

THE COURT: Next witness, please.

MR. TIGAR: Tony Tikuisis.

THE COURT: Mr. Tikuisis, you'll resume the stand under the oath that you took with us before on November the 26th.

(Tony Tikuisis was re-called.)

DIRECT EXAMINATION

BY MR. TIGAR:

Q. Good afternoon, sir.

A. Good afternoon.

Q. When you were here last, we were talking about plastics and companies that made different kinds of plastics. Did you participate in a survey of plastics manufacturers and plastic products manufacturers done by Agent Hayes and Mr. Udell?

A. Just a little bit.

Q. And what was your participation in that, sir?

A. I just helped to develop some of the questions that they should screen or to talk to other suppliers.

Q. And so you -- and to whom did you communicate those questions that you thought it would be a good idea to ask?

A. To Mr. Hayes.

Q. You did not communicate them to Mr. Udell; is that right?

A. Not that I recall, no.

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Q. Okay. Now, when you were here last, you talked about a test for an ICP test; is that correct?

A. Yes.

Q. And you did an ICP test on the plastics; is that right?

A. Yes, I did.

Q. And with that, what element did you detect?

A. I -- we actually checked for a couple elements, because when we do the analysis, you can measure other elements. The specific one I looked for was calcium.

Q. All right. And what other elements did you check for?

A. Aluminum, chromium.

Q. Did you check for zinc?

A. I can't recall.

Q. Okay. Now, the -- that ICP test is an elemental test; is that right?

A. Yes.

Q. And you've got -- that's the same periodic table of elements that we all learned in high school chemistry; correct?

A. Yes.

Q. And calcium is one of those elements; correct?

A. Yes.

Q. So the test does not identify calcium carbonate, does it?

A. No.

Q. So all you got was a reading that said calcium; is that right?

Tony Tikuisis - Direct

A. Yes.

Q. You did not get a reading that said calcium carbonate; correct?

A. No.

Q. You extrapolated or you reasoned from the finding calcium to calcium carbonate based on other information that you had; is that right?

A. Yes.

Q. Now, you also said that you -- your company does not disclose which specific antioxidant that you put in your resin beads to customers; is that right?

A. Not on a routine basis, because that information is considered proprietary.

Q. Now, when you say "proprietary," you make resin beads; correct?

A. Yes.

Q. To make those resin beads last longer and do more of what your customers want, you put things in them before they go out to the customer -- is that correct -- sometimes?

A. Yes. Yes.

Q. And one of the things that you put in them sometimes is an antioxidant; correct?

A. Yes.

Q. And the specific antioxidant that you use is -- you consider proprietary; correct?

Tony Tikuisis - Direct

A. Not the antioxidant itself, but the specific formulation that we use is considered proprietary.

Q. So that you do not regard yourself as obliged to disclose that even to the customer who's buying it from you; is that right?

A. Not exactly. In some cases, we will. It depends on the relationship that we have with that particular customer.

Q. All right. And so it's some customers you'll tell and some customers you won't; right?

A. Yes.

Q. And if I called you up on the phone and -- and got through to you and said, "Hello, Mr. Tikuisis. I'd like to know all the chemicals that you put into your products," would you tell me?

A. Probably not.

MR. TIGAR: No further questions.

THE COURT: Mr. Mearns.

MR. MEARNS: No questions, your Honor. He may be excused.

MR. TIGAR: He may be excused with our thanks, your Honor.

THE COURT: Appreciate your coming back. You're excused.

THE WITNESS: Thank you.

THE COURT: Next, please.

MR. TIGAR: Edward Killam.

THE COURT: Okay. He's been sworn. You've been sworn before?

YOU TO BEEN SWORN BEFORE.

THE WITNESS: Yes, I have.

THE COURT: He's already appeared before.

MR. TIGAR: Yes, your Honor.

THE COURT: Thank you.

(Edward Killam was re-called.)

DIRECT EXAMINATION

BY MR. TIGAR:

Q. This is -- and may again. Mr. Killam, as a part of your work on this case, did you go hunting for recyclers in Kansas?

A. Yes, sir.

Q. Did you go to a company called Pure Country Recyclers?

A. Yes, I did.

Q. Tell the jury, when was that?

A. The first time I went was on November 7 of 1995.

Q. And did you go again?

A. Yes, I did.

Q. When was that?

A. On October 23 of 1997.

Q. When you went the first time, did you take some pictures?

A. Yes, I did.

MR. TIGAR: May I approach, your Honor?

THE COURT: Yes.

Edward Killam - Direct

BY MR. TIGAR:

Q. Showing you what I have marked as Defendant's D1807, consisting of six pages, would you look at those and tell us, are those the pictures you took in 1995?

A. Yes, they are all -- all the photographs I took.

MR. TIGAR: We offer Exhibit D1807.

MS. WILKINSON: No objection.

THE COURT: Received.

BY MR. TIGAR:

Q. Now --

THE COURT: And how many are there there?

MR. TIGAR: There are seven photographs, your Honor, and they are pasted up on the pages numbered Bates' 1 through Bates' -- I'm sorry, your Honor. I apologize. There are six photographs, numbered 1 through 6. I apologize.

THE COURT: Thank you.

BY MR. TIGAR:

Q. Where is Pure Country?

A. It's just outside of Marion, Kansas.

Q. And let me show you the first of our pictures here. Is that the sign we would see as we entered that business?

A. Yes, it is.

Q. And what sorts of things can you buy at Pure Country Recyclers?

A. The things I know that they have for sale are plastic

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barrels and steel drums.

Q. Now, are these new plastic barrels?

A. No, they're not. They are used.

Q. All right. Let me put up the second photograph in the series. What are we looking at here?

A. This is on the -- the side of the business, on the business property. These are among the drums and other items that are either in the process of being brought in to purchase or are available for sale.

Q. And the third one?

A. Is another collection of the drums that they have for sale.

Q. And the fourth one here, what is this here? Is that a drum?

A. Yes, it is. It's one of their plastic drums which they are -- which is in use as well as being available for sale.

Q. And has the top been cut out of that one?

A. Yes. Of both, two barrels. They sell the drums either with the lids intact, or they will cut them out for you.

Q. And here's a closeup. Is that a closeup of one of the barrels with the lid cut out for you?

A. Yes. It is. That's the one they are using for collecting cans coming in, and it's also available -- that's one of the ones where they cut out the lids with a saber saw which they have on the premises.

Q. And here is another picture, just another picture of some

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more drums?

A. Yes. This is some of the ones that were inside. I didn't have a flash unit. If you'd look in the back of the picture, you can see there are more stored inside and available, as well.

Q. Now, back there in 1995, when you went, did they have white barrels?

A. Yes, they did.

Q. The -- and did they have whitish ones with blue plastic?

A. Yes. Blue lids and bottoms.

Q. Now, and at that time, what price were these drums? What could you get them for?

A. \$5 each.

Q. Now, you are familiar, are you not, sir, with two drums recovered from Mr. Nichols' residence? Have you seen those?

A. I'm familiar with all the drums recovered from the residence.

MR. TIGAR: All right. Two of them have already been introduced in evidence, your Honor. At this time we would offer D1806 and D1808, which is the two drums that we marked.

MS. WILKINSON: No objection.

THE COURT: All right. They are received.

MR. TIGAR: And to make our task easier, we would at this time also offer D1812, D1813, and D1814, three plastic drums.

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MS. WILKINSON: I haven't seen those, your Honor. I just want to take a look at them.

THE COURT: All right. Are they over there in the corner?

MR. TIGAR: Yes, your Honor.

MS. WILKINSON: Your Honor, I just have a few questions on voir dire.

THE COURT: All right.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, we're talking about three barrels that Government -- Defense Exhibit 1812, 1813, and 1814; correct?

A. I haven't seen them marked, but I understand which barrels they are.

Q. Those are three barrels that you purchased; right?

A. That's correct.

Q. And you purchased them just recently?

A. Yes.

Q. In October of 1997?

A. Okay. Correct.

Q. Do you know whether these barrels were available for purchase in any time between October, 1994, and April of 1995?

A. These very same barrels or the similar ones?

Q. These same -- the same-style barrels with the same markings and the same chemicals that are listed there that were held in

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those barrels?

A. Yes. The same kind were available then.

Q. How do you know that?

A. I interviewed the owners of Pure Country Recycling about their duration of business and the business practices.

Q. Okay. And you also interviewed them, didn't you, and found out whether the barrels that were found in Mr. Nichols' house were still currently available?

A. I did not discuss with them the barrels found in Mr. Nichols' home.

Q. Did you write a report about what you did?

A. Yes, I did.

Q. And did you say that certain barrels were no longer available for purchase in that style and size?

A. From the owners of Pure Country Recycling?

Q. Yes.

A. I don't recall that with them.

Q. Did you speak to the plant manager, Mr. Glen Seaton?

A. No. He's not with Pure Country Recycling.

Q. Who is he with?

A. He is with Associated Milk Producers.

Q. And is that where one of these barrels came from?

A. Yes. Where one of the barrels came from.

Q. Didn't he confirm for you that the barrel styles had changed from 1995?

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A. Yes. The one that the American Milk Producers has changed.

Q. Maybe I'm not making it clear, and we're using the defense exhibit numbers. Defense 1814 is a white plastic barrel with a blue lid obtained from Associated Milk Producers; correct? That's how it's marked in your exhibit list?

A. I think your description may be incorrect.

Q. Okay. Well, I'm reading from the one provided to me by the defense.

MR. TIGAR: Mr. Killam doesn't have the exhibit list, your Honor. That's something showed to counsel. Shall I place it in front of him so he can answer the question?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Mr. Killam, I may be confused, so let's start with 1814. Is that one that you bought from the Associated Milk Producers?

A. No, it is not.

Q. Okay. So when it says here that that's what it is, it's incorrect?

A. It's incorrect.

Q. Okay. Well, then tell us what 1814 is.

A. The barrel that I bought from Associated Milk Producers is all white with a white lid and bottom.

Q. Okay. So when it says here it has a blue lid, that's wrong?

A. That's incorrect.

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Q. All right. Is that one that has -- that you bought in October of 1997 from Associated Milk Producers?

THE COURT: Maybe you ought to look at the exhibits.

MS. WILKINSON: I think it would help, your Honor.

We don't mind if the jury sees them.

MR. TIGAR: Yes, your Honor, it is confusing to us.

I have made a mistake in labeling which one is 1813, 1814, which one is black and white --

THE COURT: There is no objection to bringing them out here and let the witness tell us what you've got.

BY MS. WILKINSON:

Q. Do you see D1814?

A. Yes, I can.

Q. D1813, do you see that?

A. Yes.

Q. And this is D1812.

A. Okay.

Q. All right. You tell me which one you purchased from the Milk Producers and I'll read the Government -- the exhibit number into the record.

A. Yes. The white one in the center, bearing the label XY12, manufacturer's label.

Q. Is this the one I'm -- the one you're describing?
A. That one came from Associated Milk Producers.
Q. So that's D1814. Okay. So the only difference is that

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this is the right barrel, it just doesn't have any blue lid on top of it; correct?

A. That's correct; right.

Q. Now, do you know whether this barrel was available for sale back in 1995?

A. I believe that that identical barrel was not available for sale from Associated Milk Producers.

Q. That's because the shape and size has changed; correct?

A. I don't believe the size has. I believe there have been modifications in shape at least.

Q. But this barrel, as it's currently constructed, was not available back in 1994 and 1995; correct?

A. That's my understanding.

MS. WILKINSON: We would object to 1814, your Honor.

BY MS. WILKINSON:

Q. How about 1812? Where did you buy that?

A. That one came from Pure Country Recycling.

Q. And that was available back in 1994 and 1995?

A. Yes, it was.

MS. WILKINSON: We have no objection to 1814 (sic).

BY MS. WILKINSON:

Q. And what about 1813? Where did you buy that?

A. That also came from Pure Country Recycling.

Q. And that was available back in 1994 and 1995?

A. Yes, it was. It was the predecessor to the one that

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replaced it.

MS. WILKINSON: No objection to 1813.

THE COURT: All right. Well, I'll receive D1813 and --

MR. TIGAR: 12 and 13.

THE COURT: Yeah. 12.

MR. TIGAR: Retire this barrel.

THE COURT: Okay.

DIRECT EXAMINATION CONTINUED

BY MR. TIGAR:

Q. Now, sir, all of the barrels that you've seen that are involved in this case are similar in one respect, are they not?

A. Well, they are similar.

Q. And what is -- what is the way in which they are all similar?

A. Well, they are all similar in size, general shape and construction and material of construction.

Q. And what -- in looking now at the one recovered from Mr. Nichols' house, which is in evidence as D1806, what's the company that makes this product?

A. The company at that time was known as Klenzade.
Q. And it says Klenzade, Ecolab. What was in this barrel originally?
A. It's -- the broad label on it says XY12. My understanding is that it's a cleansing compound, a cleansing chemical for

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use in the dairy industry.

Q. Okay. Now, and then that's the same cleansing chemical that's in the other one here, D1808; correct?

A. Correct.

Q. Now, this is called Klenzade Mandate; correct?

A. Correct.

Q. And that is a CIP acid sanitizer for dairy- and food-processing equipment; correct?

A. That's what the label reads, yes.

Q. And then this one is something called Bac-Flush; correct?

A. Correct.

Q. Now, when you went to Pure Country in 1995, how much did they want for one of these barrels?

A. \$5.

Q. And would they charge you \$5 to sell it to you like this or -- did they give you a choice to have the top cut off?

A. You could have the top cut off for free.

Q. Now, the barrel when you went to the dairy people -- okay. I understand the barrel is not in evidence. But when you went to the dairy people, would they sell you a barrel in 1997?

A. Sure.

Q. And how much did they want for their barrels?

A. \$3.

Q. Now, did you look on these barrels to see if you could tell who made them?

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A. Yes, I did.

MR. TIGAR: Can he step down and show the jury, your Honor?

THE COURT: He may, yes.

BY MR. TIGAR:

Q. Let's start with the one in Mr. Nichols' house. Is there any indication on here of a manufacturer that you can see?

A. Not one that I can see.

Q. Okay. And is the same true of the other one, what's in evidence as D1806?

A. I don't see a manufacturer's name.

Q. Okay. Now, these barrels, the blue and white, have this writing on the side that shows the gallonage -- correct -- as you fill them?

A. Correct. I see it.

Q. Now, do you see the same gallonage on the side of this barrel which is in evidence as 1812?

A. Yes, I do.

Q. And can you -- with this one which has the top intact -- can

Q. And can you -- with this one which has the top intact, can you see a manufacturer?

A. Van Leer Plastics Worldwide -- Packaging Worldwide. Van Leer.

Q. Now, this barrel which is in evidence as 1813, another dairy barrel, this shows some signs of having been out of doors?

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A. Yes, it does.

Q. Is this in the same condition as when you purchased it?

A. It's cleaner. I wiped it off.

Q. Can you tell the jury who made this one.

A. Yes, I can.

Q. And looking here at an emblem on the side, and what does that say?

A. Smurfit.

Q. And that has some other information; correct?

A. Correct.

Q. When you went out to Pure Country Recyclers in 1995, did you see a lot of barrels that resembled the four that are lined up in front of you?

A. Yes, I did.

MR. TIGAR: No further questions.

THE COURT: Ms. Wilkinson.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Mr. Killam, you started looking at barrels back in November of 1995?

A. Approximately, yes.

Q. And you told us the first place you went was where?

A. Pure Country Recycling.

Q. Why did you go there?

A. It was recommended to me as a place where barrels were

Edward Killam - Cross

available.

Q. Is that the only reason?

A. And its geographic location.

Q. Any other reasons?

A. No.

Q. None?

A. Nope.

Q. Did you go to any other barrel or recycling companies in the fall of 1995?

A. For any reason?

Q. To look for barrels as you've described today.

A. I went to some other facilities which had barrels in storage to take photographs of them.

Q. When you went to Pure County (sic) Recycling back in November of 1994, you told us you interviewed the people there; correct?

A. Correct.

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Q. And you told us what they said about the barrels; right?
A. Yes.
Q. You also asked them whether they ever saw Mr. Nichols purchase any barrels, didn't you?
A. Yes, I did.
Q. They didn't recall seeing him, did they?
A. No, they didn't.
Q. Now, Pure County Recycling is approximately how far from

Edward Killam - Cross

the Martin Marietta quarry in Marion, Kansas?

A. I would say less than 10 miles.
Q. How far is it from the house where Mr. Nichols lived up until September 30 or the weekend of October 1 and 2 of 1994?
A. I'd say that would be an additional 5 or 6 miles, perhaps.
Q. Now, when you spoke to the folks at the Pure County Recycling, they told you that they recycled these barrels; correct?
A. Correct.
Q. You'll agree with me, won't you, that if someone had manufactured four barrels and four barrels were recycled, we still only have four barrels? Right?
A. I would agree.
Q. Recycling them doesn't create any more barrels available on the market, does it?
A. No, it does not.
Q. Now, you don't have any knowledge about where Mr. Nichols got the barrels that were in his house, do you?
A. Yes, I do.
Q. You have personal knowledge about that?
A. Yes.
Q. And the barrels --
MR. TIGAR: Excuse me, your Honor. I'm not objecting to the hearsay, if she wants to elicit it.
THE COURT: All right.

Edward Killam - Cross

MS. WILKINSON: Thank you.

