

That's north.

Q. Okay. The direction of the arrow?

A. Uh-huh.

Germaine Johnston - Direct

Q. Now, did you recognize the type of car?

A. It was a Mercury.

Q. How do you know that?

A. My husband and I used to drive a Mercury, about that same age and about that same color.

Q. What model, year model was your Mercury?

A. '77.

Q. What color was this Mercury?

A. It was faded yellow.

Q. Okay. Was it a four-door?

A. Yes.

Q. Now, the two young men that you mentioned: Did you get a look at either or both of them?

A. I'm not -- not that I could describe them in detail; but one -- one was tall and one was shorter.

Q. Did you have any conversation with either of them?

A. Yes. As I -- as I walked -- as I approached them, it was obvious that I had come out of the building because I was covered with pulverized concrete, I think, and I was wet because the pipes had broken. My hair was wet and everything. It was obvious I had come out of there. And as I got close to them, the tallest one said, "What happened?"

And I said, "There was an explosion in the federal building."

Q. And what did he say?

Germaine Johnston - Direct

A. And he said, "A lot of people killed?"

Q. And how did you respond?

A. I just -- I said I didn't know. I said, "I don't know."
And just walked on.

Q. Did anything strike you as unusual about that exchange at that time?

A. Yes. Because I thought he was going to ask me if he could help me or if I was okay or something, which several people had already done that. And it really surprised me that he just wanted to know how many people were killed.

Q. From what you could tell, did he appear to be concerned about the number of people killed?

A. No. No. He just wanted to know.

Q. Okay. From that position that you marked on the map, can you see the Murrah Building?

A. Yes. There is a clear view from right here. There is a clear view over to the Murrah Building.

Q. Is that true from the entire length of that alley?

A. No. You'd have to be just about in that spot to be able to see the Murrah Building. If you get further back, it's blocked by buildings.

Q. Mrs. Johnston, did there come a time when you realized that you could identify the individual who you had some conversation with?

A. Yes. When I saw Timothy McVeigh on television, it just

Germaine Johnston - Direct

instantly -- I realized that he was the person I had talked to in the alley.

Q. You were immediately struck with that thought?

A. Yes.

Q. Now, could you describe the other individual that you saw that day?

A. Not in -- not in any detail. Just that he was shorter and darker.

Q. Shorter and darker than Mr. McVeigh?

A. Yes.

Q. Okay. Do you remember anything about his build?

A. Not really.

Q. Do you recall speaking to the FBI about this interview -- about this encounter in August of 1995?

A. Yes.

Q. If I showed you a report of your interview, might that refresh your recollection as to your picture of the individual?

A. It might.

MR. THURSCHELL: Your Honor, I'm showing the witness 302 9458.

THE COURT: All right.

MR. THURSCHELL: And I'm indicating the fourth and final paragraph on the first page.

THE WITNESS: Uh-huh.

BY MR. THURSCHELL:

Germaine Johnston - Direct

Q. Does that refresh your recollection as you sit here today about the appearance of the individual?

A. No.

Q. Okay.

A. But that was two years ago. So that must be what I remembered then.

Q. Okay. If it doesn't refresh your recollection today, we won't ask you about it.

MR. THURSCHELL: A moment, your Honor.

THE COURT: Yes.

BY MR. THURSCHELL:

Q. Mrs. Johnston, did you eventually see on television sketches of other -- of another individual or individuals that were commonly referred to as John Doe No. 2?

A. Yes, yes, I did.

Q. Did -- to the best of your recollection, did you have the same shock of recognition about the other individual when you saw those?

A. No.

Q. But you did when you saw the photographic image of Timothy McVeigh?

A. Yes.

MR. THURSCHELL: Nothing further, your Honor.

THE COURT: Mr. Ryan.

MR. RYAN: Thank you, your Honor.

Germaine Johnston - Cross

CROSS-EXAMINATION

BY MR. RYAN:

Q. Good morning, Mrs. Johnston.

A. Good morning.

Q. How are you?

A. I'm fine.

Q. We met for the first time a few minutes ago before court started?

A. Yes.

Q. If you would, I want to take you back to the morning of April 19. Tell us what time that you arrived at work that day.

A. 8:00.

Q. And tell us about your morning, leading up to the explosion, if you would.

A. Well, I got to the office at 8:00; and I had several meetings lined up for that morning, and so I went over and talked to my boss to remind him that we had a meeting at 10. And then I went over to another department and asked Don Buely to come over and talk to me about some reports I needed. And at 9:00, Don and I were sitting at my desk talking about those reports; and then in just a few minutes, the building started to vibrate and the ceiling fell on us and the pipes broke. And we just -- we were just really disoriented, confused, and we

we just -- we were just really disoriented, confused, and we started saying, "What's happening," you know, "What's -- God, what's happening to us here?"

Germaine Johnston - Cross

And then finally in a few minutes, it stopped. And I think at that point was when I just went into shock, but I looked up and I could see the sky where there had been two floors above me before that; and then just over -- over to my left -- the floor broke off 2 feet, approximately, to my left, and about 2 feet behind me. I was by one of those big columns. That's what was holding up that piece of floor that we were sitting on. And I could see all the way down to the ground.

Q. I'm confused here. You say you're 2 feet from what?

A. From where the floor broke off. There was no floor 2 feet, just over to my left.

Q. All right. Where are you right now? Are you laying down, or standing up?

A. No, I was still sitting at my desk.

Q. Okay.

A. I was just sitting at my desk. And I honestly think that if I had stood up or moved at all, that I would have been killed. It was just -- it was fortunate that I was just paralyzed and just sat there.

Q. And then what happened?

A. And then it stopped; and in a few minutes, the people that were around me started, you know, digging out of the debris, and we started throwing all these tiles -- the ceiling tiles off of us and just trying to figure out what had happened. And we decided that -- several of the people around us decided that

Germaine Johnston - Cross

we just needed to get out of the building.

Q. Very disorienting?

A. Yes it was. Yes, very confusing.

Q. And did you have help getting out of the building?

A. Yes, I did.

Q. Who helped you?

A. Bob Smart and Larry Harris came down. Bob Smart came down looking for his wife because his wife had been about 10 feet back over behind me. And he came down looking for her. And when he got to me, he could see that the floor was gone there and -- you know, he couldn't get any further. And then Larry Harris was just, you know, helping people get started towards the stairwell. And they said, "We're leaving, and you're going to go with us." And I didn't want to go. I just wanted -- I don't know what I was going to do. I guess I was just going to sit there.

But anyway, Larry came and just got up on my desk and said, "We're leaving, and you're going with us"; and he just pulled me up out of the chair and we left.

Q. So eventually they got you up and going and helped you down the stairway?

A. Yes.

Q. And you came out of the -- what side of the building did you come out of?

A. On the south side.

Germaine Johnston - Cross

Q. And I think you told us you were covered in ceiling-tile debris and dust --

A. Pulverized whatever it was --

Q. Glass --

A. Yes.

Q. -- in your hair?

A. In my scalp.

Q. In your scalp and various places. Now, by the time you got out of the building, the police had already had time to put the yellow evidence tape, if you will --

A. Yes.

Q. -- around the scene; is that correct?

A. Yes.

Q. So it was sometime before you got out of the building?

A. I don't know exactly how long it was, but the yellow tape was up when we got down to the plaza area.

Q. Okay. And when you got out of the building and you -- I guess you went under the yellow tape; is that right?

A. Well, around it.

Q. Okay. Then where did you go?

A. We went across the street to the meeting place on Robinson by the church. And as I said, no one was there, really, and so we went on up in front of the Y to see if there was anybody up there. And there were a few people around up there, but, you know, really not everybody like it was supposed to be.