BY MS. WILKINSON:

Q. When you bought these barrels, they had lids on them; correct?
A. That's correct.
Q. But there were also barrels available that did not have lids on them?
A. That's right.
Q. Now, after you bought the barrels at Pure Company (sic) Recycling in October of 1997, just a month and a half ago, did you do any more research on barrels?
A. No. Not independent research.
Q. You were never asked to go and look at different chemical formulas for barrels?
A. Only the documents that were provided to the defense for

discovery.

Q. All right. And did you contact any of the manufacturers to determine if any manufacturer used the same chemical recipe as Smurfit plastic did?

A. No, I did not.

Q. You didn't contact any of them?

A. No. None of them.

Q. You have no information, do you, Mr. Killam, that anyone else manufactured -- uses the formula that Smurfit plastic does to manufacture barrels, do you?

Edward Killam - Cross

A. Not of my own knowledge, no.

Q. Now, Mr. Killam, you'll agree that going out to a recycling plant isn't the only place that you can get barrels; right?

A. That's correct.

Q. And you know that you can call barrel companies themselves, can't you?

A. Sure.

Q. And you can also use the Yellow Pages to find those barrel companies, can't you?

A. Yes, you can.

Q. Let me let you take a look at what's already in evidence as Government's Exhibit 569.

MR. TIGAR: I do object to this, your Honor.

THE COURT: Sustained.

BY MS. WILKINSON:

Q. Mr. Killam, did you contact the Coffeyville Recon, Incorporated, business?

A. No, I did not.

Q. Did you contact Greif Brothers?

A. No, I did not.

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

THE COURT: All right. Any redirect?

REDIRECT EXAMINATION

BY MR. TIGAR:

Edward Killam - Redirect

Q. Is it Pure County or Pure Country?

A. Pure Country.

Q. Pure Country. And who owned -- who owned Pure Country at the time you were out there in 1995?

A. Sherman Kelsey and Frank Bailey.

Q. And did -- how do they sell most of their barrels? Are they credit card, check, cash?

A. Cash.

Q. And did they -- can they -- were they able to recall the identities of any of their purchasers?

A. No. They recalled only one barrel purchase which was by a governmental agency, but none others.

Q. And what did they say was the reason they could recall that

one barrel purchase by a Government agency?

A. Because they remembered it was a large purchase of 10 or 12 barrels and they came to pick it up with a truck and trailer having government license plates on it.

Q. And was that the only one they were able to recall?

A. The only one.

Q. Now, did they explain how they get these barrels that they sell for recycling purposes?

A. Yes, they do (sic).

Q. And did they make a difference between different kinds of barrels that they would sell for different purposes?

A. Well, the barrels weren't different, but the former

Edward Killam - Redirect

contents of the barrels was different.

Q. And how did the former contents of the barrels affect the way in which Mr. Bailey and Mr. Kelsey would market these things?

A. What they would do is they would ask people what their intended use of the barrel was. If they -- people said it was for trash, then they would sell them barrels such as these which formerly contained corrosives or detergents or something that could contaminate water; and typically, they would cut the lids off for trash barrels. If the people said they were going to use them for livestock feed or as water storage barrels, then they would steer them to a different set of barrels which had formerly contained food products like chocolate syrup and so forth. So it depended on what a person was going to use them for.

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

MS. WILKINSON: We don't have any further questions, your Honor.

THE COURT: All right.

MR. TIGAR: Your Honor, may I have a moment to move the evidence?

THE COURT: Yes.

MR. TIGAR: Thank you, Mr. Killam.

THE COURT: You may step down.

MR. WOODS: Next witness is Daryl McCraw.

MR. TIGAR: May I have permission to leave the courtroom to wash my hands?

THE COURT: You may.

MR. TIGAR: Thank you, your Honor.

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

(Daryl McCraw 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: Daryl Lee McCraw, M-C-C-R-A-W.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q Hello, Mr. McCraw. How are you?

Q. Hello, Mr. McCraw. How are you?
A. All right. How are you doing?
Q. Where are you from, Mr. McCraw?
A. Tishomingo, Oklahoma.
Q. Got to go a little slower.
A. Tishomingo, Oklahoma.
Q. Where do you live currently?
A. Mannsville, Oklahoma.
Q. And how old are you?
A. 31.

Daryl McCraw - Direct

Q. What is your educational background, sir?
A. Refrigeration, heating, air-conditioning, electrical, plumbing.
Q. You went to high school, you graduated from high school?
A. Yes, sir.
Q. And then you did some trade schools?
A. Yes, sir.
Q. Was that in conjunction with your work in the Navy?
A. Yes, sir, it was.
Q. What did you do in the Navy?
A. Steam-propulsion engineer.
Q. What ship did you serve on?
A. U.S.S. New Jersey.
Q. Were you -- did you serve in Desert Storm in that --
A. No, sir, I did not.
Q. What time period were you in the Navy?
A. From 1985 to 1989.
Q. And what did you do after you got out of the Navy?
A. I came back to Oklahoma and then went back to Arizona and moved up to Kingman, Arizona.
Q. So you lived for a time in Kingman, Arizona?
A. Yes, sir, I did.
Q. And what -- did there come a time when you were in Kingman, Arizona, that you worked for State Security?
A. Yes, sir.

Daryl McCraw - Direct

Q. And what time period was that, to the best of your recollection?
A. That was about '93.
Q. Tell the jury what State Security is.
A. It's an armed -- armed security company that does state fairs and riot control and security control for the horse racing in Kingman.
Q. Were you an armed guard for State Security?
A. Yes, sir.
Q. And for how long did you work at State Security?
A. My best knowledge, a little over a year.
Q. So starting in '93 and ending in '93, or did it go over in 1994?
A. Just into 1994.

Q. Did there come a time when you met a gentleman by the name of Timothy McVeigh?
A. Yes, sir.
Q. Tell the jury how that happened.
A. He was my relief at MNX Truck Terminal.
Q. So he -- was MNX Truck Terminal one of the places that you patrolled at State Security?
A. Yes, sir.
Q. And was Mr. McVeigh also employed at State Security?
A. Yes, sir, he was.
Q. So tell us about how you met him and --

Daryl McCraw - Direct

A. Well, I met him working at MNX. He was -- I worked the afternoon shift. He worked the graveyard shift, would relieve me. And then when we did the state fair -- when we weren't working at MNX, we would do crowd control at the state fair.
Q. Did you have occasion to go target shooting with Mr. McVeigh?
A. Yes, sir.
Q. And describe those situations for the jury, please.
A. There was a little wash outside of Kingman that we would go target shooting and do tactical shoots just like --
Q. Was this in conjunction -- I'm sorry to interrupt. Was this in conjunction with your work at State Security?
A. Yes, sir, it was.
Q. And you would do tactical shoots. What is a tactical shoot?
A. Going into clearing a building on a hostage situation or because some of the cases that we did were also escorts for -- I don't know -- witnesses, different things like that at that time.
Q. So was there a -- an area set up with targets that you -- you and Mr. McVeigh would -- would fire your weapons at and score points?
A. The company had the targets that we used.
Q. And was Mr. McVeigh knowledgeable about firearms?
A. Yes, sir.

Daryl McCraw - Direct

Q. Did you grow up around firearms?
A. Yes, sir, I did.
Q. And you were in the military?
A. Yes, sir.
Q. So you know a lot about weapons?
A. Yes, sir.
Q. Did Mr. McVeigh know a lot about weapons?
A. Yes, he did.
Q. Did he know his weapons backwards and forwards?
A. Yes, sir.
Q. What kind of a shot was Mr. McVeigh?
A. He was an expert from our tactical shots.

Q. You're a pretty good shot, too?

A. Yes, sir.

Q. Were you and he the best shots there?

A. We were the only ones hitting the targets, yes, sir.

Q. Did there come a time when you went to a gun show at Mr. McVeigh's invitation?

A. Yes, sir.

Q. Please -- describe how that came about for the jury, please.

A. Well, one day after work, he asked me to -- if I wanted to go to a gun show. And I wasn't working that day, and I went and with a guest pass they left at the front desk, and --

Q. To the best of your recollection, around what time period

Daryl McCraw - Direct

would this have been?

A. It was in April.

Q. And what year?

A. 1993.

Q. And did Mr. McVeigh tell you he was doing anything at that particular gun show?

A. Not really. Just come by and see him.

Q. He asked you to come by and see him. Did he have a table at that gun show?

A. Yes, he did.

Q. Okay. And did you go by and see Mr. McVeigh at that gun show?

A. Yes, I did.

Q. What kind of things was Mr. McVeigh selling at that gun show?

MS. WILKINSON: Objection, your Honor. Relevance.

THE COURT: Overruled.

THE WITNESS: Well, he --

THE COURT: You may answer.

THE WITNESS: He was selling survival magazines, pamphlets, P38's.

BY MR. NEUREITER:

Q. Tell the jury what a P38 is.

A. It's a -- just a fancy name for a can opener from the military.

Daryl McCraw - Direct

Q. While you were there at that gun show, did there come a time when you had a conversation with Mr. McVeigh about explosives?

A. Yes, sir.

Q. Tell the jury what that conversation was about and what Mr. McVeigh said.

A. The conversation, we were going over some of the pamphlets, and he was talking on how easy it would be to make explosives out of household chemicals.

Q. Did Mr. McVeigh lead you into that conversation, or did he follow you into that conversation?

follow you into that conversation?

A. He led me into that conversation.

Q. Did there come a time when Mr. McVeigh tried to recruit you into a militia?

A. Yes, sir.

Q. Tell the jury about that, please.

MS. WILKINSON: Objection, your Honor.

THE COURT: Well, we need time.

BY MR. NEUREITER:

Q. Okay. During the time you worked with Mr. McVeigh at State Security, did you have a conversation with him about going and taking some training courses?

A. Yes, sir.

MR. NEUREITER: May I ask the witness if he could describe those conversations, your Honor?

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THE COURT: It would be helpful if we could fix the time better.

MR. NEUREITER: Yes.

BY MR. NEUREITER:

Q. To the best of your recollection, what was the time period that this occurred?

A. If I remember right, that was in April, around the gun show time.

Q. Around the time -- same time as the gun show?

A. Yes, sir.

Q. Go ahead and tell the jury about those conversations, if you could.

A. It was a training camp up in -- somewhere up north -- or not north, but in -- by Nevada.

Q. And to interrupt, is that -- is this Mr. McVeigh who was explaining this to you?

A. Yes, sir.

Q. Okay. Go ahead and continue.

A. It was a survival camp. And he asked me if I wanted to go, and I couldn't afford to take the time off from work.

Q. So you didn't accompany Mr. McVeigh up to Nevada for that camp training?

A. Yes, sir.

Q. You did not?

A. No, I did not, sir.

Daryl McCraw - Direct

Q. And with respect to this conversation about the militia, did you -- did Mr. McVeigh lead you into that conversation?

THE COURT: I didn't hear him say anything about militia.

MR. NEUREITER: Oh, I'm sorry.

BY MR. NEUREITER:

Q. Did Mr. McVeigh suggest to you anything about a militia in the context of these conversations?

A. Yes, sir, he did.

Q. And what was that?

A. He just suggested it, showing me some of the pamphlets and some paperwork on the illegal (sic) of IRS and the new constitution.

Q. And was that in connection with the discussion about the training in Nevada?

A. Yes, it was.

Q. And with respect to these conversations, did Mr. McVeigh lead you into these conversations, or did he follow you into these conversations?

MS. WILKINSON: Objection to leading, your Honor.

THE COURT: Sustained.

BY MR. NEUREITER:

Q. Did Mr. McVeigh initiate these conversations?

A. Yes, he did.

Q. Okay. Did you speak with Mr. McVeigh about Waco?

Daryl McCraw - Direct

A. Yes, sir, I did.

Q. And was this around the same time period in 1993?

MS. WILKINSON: Objection to leading again, your

Honor.

BY MR. NEUREITER:

Q. Around what time period was this that you were having conversations about Waco?

A. It was '93.

Q. And to give the -- the jury a sense of what month that was, do you have any recollection?

A. All this went down during the -- just after the gun show as a relief at work.

Q. This would have been in April of '93?

A. Yes, sir.

Q. What did Mr. McVeigh tell you about Waco?

A. He was just upset about the way it went down and that it was -- what they did was wrong. And any time you -- the time that he brought it up, he was very upset about it.

Q. Okay. Did his expression change to anger when he spoke about Waco?

MS. WILKINSON: Objection to leading.

THE COURT: Sustained.

THE WITNESS: Yes, it did.

THE COURT: No.

BY MR. NEUREITER:

Daryl McCraw - Direct

Q. Don't answer. When he says "sustained," you're not supposed to answer.

Could you tell the jury anything about Mr. McVeigh's expression during these conversations about Waco.

A. He was very upset anytime you -- you mentioned it.

Q. Did you or Mr. McVeigh initiate conversations about Waco?

A. Not after that, no.

Q. Who --

A. He initiated it.

Q. Okay. That's the question. Did there come a time when Mr. McVeigh gave you some literature?

A. Yes, sir.

Q. And when was that? Around what time period?

A. April of '93.

Q. And was this at the job?

A. No. This was at the gun show.

Q. He gave you some pamphlets?

A. Yes, sir.

Q. I'd like to display on the ELMO D1805 which has not yet been admitted. Zoom out. This is the first page of one, two, three, four, five, six -- seven pages. And I'm going to zoom in to the first line. Is -- do you remember seeing this document before?

A. Yes, sir, I do.

Q. And what -- is this the document that Mr. McVeigh -- one of

Daryl McCraw - Direct

the documents that Mr. McVeigh gave you?

A. Yes, sir, it was.

MR. NEUREITER: Move its admission, your Honor.

MS. WILKINSON: No objection to that page.

THE COURT: Well, what are you moving?

MR. NEUREITER: I'm moving all five pages.

MS. WILKINSON: We just need to hear the witness say he recognizes all of the pages.

MR. NEUREITER: Okay. If I could approach, your Honor?

THE COURT: Yes.

BY MR. NEUREITER:

Q. If you could just flip through all of the pages there and tell me if that is the entire document that you -- the complete -- one of the complete documents that you received from Mr. McVeigh on that day.

A. Yes, sir, it is.

MR. NEUREITER: Okay. Move its admission.

MS. WILKINSON: No objection.

THE COURT: Received.

BY MR. NEUREITER:

Q. And to zoom out just a notch, can you read the -- just the first paragraph there, the first sentence. Is that big enough for you to read?

A. Starting at the beginning of the top?

Daryl McCraw - Direct

Q. Starting -- yes. Right at the beginning at the top.

A. "Following is a completion (sic) of various articles and quotes gathered from numerous patriotic publications over the past year."

Q. That is correct. That is correct.

Q. That's enough. That's fine.

And does the rest of this document contain quotations from patriotic publications?

A. Yes, it does.

MS. WILKINSON: Objection -- I'll withdraw it, your Honor.

THE COURT: Thank you.

BY MR. NEUREITER:

Q. Now, I'd like to put up on the ELMO what has not yet been admitted, D1059. And tell me if you recognize this as another one of the -- the front page of another one of the documents that Mr. McVeigh gave you.

A. Yes, sir, I do.

Q. Okay. And this is a document that is Bates' stamped 1 through 27. And I'm now flipping to the sixth Bates' stamped page which appears to be the beginning of another document. Do you recognize that as the beginning of another document that Mr. McVeigh gave you?

A. Yes, sir.

MR. NEUREITER: All right. Now, if I could approach, your Honor, and ask him to look at all the pages.

Daryl McCraw - Direct

THE COURT: Yes.

BY MR. NEUREITER:

Q. Give you that and ask you if all those pages represent the sum total of those two other documents that Mr. McVeigh gave you.

MS. WILKINSON: Your Honor, could I just ask Mr. Neureiter to move so I can observe the witness?

THE COURT: Yes.

BY MR. NEUREITER:

Q. You almost done?

A. Yes, I am.

Q. Are those -- is that exhibit a copy of the two documents that Mr. McVeigh gave you on that day?

A. Yes, it is.

Q. And did you later turn these documents over to the FBI?

A. Yes, sir, I did.

Q. After Mr. McVeigh gave you these documents, did you read them?

A. I thumbed through them. Didn't really get in depth on them.

Q. But you thumbed through them?

A. Yes, sir.

MR. NEUREITER: Pass the witness.

THE COURT: Do you want to offer the exhibit?

MR. NEUREITER: Oh, I apologize. I offer D1059.

MS. WILKINSON: No objection.

THE COURT: Received.

You may cross-examine.

MS. WILKINSON: Thank you.

CROSS-EXAMINATION

BY MS. WILKINSON:

O. Good afternoon, sir.

2. Good afternoon, Sir.

A. All right. How are you doing?

Q. Good. How are you?

A. Just fine.

Q. When you spoke to Mr. McVeigh about Waco, he brought up the subject; correct?

A. Yes, ma'am.

Q. You told him that you didn't agree with him; isn't that right?

A. That's right.

Q. And did he tell you he didn't want to talk to you about it anymore after that?

A. Yeah. We went no further.

Q. Once he knew you didn't agree with him?

A. Right.

Q. Now, did he mention to you in 1993 that he sometimes went to Michigan?

A. Yes, ma'am, he did.

Q. All right. During your conversations with him about these

Edward Killam - Cross

documents that have been introduced to the jury, did Mr. McVeigh ever tell you that he wanted to overthrow the government?

A. No, ma'am.

Q. Did he ever predict that this would --

MR. NEUREITER: Objection, your Honor.

THE COURT: Sustained as to what he didn't say.

BY MS. WILKINSON:

Q. Did Mr. McVeigh ever predict that there would be civil unrest as a result of the government action at Waco?

MR. NEUREITER: Objection, your Honor.

THE COURT: Sustained for what he did not say.