Germaine Johnston - Cross

Q. Okay. And then where did you go after that?

A. Then I walked over -- I started to go to the McGee Tower to look for my husband. And I walked over to the alley and down the alley to the McGee Tower.

Q. Now, this alley that you're speaking of --

MR. RYAN: Let's put our ELMO on again, if you would, please.

THE WITNESS: Uh-huh.

BY MR. RYAN:

Q. This alley -- would you draw the alley for us one more time?

A. It shows on this block. And then it actually goes all the way through this block and through this block and between two buildings down here.

Q. Okay.

A. It's the shortest distance from where I was to the tower.

Q. All right. And would you put an X where you stopped and had this conversation with the two men.

Thank you. And then would you draw the line you drew

a moment ago from where you were talking to these men to the Murrah Building?

No, don't erase anything, keep the --

A. I didn't mean to erase it. I didn't realize it was going to do that.

Q. It's a little tricky.

Germaine Johnston - Cross

A minute ago you drew it through the church. Do you remember that?

A. Well, this is just kind of hard to direct.

Q. All right.

A. Because it's drawing about a quarter of an inch higher than I intend for it to.

Q. The line of vision really goes through that church?

A. Well, you can actually see the building from that stop.

Q. The very top parts, you mean?

A. Well, no. You can see quite a bit of the south side of the building.

Q. Isn't there a fairly sloping hill down on 5th Street that goes -- slopes downward as you go further east between Robinson and Broadway? Are you with me?

A. You mean --

Q. This street right here that I'm pointing to, doesn't that go downhill as you get to Broadway?

A. Uh-huh, I think it does.

Q. So where you are is much lower spot than where the Murrah Building is sitting; would you agree?

A. I don't know.

Q. Now, you say when you had this conversation, you were in shock?

A. Yes, I was in shock.

Q. And given all of the things that you've told us about, 9:30

Germaine Johnston - Cross

is about as early as you could have been there; is that fair?

A. I think that 9:30 is a pretty good estimate; but like I say, I couldn't say for sure. It would just be a 10- or 15-minute variance there.

Q. No earlier than 9:30?

A. It might have been 9:25.

Q. Might have been 9:40?

A. That's true.

MR. THURSCHELL: Objection to what it might have been.

THE COURT: Overruled.

THE WITNESS: I don't know what time it was.

BY MR. RYAN:

Q. Whatever time it was, it was enough time for you to recover from what had happened in the building, for workers to come and get you going, to help you get oriented, to help you out of the building, to have the workers put the tape around the building, to get under -- around the tape -- to try to meet people over in

to get under -- around the tape, to try to meet people over in the parking lot by the church, and to walk over to the YMCA and then to eventually work your way down this alley; fair enough?

A. We actually did all that.

Q. And your best estimate is 9:30?

A. I think that's about right.

Q. Now, did you read in the media that Mr. McVeigh had been arrested 77 miles from Oklahoma City at 10:20 that same

Germaine Johnston - Cross

morning?

A. Yes, I did.

Q. Some 50 minutes or so after you had this encounter with these two men?

A. Yes, I do.

Q. You say the second man didn't look anything like the sketch; is that correct?

A. I didn't -- I don't know about anything, but I didn't recognize him from any of the sketches.

Q. Well, you'd seen in the media pictures of Tim McVeigh, had you not?

A. Yes.

Q. And you'd seen the sketches of John Doe 1 and 2?

A. Yes.

Q. And you'd seen pictures of the yellow Mercury?

A. Yes.

Q. In fact, at the time you talked to the FBI was in September of '95; correct?

A. If you say so. I don't remember for sure when it was.

Q. Does that sound about right, about four months after the bombing?

A. Actually, I talked to the FBI two or three times that summer.

Q. Right. I have two reports here that would indicate August and September. Does that sound about right?

Germaine Johnston - Cross

A. Uh-huh.

Q. So some four months or so later?

A. Uh-huh.

Q. And you were trying to find your husband at the time; is that right?

A. Yes.

Q. And eventually he found you?

A. Yes.

Q. And he took you for treatment?

A. Yes.

Q. And that's when you had the glass fragments removed as best as possible, and you had a head wound, as I recall?

A. Yes.

Q. And you had that taken care of?

A. Yes. I thought it was taken care of. I ended up, there were a couple more glass fragments; and I went to a

dermatologist and had a couple taken out. And then I had one that worked its way out about two months later.

Q. And you characterized your medical problems as minor, but you say that only because so many people suffered so much that day?

A. Well, you know, I was very lucky to be alive.

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

THE COURT: Any redirect?

MR. THURSCHWELL: Your Honor, no redirect.

THE COURT: All right. Is the witness excused, then, I take it?

MR. THURSCHWELL: Yes, your Honor.

MR. RYAN: Yes, your Honor.

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

Next please.

MR. WOODS: Ed Killam.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Edward Killam 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: Edward Killam, K-I-L-L-A-M.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. TIGAR:

Q. I'll put those things next to you, sir. Thank you.

Mr. Killam, will you tell the jury, please, what is your business or occupation?

A. I'm a private investigator.

Q. How long have you been in the investigation field, sir?

A. Privately, about 19 years.

Q. Before you became a private investigator, did you work in law enforcement?

A. Yes, I did.

Edward Killam - Direct

Q. Would you tell the jury what your experience was in law enforcement before you became a private investigator.

A. Yes. I was with the Colorado State University Police Department in Fort Collins, and then eventually I was the detective sergeant of the Aspen Police Department.

Q. And in your police work, what kinds of work did you do?

A. In both departments, I started as a uniformed patrol officer. I was patrol sergeant up in Aspen. In both departments, I was a detective and then finally a detective sergeant.

Q. Will you tell the jury, please, what is your educational background.

A. I have a bachelor of science degree from Cornell University and associate in applied science and police science from Mesa State College here in Colorado and a master's degree in forensic anthropology from Colorado State University.

Q. And you will appear here in several installments. Let's finish your qualifications so we don't have to do it again.

Have you taken any chemistry courses?

A. Yes, sir, I have.

Q. What were those?

A. At Cornell, I had two semesters of general inorganic chemistry; and at Colorado State as a graduate student, I had two quarters of organic chemistry.

Q. Do you have any certifications that are relevant to your

Edward Killam - Direct

work as an investigator?

A. Yes, sir, I do.

Q. What are those?

A. I belong to several organizations: National Association of Legal Investigators, associate member of the National Criminal Defense Lawyers Association. I belong to the Professional Private Investigators Association of Colorado. And then certifications for the State of Colorado, certified as a police officer, as a police academy instructor. And I have other certifications which are less specific to police work.

Q. Do you have a certification as a firearm instructor?

A. Yes, I do, through the National Rifle Association.

Q. Have you published any articles in the field of investigation and law enforcement?

A. Yes, I've published 35 articles over the years.

Q. Have you authored a book?

A. Yes, I have.

Q. And has that book been published?

A. Yes, it has.

Q. What is the title of the book?

A. It's entitled "The Detection of Human Remains." It was a version of my master's thesis which was reedited and republished for police professional and coroners' offices.

Q. Directing your attention, sir, to the year of 1995, were you appointed by the United States District Court for the

Edward Killam - Direct

Western District of Oklahoma to provide investigative services to the Nichols defense team?