MS. WILKINSON: Maybe I'm not phrasing it --

BY MS. WILKINSON:

Q. Did he say it?

THE COURT: I'm not going to go through everything that he did not say.

MS. WILKINSON: I understand, your Honor. If you're asking me if I have a good faith basis to believe that he did say this, I do. Only for this statement that I'm asking.

THE COURT: If you're going to do that, you'll have to give the time and the place and who was present so that the witness has an adequate opportunity to be informed what you're asking him about.

MS. WILKINSON: Yes, your Honor. I'm sorry.

Edward Killam - Cross

BY MS. WILKINSON:

Q. Back in April of 1993, when you discussed Waco that first time, did Mr. McVeigh predict to you that there would be civil unrest as a result of the government action in Waco?

A. What do you mean by "civil unrest"?

Q. Well, did he talk about that citizens would be upset?

A. Not -- not to my knowledge.

Q. Did he talk about citizens taking action?

A. No, ma'am.

Q. Sir, do you remember Mr. McVeigh saying anything about civil unrest to you in conjunction with Waco back in April of 1993?

A. No, I don't, because once we talked about it, we didn't talk any further.

Q. Did you keep in touch with Mr. McVeigh back in the fall of 1994?

A. No, I did not.

Q. Did you keep in touch with him in -- from January through April of 1995?

A. No, ma'am.

MS. WILKINSON: No further questions, your Honor.

THE COURT: Anything else of this witness?

MR. NEUREITER: One moment, your Honor.

No further questions, your Honor. We excuse the witness.

MS. WILKINSON: We agree.

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

MR. WOODS: Steve Hodge.

THE COURT: All right.

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

(Dale Hodge 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 full name is Dale Steven Hodge, H-O-D-G-E.

THE COURTROOM DEPUTY: Can you lean forward a little so the microphone will pick you up. Thank you.

DIRECT EXAMINATION

BY MR. WOODS:

Q. Good afternoon, Mr. Hodge. Tell the jury where you live.

A. I live in Amherst, New York.

Q. And what do you do for a living?

A. I work as an assistant database administrator for Data Management Company.

Q. And where is that company located?

A. It's located in Amherst.

Q. Okay. What is your educational background?

A. I have a bachelor's degree in business administration from

Dale Hodge - Direct

Daemen College.

Q. What year did you get that?

A. I graduated in '89.

Q. Okay. And did you go to work for this company at that time?

A. No. I worked briefly for a -- Pick Way, Pick Way Shoes.

Q. All right. Do you know Timothy McVeigh?
A. Yes, I do.
Q. Will you tell the jury when and where you first met Timothy McVeigh.
A. All right. I first met Tim when he and his family built a house across the street from where I was living. That would have been -- I would have been in the fifth grade back then.
Q. Did you become acquainted and friends with Mr. McVeigh?
A. Yes.
Q. And what grade -- if you were in the fifth grade, what grade was he in, if you recall?
A. He would have been in the fourth grade.
Q. Did you go through the school system together?
A. Yes.
Q. What city were you going to school in?
A. Lockport. We went to Star Point.
Q. Lockport, New York?
A. Yes.
Q. And tell the jury where that is, what major city it's near.

Dale Hodge - Direct

A. That would be close to Buffalo or in between Buffalo and Lockport.
Q. All right. And the two of you went through high school together; is that correct?
A. Yes.
Q. And he was a year behind you?
A. Yes.
Q. And were you close friends during that time?
A. Yes, we were.
Q. Did you associate together and run around together?
A. Yes.
Q. Okay. After high school, what did you do?
A. I went on to college.
Q. All right. And did you keep in touch with Mr. McVeigh?
A. Yes, I did.
Q. Did he continue to live across the street from you?
A. Yeah. For -- well, after high school, no. His parents split up and he moved to with his father, who built a house on Campbell Boulevard, which is just around the corner.
Q. How close was that on Campbell Boulevard around the corner? How close was it still to your house?
A. It's probably about 2 miles.
Q. Okay. Now, while you were in college, did you keep up with what Mr. McVeigh was doing?
A. Yes.

Dale Hodge - Direct

Q. Do you recall whether or not Mr. McVeigh had a job after high school?
A. Yes, he did.
Q. And what type of jobs did he have, if you recall?
A. Immediately after high school I think he was still working

A. Immediately after high school, I think he was still working at Burger King; and then from there, he went on to Burke Security.

Q. Okay. And what year was that that he graduated from high school?

A. It would have been '86.

Q. All right. And he worked for Burger King and then Burke B-U-R-K-E, Security?

A. Right.

Q. How long did he hold that job at Burke Security?

A. I don't know exactly. A year, maybe.

Q. Do you recall whether or not Mr. McVeigh entered the Army?

A. Yes, he did.

Q. And do you remember approximately what time that was, what year?

A. Approximately -- it would have been about '87, '88. Something like that.

Q. Okay. And do you know how long he stayed in the Army?

MS. WILKINSON: Objection.

THE WITNESS: Until right after the Gulf War.

THE COURT: What's the objection?

Dale Hodge - Direct

MS. WILKINSON: Just whether he has personal knowledge, or not.

THE COURT: Were you in correspondence with him during that time?

THE WITNESS: When --

THE COURT: How do you know he was in the Army? That's the question.

THE WITNESS: Oh, yeah. He -- he wrote to me.

BY MR. WOODS:

Q. I was about to get to that.

A. Yeah.

Q. Let me establish the time period that he was in the Army. Do you recall when it was that he got out of the Army?

A. Yeah. Not too long after the Gulf War. It would have been end of '91.

Q. All right. During that period of time, did you correspond with Mr. McVeigh and he corresponded with you?

A. Yes.

Q. Can you give us approximately how many letters you exchanged during that time that he was in the Army?

A. I guess approximately about 66.

Q. Well, let me jump ahead just for a minute. After Mr. McVeigh's arrest, did you contact the FBI and turn over some letters to the FBI?

A. Yes, I did.

Dale Hodge - Direct

Q. Now, did those letters span a period of time through the Army and then after the Army in '93 and '94?

A. Yes, they did.

Q. And do you recall what the total number of letters were that you turned over to the FBI?

A. I believe 66.

Q. Okay. Now, let's go back to the time during the period that he was in the Army. Was there anything unusual about the correspondence at that time, or were you just telling each other what you were doing?

A. No. It was just pretty much what was happening.

Q. Okay. After the -- after Mr. McVeigh's Army service, the end of '91, where did he go, if you know?

A. He came back to Buffalo, and he was working -- he got a job at Burns Security.

Q. Okay. How long did he keep that job, if you recall?

A. About a year, I guess.

Q. This would be the year of '92?

A. Yes.

Q. From January to January of '93? January of '92 to January of '93? Approximately that time period?

A. Yeah.

Q. And did you have personal contact with Mr. McVeigh during that time and not correspond with him by letter?

A. Yes. I did.

Dale Hodge - Direct

Q. Did you see him frequently?

A. No. After he got back from the Army, he tended to keep more to himself. He was kind of tough to get a hold of.

Q. All right. Where was he living at that time?

A. He lived for a while with his father on Campbell, and then he got an apartment of his own up in Lockport.

Q. All right. Did you ever see his apartment?

A. Yes.

Q. Okay. So you had some contact with him during this time; is that correct?

A. Yes, I did.

Q. Did you notice any change in Mr. McVeigh?

A. Well, like I said, he kept more to himself. He made himself kind of hard to get a hold of. And he -- he seemed more political whenever we got together. He -- he talked a lot about listening to Radio Free America, listening to Rush Limbaugh, and things like that.

Q. All right. During that period of '92, did he give you any books or pamphlets to read?

A. Yes, he did. He -- I know specifically he gave me The Turner Diaries to read.

Q. All right. Did you have a discussion about The Turner Diaries after he gave it to you?

A. Sure.

Q. Did you return it to him, or did you keep it, or what?

Dale Hodge - Direct

A. I returned it to him.

Q. Okay. Did he give you pamphlets, any Xeroxed articles out of magazines to read during that time?
A. No. I don't believe at that time he did.
Q. All right. Did there come a time when Mr. McVeigh left the Lockport area?
A. Yes.
Q. And do you recall when that was?
A. It would have been about the beginning of '93.
Q. Okay.
A. January, February.
Q. Did he tell you where he was going?
A. No. He wouldn't tell me.
Q. Did you have any contact with him after that time via letters or personal contact?
A. Yeah. He wrote to me.
Q. Okay. Did he give you an address where you could write to him?
A. Yeah. Eventually, he did.
Q. What address do you recall, or addresses during the year '93?
A. Just in Flint, Michigan.
Q. All right. An address in Flint, Michigan?
A. Right.
Q. Okay. Did he write to you during that time?

Dale Hodge - Direct

A. Yes, he did.
Q. Okay. What were the nature of the letters?
A. Very political. There was nothing personal in them at all.
Q. Okay. Can you tell the jury what you mean by "political."
A. Well, he was trying very hard to sell me on various theories of conspiracies and things like that.
Q. Regarding what?
A. Regarding federal government. He -- I never completely understood it all, but he seemed to feel that there were conspiracies, trying to limit people's freedoms and so on.
Q. Were they of the nature of being antigovernment?
A. Yes.
Q. During the year '94, did you have further contact with Mr. McVeigh?
A. Yeah. By letter.
Q. Did there come a time in your correspondence where Mr. McVeigh ended the friendship?
A. Yes.

MR. WOODS: Okay. May I approach the witness, your Honor?

THE COURT: Yes.

BY MR. WOODS:

Q. Let me show you what's been marked for identification purposes only as D1811, and I'll ask you to look at that. Have you seen that before, Mr. Hodge?

Dale Hodge - Direct

Dale Hodge - Direct

A. Yes, it is (sic).

Q. Okay. Is that one of the letters that you received from Mr. McVeigh?

A. Yes.

Q. Do you recognize the handwriting?

A. Yes.

Q. How are you able to recognize the handwriting?

A. I've seen Tim write. I mean, over the years that we've grown up, I've had plenty of opportunities to see him write.

Q. Okay. And was this the last letter you received from him?

A. Yes, it is.

Q. What's the date on it?

A. July 14, '94.

Q. Okay. So this is the last of the 66 letters that you had saved and turned over to the FBI?

A. Yes.

Q. And in this letter, can you give the -- without reading every -- there's 23 pages plus some attached Xerox articles; is that correct?

A. Yes.

Q. Without reading every word, can you give the jury just a flavor of what Mr. McVeigh was telling you and then why he ended his friendship with you.

A. This thing -- it's very antigovernment. He's -- in it, he's spelling out the Cons -- not the Constitution -- the

Dale Hodge - Direct

Declaration of Independence, he said, in words that I could understand. He was writing in response to a letter that I had written to him, you know. I was trying to find some common ground and open a dialogue, but -- and he eventually decided that our ideologies were too different in order for us to be -- continue to be friends.

Q. Okay. Does he refer to Waco within that letter that you recall?

A. Yes, he does.

Q. And in what manner does he refer to Waco?

A. He felt that the government had deliberately murdered the people in Waco; that it wasn't an accident.

Q. Had -- do you recall when the Waco incident occurred?

A. Yes.

Q. And what -- what is your recall as to the date that that happened?

A. It was April 19.

Q. Of what year?

A. 1995.

Q. Pardon me?

A. '95.

Q. No. For Waco?

A. Huh?

Q. For Waco. Not the Oklahoma City bombing. I'm sorry. I wasn't clear.

Dale Hodge - Direct

A. '93.

Q. Did you notice any change in Mr. McVeigh's letters after the Waco incident in April of '93?

A. They were still very political, very antigovernment. He talked a lot about Waco, though.

Q. Okay.

A. He was very hot on the subject.

Q. During that period of time, from April of '93 until this letter where he ends your friendship, does this letter have attached photocopies of articles from various conservative magazines?

A. Yes.

Q. Can you just give us an idea from which periodicals those articles appear and what the subject matter is. And you can feel free to look at them. It's the attachments in the back.

A. Right.

MS. WILKINSON: Your Honor, I'd only ask that he move it into evidence. I don't believe Mr. --

MR. WOODS: We'd offer it into evidence, your Honor.

THE COURT: This is D1811?

MR. WOODS: 1811, yes, your Honor.

MS. WILKINSON: We have no objection, your Honor.

THE COURT: All right. It's received. Thank you.

BY MR. WOODS:

Q. Do you recall whether or not some of the articles come from

Dale Hodge - Direct

Soldier of Fortune?

A. Yeah. Soldier of Fortune.

Q. Okay. Had he also -- prior to that date in July, '94, when he ended his friendship with you, had he sent you articles before that were photocopied out of newspapers or --

A. Sure.

Q. -- conservative magazines?

A. Frequently.

Q. Had you saved those, also?

A. No, I didn't save those.

Q. Just the letters?

A. Yeah.

Q. But on this particular one, the -- when you turned it over to the FBI, the article was still attached; is that correct?

A. Yeah. He had written a lot of stuff on a lot of them, so I

kept it all.

Q. And did you have any contact from that point on, July, '94, with Mr. McVeigh, Mr. Hodge?

A. No.

MR. WOODS: Okay. Thank you. We'd pass the witness, your Honor.

THE COURT: All right. Ms. Wilkinson.

MS. WILKINSON: Yes, your Honor.

CROSS-EXAMINATION

BY MS. WILKINSON:

Dale Hodge - Cross

Q. Good afternoon, Mr. Hodge.

A. Hi.

Q. We've spoken before; right?

A. Yes.

Q. And you've explained to the jury that you had sent a letter to Mr. McVeigh just prior to receiving this letter from him on the 14th of July, 1994; correct?

A. Correct.

Q. In that letter, did you tell Mr. McVeigh in substance that you didn't agree with his political views?

A. Yes.

Q. And were you discussing the justification of taking violence against the government?

A. Yes.

Q. And did you tell Mr. McVeigh that you didn't agree with that?

A. Yes.

Q. And when he wrote back to you in D1811, did he try and persuade of why violence could be justified against the government?

A. Yes, he did.

Q. And when you didn't agree with that, did he tell you in words or substance that you were on different paths and you could no longer be friends?

A. Yes.

Dale Hodge - Cross

MS. WILKINSON: Your Honor, may I use the ELMO to show certain portions of the letter?

THE COURT: Yes.

BY MS. WILKINSON:

Q. Mr. Hodge, you have a copy of the letter up in front of you?

A. Yes.

Q. I'm going to start by displaying page 5, if I could.

Do you see that on your screen?

A. Yes.

Q. Let me see if I -- now, during this letter, you said Mr. McVeigh was trying to explain to you how the Declaration of Independence was -- not how it was worded but what it meant; correct?

A. Correct.

Q. And how it justified the Revolutionary War and violence against the government?

A. Yes.

Q. All right. And down here at the bottom, see where I'm pointing?

A. Yes.

Q. There are rights that again you hold as a human being that no man or government has the right to take away from you. One would be your right to self-defense; correct?

A. Correct.

Dale Hodge - Cross

Q. And was Mr. McVeigh starting there by talking to you about your ability to retaliate or one's right to retaliate if he were assaulted?

A. Yes.

Q. If you could look now, turn in your document, in the letter, to page 15, please.

Did Mr. McVeigh suggest in this letter, "One who did not support the Constitution was guilty of sedition"?

A. Yes.

Q. All right. Let me have you focus on 15 here, just to make it a little easier. If we could start here where it -- right above, and it says and, "It follows that" these -- "those who betray or subvert the Constitution are guilty of sedition and/or treason, are domestic enemies and should and will be punished accordingly. It also stands to reason that anyone who sympathizes with the enemy or gives aid or comfort to said enemy is likewise guilty. I have sworn to uphold and defend the Constitution against all enemies, foreign or domestic, and I will."

Mr. Hodge, there where it's underlined "I will," did you underline that or did Mr. McVeigh?

A. He did.

Q. Okay. "and I will because not only did I swear to, but I believe in what it stands for in every bit of my heart, soul and being."

Dale Hodge - Cross

He wrote that to you back in July of '94?

A. Yes.

Q. And down there at the bottom, did he tell you what he predicted would happen in the United States?

A. Uh-huh.

Q. Did he say, "Blood will flow in the streets, Steve. Good vs. evil. Free men vs. socialist wannabe slaves. Pray it is not your blood, my friend"?

A. Yes.

Q. Can you turn to page 17, please. When you received this letter in July of 1994, you had exchanged many letters with Mr. McVeigh concerning the government; correct?

A. Correct.

Q. And his letters had become more and more agitated?

A. Yes.

Q. And more focused?

A. Uh-huh.

Q. And he -- I think you -- have you said before that he stated or suggested to you that he was looking for a soul mate, someone who shared his views?

SOMEONE WHO SHARED HIS VIEWS.

A. No. He didn't really say -- I don't think he said that.

Q. Have you said that before about Mr. McVeigh?

A. I know he was trying to convince me of his -- his views.

Q. And he was trying to convince you that he was right; correct?

Dale Hodge - Cross

A. Correct.

Q. And did there come a time in this letter when he told you he was sure he was right?

A. Yes.

Q. Can you look at the top of page 17. Did he say to you, "I know in my heart that I am right in my struggle, Steve. I have come to peace with myself, my God, and my cause. And I feel that I do not have to justify myself to anyone, to defend my position. Never have I felt this way before when I found the real truth. I know it inside. The struggle now is not one of insecurity -- am I insane -- but one of how people -- how can people not see what I do as the obvious truth?"

Did he say that to you?