A. Yes, I was.

Q. Do you remember about when that was?

A. It was in early June of 1995.

Q. And after you were investigated -- or after you were appointed, rather, sir, did you have occasion to conduct a search of 109 South 2nd Street, Herington, Kansas?

A. Yes, I did.

Q. And did you receive the key from a member of the defense team?

A. I did.

Q. Was it your understanding that that was after the FBI had released the house?

A. That's correct.

Q. Did you go to the house?

A. Yes, I did.

Q. Was it locked?

A. Yes, it was.

Q. Now, sir, in that house, did you find some things connected with model airplanes?

A. Yes, I did.

Q. I'm going to ask you to reach into the box there, the brown cardboard box, and ask you to look at D1785, D17 -- without showing it to the jury, 1786, 1787, 1788, 1789, 1790,

Edward Killam - Direct

1791 -- actually, all the way, then, through 1796. If you would just look at those items, please.

A. I've looked at them.

MS. WILKINSON: Excuse me, your Honor. Just to ease this process, can I talk to Mr. Tigar about the list of --

THE COURT: You may.

MR. TIGAR: Excuse me just a moment.

THE COURT: All right.

MR. TIGAR: Your Honor, may we step back here? We have a little list problem, and it would simplify things greatly if we could have a moment.

THE COURT: All right.

MS. WILKINSON: We're fine, your Honor.

MR. TIGAR: All right.

Your Honor, we offer the exhibits numbered D1785 through D1796. I understand counsel may wish to voir dire with respect to one of those.

MS. WILKINSON: Yes, your Honor, I think it would be easier if we went through the exhibits. It's hard -- I just didn't have a list for all the exhibits. So I would ask that they wouldn't be brought in in one group, if we could go through the exhibits.

THE COURT: Okay.

BY MR. TIGAR:

Q. Do you see 1785 there, sir?

Edward Killam - Direct

A. Can you describe it to me?

Q. A radio-control unit.

A. Yes.

MS. WILKINSON: Your Honor, we have no objection to that item. Maybe if we do it that way, we'll make it go a little more quickly.

BY MR. TIGAR:

Q. All right. Let's put that -- let's start a stack on your desk, and we'll go through these. D1786, a red, white, and blue cardboard box?

MS. WILKINSON: No objection.

THE COURT: I'll receive --

BY MR. TIGAR:

Q. D1787, airplane propeller.

THE COURT: Mr. Tigar, let me receive them. D1785 and

THE COURT: Mr. Tigar, let me receive them. D1785 and D1786 received.

MR. TIGAR: I apologize to the Court.

BY MR. TIGAR:

Q. D1787, sir.

A. Yes, sir.

MR. TIGAR: We offer that, your Honor.

MS. WILKINSON: I didn't hear what that was.

MR. TIGAR: Propeller.

MS. WILKINSON: No objection.

THE COURT: D1787 is received.

Edward Killam - Direct

BY MR. TIGAR:

Q. D1788.

A. Can you describe it for me?

Q. A printed sheet entitled, "Byron Originals."

A. I have that.

MR. TIGAR: We offer that, your Honor.

MS. WILKINSON: No objection, your Honor.

THE COURT: Received, D1788.

BY MR. TIGAR:

Q. D1789, the blueprint.

A. D1789.

MR. TIGAR: We offer that, your Honor.

MS. WILKINSON: May I look at that, your Honor?

THE COURT: You may.

MS. WILKINSON: We have no objection.

THE COURT: D1789 received.

MR. TIGAR: Received?

MS. WILKINSON: Yes.

BY MR. TIGAR:

Q. Now, D1790, a pamphlet?

A. Did you say 1793?

Q. Yes -- no, 1790. 1790, a printed pamphlet.

A. I have it.

MR. TIGAR: We offer it.

MS. WILKINSON: No objection.

Edward Killam - Direct

THE COURT: D1790 received.

BY MR. TIGAR:

Q. D1791, a glow-plug igniter?

A. I have it.

MS. WILKINSON: No objection.

THE COURT: D1791 received.

BY MR. TIGAR:

Q. D1792, a glow-plug igniter package card.

MS. WILKINSON: No objection.

THE COURT: D1792 received.

BY MR. TIGAR:

Q. D1793, a pamphlet.

A. I have it.

MR. TIGAR: We offer D1793.
MS. WILKINSON: May I look at that, your Honor?
THE COURT: Yes.
MS. WILKINSON: Thank you.
No objection.
THE COURT: D1793 received.

BY MR. TIGAR:

Q. D1794, the two pieces of wood?
MS. WILKINSON: No objection.
THE COURT: D1794 received.

BY MR. TIGAR:

Q. D1795, the plastic bottle.

Edward Killam - Direct

A. I have it.

MS. WILKINSON: No objection.

BY MR. TIGAR:

Q. D1796, a label?
THE COURT: D1795 is received.

MR. TIGAR: Thank you, your Honor. I'm sorry, your Honor.

THE WITNESS: I have D1796.

MR. TIGAR: I offer D1796.

MS. WILKINSON: I need to look at that for a minute.

THE COURT: All right.

MS. WILKINSON: May I just ask one question on voir dire?

THE COURT: Yes, right there.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam -- we know each other, don't we?

A. Yes, we do.

Q. That writing here, was that writing on there when you found it?

A. Yes, it was.

MS. WILKINSON: No objection, your Honor.

THE COURT: D1796 received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Edward Killam - Direct

Q. Sir, where did you find these items?

A. These were in a portion of the basement in Mr. Nichols' home.

MR. TIGAR: May I approach, your Honor?

THE COURT: Yes.

BY MR. TIGAR:

Q. Well, sir, without -- without going into a lot of detail, what are these?

A. They're all either components or accessories for model airplanes, gasoline or fuel-powered model airplanes.

Q. Now, you can put those back in the box, if you would, sir.
Do you find up there D1797?

A. Yes, sir.

Q. And could you take that out and put it on the desk. I'd like to ask you about did there come a time, sir, when you went, at the direction of the defense team, to Marion, Kansas?

A. Yes, I did.

Q. And did you have a conversation there with a person identified as the person who lived in the worker's house at that Donahue farm after Mr. Nichols moved out?

A. Yes, I did.

Q. And did you also have a conversation with Mr. Donahue?

A. Yes, I did.

Q. As a result of those conversations, did you go to the trash dump that serves the farm worker's house?

Edward Killam - Direct

A. Yes.

Q. And did you recover the item which is in the bag marked 17 -- D1797?

A. Yes, I did.

MR. TIGAR: We offer D1797.

MS. WILKINSON: Just one question, your Honor.

THE COURT: All right.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, this was in the trash can at Marion, Kansas, was it?

A. No, it wasn't.

Q. Where was it?

A. It was on the open trash dump.

Q. It was on open trash dump. And it belonged to Mr. Nichols?

A. I don't know that, myself.

Q. Have you been informed that it belonged to Mr. Nichols?

A. No, I can't say that, either.

MS. WILKINSON: Could I have a moment with counsel?

THE COURT: Yes.

MS. WILKINSON: I don't object to the hearsay to elicit the foundation.

MR. TIGAR: The Government does not object to the lack of personal knowledge.

DIRECT EXAMINATION CONTINUED

Edward Killam - Direct

BY MR. TIGAR:

Q. Mr. Killam, were you told by someone that this had belonged to Mr. Nichols?

A. Yes.

Q. Who told you that?

A. I was told that the information had come originally from Mr. Nichols, himself, and that this part had been left behind at his former residence on the Donahue Ranch. I then contacted Mr. Donahue and the current tenant and found that they had in

MR. DONAHUE AND THE CURRENT TENANT AND FOUND THAT THEY HAD IN FACT FOUND IT AFTER HE HAD MOVED OUT AND HAD SUBSEQUENTLY TAKEN IT TO THE GARBAGE DUMP.

Q. And where had this been found?

A. In the storage shed behind the ranch hand's house.

Q. The house where Mr. Nichols had been living?

A. That's correct.

MR. TIGAR: Thank you, your Honor. This hearsay is received without objection.

MS. WILKINSON: And we have no objection to the exhibit.

THE COURT: All right. 1797 --

BY MR. TIGAR:

Q. Would you open the bag, please, and tell us what you found.

MR. TIGAR: May I approach, your Honor?

THE COURT: Yes.

THE WITNESS: It is the remains of a model airplane

Edward Killam - Direct

engine and propulsion system, propeller.

BY MR. TIGAR:

Q. And when you say "propulsion system," what is this little -- well, let me put it on the machine and see if this technology works.

I'm turning this over. What is this little thing at the top there?

A. I believe that's the ignition point, where you turn it on.

Q. And is your understanding that this is the engine part?

A. The part in the center that your left hand is holding, I believe it is the engine part; and the part that's by your right hand is, I believe, the fuel tank.

Q. Okay. And when you -- what brand of propeller is this?

A. It's a Master Airscrew.

Q. And is that the same brand as the propeller that we've already looked at that was in the cardboard box?

A. Yes, this is a Master Airscrew, also.

Q. Does it appear to be -- the Master Airscrew out of the box -- what exhibit number is that?

A. It's D1787.

Q. Does that appear to be the same make and model as the Master Airscrew propeller on this ruined thing that I'm holding up on the ELMO?

A. It appears to be the same make, model, and size.

Q. Now, when you recovered this item, I noticed you used a

Edward Killam - Direct

polyethylene bag to do it. Were you planning to do any residue testing on it?

A. No, sir, I was not.

Q. Now, would you put those things back in the brown-colored cardboard box.

And did there come a time in the recent past when you were asked to attend a gun show?

A. Yes, sir.

Q. Without going into where it was -- how many gun shows had you attended before that?

A. In my whole life?

Q. Yes, sir.

A. Probably a hundred or more.

Q. And those hundred gun shows, had you attended most of those before you were appointed by Chief Judge Russell in this case?

A. Yes, I had.

Q. Now, at these gun shows, were you directed to look for materials that related to explosives, incendiaries, and pyrotechnics which, based on your experience, had been in circulation and available at gun shows prior to April of 1995?

A. Yes, I was.

Q. And will you please take the box -- I'll move the -- this one out of your way, sir.

And would you read off one at a time the exhibit numbers of the exhibits in that box, please.

Edward Killam - Direct

A. D, as in David, 1669, D --

MR. TIGAR: We offer it, your Honor.

MS. WILKINSON: Your Honor, I'm going to need to voir dire on each exhibit, just briefly.

THE COURT: You can come up here and do it, if you'd like.

MS. WILKINSON: Thank you.

THE COURT: And you can see it.

There's no objection to that, is there, Mr. Tigar?

MR. TIGAR: No, of course not, your Honor.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you're talking D1669; correct?

A. Yes, it is entitled The Flash Powder Cookbook.

Q. Have you personally read that book, Mr. Killam?

A. I have not read it. I have skimmed its contents.

Q. So are you prepared to answer questions about the contents of the book?

A. If I have the ability to refer to it, probably, yes.

Q. Can you swear that this particular book was available at any gun shows during the time period of October, '94, through April of 1995?

A. No.

MS. WILKINSON: With that limitation, your Honor, we have no objection. I'll just stand here.

Edward Killam - Voir Dire

THE COURT: All right. D1669 is received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D1670, a book entitled -- well, tell us what that book is entitled.

A. It is entitled Two-Component High Explosive Mixtures and Improvised-Shaped Charges.

MR. TIGAR: We offer it, your Honor.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read that book?

A. I have skimmed its contents, also.

Q. Again, the same answer that you could answer questions about the contents if you were able to review the book?

A. Yes, ma'am.

Q. Is that your testimony? And can you swear that that particular book was available at any particular gun show from October, '94, through April of '95?

A. No, I can't.

MR. TIGAR: D16 -- I'm sorry. We offer it, your Honor.

MS. WILKINSON: No objection with those limitations.

THE COURT: D1670 is received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Edward Killam - Direct

Q. D1671, Department of the Army field manual entitled Booby Traps.

A. I have it.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you weren't in the Army when that book came out, were you?

A. No, I was not.

Q. Have you read it?

A. Yes, I have.

Q. And are you familiar with the contents?

A. Yes, I have -- am.

Q. And can you swear that that particular book on booby traps was available at any particular gun show from October of '94 through April of '95?

A. Yes, I can.

Q. Which gun show was that?

A. I have seen it at each Tanner gun show that I have attended in Denver.

Q. You can't say that that book was available at a gun show in Kansas; correct?

A. That is correct, I cannot.

Q. Is the only gun show you can say you've seen that book available in the time period we're discussing was here in

Edward Killam - Voir Dire

Colorado?

A. Correct.

Q. And in that specific show, the Tanner show?

A. The Tanner show in Denver.

A. The Tanner show in Denver.

MS. WILKINSON: No objection with those limitations.

THE COURT: D1771 received.

MR. TIGAR: If your Honor please, the limitation is counsel's limitation. These are admitted; right?

THE COURT: No. I'm admitting them with the limitation that he can't say at what show, at what time a particular book excepting where he can.

MR. TIGAR: Except where he can.

THE COURT: My understanding of his testimony is that these materials have been available at shows that he's attended.

That's your testimony, isn't it?

THE WITNESS: Yes, sir.

THE COURT: But you're not able to identify particular ones as particular times except when you say you can?

THE WITNESS: That's correct.

THE COURT: All right.

MR. TIGAR: Thank you, your Honor.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D1672, Department of the Army field manual entitled

Edward Killam - Direct

Explosives and Demolitions?

A. I have it.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you reviewed this manual?

A. Yes, I have.

Q. Familiar with its contents?

A. Yes, I am.

Q. And can you testify that this field manual entitled Explosives and Demolitions was available in any gun show, specific gun show during the time period October, '94, through April of '95?

A. Yes, I can.

Q. Which gun show?

A. The Tanner gun shows in Denver.

Q. Is that the only one?

A. Yes. That is plural. The Tanner gun shows are held approximately monthly.

Q. Monthly. During that time period of October, '94, through April of '95?

A. Correct.

Q. You've not seen this book at any other gun shows?

A. Yes, I have. I've seen it at gun shows out of that specific time period, in addition to that specific time period.

Edward Killam - Voir Dire

MS. WILKINSON: With those limitations, no objection, your Honor.

YOUR HONOR.

THE COURT: D1672 is received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D1673, Department of the Army technical manual entitled Unconventional Warfare Devices and Techniques.

A. I have it.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read the contents of the manual entitled Unconventional Warfare Devices and Techniques?

A. Yes, I have.

Q. Are you familiar with its contents?

A. I am.

Q. Have you seen it at any gun shows available -- did you see it at any gun shows available for purchase from October, '94, through April of '95?