A. Yes.

Q. And throughout this letter, did he suggest to you that you could not understand the obvious truth?

A. Yes.

Q. Did he suggest to you that you didn't understand what the government was really doing?

A. Yes.

Q. And that violence was justified?

A. Yes.

Q. Did he suggest to you that Waco had been the straw that broke the back of Lady Liberty?

A. Yes, he did.

Dale Hodge - Cross

Q. And did he tell you that that meant war?

A. Yes.

Q. After Mr. McVeigh wrote you this letter in July of 1994, he never wrote to you again?

A. No.

Q. He never called you again?

A. No.

Q. So you don't know who he was with in the fall of 1994?

A. No, I don't.

Q. And you don't know what he was doing in January through April of 1995, do you?

A. No, I don't.

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

MR. WOODS: Just two, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. WOODS:

Q. Mr. Hodge, in the portions that Ms. Wilkinson just read to you, McVeigh is always expressing that "I," "I," "I." Is that correct?

A. Yes. He is.

Q. Never says "we"; is that correct?

A. No.

Q. Do you know Terry Nichols?

Dale Hodge - Redirect

A. No, I don't.

Q. McVeigh ever mention Terry Nichols to you?

A. No, he hasn't. Not that I remember.

MR. WOODS: Thank you. No further questions.

MS. WILKINSON: Just one more.

RE-CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Mr. Hodge, Mr. McVeigh never mentioned any of his friends to you, did he?

A. No. Not really.

MS. WILKINSON: No further questions.

THE COURT: I take it he's excused.

MR. WOODS: Yes, your Honor.

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

MR. WOODS: Kyle Kraus.

THE COURT: All right.

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

(Kyle Kraus 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: Kyle Kraus, K-R-A-U-S.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

Kyle Kraus - Direct

BY MR. NEUREITER:

Q. Mr. Kraus, how are you?

A. Good.

Q. How old are you, Mr. Kraus?

A. 24.

Q. Where are you from?

A. Amherst, New York.

Q. What's your educational background?

A. Computers and business.

Q. Did you graduate from high school?

A. Yes, I did.

Q. Did you go to college?

A. Yes.

Q. Where did you go to college?

A. Portland State and the University of Buffalo.

Q. And did you graduate from the University of Buffalo?

A. No, I have not yet.
Q. Are you presently employed?
A. Yes.
Q. And what do you do?
A. I do corporate internets and intranets and web marketing.
Q. Are you related to Timothy McVeigh?
A. Yes, I am.
Q. Tell the jury how you're related to Timothy McVeigh.
A. I'm his second cousin. My mother and his father are first

Kyle Kraus - Direct

cousins.
Q. And did you, while you were growing up, interact with Mr. McVeigh and his family --
A. Yes.
Q. -- on occasion?
A. Yes.
Q. Tell the jury how often and on what occasions you would meet with Mr. McVeigh and his family.
A. We would meet, you know, several times a year, whether it was just on a friendship basis or a family function. We have a fairly large family, so we spent a lot of time together. We spent annually every Christmas together, and then we have summer family reunions.
Q. Did you share a special bond with Mr. McVeigh relative to the other relatives who would gather together?
A. Yeah. We were -- we were pretty good -- we were more friends, you know, than -- than just relatives.
Q. Was he closer in age to you than other relatives were in age to you?
A. Yes, he was.
Q. Did there come a time when Mr. McVeigh sent you a book?
A. Yes.
Q. And what -- describe for the jury when that occurred.
A. That was in the fall of 1991: He had sent the book to me.
Q. What book did he send to you?

Kyle Kraus - Direct

A. The Turner Diaries.
Q. I'm going to put on the ELMO what's been marked for identification as D1816.
And do you recognize this book?
A. Yes.
Q. And if I zoom in to the initials in the corner, do you recognize those initials?
A. Yes. Agent Briggs.
Q. Is this the copy of The Turner Diaries that Timothy McVeigh sent to you?
A. Yes.

MR. NEUREITER: Move its admission, your Honor.

MS. WILKINSON: No objection.

THE COURT: Received.

That was 1816?

that was 1010:

MR. NEUREITER: 1816, your Honor.

THE COURT: Thank you.

BY MR. NEUREITER:

Q. And when you received this book from Mr. McVeigh, did you understand where he was at the time?

A. Pardon me?

Q. When you received this book from Mr. McVeigh, did you understand where he was at the time?

A. Yes.

Q. Where was he when he sent you this book?

Kyle Kraus - Direct

A. He was in Kansas.

Q. And was anything accompanying the book?

A. Yeah. Just a letter saying hello and, you know, that he thought I would take a look at this book.

Q. In the letter, did he ask you to read it?

A. Yes, he did.

Q. Did there come a time later when you were able to speak with Mr. McVeigh about this book?

A. Yes.

Q. When was that?

A. That was in Christmas of 1991.

Q. Describe that conversation.

A. We spoke. We spoke about it at the time the Brady bill and issues on the Second Amendment were coming into play and we had spoke briefly about that. He had asked me if I read the book and what I thought of the book and what it had to do with what was going on -- what was current events in 1991.

Q. Had you read the book?

A. Yes, I did.

Q. And did you and Mr. McVeigh share an interest in firearms?

A. Yes.

Q. And did you discuss that in the context of this book?

A. Yes, we did.

Q. And describe that a little bit more for the jury.

A. We -- you know, we were both -- I worked as a -- as a clerk

Kyle Kraus - Direct

at a hunting and fishing store. We both, you know, owned firearms and -- and you know, for -- for target shooting and hunting and so forth, and you know, we both felt that, you know, the Brady bill was coming into effect, and we didn't know where legislation was going as far as gun control. And that was a big issue at the time as far as where gun control was going.

Q. And did Mr. McVeigh tell you what he thought this book represented?

A. Yeah. He felt that that was the -- that was possible, that -- that gun control could get that tight if bills like the Brady bill were continued to be passed.

Q. Did there come a time when Mr. McVeigh sent you another

-
book?

A. Yes.

Q. And what book was that?

A. The Hunter.

Q. And what time frame, if you can tell the jury, did Mr. McVeigh send you the Hunter?

A. It was about six months later, in the spring of 1992.

Q. I want to put on the ELMO what has been marked for identification as D1815. Zoom out first.

Do you recognize the front cover of this book?

A. Yes, I do.

Q. And what is that?

Kyle Kraus - Direct

A. That's the initials by Agent Briggs in the corner.

Q. And is this the copy that you were sent by Timothy McVeigh in late 1991?

A. It was in -- sent to me in spring of 1992.

Q. I'm sorry. Is this the copy of the book that you were sent?

A. Yes.

Q. And did you read this?

A. I read partway through the book.

Q. Did you ever have a conversation with Mr. McVeigh about this particular book?

A. No. Not specifically about that book.

Q. You kept these two books?

A. Yes, I did.

Q. And did you -- where did you keep them?

A. In my home office on a bookshelf.

Q. Just on a bookshelf in your home?

A. Yes.

Q. And there came a time when the FBI came and seized them?

A. Yes.

Q. What kind of car did Mr. McVeigh have at the time you knew him?

A. He had a Chevrolet Spectrum.

Q. Was there anything unusual about that Chevrolet Spectrum?

A. It was -- there was a -- there was a turbo model. It was a

Kyle Kraus - Direct

special edition.

Q. How fast did Mr. McVeigh drive, if you knew?

MS. WILKINSON: Objection. Relevance.

THE COURT: Overruled.

THE WITNESS: Depending. I mean, you know, he was always maybe just driving a little -- driving faster than the speed limit.

BY MR. NEUREITER:

Q. Did he -- did you and he once go for a ride in that Spectrum when -- and did you pass another vehicle?

A. Yes.

Q. What vehicle did you pass when you were riding together?

A. We passed a 'Vette. A Corvette.

Q. Was he proud of how fast his car could go?

MS. WILKINSON: Objection, your Honor.

THE COURT: What's the purpose of this?

MR. NEUREITER: Your Honor, there's a question of Mr. McVeigh drives his car on a regular basis very fast.

THE COURT: This is what year?

MR. NEUREITER: This is 1991, your Honor.

THE COURT: I will overrule the objection. You may answer.

THE WITNESS: Okay. Could you repeat the question for me?

BY MR. NEUREITER:

Kyle Kraus - Direct

Q. Was he proud of how fast his car could go?

A. Yes.

Q. Did Mr. McVeigh tell you anything about what driving across Ohio was like?

A. Just that it was not very patrolled on the highway, and that you could do excessive speeds to make up time if you had to make up time.

Q. Did he use a particular German phrase?

A. No.

Q. Did he use a phrase that's used to describe the German highways, to describe --

A. Yes. Yeah, he would call it the Autobahn of the Midwest.

Q. Okay. And did he ever tell you anything about his car's gas mileage in relation to its speed?

A. He would mention that it didn't matter if you were doing 50 or 120, the -- because of the way the car was designed, he always got great gas mileage, so he could travel long distances without having to stop much.

MR. NEUREITER: One moment.

THE COURT: Yes.

MR. NEUREITER: I've been reminded that I may not have offered D1815, your Honor and I ask to offer it at this time.

MS. WILKINSON: We have no objection.

THE COURT: Received.

MR. NEUREITER: We pass the witness.

Kyle Kraus - Direct

THE COURT: All right. Any questions?

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good afternoon, Mr. Kraus.

A. Hi.

Q. We've talked before?

A. Yes.

Q. And you said that Mr. McVeigh sent you D1816, The Turner Diaries back in 1991?

A. That's correct.

Q. And you got the Hunter about six months later?

A. That's correct.

Q. You've looked at both the Hunter and The Turner Diaries, haven't you?

A. Yes, I have.

Q. They are written by the same author?

A. Yes, they are.

Q. And did Mr. McVeigh say to you why he had sent you the Hunter?

A. Based on our conversation at Christmastime that, you know, I was -- you know, that I was interested in what the Government was doing with gun control and the Second Amendment, that, you know, that had interested me and that that book was kind of a follow-up to the first book.

Q. When you had the discussion of The Turner Diaries, you had

Kyle Kraus - Cross

it -- or you read it because you were interested in gun control issues; right?

A. That's correct.

Q. And you talked to Mr. McVeigh about that over Christmas?

A. Yes.

Q. 1991? And then he told you that he -- or at some point, he sent you the Hunter, telling you this was a follow-up?

A. Yes.

Q. You never finished reading the Hunter, did you?

A. No, I did not.

Q. Why is that?

A. The books were very powerful -- they were very powerful and written in a lot of ways in which I wouldn't agree with. And seeing as it was very much like The Turner Diaries, it just -- it wasn't a book that interested me. It didn't share my opinion of what I thought on gun control. It was a little more extreme.

MS. WILKINSON: No further questions.

MR. NEUREITER: The witness is excused.

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

Next, please.

MR. WOODS: Andrea Peters.

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

Kyle Kraus - Cross

(Andrea Peters 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: Andrea Marie Peters. P-E-T-E-R-S.

THE WITNESS: Andrea Marie Peters, F B I E M O.

THE COURTROOM DEPUTY: Thank you.

MR. WOODS: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. WOODS:

Q. Good afternoon, Ms. Peters.

A. Hello.

Q. Tell the jury where you live, please.

A. Lancaster, New York.

Q. How are you employed?

A. I work at I.R. Mueller Corp.

Q. And what kind of business is that?

A. It's a security business.

Q. Okay. Do you know Timothy McVeigh?

A. Yes, I do.

Q. And when did you first meet Timothy McVeigh?

A. Approximately in the middle of '92.

Q. Okay. Where was that?

A. I met him in Tonawanda, New York, when I was working at Burns Security.

Q. All right. What was your position at Burns Security?

Andrea Peters - Direct

A. At the time, a receptionist.

Q. And was Mr. McVeigh working at Burns Security, also?

A. Yes, he was.

Q. Do you recall approximately when he started there?

A. Yeah. It -- approximately in the middle of '92.

Q. Okay. And how long did he stay, if you recall?

A. Towards the end of '92.

Q. What was his position at Burns Security?

A. When I got to know him, he was a scheduling supervisor.

Q. All right. Did you become friends with Mr. McVeigh?

A. Yes, I did.

Q. And was that a platonic relationship, rather than a romantic relationship?

A. Yes, a platonic.

Q. Okay. Did you have any correspondence with Mr. McVeigh after he quit Burns Security in late '92?

A. Yes. After he left in '92. Yes.

Q. Okay. Did he tell you where he was going when he left in '92?

A. He told me he was going to Kansas to take a toll-taking job.

Q. A toll-taking job?

A. Right.

Q. Okay. Did you receive any correspondence from him in '93?

A. No.

Andrea Peters - Direct

Q. Did you talk to him on the phone?

A. No.

Q. Okay. When was the next time you saw Mr. McVeigh?

A. I -- it was at the end of '94.

Q. All right. What month?

A. November of '94.

Q. Okay. And where were you when you saw Mr. McVeigh?

A. We went to a Brennan's restaurant.

Q. Okay. How did it come about that you arranged a meeting -- how did that come about? Did he call, or what?

A. He was back in town for his grandfather's funeral, and he put a letter in my mailbox. And when I had received the letter when I got home from work, I phoned him and we went out.

MR. WOODS: All right. May I approach the witness, your Honor?

THE COURT: Yes.

BY MR. WOODS:

Q. Let me show you what has been marked for identification purposes as D76. Do you recognize that letter?

A. Yes, I do.

Q. Have you -- you recognize the writing there?

A. Yes, I do.

Q. Okay. Is that the letter you received from Tim McVeigh in November of '94?

A. Yes, it is.

Andrea Peters - Direct

MR. WOODS: Your Honor, we would offer into evidence D76.

MR. MACKEY: No objection.

THE COURT: Received.

BY MR. WOODS:

Q. And in the letter, did he give a return address, or was this just placed in your mailbox in an envelope?

A. Yeah. It was just placed in my mailbox with my name on it. Had no return address.

Q. Okay. At that time, in November of '94, did you know where Mr. McVeigh was living?

A. Not when I had received the letter.

Q. Okay.

A. No.

Q. What did he say, in essence, in the letter?

A. Basically, that he was in town. He wanted to get together. He was leaving for the weekend to leave to Michigan to visit some buddies and do some male bonding; and other than that, he wanted to get together before he left again.

Q. Okay. And did you then arrange to get together?

A. Yes.

Q. And where did you meet?

A. At Brennan's restaurant.

Q. Okay. And did you have a conversation with Mr. McVeigh at that time?

Andrea Peters - Direct

A. Yes, I did.

Q. Okay. Did he say where he was living?

A. Basically, he told me he was just living out of his car, working on a farm by day. He wanted to travel, see the sights. So he didn't really have -- didn't really have any real residence at the time.

Q. Did he give you an idea of what part of the country he was living in or operating out of?

A. No. But he did mention that, you know, he was around Michigan and Kansas and that area.

Q. Okay. And this is in November of '94?

A. Correct.

Q. Okay. Did you ask him how he was making a living?

A. Yeah. I asked him how he was supporting himself, and he said that he was basically just working on a farm by day.

Q. Okay. Did he say anything about gun shows?

A. No, he didn't.

Q. All right. Did he say what his plans were, what he intended to do in the immediate future?

A. He said he did want to travel and see the country. Since he didn't have a job to tie him down and he was young enough, not with a family, it would be a good opportunity to travel, see the country; and then after that, he would settle down and find a job.

Q. Okay. In your friendship with Mr. McVeigh and the

Andrea Peters - Direct

conversations you had with him, did it ever involve political discussions?

A. Briefly. We did talk about it, but nothing real extensive.

Q. Okay. Did he ever give you any pamphlets to read, any copies of articles or books or anything like that?

A. No. Never.

Q. Okay. Did you ever express any interest in discussing that with him?

A. No.

Q. Okay.

A. Huh-uh.

Q. And this November meeting: How did it end? Was there a promise to keep in touch, or how did it end?

A. Yeah. It was getting late. We were -- we had already been

together for three, four hours. My cousin, Melanie, happened to come in and -- time to go home.

Q. Okay.

A. Just keep in touch, see you later.

Q. I'm sorry?

A. Keep in touch. We decided to keep in touch and --

Q. Did he indicate to you how long he was going to be in the Lockport, New York area?

A. From the letter -- I only have what I have from the letter. I sensed that he was leaving that weekend to go to Michigan and then he'd be back for another week or two, and then I sensed

Andrea Peters - Direct

that he was leaving again. From there, I don't know where he was going to go.

Q. Okay. After parting that evening in November '94, did you receive another letter from him?

A. Yes, I did.

Q. And approximately how long was that?

A. A week or two after that.

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

THE COURT: Yes.

BY MR. WOODS:

Q. Ms. Peters, let me show you what's been marked for identification purposes as D75. Do you recognize that letter?

A. Yes, I do.

Q. Do you recognize the handwriting?

A. Yes, I do.

Q. Okay. And was that the letter that was addressed to you?

A. Yes, it was.

Q. And did it come in an envelope that was postmarked?

A. Yes, it was.

MR. WOODS: Okay. Your Honor, we would offer into evidence D75.

MR. MACKEY: No objection.

THE COURT: Received.

BY MR. WOODS:

Andrea Peters - Direct

Q. That's a very short letter, Ms. Peters. If you would, just read that into evidence.

A. Starting from the beginning?

Q. Yes.

A. Hey, Gorgeous. Poof goes your head, I know. I can take a hint, but this is my address anyway. If you ever need anything, let me know. (1) someone killed, blown up, etc. (2) a shoulder. (3) refuge. (4) fertilization from good stock when that clock starts ticking. I'll always listen. Don't hesitate to drop me a line. People may change superficially but not underneath. Remember that. Take care and merry Christmas. Tim. Tim McVeigh, 1711 Stockton Hill Road, No. 206, Kingman, Arizona, 86401. P.S. It took class character for your boss to leave his office so we could talk. Very tactful. Good man."

Q. All right. Is that the first time you had been given an Arizona address?

A. Yes.

Q. Okay. And what is the postmark date on the envelope that's attached to that letter?

A. December 13.

Q. Okay. And does it give a return address on the envelope?

A. Yes.

Q. And what address is that?

A. I believe -- I can't read it, but I think it was the 1711

Andrea Peters - Direct

Stockton Hill Road, No. 206, Kingman, Arizona, 86410 address.

Q. Okay. Now, did you have any further contact with Mr. McVeigh after that December 13 letter that was mailed to you giving an Arizona address?

A. No, I did not.

Q. No phone contact, no letter contact?

A. No.

MR. WOODS: Okay. Thank you. We would pass the witness, your Honor.

THE COURT: Mr. Mackey.

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Just a few questions, if you don't mind.

Just for clarification, you have remained, have you not, friends with Mr. McVeigh?

A. Yes, I have.

Q. And have been in touch with him at least by correspondence since his conviction?

A. Yes.

Q. Back in 1994, '95, it's your testimony, however, that you had one night's conversation at Brennan's of three or four hours' length?

A. Right.

Q. And had not talked to him for many, many months prior to that date?

Andrea Peters - Cross

A. Correct.

Q. And had no face-to-face conversations with him after that?

A. Correct.

Oh, no. He did stop in to my work as he left the next

day to say goodbye. Other than that, I didn't have any other contact with him.

Q. All right. And the only items of correspondence that you could find and that have been turned over and presented here to this jury are these two dated --

A. Right.

Q. -- one in November of '94 and one in December of '94; is that right?

A. That's correct.

Q. The conversations at Brennan's, to the best of your recollection: That was in late November, 1994?

A. That is correct.

Q. All right. Was not early November, 1994?

A. No.

MR. MACKEY: All right. Thanks.

THE WITNESS: Uh-huh.

MR. WOODS: Nothing further, your Honor.

THE COURT: All right. I take it she's excused.

MR. WOODS: Yes, your Honor.

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

I think we'll take our recess at this time, members

of the jury. And now it's midafternoon. We'll take the midafternoon recess. And again, of course, please continue to do as you've been doing, avoiding discussion of the case, keeping open minds, and staying away from anything outside the evidence that could influence you.

You're excused now. 20 minutes.

(Jury out at 3:11 p.m.)

THE COURT: We'll be in recess.

(Recess at 3:11 p.m.)

(Reconvened at 3:30 p.m.)

THE COURT: Be seated, please.

(Jury in at 3:31 p.m.)

THE COURT: All right, Mr. Woods.

MR. WOODS: Yes, your Honor. Brian Profic.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Brian Profic affirmed.)

THE COURTROOM DEPUTY: Would you state your full name for the record and spell your last name.

THE WITNESS: Brian F. Profic, last name P-R-O-F-I-C.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Mr. Profic. How are you?

A. Okay.

Q. Where you are from, Mr. Profic?

A. Cheektowaga, New York. Suburb of Buffalo.

Brian Profic - Direct

Q. That's up in upstate, western New York?

A. Yes, sir.

Q. What do you do for a living, Mr. Profic?

A. I'm an over-the-road tractor-trailer driver now.

Q. How old are you?

A. 33.

Q. Are you married?

A. Yes.

Q. Did there come a time when you knew Timothy McVeigh?

A. Yes, I did.

Q. And in what connection was that?

A. I was his boss at a site when I was a security officer.

Q. And give us a time frame here. Did you work as a security officer at one time?

A. Yes.

Q. And where was that?

A. I worked at a site called Calspan Corporation in Cheektowaga, New York, through Burns Security, my employer.

Q. And what was the time period when you worked for Burns Security at Calspan?

A. From September 1, 1990, to June 30, 1995.

Q. And was there a time when Mr. McVeigh was underneath your supervision?

A. Yes, he was.

Q. And what was that time period?

Q. And what was that time period?

Brian Profic - Direct

A. It would be around -- in the 1992, early '93 time.

Q. Was that at Burns Security?

A. For Burns Security at the Calspan site.

Q. And could you tell the jury exactly how it was that you interacted with him at the site or off the site.

A. As far as off the site, there was no interaction. It was only on the site. I was the site supervisor in charge of all the guards. I was on the shift from 7 a.m. to 3 p.m.

Tim McVeigh worked there occasionally, mostly on the 3 p.m. to 11 p.m. shift with some occasional night shifts of 11 to 7 and some of 7 a.m. to 3 p.m.

Q. And would you see him as the shifts changed?

A. Yes. I would see him as shifts would change. Yes.

Q. Would you talk with him at that time?

A. Yes.

Q. Was it Mr. McVeigh's practice to bring literature to the job site?

A. Yes. Sometimes he did.

Q. And would you talk with him about that literature?

A. Sometimes. It would be different magazines or something he would bring in. General conversation about it.

MR. NEUREITER: If I could approach the witness, your Honor, with three exhibits.

THE COURT: All right.

MR. NEUREITER: D1824, D1825, and D1826.

Brian Profic - Direct

BY MR. NEUREITER:

Q. Do you recognize those documents, Mr. Profic?

A. Yes, I do.

Q. And what are those documents?

A. These were ones that Tim McVeigh had given to me to look at.

Q. And had he brought those documents to the work site?

A. Yes, he did.

Q. And you discussed them?

A. Not really discussed them. He just asked if I would like to look at them. He was showing other guards and Calspan employees, and he asked me if I wanted to look at them, so I did.

Q. Did you take them home?

A. Yes, I did.

Q. And did you file them away somewhere or keep them in your home?

A. Yeah. It happened maybe about six months after we had moved to a new home, so we had one like spare bedroom; and it got thrown into the pile with everything else we had in there.

Q. Did you read through them a little bit?

A. The one, I browsed through and read a small articles in that. The other two I didn't even look forward past just the

top cover of them.

Q. Okay. And after the Oklahoma City bombing, did the FBI

Brian Profic - Direct

come and interview you?

A. Yes, they did.

Q. At that time, did you provide to the FBI those three exhibits, D1824, 1825 and 1826?

A. Yes, I did. I told them that I had them in my ownership; that they were in my home. And I went and got them and met them a second occasion and gave them these documents.

MR. NEUREITER: We offer them, your Honor.

MR. MACKEY: Your Honor, may we have an approximate date as to when he got them from Mr. McVeigh?

THE COURT: Yes. Do you have a recollection of when you received these documents?

THE WITNESS: It was sometime in the middle of 1992.

MR. MACKEY: No objection.

THE COURT: Received.

MR. NEUREITER: If I may retrieve the documents, your Honor?

THE COURT: Yes.

MR. NEUREITER: Your Honor, I'll just publish the first page of each one, if that's all right.

THE COURT: All right.

MR. NEUREITER: I'll start with D1825.

BY MR. NEUREITER:

Q. Is this first page entitled "The Kingdom of Moltz," and then in the back it has a copy of the Constitution of the

Brian Profic - Direct

United States?

A. Yes, it does. Yes.

Q. D1826: Is this entitled "De-Taxing America. How You Can Legally Stop Paying Income Tax (and Why You Should)"?

A. Yes, it is.

MR. NEUREITER: And for the record, this is a multipage document which is not Bates' stamped but it is attached via rubber band. I want to make sure all the pages stay together.

THE COURT: Do you think the rubber band will do it?

MR. NEUREITER: We'll try to find a paper clip of some substance to keep the document together.

THE COURT: All right.

MR. NEUREITER: And last one, D1824.

BY MR. NEUREITER:

Q. Is that an entire copy of a newspaper entitled "The White Patriot, "Worldwide Voice of the Aryan People, Knights of the Ku Klux Klan, A New Beginning"?

A. Yes, it is.

MR. NEUREITER: We pass the witness, your Honor.

THE COURT: Mr. Mackey, questions?

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Mr. Profic, when you received those materials from Mr. McVeigh, I take it it was shortly after you had moved into

Brian Profic - Cross

a new home?

A. Yes.

Q. Large enough home you had a spare room you could put a lot of stuff in?

A. Yes.

Q. And that's where those materials stayed until after the bombing?

A. Yes, sir.

Q. I take it you had no occasion, then, to relocate or move to yet another residence after the time you got those materials and before the bombing; is that correct?

A. Yes.

Q. Had no opportunity to go through your materials and decide what it was you'd keep and what it was you'd pitch?

MR. NEUREITER: Objection, your Honor.

THE COURT: What's the objection?

MR. NEUREITER: To the relevance.

THE COURT: Overruled.

THE WITNESS: Yes.

BY MR. MACKEY:

Q. So you didn't do that?

A. No.

MR. MACKEY: Thank you, Mr. Profic.

THE COURT: Anything else from this witness?

MR. NEUREITER: Court's indulgence.

No further questions.

THE COURT: Are you excusing him?

MR. NEUREITER: Yes.

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

THE WITNESS: Thank you, sir.

MR. WOODS: Al Warnement.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Albert Warnement 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: Albert Owen Warnement,

W-A-R-N-E-M-E-N-T.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Mr. Warnement. How are you today?

A. Good morning -- good afternoon, rather.

Q. Tell the jury where you're from, Mr. Warnement.

A. I'm originally from Michigan. Right now I live at Fort Hood, Texas.

Q. Are you a soldier?

A. Yes, sir.

- Q. Tell the jury about how old you are.
A. 32, sir.
Q. And what is your educational background?

Albert Warnement - Direct

- A. High school grad, about two years of college.
Q. And then you went to the Army?
A. No. I picked up college while I've been in the Army.
Q. How long have you been in the Army?
A. 13 years.
Q. What's your current rank?
A. Staff sergeant.
Q. What is your responsibility where you are down in Fort Hood?
A. Right now I'm the company master gunner for Delta Company 28 Infantry, Fort Hood.
Q. In that capacity, are you charged with a particular vehicle?
A. Yes. I'm the gunner for the commanding officer of the company, and I am responsible to train all the crews inside the company on Bradley gunner.
Q. Tell the jury exactly what the Bradley gunner is.
A. Bradley gunnery is when we take the Bradley fighting vehicle out and qualify with it.
Q. Is the Bradley fighting vehicle an armored personnel carrier?
A. Right. It's an armored personnel carrier for transporting infantry to the battlefield.
Q. And you man the gun?
A. Currently, yes.

Albert Warnement - Direct

- Q. And was there a time when you knew Mr. Timothy McVeigh?
A. Yes, sir.
Q. When was that?
A. From the fall of 1988 to -- I served with him till the fall of 1990.
Q. And after that, did you remain in contact with Mr. McVeigh via correspondence?
A. Some.
Q. Tell the jury how you first came to meet Timothy McVeigh in 1988.
A. We were assigned to the same unit together at Fort Riley, Kansas.
Q. And were you already at Fort Riley and Mr. McVeigh arrived at -- explain how that happened.
A. Right. I was assigned there about two weeks before he was with most of the rest of the officers and NCOs in that unit. Then Mr. McVeigh arrived as part of the -- what they call a "cohort." All the privates and enlisted soldiers that came out of basic training together came to Fort Riley.
Q. Did you outrank Mr. McVeigh?
A. Yes, sir.

.. 100, 011.

Q. Did you supervise him in some capacity?

A. Not initially.

Q. Did there come a time when you came to supervise him?

A. Right. After about a year, when we -- when we got the

Albert Warnement - Direct

Bradley fighting vehicle, he became my gunner.

Q. And what was your job in the Bradley fighting vehicle at the time when Mr. McVeigh was your gunner?

A. I was the Bradley commander.

Q. And did you and your Bradley with Mr. McVeigh arming the gun win an award at some time?

A. Yeah. They gave out a unit award. We were the second or third best in the battalion. We got a belt buckle, a unit coin, and a pat on the back.

Q. Did you -- at that time period, did you socialize with Mr. McVeigh outside of work?

A. Some.

Q. Describe that for the jury.

A. We used to go shooting together, and then there were a couple of like unit barbecues, that type thing.

Q. Did you provide a service to Mr. McVeigh with respect to his firearms?

A. Right. I kept his privately owned weapons at my house.

Q. Why was that?

A. Because when you live in the barracks, if you have a privately owned weapon or want to have one, you've got to keep it in the unit arms room; and most people that have a privately owned weapon like at least occasionally to go shoot it, target practice or whatever. And it's quite a pain to get the company commander to allow you to take it out on the weekend. You've

Albert Warnement - Direct

got to get a memorandum signed and then get the unit armor to come in and open the arms room. So with the company commander's permission, we registered his weapons to be kept at my house, my government quarters on Fort Riley.

Q. And the two of you would go shooting occasionally?

A. Occasionally.

Q. Did you become friends?

A. Yeah. Pretty good.

Q. Now, you were a non-commissioned officer at the time?

A. Yes, sir.

Q. Mr. McVeigh was a private?

A. No. By that time, he was a specialist, I believe.

Q. Was he promoted quickly within the ranks?

A. Very quickly.

Q. Describe that for the jury.

A. Okay. Well, at the time the unit -- all the enlisted soldiers arrived out of basic training, there was probably, oh, 100 of them or so that were all the same rank; and every month only a couple of them could get promoted. And in the two years

I was there with him, Mr. McVeigh went from Private E2 to Specialist Promotable, while most of his peers were still PFCs.

Q. So did he study up on the things he needed to study up to become promoted?

A. Yes, sir.

Q. Did that include reading Army manuals?

Albert Warnement - Direct

A. Sure enough.

Q. Did those Army manuals include information on explosives?

A. Yes, sir.

Q. And did those Army manuals include information on how to make improvised explosive devices?

A. Probably.

Q. Was it your observation -- or was it your observation that Mr. McVeigh was diligent in researching these materials?

A. He was diligent in everything he did.

Q. He was a good soldier?

A. Yes, sir.

Q. Did there come a time when you went -- when you were transferred to Germany?

A. Yes, sir.

Q. And what time period was that?

A. In October of 1990.

Q. Did you continue to correspond with Mr. McVeigh?

A. I believe we exchanged like one letter during the buildup period of Desert Storm/Desert Shield period; and then from late '92 to mid 1993, we exchanged probably five or six letters.

Q. Okay. Before you went to Germany -- by the way, did Mr. McVeigh give you a book at some point?

A. Yes, sir.

Q. What book was that?

A. The Turner Diaries.

Albert Warnement - Direct

Q. What did he tell you when he gave you that book?

A. Not much. He just said, "Here, check this out."

Q. And what did you do with the book?

A. I took it home, started to read it, then kind of scanned through it; and then I took it back and gave it back to him, told him to get rid of it.

Q. Why did you tell him to get rid of it?

A. It was racist.

Q. You went to Desert Storm?

A. Yes, sir.

Q. Were you serving in the same unit with Mr. McVeigh in Desert Storm?

A. No, sir.

Q. After Desert Storm, where did you go back to?

A. Back to Germany.

Q. What time period was that?

A. Well, I was actually assigned to Germany from 1990 to 1993.

Q. Okay.

A. And then Desert Storm in there.

Q. And after Desert Storm, where did -- to your knowledge did Mr. McVeigh go?

A. Somewhere in the correspondence, he told me he tried out for Special Forces, and then he told me he'd gotten out.

Q. He'd gotten out of the Army?

A. Yes.

Albert Warnement - Direct

Q. Did you return to the United States after your stint in Germany?

A. Yes, sir.

Q. And that was in the 1993 time period?

A. Yes, sir. The fall of 1993.

Q. And you told us a moment ago that you exchanged five or six letters with Mr. McVeigh during that time period?

A. While I was still in Germany, right.

Q. And after you returned, did you attempt to contact Mr. McVeigh?

A. No, sir.

Q. Did there come a time when you tried to call his dad in upstate New York?

A. That was before I -- before I initiated correspondence with him after Desert Storm.

Q. Okay. All right. Describe some of the kinds of letters that you were receiving from Mr. McVeigh when you talk about five or six letters that you got.

A. The actual letters wouldn't really say too much, just kind of buddy-buddy, chatty things. But they -- each letter, there was a -- there would always be a bundle of pamphlets or reading material.

Q. Do you recall what the literature that he was sending you related to?

A. It was mostly antigovernment-type things. I can't think of

Albert Warnement - Direct

any names, but antigovernment. They opposed what they called the New World Order, foreign commanders in charge of U.S. troops. They opposed that, citing Somalia, that sort of thing.

Q. Was any of literature related to Ruby Ridge?

A. Some. Ruby Ridge.

Q. Describe that for the jury. The jurors may not know what Ruby Ridge was.

A. Ruby Ridge was a standoff; and I can't remember exactly when it happened, but it involved a -- a guy they classified as a white separatist, Mr. Weaver, who I guess decided he didn't want to be part of society, so he took his family up to the woods.

Q. And the literature that Mr. McVeigh sent you: Was that related to that incident?

A. Yeah. It said that the federal law enforcement agencies had -- you know, gone overboard in trying to apprehend

had, you know, gone overboard in trying to apprehend

Mr. Weaver.

Q. Did some of the literature relate to the L.A. riots?

A. Some.

Q. Describe that for the jury, if you could.

A. That mostly related to legality of using regular army combat troops in a domestic riot-control situation, a violation of the Posse Comitatus Act.

Q. And after the Waco incident, did you continue to receive some literature from Mr. McVeigh?

Albert Warnement - Direct

A. Yes, sir.

Q. Was some of that literature related to the Waco incident?

A. Yes, sir.

Q. Could you describe that for the jury?

A. Again, it described federal law enforcement as being an over-the-top, taking-civil-liberties-away-from-the-average-American, big-brother type of deal.