A. Yes.

Q. Which gun shows were those?

A. Tanner gun shows in Denver.

Q. Are those the only gun shows during that time period?

A. Of my personal knowledge, yes.

MS. WILKINSON: With those limitations, no objection.

Edward Killam - Voir Dire

THE COURT: It's received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D1674, Department of the Army technical manual entitled Improvised Munitions Handbook.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, I want to ask you the same questions. Did you read this book?

A. Yes, I have.

Q. Familiar with its contents?

A. Yes.

Q. And if I asked you the question about the time period from October, 94, to April, '95, would you say that you have just seen it at the Tanner gun shows in Denver?

A. Yes, I would.

MS. WILKINSON: With those limitations, your Honor, we have no objection.

THE COURT: Received, D1674.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D1675, War Department technical manual entitled Military Explosives.

A. I have it.

Edward Killam - Direct

MR. TIGAR: We offer it.
VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read that book?

A. No, I've only skimmed it.

Q. And have you seen it available for purchase at gun shows from the period of October, '94, through April of '95?

A. I can't recall if I've ever seen this one.

MS. WILKINSON: With that limitation -- with those limitations, we have no objection.

THE COURT: Received, D1675.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D1676, book entitled Black Book Companion - State of the Art Improvised Munitions?

A. I have that.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read that book, the State of the Art of Improvised Munitions?

A. I have only skimmed it.

Q. And have you seen it available at a gun show from October of '94 through April of '95?

A. Not that I can recall.

Edward Killam - Voir Dire

MS. WILKINSON: No objection with those limitations.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. Book -- D1677. That's a book, and what's the title of that book, sir?

A. Improvised Munitions, Black Book, Volume 3.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read that book on improvised munitions?

A. I have skimmed it.

Q. Seen it at any gun shows for purchase during the period of October, '94, through April of '95?

A. I cannot recall that I have.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. What's the next one in your box, sir?

MS. WILKINSON: Excuse me.

MR. TIGAR: Oh, I'm sorry.

MS. WILKINSON: No objection with those limitations, your Honor.

THE COURT: Received.

MR. TIGAR: Sorry, your Honor.

Edward Killam - Direct

THE COURT: Okay.

BY MR. TIGAR:

Q. The next one in your box, sir?

A. The next one is D1678, The Chemistry of Powder and Explosives.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you said you had some familiarity with chemistry, is that right?

A. Some.

Q. Limited, I take it?

A. Quite.

Q. How long ago was it when you went to college and took those courses?

A. 1972.

Q. And have you read the book The Chemistry of Powder and Explosives?

A. I have only skimmed it.

Q. And do you know whether that book was available for purchase at any specific gun shows during October, '94, through April of '95?

A. I do not know.

Q. You have no personal knowledge of seeing it available -- correct -- during that time period?

Edward Killam - Voir Dire

A. Not that book, that's correct.

MS. WILKINSON: With those limitations, your Honor, we have no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. What's the next one, sir?

A. The next item is D1679 entitled Ragnar's Guide to Home and Recreational Use of High Explosives.

MR. TIGAR: We offer that.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. We're not going to talk about the title, are we, Mr. Killam?

A. Only if you ask me.

Q. Have you read it?

A. I've only skimmed this one.

Q. Okay. And have you seen it available for purchase at any time from October, '94, to April, '95?

A. Not of my own personal recollection.

MS. WILKINSON: With those limitations, no objection to D1679.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Edward Killam - Direct

Q. Next one, sir?

A. Next one is D1680, Improvised Munitions Systems.

MR. TIGAR: We offer it, your Honor.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read that book before coming to court today?

A. I have skimmed this one.

Q. And have you seen it for sale at any gun shows during the time period we're discussing, October, '94, through April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. The next one, sir?

A. The next one is D1681, The Do-It-Yourself Gunpowder Cookbook.

MR. TIGAR: We offer it, your Honor.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you've never used this cookbook, have you?

A. No, I have not.

Q. Have you read it?

Edward Killam - Voir Dire

A. I've skimmed this one.

Q. Seen it for sale in any gun shows from October of '94 through April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. Next one, sir?

A. The next one is D1682, Improvised Explosives - How to Make Your Own.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Have you ever used this book to make your own improvised explosives, Mr. Killam?

A. No, I have not.

Q. Are you familiar with the contents?

A. I'm familiar with the contents.

Q. Have you read it or just skimmed it?

A. Just skimmed this one.

Q. And have you seen that book for sale at any gun shows during the time period of October, '94, and April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

Edward Killam - Voir Dire

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. Next one, sir?

A. Next one is D1683 entitled Deadly Brew - Advanced Improvised Explosives.

MR. TIGAR: We offer, your Honor.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, do you know if this discusses the consequences of making an advanced improvised explosive device?

A. I don't know without reviewing it again.

Q. So you've just skimmed it?

A. Correct.

Q. Have you seen it available at any gun shows during the time period that we're discussing, October of '94 through April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. The next one, sir?

A. The next one is D1684, Pyrotechnics, The Chemistry of Powder and Explosives - Chapter 3.

Edward Killam - Direct

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you purchased this book for purposes of your testimony; correct?

A. Yes, I did.

Q. Is the whole book just entitled Chapter 3, is a pamphlet?

A. It appears to be an excerpt from a larger publication.

This appears to be the chapter on pyrotechnics.

Q. And did you go and try and find this entire book?

A. Yes, I did.

Q. And were you able to find it?

A. Yes, I did.

Q. And did you bring it to court today?

A. Yes, I did.

Q. Is this one chapter that was sold separately?

A. It appears to be, yes.

Q. And are you familiar with The Chemistry of Powder and Explosives?

A. I have skimmed this one.

Q. Seen it available at any gun shows during October of '94 through April of '95?

A. Not that I can recall.

MS. WILKINSON: No objection with those limitations.

THE COURT: Received.

Edward Killam - Direct
DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. What's the next one, sir?

A. Next one is D1685, New and Improved C-4 - Better-Than-Ever Recipes for Half the Money and Double the Fun.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read this book?

A. I have skimmed it.

Q. Have you seen it available or did you see it available for purchase at any gun shows during October, 94, to April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. 16 -- the next one, sir?

A. The next one is D1686, Explosives Dusts - Advanced Improvised Explosives.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, have you read this book in its entirety?

A. No, I've only skimmed it.

Edward Killam - Voir Dire

Q. Did you see it available for purchase during any gun shows from October of '94, to April of 95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. The next one, sir?

A. The next one is D1687, Homemade C-4 - A Recipe for Survival.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you've read that book, haven't you?

A. I have skimmed this one.

Q. And did you see that for sale at any gun shows during October of '94, through April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

BY MR. TIGAR:

Q. Next one, sir?

A. Next one is D1688, Improvised Radio Detonation Techniques.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Edward Killam - Voir Dire

Q. Did you read this --

MS. WILKINSON: Excuse me.

MR. TIGAR: We offer it.

BY MS. WILKINSON:

Q. Have you read this book?

A. Only skimmed it.

Q. And did you see it for sale at any gun shows during October of '94, to April of '95?

A. Not that I can recall.

MS. WILKINSON: No objection with those limitations.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. The next one, sir?

A. The next one is D1689, The Advanced Anarchist Arsenal - Recipes for Improvised Incendiaries and Explosives.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, did you read this book?

A. I have skimmed this one.

Q. And do you know if this book talks about the consequences of making a device of this type?

A. I don't know that without reviewing it again.

Q. Did you see this book, The Advanced Anarchist Arsenal,

Edward Killam - Voir Dire

available for sale at a gun show during the time period of October of '94 through April of '95?