Q. And you told us that it related also -- the literature generally related to the New World Order as well.

A. Right.

Q. Did there come a time when Mr. McVeigh sent you a videotape?

A. Yes, sir.

Q. Could you describe any note, if there was one, that accompanied that videotape and what the videotape was about.

A. I don't remember the exact words that was on the letter, but he said, you know, "You need to watch this. This tells the truth about Waco," and that was about it.

Q. And was the videotape itself related to the Waco incident?

A. Right. I don't remember exactly what the name was, but it was -- it had a lawyer's name on the label, and I never really watched it. I never watched it, to tell you the truth. My VCR was broken. I never got it fixed, so I don't really know what exactly was on there.

MR. NEUREITER: I'd like to approach the witness, if

I

Albert Warnement - Direct

may, your Honor.

THE COURT: Yes.

MR. NEUREITER: Actually, this one is small enough we could just put it on the ELMO.

BY MR. NEUREITER:

Q. Show you D -- what we have labeled D1562B. And it's a slight difference from what's written on our list.

MR. NEUREITER: Counsel want to see it?

BY MR. NEUREITER:

Q. Do you recognize this particular document, sir?

A. No, sir.

Q. Do you recognize the handwriting down here in the lower left-hand corner?

A. Yes, sir.

Q. And whose handwriting is that?

A. Mr. McVeigh's.

MR. NEUREITER: Now, I would like to approach, your Honor, to show the witness D1652A, which is a book inside an envelope, and D1823, which is the envelope itself.

THE COURT: All right.

BY MR. NEUREITER:

Q. Do you recognize that envelope, which is D16 -- D1823?

A. No. I've never seen it before. I've heard of it.

Q. Do you recognize the handwriting on that envelope?

A. Yes, sir.

Albert Warnement - Direct

Q. Whose handwriting is that?

A. Tim's.

Q. And can you read the date of the stamp?

A. It's postmarked Lockport, New York, March 25, 1992.

Q. And can you read the return address?

A. Tim McVeigh, 6289 Campbell Boulevard, Lockport, New York, 14094.

Q. And can you --

MR. NEUREITER: We offer the envelope itself.

MS. WILKINSON: Your Honor, I have some voir dire.

THE COURT: All right.

VOIR DIRE EXAMINATION

BY MS. WILKINSON:

Q. Good afternoon, Sergeant Warnement.

A. How are you doing, ma'am?

Q. You -- after the bombing in Oklahoma City, the FBI contacted you, didn't they?

A. Yes, ma'am.

Q. And did you determine that someone had sent you a package to your mother's address?

A. My mother found it. I had forgotten about it.

Q. You had never seen that package, had you?

A. No, ma'am.

Q. You couldn't identify that envelope from your personal knowledge?

Albert Warnement - Voir Dire

A. No, I have never seen it.

Q. And you don't know what was inside that package, do you?

A. I know what my mother told me was inside it.

Q. But you from your own personal knowledge --

A. No.

MS. WILKINSON: We object, your Honor.

THE COURT: Objection sustained.

DIRECT EXAMINATION CONTINUED

BY MR. NEUREITER:

Q. How many letters did you receive from Timothy McVeigh?

A. Five or six.

Q. You recognize -- I'm showing you on the ELMO D1562B. Do you recognize that handwriting as Timothy McVeigh's handwriting?

A. Yes, sir.

Q. And in the upper left-hand corner, do you recognize the date?

A. Yes, sir.

Q. Does that appear to be the same handwriting?

A. Appears to be.

MR. NEUREITER: We do offer D1562B, your Honor.

MS. WILKINSON: Objection, your Honor.

THE COURT: Sustained.

BY MR. NEUREITER:

Q. Mr. Warnement, in the time that you knew Timothy McVeigh,

Albert Warnement - Direct

did you come to learn how fast he drove his car?

A. Yeah.

Q. And did you come to learn how quickly he could make the round trip to Buffalo, New York, from central Kansas?

A. He could do it on a four-day pass.

Q. So leaving Thursday, he could be back by 8 a.m. Monday?

A. Yes. Well, after formation, Wednesday night.

Q. And how far is that? Do you know?

A. I have no idea. It's quite a ways.

MR. NEUREITER: Court's indulgence?

THE COURT: Yes.

MR. NEUREITER: Nothing further, your Honor.

THE COURT: Ms. Wilkinson?

MS. WILKINSON: Yes, your Honor.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Sergeant Warnement, you told the jury that you received some letters from Mr. McVeigh after you got out of the Army. Is that right?

A. Yes, ma'am.

Q. That was during the 1992-1993 period?

A. Yes, ma'am.

Q. And in, or attached to those letters, or included in the envelopes were some pamphlets and antigovernment literature?

A. Yes, ma'am.

Albert Warnement - Cross

Q. And did you notice some of the return addresses on those envelopes?

A. Yes, ma'am.

Q. Did you notice that some of those letters came from Michigan?

A. Yes, ma'am.

Q. Did you write back to Mr. McVeigh at that address in Michigan?

A. I generally wrote back to the last return address I got.

Q. Do you recall writing back to the address in Michigan?

A. Yes, ma'am.

Q. And do you recall receiving a letter in response from Mr. McVeigh?

A. Yes, ma'am.

Q. Did he tell you in that letter that he was in Michigan with Mr. Terry Nichols?

A. Yes, ma'am.

Q. And that was during the time that he sent you those pamphlets and literature?

A. Yes, ma'am.

Q. Now, the pamphlets and literature that you did receive from Mr. McVeigh: Did you keep those?

A. No, ma'am.

Q. Did you throw them all away?

A. Yes, ma'am.

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

THE COURT: Any other questions?

REDIRECT EXAMINATION

BY MR. NEUREITER:

Q. Mr. McVeigh gave you The Turner Diaries on what date that you recall, around?

A. I have no idea. I don't remember, sir.

Q. It was during your first stint in Kansas; correct?

A. Right.

Q. Okay. And you recognized at that time that that book had some racist content?

A. Yes, sir.

Q. Did you continue to remain friends with Mr. McVeigh after he gave you that book?

A. Yes, sir.

MR. NEUREITER: No further questions.

RE-CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Mr. Warnement, at one time did you receive a letter from Mr. McVeigh where he was questioning whether you were actually fulfilling your oath to the Constitution by serving in the military?

A. Yes, ma'am.

Q. Did he tell you that you should get out of the military and

Albert Warnement - Recross

defend and protect the Constitution from all enemies, foreign and domestic?

A. Yes, ma'am.

Q. After that, were you upset with him?

A. Yes, ma'am.

Q. Did you tell him -- did you write back to him?

A. Yes, ma'am.

Q. And did you tell him that you didn't really care to talk to him again?

A. Yes, ma'am.

MS. WILKINSON: No further questions.

THE COURT: Excusing the witness?

THE COURT: Excusing the witness.

MR. NEUREITER: Yes, your Honor.

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

THE WITNESS: Thank you, sir.

THE COURT: Next, please.

MR. WOODS: John Pulaski.

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

(Richard Pulaski 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: Richard John Pulaski, P-U-L-A-S-K-I.

Richard Pulaski - Direct
DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Mr. Pulaski. How are you?

A. Pretty good.

Q. Where are you from, sir?

A. Buffalo, New York. Actually I live in the town of Cheektowaga, just outside of Buffalo.

Q. For the court reporter, that's Cheektowaga. How is that spelled?

A. C-H-E-E-K-T-O-W-A-G-A.

Q. What is your educational background, sir?

A. Finished high school, had some college. I've taken some trade school. Right now I'm a machinist, CIC machinist.

Q. Did you spend some time in the military, sir?

A. Yes, I did.

Q. And when was that?

A. That was the National Guard. I went in approximately 1990, got out in 1996, honorable discharge. It was a National Guard, and I was a military police officer.

Q. Didn't ask you how old you are. How old are you?

A. I'm 26 years old.

Q. Did there come a time when you worked at Burns Security?

A. Yes, there was.

Q. And what was Burns Security?

A. It was a security company, mostly just like rental people

Richard Pulaski - Direct

to like check sites. I worked at a hotel outside, a parking lot, to make sure people's cars wouldn't get broken into. Worked at the Buffalo Zoo at night to check the gates and make sure none of the animals got out.

Q. And the time period precisely when you worked there to the best of your recollection?

A. Probably '90, '91.

Q. Did you know a gentleman by the name of Timothy McVeigh?

A. Yes, I did.

Q. And how did you know Mr. McVeigh?

A. He trained me at the Buffalo Zoo to do the site.
Q. If you could just talk into the microphone.
A. I'm sorry.
Q. That's all right.
A. He trained me at the Buffalo Zoo to make rounds at the site and check the gates.
Q. And over the time that you worked there, how many times did you interact with Mr. McVeigh?
A. Well, for the first week, probably four days, because he trained me. And then periodically he'd come back and check on me, oh, a couple times for -- maybe --
Q. Was he the site supervisor?
A. Yes. From what I remember, he was the site supervisor.
Q. So he'd come and check on you to make sure you were doing your job?

Richard Pulaski - Direct

A. Yeah, as well as the other guards if they were there.
Q. Did you and he have discussions about your military background?
A. Briefly. Just he asked me what I did, where I trained.
Q. Did you ever socialize outside of the job?
A. No, I didn't.
Q. Was there ever an offer to socialize outside of the job?
A. Yes. He asked me one time to go out after work for a drink, but I never went with him because at the time I had a borrowed car and I didn't want to take it anywhere except home.
Q. Did there come a time during this short period when you knew Mr. McVeigh that he gave you a book?
A. Yes, he did.
Q. And what book was that?
A. The Turner Diaries.
Q. I'd like to show on the ELMO what's been marked for identification as D1818.
Do you recognize this as the front cover of the book that he gave you?
A. Yes, it is.
Q. And for clarification, this is not the copy that he gave you, is it?
A. I have no idea. I --
Q. What did you eventually do with the copy that he gave you, to your recollection?

Richard Pulaski - Direct

A. I read part of it, but it really wasn't that good of a book, so I just put it in my bookshelf and -- until it happened. I called the FBI and turned it over.
Q. You turned that book over to the FBI?
A. Right. I gave it to them.
Q. But there is no way that you can tell whether or not this particular copy is the one that Timothy McVeigh gave you?
A. It looks like it. I couldn't tell you if it is or not.

Q. Okay. You read parts of the book?

A. Yeah. Just briefly. It wasn't that good of a story, so I didn't finish reading it.

Q. Did Mr. McVeigh say anything to you when he gave you the book?

A. Yeah. He just said, "Read it and tell me what you think about it."

Q. Did you ever have any further conversations with Mr. McVeigh about The Turner Diaries?

A. No, I didn't. Like a week later, he left the Buffalo Zoo site and I never seen him again.

MR. NEUREITER: We pass the witness, your Honor.

MS. WILKINSON: No questions.

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

MR. WOODS: Tony Palmer.

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

(Anthony Palmer 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: Anthony Neil Palmer, P-A-L-M-E-R.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Mr. Palmer. How are you?

A. Good.

Q. Where are you from, Mr. Palmer?

A. Originally from Kentucky.

Q. And where did you come to Denver from?

A. Fort Riley, Kansas.

Q. Are you a little nervous today?

A. A little bit.

Q. Okay. How old are you, sir?

A. 37.

Q. Are you a single parent?

A. Yes, I am.

Q. Are you a soldier at Fort Riley?

A. Yes, sir.

Q. What's your rank?

A. Sergeant First Class.

Anthony Palmer - Direct

Q. How long have you been at Fort Riley?

A. Since '87.

Q. Did there come a time when you knew a gentleman by the name of Mr. Timothy McVeigh?

A. Yes, sir. He was in my company.

Q. Did you train Timothy McVeigh?

A. That was part of my job, yes, sir.

Q. What did you train Mr. McVeigh on?

A. Just basic infantry skills and tactics.

Q. Over the course of the time -- what was the total time period that you knew Mr. McVeigh?

PERIOD THAT YOU KNEW MR. McVEIGH:

A. Till after Saudi Arabia. About '91.

Q. And did there come a time when you knew that Mr. McVeigh had left the Army?

A. Yes, sir, there was.

Q. And do you recall when that occurred?

A. It was sometime during '91. He had went for Special Forces training, and he ETSed out of the Army after that.

Q. You've got to fill us in on the jargon. He ETSed?

A. ETSed. That's extended time of service. In other words, he got out of the Army.

Q. Did you notice -- how close did you know Mr. McVeigh over the time he was at Fort Riley?

A. I was just an NCO in the company, and he was one of the soldiers there.

Anthony Palmer - Direct

Q. And did you observe whether he had good soldiering skills?

A. Yes, sir, I did.

Q. What were your observations in that regard?

A. He was an outstanding soldier.

Q. And did you notice any change in him after he came back from his attempt to join Special Forces?

A. I only saw him once after that, and I really didn't notice at all. It was only for a few minutes.

Q. After Mr. McVeigh left the Army, did you receive some correspondence from him?

A. Yes, sir, I did.

Q. Do you have that correspondence any longer?

A. No, sir, I do not.

Q. Do you remember around what time period that correspondence -- you received that correspondence?

A. It was around -- it was in '92. It was right before I left to Korea, so it had to be '92 time frame.

Q. And describe to the best of your recollection what that correspondence contained.

A. There was some neo-Nazi hate literature in it and a letter from Timothy McVeigh.

Q. And what did the letter say?

A. He was -- it was just expressing his disappointment in the government and different -- his different views about things.

I didn't really take the time to read the whole letter.

Anthony Palmer - Direct

Q. What did you do with the letter and the materials?

A. I threw it away, sir.

Q. Why did you do that?

A. I was equal opportunity representative for the unit at the time, and I didn't feel I needed to be reading anything like that.

MR. NEUREITER: Court's indulgence?

THE COURT: Yes.

MR. NEUREITER: Pass the witness, your Honor.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good afternoon, Sergeant Palmer.

A. Good afternoon.

Q. You knew Timothy McVeigh back in Fort Riley, Kansas, didn't you?

A. Yes, ma'am.

Q. So you had been stationed there once before?

A. In Fort Riley?

Q. Or have you been there the whole time?

A. I had one break. I went to Korea in '94 -- or '93 and came back in '94.

Q. So when was it that you were stationed with Mr. McVeigh at Fort Riley?

A. From I believe it was the latter part of '87 until around September -- to the early part of '91.

Anthony Palmer - Cross

Q. Mr. Nichols was stationed there -- Mr. Terry Nichols was stationed there at that time, also, wasn't he?

A. Yes, ma'am.

Q. And he was in the same platoon?

A. As?

Q. As Mr. McVeigh?

A. I believe for a while, he was; and then he was moved to headquarters platoon.

Q. And did you know Mr. Nichols at all at that time?

A. Yes, I did.

Q. And did you know that Mr. Nichols and Mr. McVeigh were friends while they were in the Army?

A. As far as work relation, yes, I did.

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

MR. NEUREITER: Just one, your Honor.

THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. NEUREITER:

Q. Do you know why Mr. Nichols left the Army?

A. No, sir, I do not.

MR. NEUREITER: No further questions, your Honor.

THE COURT: Excused?

MS. WILKINSON: Yes.

MR. NEUREITER: Yes, your Honor.

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

THE WITNESS: Yes, sir.

MR. WOODS: Lauren Aldinger.

THE COURT: All right.

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

(Lauren Aldinger 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: Lauren Merville Aldinger,

A-L-D-I-N-G-E-R.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Ms. Aldinger. How are you doing?

A. Just fine.

Q. Where are you from?

A. From Dallas, Texas.

Q. Is that where you grew up?

A. Yes.

Q. Is that where you went to high school?

A. Yes. I also went to college there.

Q. Where did you go to college?

A. Southern Methodist University.

Lauren Aldinger - Direct

Q. How old are you?

A. I'm currently 25 years old.

Q. And it's "Missus," I take it; so you're married?

A. Yes.

Q. What were you studying at SMU?

A. My major was psychology and my minor was photography.

Q. Did there come a time when you and a friend of yours decided to take a road trip when you were at SMU?

A. Yeah. One spring break --

Q. Just "yes" is fine.

A. Yes.

Q. To the best of your recollection, when was that?

A. Spring break of 1993, March.

Q. And where did you go?

A. We went to Mt. Carmel, just south of Waco, Texas.

Q. What was your friend's name at that time?

A. Michelle Rauch.

Q. And what was your objective in driving to Waco during spring break?

A. Our objective was to see if we could pass the press barricades near the cult compound during the siege and just kind of see what was going on and who was there and meet up with some people.

Q. Now, you were a photography minor; is that right?

A. Correct.

Lauren Aldinger - Direct

Q. And did Ms. Rauch have a course of study she was following?

A. Yes. She -- her major was in communications as a reporter.

Q. So was your spring break trip a combining of your interest in journalism and photography?

A. Correct.

Q. If you could just tell the jury what you saw when you got to Waco.

A. Well, essentially, we couldn't get past the press barricades at first, so we decided we would go back to a hill where we had seen some windows. And off to the left side was a

where we had seen some vendors. And on to the left side was a man we were kind of interested in speaking with because he was unlike the other vendors, in that he was not screaming about his beliefs. He didn't have loud and garish posters around him, and he just kind of seemed calm and quiet. So we approached him.