A. Not that I can recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. The next one, sir?

A. The next one is D1691, Pipe and Fire Bomb Designs - A Guide for Police Bomb Technicians.

MR. TIGAR: We offer it.

MS. WILKINSON: May I inquire, your Honor? I believe -- did we just do 1689 before that?

MR. TIGAR: Yes.

MS. WILKINSON: Are we jumping 1690?

THE WITNESS: I don't have 1690 in front of me.

MS. WILKINSON: Okay.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Now, we're talking about D1691, Mr. Killam?
A. Right.
Q. And that's Pipe and Fire Bomb Designs - A Guide for Police Bomb Technicians?
A. Correct.
Q. Have you read that book?

Edward Killam - Voir Dire

A. Only skimmed it.
Q. Did you see that available for purchase at a gun show during October of '94 through April of '95 time period?
A. Not that I can recall.
MS. WILKINSON: With those limitations, no objection.
THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. D -- the next one, sir?
A. The next one is D1692, Explosives and Propellants From Commonly Available Materials.
MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Did you read that book before coming to court, Mr. Killam?
A. Only skimmed it.
Q. And did you see it available for purchase at any gun shows during the time period of October of '94 to April of '95?
A. Not that I can recall.
MS. WILKINSON: With those limitations, no objection.
THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. The next one, sir?
A. The next one is D1693.

Edward Killam - Direct

MR. TIGAR: We offer --

BY MR. TIGAR:

Q. What's the title, sir?
A. Titled Improvised Munitions from Ammonium Nitrate.
MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, did you read this pamphlet before you came to court today?
A. Some time ago; but, yes, I have read that one.
Q. It's not too long -- right -- 37 pages?
A. It's short.
Q. And does it discuss how to use ammonium nitrate in an explosive device?
A. Yes, it does.
Q. Does it give you the different formulas you can use using prills of ammonium nitrate?

A. Yes, it does.

Q. And did you ever see this book available for sale at a gun show during the period of October, '94, through April of '95?

A. Not that I can independently recall.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Edward Killam - Direct

Q. And the next one, sir?

A. The next one is D1694, Kitchen Improvised Fertilizer Explosives.

MR. TIGAR: We offer it.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, this book talks about kitchen -- or it's called Kitchen Improvised Fertilizer Explosives; correct?

A. Yes.

Q. This book also discusses ammonium nitrate?

A. Yes, it does.

Q. And have you compared this book, Defendant's Exhibit 1694, with the one that was just previously entered into evidence, Defense Exhibit 1693, on Improvised Munitions from Ammonium Nitrate?

A. No, I've never compared the contents of the two.

Q. Have you compared any of the books that you're bringing into court today?

A. I have looked at some of the formulas contained within various publications.

Q. Are they similar?

A. Yes, they are.

Q. And do they discuss the formulas used for ammonium nitrate and fuels?

A. Yes, they do.

Edward Killam - Voir Dire

Q. Did you ever see Defense 1694 available for sale at a gun show during the time period of October, '94, through April, '95?

A. Not that I can independently recall.

Q. I don't know if I asked you. Did you read or just skim it?

A. I read that.

MS. WILKINSON: With those limitations, no objection.

THE COURT: Received.

MR. TIGAR: I'll take the box.

MS. WILKINSON: Is that all the books?

MR. TIGAR: Yes.

MS. WILKINSON: Oh, thank you.

MR. TIGAR: I'm sorry.

MS. WILKINSON: There were more on the list.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

BY MR. TIGAR:

Q. Mr. Killam, you mentioned on the questions asked on voir dire with respect to some of these exhibits that you had seen some of these books before the episode in which you purchased them at a gun show. Do you remember that?

A. Yes, sir.

Q. Now, with respect to -- when's the first time you can remember reading a book or pamphlet about how to build an improvised explosive device?

A. About 1974.

Edward Killam - Direct

Q. And in what connection was that that you began reading about how to build an improvised explosive device?

A. Part of my responsibilities with the police department was to handle bomb-threat and bomb-search incidents, and so I attended numerous -- not numerous, but several law enforcement training seminars on improvised explosive devices, how to conduct bomb searches and deal with bomb-threat situations. And I acquired a number of those books during that time period and made them part of the department library.

Q. Where did you acquire them?

A. From gun shows.

Q. Now, that was in 1974?

A. And in the mid 1970's, yes.

Q. Now, after you left the police department, did you continue to acquire reading materials about bombs?

A. A few, yes.

Q. And in the intervening years from 1974 to 1977, about how many gun shows a year did you attend?

A. It depended on the year, but somewhere usually between five and ten per year.

Q. And are the materials that we have reviewed here and that are now in evidence typical of the kinds of materials about explosives and pyrotechnics that you saw at gun shows during that time?

A. It would depend upon the nature of the gun show, but

Edward Killam - Direct

generally, yes; that's correct.

Q. Now, in what parts of the country have you attended gun shows?

A. All over the country except for the deep southeast.

Q. And when you say it depends on the type of gun show, tell the jury what the differences are among or between the types of gun shows.

A. Sure. There are gun shows that are regional, and there are also gun shows on particular topics. For instance, I'm a collector of antique military shoulder arms. So there are specific gun shows around the country which deal with the focus on Civil War arms or Colonial and Revolutionary War arms or western arms like Colts and Winchesters, so some of the shows are specific to a particular type of collectible firearm

are specific to a particular type of collectible firearm. Other gun shows which are held more frequently are general shows. They have a variety of hunting guns, handguns, and other general merchandise.

Q. And at which type of gun show would you see booklets, pamphlets, books like have just been introduced in evidence?

A. At the more common, general, open-merchandise shows.

Q. I'm not going to go through all of these in detail, but did you check the editions or print date on each of the items that we've introduced in evidence here?

A. Yes, I have.

Q. And here is Defendant's 1669. It says, "First Printing

Edward Killam - Direct

1991"; correct?

A. Correct.

Q. And then it has the legend BATF for which -- and then it says "Bold American Tough Firearms," does it?

A. Yes, it does.

Q. Now, this book, D1670, says -- is Two-Component, High Explosive Mixtures and Improvised Shape Charges. Does it -- if we were to leaf through here, we would see information about a number of things, including nitromethane solid explosives; correct?

A. Correct.

Q. All right. Now, 1671 is a Department of the Army field manual; correct?

A. It's a reprint of Department of Army field manual, yes.

Q. And -- and this is entitled, Booby Traps. Is this one that you had been familiar with before you made this shopping trip?

A. Yes, I was.

Q. And in what connection had you been familiar with it?

A. This was part of our department library.

Q. Now, here is a book, the one that you were mentioning, Ragnar's Guide to Home and Recreational Use of High Explosives, by someone named Ragnar Benson; correct?

A. Correct.

Q. And this is published by whom?

A. Paladin Press of Boulder, Colorado.

Edward Killam - Direct

Q. Now, are you familiar with Paladin Press?

A. Yes, I am.

Q. And what kinds of materials does Paladin Press publish?

A. They produce various sorts of books for the general public having to do with survival techniques, firearms, explosives, military subject areas.

Q. Now, does -- where does Paladin Press, to your knowledge, market their books that they sell?

MS. WILKINSON: Objection, your Honor.

THE COURT: He's asked if he knows.

MS. WILKINSON: His personal knowledge, I take it.

MR. TIGAR: Yes.

THE COURT: Yes.