Q. What was -- he was calm and quiet. Was he selling anything?

A. He was selling bumper stickers on the hood of his car.

Q. And did your -- did Ms. Rauch interview this gentleman?

A. Yes, she did. She spoke with him for probably about 10 or 15 minutes and took notes.

Q. And over the course of the time you were there, did you have your camera?

A. Yes, I did.

Q. And did you take some snapshots both of this gentleman and

Lauren Aldinger - Direct

other parts of Mt. Carmel?

A. Yes, I did.

MR. NEUREITER: I'd like to put on the ELMO D -- what has been marked for identification as D1821.

BY MR. NEUREITER:

Q. I ask you if you recognize that.

A. Yes. It's one of three photographs I took of McVeigh's car and himself.

Q. Have you subsequently come to learn who the gentleman was that you met?

A. Yes. That was Timothy McVeigh.

MR. NEUREITER: And -- we offer D1821.

MR. MACKEY: No objection.

THE COURT: Received.

BY MR. NEUREITER:

Q. And if you could just -- if you can make them out --

MR. NEUREITER: We move to publish.

BY MR. NEUREITER:

Q. If you could make them out, if you could read for the record the bumper stickers that Mr. McVeigh was selling.

A. Okay. The first one says "A Man With a Gun is a Citizen, A Man Without a Gun is a Subject."

The second one says, "Politicians Love Gun Control."

And off screen, if I can refer to my negative, I can tell you what the third one said.

Lauren Aldinger - Direct

Q. Would it refresh your recollection to refer to your negative?

A. Yes.

Q. Do you have your negatives there in front of you?

A. Yes.

MR. NEUREITER: Your Honor, if she may refer to her negative to refresh her recollection?

THE COURT: Any objection?

MR. MACKEY: No.

THE WITNESS: The third one says, "Fear the Government that Fears Your Gun."

BY MR. NEUREITER:

Q. And that's your recollection of what it said?

A. Correct.

MR. NEUREITER: We now put on the ELMO what has been marked for identification as D1820.

BY MR. NEUREITER:

Q. Is that another photograph that you took on that day?

A. Yes.

Q. And was Mr. McVeigh selling that as well?

A. Yes.

MR. NEUREITER: We offer it, your Honor.

MR. MACKEY: No objection.

THE COURT: Received.

BY MR. NEUREITER:

Lauren Aldinger - Direct

Q. If you could just read that into the record.

A. "A Man With a Gun is a Citizen, A Man Without a Gun is a Subject."

MR. NEUREITER: We now put on the ELMO D1819.

BY MR. NEUREITER:

Q. Ask you if that is another one of the photographs you took on that day.

A. Yes.

MR. NEUREITER: We offer it, your Honor.

MR. MACKEY: No objection.

THE COURT: Received.

BY MR. NEUREITER:

Q. And is that the gentleman that you took the picture of on that day?

A. Yes.

Q. In Waco?

We'll zoom in to allow the jury to see who that is, and I ask you to identify the person who appears to be taking notes and speaking with Mr. McVeigh.

A. That's Ms. Michelle Ann Rauch.

MR. NEUREITER: No more questions.

THE COURT: Mr. Mackey.

MR. MACKEY: Just a few, your Honor.

CROSS-EXAMINATION

BY MR. MACKEY:

Lauren Aldinger - Cross

Q. Good afternoon. How are you?

A. Just fine, thank you.

Q. I have just a couple questions for you.

You were describing an event that took place in March of 1993. Is that correct?

A. Yes.

Q. Were you and your friend from college drove down to Waco, Texas.

A. Correct.

Q. Drawn by news of the event of the siege?

A. Yes.

Q. That had been going on for some time at that point; correct?

A. Yes.

Q. You told the members of the jury that when you first got there, you went to the checkpoint and were denied access. Is that correct?

A. Correct.

Q. You didn't have valid press credentials or other authorization?

A. That's correct.

Q. So you left that area and went elsewhere?

A. Yes.

Q. In doing so, you noticed a number of other people outside the compound area, the other side of the checkpoint, that were

Lauren Aldinger - Cross

selling items?

A. Correct.

Q. And talking?

A. Yeah.

Q. Sometimes in a loud voice?

A. Yes.

Q. Drawing attention to themselves?

A. Yes.

Q. And you noticed by contrast Mr. McVeigh sitting on the hood of his car nearby?

A. Yes.

Q. And it was that contrast that drew you to Mr. McVeigh?

A. Me specifically, yes.

Q. All right. You and Ms. Rauch had a conversation with Mr. McVeigh; is that correct?

A. That's correct.

Q. You at least overheard the conversation between he and Ms. Rauch, and you in fact engaged in conversation with him as well?

A. That's correct.

Q. And that conversation took place or lasted about 10 to 15 minutes.

A. That's correct.

Q. You described him as calm and quiet in his outward demeanor?

Lauren Aldinger - Cross

A. Correct.

Q. You noticed, did you not, that Mr. McVeigh exhibited intelligence?

- ..

A. Yes.

Q. He was rational?

A. Yes.

Q. He was clear in his conversation with you?

A. Yes.

Q. And in 10 to 15 minutes' time, you knew exactly where he stood on the issues you discussed?

MR. NEUREITER: Objection.

THE COURT: What's the objection?

MR. NEUREITER: To the speculation about what she

knew

he knew.

THE COURT: Overruled.

BY MR. MACKEY:

Q. In the course of that 10- to 15-minute conversation --

A. Could you repeat the question, please.

Q. Sure. Did you understand exactly where Mr. McVeigh stood on the issues that you talked about?

A. Yes.

MR. MACKEY: Nothing else.

THE COURT: Redirect?

MR. NEUREITER: No, your Honor.

THE COURT: All right. You're excused.

MR. NEUREITER: Court's indulgence.

MR. WOODS: Sandy Crigler.

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

(Sandra Crigler 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: Sandra K. Crigler, C-R-I-G-L-E-R.

THE COURTROOM DEPUTY: Thank you.

MR. WOODS: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. WOODS:

Q. Good afternoon, Ms. Crigler. Will you tell the jury where you live, please.

A. Lake Havasu City, Arizona.

Q. How are you employed?

A. I'm employed by Bill's Auto and Truck Repair or Bill's Rentals.

Q. What type of business is that?

A. An auto repair shop and a truck rental dealership.

Q. Okay. Can you pull that microphone over a little bit so all the jury can hear you.

That's okay. It's stationary. If you can just be a little close to it.

Sandra Crigler - Direct

What type of rentals do you have there at that business?

A. We rent Ryder trucks.

Q. Okay. And do you accept reservations over the phone?

A. Yes, we do.

A. Yes, we do.

Q. For Ryder rentals?

A. Yes, we do.

Q. How long have you had that business there?

A. The rental business?

Q. Yes, ma'am.

A. Probably 17 years or so.

Q. Okay. Do you advertise in the papers, in the phone book?

A. The corporation does. We don't.

Q. Okay. I want to show you what's been marked in evidence and is in evidence as Government's Exhibit 553, and I'll ask you to look at a phone number right here with "Ryder Truck Rental One Way" in Havasu. Do you recognize that phone number?

A. I do.

Q. Is that your phone number?

A. Yes, it is.

Q. How long have you had that phone number?

A. 17 years.

Q. Okay. This is a phone call or a record of a call made on April 5 of '95, 3:43 in the afternoon, and it's 42 seconds in duration.

Sandra Crigler - Direct

Did you have an occasion to receive a visit from the FBI shortly after the bombing in Oklahoma City of April 19?

A. I did.

Q. Okay. Do you recall approximately when it was that the FBI visited with you?

A. Not the exact date, just after the bombing.

Q. I'm --

A. Not the exact date, just after the bombing.

Q. Just after the bombing? Okay. Did they ask you about this particular call?

A. Yes, they did.

Q. Did they have records of it in their possession?

A. They said they did.

Q. Were you able to think back and recall this particular call?

A. Yes, I was.

Q. How were you able to do that?

A. We're on a computer system, and we type in a first and last name into the computer.

Q. Okay. What name did you type into the computer?

A. Timothy McVeigh.

Q. That is the name that the government agents gave you to type in?

A. No. The customer calling gave me that name, the person who called.

Sandra Crigler - Direct

Q. Okay. How did you know to go back and punch that name in on this day when the FBI comes to you?

A. Oh, they gave me the name.

Q. Okay. Okay. And were you then able to refresh your memory from your records there at Ryder rental?

A. No. I had no written record of it.

Q. Then how were you able to recall?

A. When I typed his name in, I spelled it M-C-V-E-Y; and it didn't look right to me, so I asked him to spell his name. And he spelled it and gave me his first name.

And then when at home that night, I told my daughter that McVeigh had called me for a truck rental.

She said, "Who's McVeigh?"

I said, "Oh, that's the guy that's on 'Back to the Future.'"

She said, "That's not McVeigh. It's McFly." And we laughed at that.

Q. All right. And was that incident with your daughter -- did that help you refresh your memory as to that call?

A. When they contacted me, yes. It just -- the memory was back then.

Q. I see. The day of the call, when you actually got the call on April 5, you went home and told your daughter?

A. Correct.

Q. I see. So that is an incident that caused you to recall

Sandra Crigler - Direct

that it was Tim McVeigh --

A. Right.

Q. -- that called on April 5?

A. Right.

Q. Did you ask for a spelling when he called you?

A. Yes, I did, because I spelled it wrong. It didn't look right to me.

Q. Do you recall any of the details of the phone conversation as to the inquiry that he was making of you?

A. It was a local rental, meaning that he would bring the truck back to me.

Q. Did he say where he was going with it?

A. I don't recall where he was going or how many miles he was going.

Q. Do you recall how many days he wanted the truck for?

A. I do not recall that.

Q. This is a very short-duration call of 42 seconds. Do you recall how the conversation ended?

A. I always just ask for the reservation, and he must have said no; so I didn't print anything up.

Q. You were trying to firm up whether or not he was going to reserve?

A. Right.

Q. After he had asked some questions, you were firming up?

A. Yes, uh-huh. They can guarantee it with a credit card or

Sandra Crigler - Direct

whatever.

Q. Okay. And at that time, what did he say, if anything?
A. I don't remember what he said, but he didn't reserve.
Q. Okay. Now, you will notice that there is a call right after this at 3:46 to a David Millar in Muldrow, Oklahoma. Did you refer the caller to that particular number?
A. I did not.
Q. Did you refer the caller to any number?
A. No.
Q. Did you have an opportunity to, or did the person just say he wasn't going to reserve and hang up?
A. He wasn't going to reserve and hung up.
Q. Okay. And do you know anything about that next call at all?
A. Nothing.
Q. Do you know what the Imperial Motel in Kingman, Arizona, is? Have you ever been to Kingman?
A. Yes.
Q. Do you know where that is?
A. Approximately.
Q. Where is it?
A. I would say it's on Andy Devine or one of those major streets, Stockton Hill or Andy Devine or Beal Street.
Q. Did you know Mr. Timothy McVeigh at that time on April 5 when he called on April 5 inquiring about a reservation?

Sandra Crigler - Direct

A. No.

MR. WOODS: Thank you. Pass the witness, your Honor.

THE COURT: Ms. Wilkinson.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good afternoon, Mrs. Crigler.

A. Hello.

Q. You told us that this call was relatively short; is that right?

A. Yes.

Q. It usually takes longer than 42 seconds to make a reservation, doesn't it?

A. Yes.

Q. You don't remember much about this telephone call?

A. No, I don't.

Q. But you have checked your records and you know that Timothy McVeigh never rented a truck in his name from your business; correct?

A. That's correct.

Q. And he didn't make a reservation that day?

A. He did not.

Q. You had nothing in the computer to show that he had called in?

A. I did not.

Q. Now, do you know how far away Las Vegas is from your

Sandra Crigler - Cross

dealership?

A. Yes.

Q. How far away is it?

A. 150 miles.

Q. Are there other dealers in Kingman?

A. One dealer -- one Ryder dealer.

Q. Is there a Ryder dealer in Bullhead City?

A. Yes.

Q. And are you aware of how many dealerships there are for Ryder across the United States?

A. Approximately 5200.

MS. WILKINSON: No further questions.

MR. WOODS: Nothing further, your Honor.

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

MR. WOODS: John Kelso.

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

(John Kelso 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: John Edward Kelso, K-E-L-S-O.

THE COURTROOM DEPUTY: Thank you.

MR. WOODS: Thank you, your Honor.

John Kelso - Direct
DIRECT EXAMINATION

BY MR. WOODS:

Q. Good afternoon, Mr. Kelso.

A. Good afternoon.

Q. Tell the jury where you live, please.

A. Lawrence, Kansas.

Q. How are you employed?

A. Engineer on Burlington Northern Railroad.

Q. How long have you had that job?

A. Since '94.

Q. Where did you grow up, sir?

A. Herington, Kansas; Texas; Newton, Kansas. Majority of my time in Herington.

Q. What years were you in Herington before you graduated from high school?

A. '60 -- around '66 through '82.

Q. All right. When did you graduate from high school?

A. '83. 1983.

Q. Did you happen to work in the Herington area after graduation from high school?

A. Yes, I did.

Q. What type of employment did you have?

A. I worked for Hamm rock quarry for six months prior to going to work for the railroad.

Q. What type of work did you do at the quarry?

John Kelso - Direct

A. Drove truck, drove backhoes, done some blasting, moved a lot of rock.

Q. Okay. Explain to the jury what you mean by doing some blasting at the quarry.

A. I assisted a guy named Bob Nesland in drilling holes in the ground and packing the holes with dynamite and blowing slab rock up for the rock crushers.

Q. Did you use dynamite, or did you use something in addition to dynamite?

A. Used dynamite and a chemical called "Perel."

Q. Called what?

A. "Perel."

Q. Did you ever use ammonium nitrate and fuel oil, ANFO?

A. All we used was a stuff called "Perel."

Q. What was that, to your knowledge?

A. To my best knowledge, it is some type of diesel mixture in a dry form, pellet form.

Q. Do you know whether or not that was a premix form of ammonium nitrate and fuel oil?

A. Not a hundred percent. I mean, I know it was little red-and-white pellets.

Q. Okay. Did you -- you worked on that job for a number of months and then entered the railroad. Is that correct?

A. That's correct.

Q. Was there a time that you went into the Army?

John Kelso - Direct

A. Active Army, or reserve?

Q. Let's start with the reserves.

A. I started the reserves in 1982. February 12.

Q. How long did you stay in the reserves?

A. I still am active in the reserves.

Q. Was there a time when you went on active duty?

A. Yes. I believe February, '89, through March, '92.

Q. In February, '89, when you went on active duty, where were you assigned?

A. First assigned to Fort Sill, Oklahoma. Then I was assigned to Fort Benning, Georgia. Then assigned to Fort Riley, Kansas, all within about a four- or five-month period.

Q. Okay. When did you get to Fort Riley, Kansas, if you recall?

A. October, '89.

Q. Did you meet a person by the name of Tim McVeigh?

A. Yes, I did.

Q. Okay. And what unit was he assigned to -- what unit were you assigned?

A. We were both assigned to Charlie Company 216 Infantry, Fort Riley.

Q. Did you know Terry Nichols at that time?

A. No, I did not.

Q. Was he -- what month was it you got to Fort Riley?

A. October, '89.

John Kelso - Direct

Q. All right. Do you know whether or not Mr. Nichols was present in the Army in Fort Riley at that time?

A. I assume he wasn't. I mean I --

Q. You didn't meet him. Is that correct?

A. No, I did not meet him.

Q. You met Mr. McVeigh?

A. Yes, I did.

Q. Did you meet a Michael Fortier?

A. Yes, I did.

Q. How long did you stay at Fort Riley before you were next assigned somewhere, if you were?

A. I never was. I spent my whole tour at Fort Riley.

Q. Was there an occasion when you were assigned overseas?

A. Yes. I was assigned, I believe, last couple of days of December of '90 through May of '91.

Q. To where?

A. Saudi Arabia.

Q. Was that part of the Desert Shield and then Desert Storm?

A. That is correct.

Q. And were you in the same unit with Mr. McVeigh?

A. Yes, I was.

Q. And was that the unit that was there at Fort Riley?

A. Yes, it was.

Q. Now, was there a time where you lived with Mr. McVeigh back in Herington?

John Kelso - Direct

A. Yes, there was.

Q. And what period of time was that, sir?

A. That was the fall, maybe August, September of '91.

Q. Is this after you both returned from Saudi Arabia? Is that correct?

A. That is correct.

Q. Now, did Mr. McVeigh go through Special Forces training after returning from Saudi Arabia, to your knowledge?

A. Well, he left the unit when we were still in country, in Saudi Arabia and he went to Special Forces' Q course to see if he could make Special Forces school, which at the time, he didn't. But this all trans -- or it happened while we were still in Saudi Arabia. He was already with the unit when we got back, and he had already failed out.

Q. He did not pass --

A. No.

Q. -- enter Special Forces; is that correct?

A. That's correct.

Q. So he was back at Fort Riley in the unit and you come back home. Is that correct?

A. That's correct.

Q. What time did you get back home? May, '91, did you say?

A. May, '91.

A. Mid May, '91.

Q. Now, what was the circumstance where you were living with Mr. McVeigh? Where was that?

John Kelso - Direct

A. In Herington, Kansas.

Q. Was that in off-base housing that you and he -- was it just the two of you, or were there other people there?

A. There was three of us.

Q. Who was the other person?

A. Richard Cerney.

Q. Was this off-base housing that the three of you got while you were still assigned at Fort Riley?

A. Yes, we were (sic).

Q. Did you drive back and forth to the fort every day?

A. Yes, we did.

Q. Did Mr. McVeigh have a car?

A. Yes, he did.

Q. Did you ever ride with him?

A. Maybe once every couple weeks we did because we all had different jobs.

Q. Would you describe for the jury Mr. McVeigh's driving?

A. Very, very fast. No conscience for laws at all.

Q. All right. How long did you live with Mr. McVeigh?

A. About a period of one month.

Q. What happened? What was the division, if any?

A. Just a real strange, weird guy, and just didn't share the same views that me and Cerney had, so we just opt -- somebody was leaving, and it was going to be him.