MR. TIGAR: I can make it more precise, your Honor.

THE COURT: All right. Fine.

BY MR. TIGAR:

Q. Have you seen Paladin Press books sold at gun shows?

A. Yes, sir.

Q. And in what -- what format? How are they marketed there?

A. Typically they're on a bookrack or laid on tables for sale.

Q. Now, is that -- does -- does the bookrack or table say "Paladin Press," or are these resellers that are selling them that you've observed?

A. These are resellers.

Q. Now, this Improvised Munitions from Ammonium Nitrate,

Edward Killam - Direct

Defendant's Exhibit 1693, who is that published by?

A. Desert Publications, El Dorado, Arkansas.

Q. And what is the -- can you read the copyright date?

A. Yes. Copyright 1980.

Q. And they say they are a division of the Delta Group; is that right?

A. It says Desert Publication, a division of the Delta Group, Limited.

Q. Now, before you purchased this book, which is copyright 1980 by Desert Publications, had you seen any publications that you can recall by this Arkansas outfit?

A. I was familiar with Desert Publications as a publishing entity, yes.

Q. And how had you become familiar with them?

A. Because like Paladin Press, they also publish a number of books and booklets on military firearms and explosive-related topics.

Q. And in the years from 1974 to 1995, about how many times had you seen exhibits or displays of this Desert Publications books at gun shows you attended?

A. It would be difficult to estimate it. They were common. That's the best I can do.

Q. And would your testimony be the same, that they were common with respect to books by Paladin Press at the gun shows you attended during that period?

Edward Killam - Direct

A. That would be fair, yes.

MR. TIGAR: May I have a moment, your Honor?

THE COURT: Yes.

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

THE COURT: Miss Wilkinson.

MS. WILKINSON: Thank you, your Honor.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good morning again, Mr. Killam.
A. Good morning.
Q. You told us when you were describing your credentials that you belong to the Association of Criminal Defense Lawyers; is that right?
A. As an associate member; that's correct.
Q. You're not a defense lawyer; right?
A. No, I'm not.
Q. But you work with them quite frequently?
A. Very frequently.
Q. And in connection with this case, when you were appointed, you were not personally contacted by the court, were you?
A. No, I was not.
Q. You were contacted by Mr. Tigar?
A. Originally, yes.
Q. And he asked you to work with him on this case; correct?

Edward Killam - Cross

A. That's correct.
Q. Now, you've told us that during your time with the -- I believe it was the Colorado State University Police Department; is that right?
A. Yes, ma'am.
Q. That you started to collect books on explosives?
A. No, not until after that time period.
Q. Okay. What were you doing at that time period, then, when you collected those books on explosives?
A. I was with the Aspen Police Department.
Q. And you were collecting these books in your official capacity as a law enforcement official; correct?
A. Yes, I was.
Q. You weren't reading them for your personal pleasure?
A. That's correct.
Q. And you weren't reading them because you wanted to learn how to make a bomb, yourself; correct?
A. That's correct.
Q. You were reading them because you were worried about the threat; correct?
A. Yes.
Q. And you wanted to be informed as a law enforcement official?
A. Correct.
Q. So that's why you maintained a library of those books; is

Edward Killam - Cross

that right?
A. That's correct.
Q. Now, when you went and searched Mr. Nichols' house after the FBI had left it locked, you went in there and searched the entire house, didn't you?
A. Yes, I did.
Q. You went into every room?
A. Yes.

A. Yes.

Q. You opened all the drawers?

A. Yes.

Q. Opened boxes?

A. Yes.

Q. You looked at everything so you could have a full accounting of what was left behind; correct?

A. Correct.

Q. So you're familiar with everything that remained in Mr. Nichols' house?

A. Yes, I am.

Q. You might need some documents to refresh your recollection, but you know what was left there; correct?

A. Yes. Or photographs I may need to refer to.

Q. And so while you may not have testified to all of that today, if at some point you're called to discuss what was found in Mr. Nichols' house, you could do that?

A. Yes, I could.

Edward Killam - Cross

Q. And was it your understanding when you took custody of the house or you were able to open the house with the key, that it was in the same condition as when the FBI left it?

A. That was my assumption.

Q. All right. You don't have any knowledge of anyone going into the home and placing anything in there after the FBI left; correct?

A. I have no knowledge of that.

Q. But it's your understanding, because you've testified today about some of the things that you've found, that those items were there when the FBI left?

A. I presume that they were.

Q. Well, the items that you've testified about, the

model-airplane materials, you found those in Mr. Nichols' house?

A. Yes, I did.

Q. And you don't have any reason to believe that someone else placed them after the FBI left, do you?

A. No, I have no reason to believe that anyone did.

Q. Now, you told us that all of these books that we've introduced into evidence you can't say were available at any gun shows Mr. Nichols might have attended during October, '94, through April of '95; correct?

A. That's correct.

Q. And you don't have any personal knowledge of whether

Edward Killam - Cross

Mr. Nichols read these books or not; right?

A. No, I don't.

Q. But you have familiarized yourself with the text?

A. Yes, I have.

Q. And you know from reading these books that it's fairly easy

to construct an improvised explosive device; is that right?

A. Yes, it is.

Q. And these books, including D1693, lay it out for you, don't they?

A. Yes, they do.

Q. They tell you the components that you need?

A. Yes.

Q. They tell you you can use ammonium nitrate prills?

A. Yes.

Q. They tell you you can use fuel?

A. Yes.

Q. And some of these books tell you you can use fuel oil; right?

A. That's correct.

Q. They tell you you can use nitromethane?

A. Yes, they do.

Q. And they tell you that once you have those items, that then you just need a booster; correct?

A. Yes.

Q. And some way to ignite that booster?

Edward Killam - Cross

A. Correct.

Q. And all of that is spelled out in these books?

A. Yes, it is.

Q. And it says that you can use different kind of containers for ammonium nitrate and a fuel; correct?

A. I don't recall that they address containers, but they may.

Q. Okay. And do you know if any of these books address the type of damage that you can do with that type of device?

A. Once again, I don't recall that they do, but they may.

Q. You didn't become familiar with those portions of that book; correct?

A. That's correct. Without reviewing them.

Q. Okay. When you reviewed these books to become familiar with them for your testimony, were you ever asked to compare these books or the instructions given in these books to the book the Hunter?

A. No, I was never asked to compare them.

Q. So you can't tell us whether the facts in the Hunter that set forth how you make an ammonium nitrate bomb and how you detonate it are accurate in comparison to these books; is that right?

A. I have read both of the publications that you have mentioned; but I was not specifically asked to compare the techniques used.

Q. Well, you have no reason to believe that the bomb described

Edward Killam - Cross

in the Hunter couldn't detonate; isn't that right?

A. I think the description was a little bit short on specifics; but as described, I don't have any reason to believe

that it would fail.

Q. Well, it tells you that you can get ammonium nitrate from a supply store; correct?

A. Yes, I believe it does.

Q. It tells you you need a fuel; right?

A. Yes.

Q. It tells you you can use plastic pails, 55-gallon drums, I believe it says, doesn't it?

A. It may well say 55-gallon drums.

Q. It says you can use a blasting cap?

A. Yes.

Q. Put those items in a truck?

A. It describes a truck.

Q. And detonate them in front of a building; correct?

A. I don't recall if it was in front of a building or in an underground parking garage.

Q. All right, you are right about the underground garage. And it even describes that you can use Tovex in that book, doesn't it?

A. I don't recall that detail.

Q. And in that book, it describes the actual detonation, doesn't it?

Edward Killam - Cross

A. Yes, it does.

Q. And is that consistent with the detonation that's described in 1693, Improvised Munitions from Ammonium Nitrate?

A. I don't recall if there's a detonation described in that publication.

Q. In some of the publications, there are detonations described; correct? They even talk about the velocity of detonation, don't they?

A. I believe they describe the detonations, yes.

Q. And it was consistent with the damage described in the book the Hunter; correct?

A. I can't say that those books describe the damage, so I couldn't compare the two.

Q. So you don't know anything about velocity of detonation of explosives; is that right?

A. I know about the general classification of different types of explosives based on their detonation velocity, but few details of what those might be.

Q. Well, you're familiar with it to know that ammonium nitrate and fuel oil is a midrange-velocity explosive; right?

A. Yes, I am.

Q. And that's somewhere in the range of 9,000 to 20,000 feet per second; correct?

A. Other than the testimony that I heard the other day, I couldn't say that of my own knowledge.

Edward Killam - Cross

Q. So all you know is it's a midrange velocity?

A. Yes, I'm familiar with the categories of low, mid, and high.

Q. Are you familiar with the fact that ammonium nitrate and fuel oil is used to push and heave materials as an explosive?

A. Yes, I am.

Q. And the destruction described in the Hunter was consistent with pushing and heaving, wasn't it?

A. I can't say that I recall that much detail.

Q. So you're not that familiar with the book?

A. That's correct.

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

THE COURT: Mr. Tigar.

MR. TIGAR: Briefly.

REDIRECT EXAMINATION

BY MR. TIGAR:

Q. Mr. Killam, you've read D1693; correct?

A. Yes, I have.

Q. And have you read it -- if someone were to ask you, "Do you know how to make an improvised explosive device that would do a lot of damage," what would the answer be?

A. The answer would be yes.

Q. And would that -- that's all one had read, that would be a truthful answer to that question; is that what you're saying?

Edward Killam - Redirect

A. Yes, it would.

Q. Now, counsel asked you at the beginning: Did I ask you to join this defense team. I'd like to go through the rest of the details. Were you required to provide a resume?

A. Yes, I was.

Q. Were you -- it's your understanding that resume had to be attached to a motion?

A. Yes, it did.

Q. And was that motion then submitted to Chief Judge Russell of the United States District Court?

A. Yes, it was.

Q. And was it he, upon reviewing that material that was submitted, who signed an order appointing you to this case?

A. He signed the order.

MR. TIGAR: No further questions.

MS. WILKINSON: We have no more questions. I understand this witness, though, will be available to re-call.

THE COURT: Yes. He's going to be back on the stand; right?

MR. TIGAR: Yes, your Honor.

THE COURT: At a different time.

MR. TIGAR: This is a serial event.

THE COURT: You may step down now, Mr. Killam.

MR. TIGAR: May I retrieve the exhibits from the witness, your Honor?

THE COURT: Yes.

MR. WOODS: That's the end of our witnesses today, your Honor.

THE COURT: Well, members of the jury, our usual

THE COURT: Well, members of the jury, our usual schedule here is to go till 1:00 on Friday, but you were so good this week coming through the ice and snow that we're going to give you an early recess. And another reason is we're ahead of schedule on our witnesses which is -- I'm sure you have in your minds a question, well, how long is it going to be and all that. I can't give you today a specific answer with respect to that. I am working with counsel. They are working with the Court to assist in this; but of course what we must do is take the time that is necessary to get the information that's being offered through these witnesses and exhibits, so bear with us. I'll probably be able to tell you next week better how much more to expect; but stay with us, recognize that you have not been given the case. You are going to hear the testimony of other witnesses, and there will be other exhibits. And with respect to the exhibits, of course we just received a whole library here this morning; but I want to reassure you with respect to that, you're not going to be asked to read every page of every book. So don't pale at that thought.

Counsel will be, in their closing arguments, I'm sure, addressing the exhibits and suggesting to you your approach to the exhibits; and I'll have something to say about that, too, in the instructions. But I don't want you to get the wrong idea that every document that comes in has to be examined in detail, but of course all of the exhibits that have been received will be available to you during deliberations. In fact, there will be a room containing the exhibits and an index so that you can properly utilize them.

Now, I mention that just so that you have some idea of how it is that we will actually handle exhibits. Some were received, of course, as demonstrative exhibits which simply mean that just as the testimony of the witnesses for whom they were received as demonstrative or illustrative exhibits, you can consider them at the time they're used, but they don't actually come into the exhibit room and be there for you. So there's that distinction, and I'll explain all of that in much greater detail at the time that I instruct you in the case which comes as the last thing in the presentation of the case.

So, you know, we have a ways to go; and accordingly and the time of this recess now, please continue to do as you've been doing at all recesses, keeping open minds until you have heard it all, avoiding discussion among yourselves and with all other persons of anything that could in any way relate to the case which, as I've told you before, covers a very broad subject matter now; and be careful about all of those things that you may come into contact with as you read, see, and hear material to stay away of anything -- from anything that could conceivably influence you, knowing that your obligation under the oath taken and under the law is to decide according to what's presented to you in the course of this trial.

So with that, members of the jury, we're going to excuse you now until 8:45 on Monday morning. You're excused.

(Jury out at 12:28 p.m.)

THE COURT: Sounds like the jury was in favor of an early recess.

I'd like to see counsel at 1:30.

MR. TIGAR: 1:30.

THE COURT: And we'll discuss some of these scheduling matters at that time.

All right. Court's in recess.

(Recess at 12:29 p.m.)

* * * * *

INDEX

Item
Page

WITNESSES

 Germaine Johnston

 Direct Examination by Mr. Thurschwell

 Cross-examination by Mr. Ryan

 Edward Killam

 Direct Examination by Mr. Tigar

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12872

 (Edward Killam)

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12875

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12879

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12879

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12881

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12883

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12884

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12884

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12885

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12886

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12886

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12888

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12888

 (Edward Killam)

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12889

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12890

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12891

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12891

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12893

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12893

 Voir Dire Examination by Ms. Wilkinson

 Direct Examination Continued by Mr. Tigar 12894

Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12894
 Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12895
 Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12896
 Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12897
 Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12897

(Edward Killam)

Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12898
 Voir Dire Examination by Ms. Wilkinson
 Direct Examination Continued by Mr. Tigar 12900
 Cross-examination by Ms. Wilkinson
 Redirect Examination by Mr. Tigar

DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D1669	12878	12879			
D1670	12879	12879			
D1672	12882	12883			
D1674	12884	12884			
D1675	12885	12885			
D1676	12885	12886			
D1677	12886	12886			
D1678	12887	12888			
D1679	12888	12888			
D1680	12889	12889			
D1681	12889	12890			
D1682	12890	12891			
D1683	12891	12891			
D1684	12892	12892			
D1685	12893	12893			
D1686	12893	12894			
D1687					
D1688	12895	12895			
D1689	12895	12896			
D1691	12896	12897			
D1692	12897	12897			
D1693	12898	12898			
D1694	12899	12900			
D1771	12880	12881			
D1773	12883	12884			
D1785-D1786					
D1785-D1796	12868				
D1787	12869	12869			
D1788	12870	12870			
D1789	12870	12870			
D1790	12870	12871			
D1791					
D1792					
D1793	12871	12871			
D1794					
D1795					
D1796	12872	12872			
D1797	12874	12875			

REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 5th day of December, 1997.

Kara Spitler

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