Q. Was he asked to leave?

John Kelso - Direct

A. Yes, he was.

Q. Okay. And where did he go, to your knowledge?

A. He went to -- down on Broadway Street in Herington, Kansas, with a man named Royal Witcher.

Q. Is that another soldier at Fort Riley?

A. That is correct.

Q. So he stayed in the Herington area; is that correct?

A. That is correct.

Q. Do you recall when Mr. McVeigh left the Army?

A. Yes, I do.

Q. Approximately when was that?

A. I thought -- it was either the last part of '91 or first part of '92. Somewhere --

Q. After that time, did you have any further contact with Mr. McVeigh?

A. No, I did not.

Q. Did you see any mutual friends where you would discuss whereabouts with each other?

A. Within maybe the first six months, I'd talk to Royal Witcher maybe once or twice or -- but all within, you know -- right away after we got out.

right way, correct me you see.

Q. Okay.

A. Just knew he was in New York.

Q. When you were in Saudi Arabia, did you associate with Mr. McVeigh?

John Kelso - Direct

A. Yes. From time to time, I did.

Q. Was there ever a time that Mr. McVeigh was aware of your background in explosives?

A. Not that I can recall or that was ever discussed.

Q. Okay. What other explosive training did you have?

A. Military explosives.

Q. Was that prior to April, '95?

A. Yes, it was.

Q. Okay. Was it prior to or during the time that you knew Mr. McVeigh?

A. No, it was not.

Q. Okay. On the arrest -- I want to jump ahead now to April 19, 1995. There was a bombing in Oklahoma City. Do you recall where you were living at that time?

A. Yes, I do.

Q. Where was that, sir?

A. Alliance, Nebraska.

Q. On April 21, Friday, did you have an occasion to see that Mr. McVeigh was arrested?

A. Yes, I did.

Q. And what did you do after seeing Mr. McVeigh on television?

A. I called the FBI 1-800 number.

Q. And were you interviewed that day by the FBI?

A. I don't remember if it was that day or the next day, but I think it was that day, that evening.

John Kelso - Direct

Q. Do you recall who it was that interviewed you?

A. Yes. A guy named Ron Raywalt and a man named Robert Webb.

Q. Did the interview take a while?

A. Yes, it did.

Q. Okay. Did the agents advise you they had records that Mr. McVeigh had called you on April 17?

MR. RYAN: Objection, your Honor. Hearsay.

THE COURT: Overruled.

BY MR. WOODS:

Q. Did the agents advise you that they had records that Mr. McVeigh had called you on April 17 before the bombing?

A. He had commented that he had tried to attempt to call me.

Q. Okay. And did the agents tell you where he was calling from?

A. Hotel in Junction City.

Q. Do you recall the name of it?

A. I believe it was the Dreamland.

Q. Okay. Did you have any recall of having talked to Mr. McVeigh on that date?

A. No. I know for a fact I didn't talk to him on that day.
Q. You were on the road with the railroad?
A. I was in Guernsey, Wyoming, on that day.
Q. Do you have an answering machine at your house?
A. Yes, I do.
Q. Had you -- when they asked you this on the Friday, the

John Kelso - Direct

21st, about four days earlier on the 17th, did you recall a message on your answering machine that could have or could not have been from Mr. McVeigh?

A. There was a message on my machine -- that is correct -- but, you know, it could have -- or could have been anybody.

Q. Sure. Do you recall what the message was on the machine?

A. Yeah. The message precisely said, "He's not home, he must be at work."

Q. Now, did Mr. McVeigh know where you were from; that you were from Herington?

A. Yes, he did.

Q. Do you have a lot of friends in Herington?

A. Yes, I do.

Q. Would it be easy to obtain your whereabouts by asking people around Herington where you presently work?

A. If he asked the right people, which wouldn't be hard to do in that small town, somebody would have known where I was at.

Q. And is your phone listed in Alliance, Nebraska, where you were living at that time?

A. Yes, it is.

Q. Could you call information to get your number?

A. Yes, you can.

Q. You're not sure whether or not that was McVeigh's voice on the machine?

A. No, I don't -- I wouldn't have any idea who it was.

John Kelso - Direct

Q. And had -- did you have any contact, then, with Mr. McVeigh for the year prior to that bombing?

A. No. Last day I talked to him was the day he left the Army.

MR. WOODS: Thank you, Mr. Kelso.

THE COURT: Mr. Ryan?

CROSS-EXAMINATION

BY MR. RYAN:

Q. Good afternoon.

A. How are you doing?

Q. I understand you grew up in Herington.

A. That is correct.

Q. You joined the Army reserves?

A. Yes.

Q. Went to college, played college football; is that right?

A. That is correct.

Q. And then you later joined the Army, and at some point you met up with Tim McVeigh?

A. That is correct.

Q. And you were stationed in Saudi Arabia together during Desert Storm/Desert Shield?

A. That is correct.

Q. And you were awarded a Bronze Star for your activity in combat. Is that true?

A. That is correct.

Q. Now, when you were with -- stationed in the same unit with

John Kelso - Cross

Mr. McVeigh, Mr. Nichols had already left the military. Is that right?

A. That is correct.

Q. And you told us that -- I don't think you have. Why -- how did it come to be that you and Mr. Cerney and Mr. McVeigh and yourself were living together for a month?

A. The problem was when we came back from Saudi Arabia, they had a cohort unit which everybody belonged, was ETSed, which means the end of their tours were over, so they were leaving. And we got excess amount of new privates into Fort Riley into our unit, so the highest ranking people living in the barracks are forced to move; and all three of us were told by the first sergeant that we had, I think, two or three days to be out of the barracks.

So for financial reasons, three of us got together to get a house because we didn't have a lot of time to hunt and look and this and that, so that's how it came about.

Q. And the stint living together with Mr. McVeigh lasted a month?

A. If that long. I don't think it was even a month.

Q. He was weird?

A. Very weird.

Q. He was strange?

A. Yes.

Q. He was a racist?

John Kelso - Cross

A. Correct.

Q. And his racist views turned people off, didn't they?

A. Yes, they did.

Q. Turned you off?

A. Yes.

Q. He hated the government?

A. Yes.

Q. That turned you off?

A. Yes.

Q. Turned people off when he started doing that, didn't it?

A. Yes, it did.

Q. Unless they agreed with him?

A. That's correct.

Q. Now, he was a good soldier, though?

A. Real good soldier.

Q. Was he the kind of person that people used?

Q. Was he the kind of person that people used:

A. Yes. A lot.

Q. And how so?

A. For -- a lot of people borrowed money from him. It was -- it was like a loan shark. And everybody that was downtown drunk, he'd drive down and pick them up.

And he'd drive some -- there was a handful of guys from Indiana, and he'd drive them home for the holidays and stuff and drive all the way back to Fort Riley; and when they were ready to come back, he'd drive all the way back to Indiana

John Kelso - Cross

and pick them up. And just a lot because he had car and for buying guns and just stuff like that.

Q. Had few friends?

A. Very -- yeah -- few.

Q. And if someone pointed Tim McVeigh in the right direction with a plan, he could be counted on to carry it out?

A. That is correct.

Q. Now, at my request, did you review all of the phone records from the Dreamland Motel which have been introduced in this trial, Exhibit 295?

A. Yes, I have.

Q. And did you find at any time any phone record placed from the Dreamland Motel for the week prior to the bombing in Oklahoma City to your residence?

A. No, I did not.

Q. You say that while you were working as an engineer with the railroad, when you came in from -- back into town, you heard a recording.

A. That is correct. At that time, I was working as a conductor on the railroad.

Q. Excuse me. As a conductor. And that recording could have been anyone?

A. Correct.

Q. You have no more reason to believe it was Tim McVeigh than any other person on this earth.

John Kelso - Cross

A. No.

Q. You did not recognize the voice as that of Tim McVeigh?

A. No, I did not.

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

MR. WOODS: Nothing further, your Honor.

THE COURT: All right. We're excusing him, I guess.

MR. WOODS: Yes, your Honor.

THE COURT: You may step down. You are excused.

MR. WOODS: Your Honor, we have a change in the

order.

Mr. Darvin Bates.

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

(Darvin Bates 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: Darvin Ray Bates, B-A-T-E-S.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. THURSCHELL:

Q. Good afternoon, Mr. Bates.

Mr. Bates, are you married?

A. Yes.

Q. How long?

A. 44 years.

Darvin Bates - Direct

Q. Where do you live?

A. Waurika, Oklahoma.

Q. And how long have you lived there?

A. I was born there.

Q. Ever held public office there?

A. Yes.

Q. What offices?

A. I was a city councilman and also the mayor.

Q. Now, are you working presently?

A. No.

Q. Okay. Retired?

A. Yes.

Q. I'm going to direct your attention back to the period April
and May of 1995. Did you own a business at that time?

A. Yes, sir.

Q. And what was that?

A. The Old South Waffle Shop in Duncan, Oklahoma.

Q. Okay. Now, what was the Old South Waffle Shop?

A. It was a breakfast, lunch, and a dinner-type restaurant.

Q. Okay. Now, was that a -- one of the franchise --

A. No, sir.

Q. -- waffle shops? No? And where was this business located?

A. At 1511 South Highway 81 in Duncan, Oklahoma.

MR. THURSCHELL: Your Honor, may I approach?

THE COURT: Yes.

Darvin Bates - Direct

BY MR. THURSCHELL:

Q. Sir, would you unfold that exhibit that I've just given
you, D1801 for identification, and tell the jury whether that
is an accurate map of the state of Oklahoma.

A. Yes, it is.

MR. THURSCHELL: Your Honor we move the admission of
Defense Exhibit D1801.

MR. RYAN: No objection.

THE COURT: Received.

MR. THURSCHELL: Your Honor, I ask to publish.

THE COURT: Yes.

BY MR. THURSCHELL:

Q. Mr. Bates, I'm going to show you one section of this map and ask whether you can see Duncan, Oklahoma.

A. Yes, sir, sure can.

Q. Can you take the pen that's attached to a wire in front of you and mark on the screen with a circle where Duncan, Oklahoma, is.

You actually have to reach underneath and touch the television screen itself.

A. Oh.

Q. There we go.

Now, can you at the same time -- could you show the jury where Oklahoma City is and if it's on the map?

A. Well, it's barely showing north of over in Norman there.

Darvin Bates - Direct

Q. Just north. So now -- this is going to take your markings off.

If I slide it down a little bit, can you see Oklahoma City?

A. Yes, sir.

Q. About how far away in terms of miles is Oklahoma City from Duncan?

A. Approximately 75 miles.

Q. Okay. And do you see Highway 81 that you referred to earlier on the map?

A. Yes, sir.

Q. Can you point to that on the screen with your pen?

That runs straight through Duncan?

A. Yes, sir.

Q. Thank you, sir.

Now I want to show you what's been previously admitted as Exhibit D1731.

And I want to ask you: Have you ever seen this sketch before? Not the individual depicted but first the sketch itself.

A. Yes, sir.

Q. Where and when did you see it?

A. Shortly after the tragedy in Oklahoma City.

Q. And where did you see it?

A. I saw it on the TV and in the newspaper.

Darvin Bates - Direct

Q. Okay. And how was it identified, if you recall?

A. John Doe No. 2.

Q. All right. Would that be the other individual who was seen with Mr. McVeigh?

A. Yes, sir.

MR. RYAN: Objection, your Honor.

THE COURT: Sustained as to the question, and the answer is stricken.

BY MR. THURSCHELL:

Q. Now I want to show you what has been -- has not yet been

Q. NOW I WANT TO SHOW YOU WHAT HAS BEEN -- HAS NOT YET BEEN admitted on the ELMO marked as Defense Exhibit 1698 for identification and ask you, sir, whether you've ever seen this sketch before.

A. Yes, sir.

Q. And where and when have you seen that sketch?

A. On the TV and also in the newspapers.

Q. And how was it identified at that time?

A. John Doe No. 2.

MR. THURSCHWELL: We move the admission of D1698.

MR. RYAN: No objection.

THE COURT: Received.

MR. THURSCHWELL: May it be published?

THE COURT: Yes.

MR. THURSCHWELL: Thank you.

BY MR. THURSCHWELL:

Darvin Bates - Direct

Q. Now, Mr. Bates, have you ever met someone who closely resembled these sketches that I've just showed you?

A. Yes, sir.

Q. Okay. And before we get into the specifics, did there come a time that you informed the FBI of everything that you had learned about this particular individual?

A. Yes, sir.

Q. How long after you first met the individual did you inform the FBI of what you knew?

A. Third day.

Q. Now, let me go back and to your initial encounter with this person. When was it?

A. When was it? Approximately a month after the tragedy in Oklahoma City.

Q. Do you recall the precise date?

A. No, sir.

Q. The precise number of days after the bombing?

A. No, sir.

Q. Would it refresh your memory if I asked whether this encounter occurred while rescue operations were still going on? Do you remember?

A. I couldn't recall.

Q. Okay. But you recall it was within a month or so of the bombing?

A. Correct.

Darvin Bates - Direct

Q. Okay. Now, do you recall what day of the week that you first met this individual?

A. Yes, sir.

Q. What day was that?

A. A Wednesday.

Q. Okay. Why do you remember that it was a Wednesday?

A. Well, I was at the waffle shop, and we was short a dishwasher and --

Q. Well, before we get to that, is there a specific reason that you remember that it was a Wednesday that you met the person on?

A. I don't know how you could forget what day it was you met somebody like that.

Q. Okay. Well, let's leave that for now.

Tell us about the circumstances in which you met this person. What time of day was it?

A. Approximately 3 or 4 p.m.

Q. All right. And where did you meet him?

A. At the waffle shop.

Q. Okay. Tell us about it. What happened?

A. Well, we was short a dishwasher; and I was setting (sic) at the end of the counter, and a gentleman walked in and asked for a job washing dishes. And I asked him -- I said, "Can you wash dishes?"

And he said, "Yes, sir."

Darvin Bates - Direct

And I said, "Are you from Duncan?"

And he said, "No, sir."

Q. Did you offer him a job --

A. Yes, sir.

Q. -- anyway? Okay. How long did he end up working at your restaurant?

A. Three days.

Q. All right. Now, can you tell the jury first how he was dressed?

A. He had on khaki pants and a sport shirt and a green-type military cap with a bib on it.

Q. Do you recall his height?

A. Well, he's not as tall as I am. He was probably in this area here.

Q. And you're pointing there to about your neck or chin level?

A. Well, probably right here.

Q. Okay. Top of your shoulders?

A. Yeah.

Q. How tall are you, sir?

A. 6-foot-1.

Q. Recall his complexion?

A. Yes, sir.

Q. And what would that be?

A. It was an olive complexion.

Q. Okay. And hair color?

Darvin Bates - Direct

A. Black.

Q. And how long was his hair?

A. It was short.

Q. All right. Do you recall his eyes?

A. Yes, sir.

Q. And what -- do you recall what color they were?

A. Yes, sir.

Q. What were they?

A. It was dark, very dark, like black or dark brown.

Q. And could you tell his ethnic background?

A. I felt what his ethnic background was part Asian and white. He was -- had -- there was characteristics about him that even though his -- he had real good English, excellent English. His actions were similar to actions -- people of -- from the Philippines or that there -- very friendly.

Q. What about his appearance, sir? What race or ethnic background did his appearance make him -- make you think of?

A. Well, he was -- he wasn't a hundred percent white. He was part Spanish or part Filipino or part Asian of some type.

Q. Okay. And could you tell approximately his age?

A. Yes. I asked him his age, and I believe at the time he told me he was either 25 or 26 years old.

Q. Okay. And did he give you his name?

A. Yes.

Q. Do you recall what it is?

Darvin Bates - Direct

A. No. I could never pronounce his name, and he said, "Just call me John."

Q. Okay. Well, let's call him John, then, for purposes of identification here.

Now, you said you gave him a job. Did he start working that day?

A. Yes, sir.

Q. What was he doing?

A. Washing dishes.

Q. Okay. And did you start him right away?

A. Yes, sir.

Q. And did you have any conversation with him while he was working?

A. Yes, sir.

Q. And could you tell us about that. What did you say, what did he say?

A. I asked him where he was from, and he said Kingman, Arizona.

Q. Did you ask him anything further about that?

A. I asked him, "What brings you to Duncan, Oklahoma?"

And he said he didn't know.

I said, "Well, do you have friends or relatives in Duncan?"

And he said no.

And I asked him some questions about Kingman, Arizona.

Darvin Bates - Direct

Q. Now, what questions about Kingman, Arizona, did you ask him?

A. I asked him if he was coming from the east traveling west in Kingman, Arizona, what was the name of the first exit in ...

Kingman.

Q. And, sir, were -- at the time, were you familiar with Kingman, Arizona?

A. Yes. My wife and I had been through there five or six times on vacation over the last 10 or 15 years.

Q. Did he know what the first exit was?

A. Yes, sir.

Q. Traveling from east to west?

A. Yes, sir.

Q. Did you ask him any other questions about Kingman, Arizona?

A. Yes, sir.

Q. What were they?

A. I asked him the name of the first service station that you come to when you turn north off of Interstate 40 going to Las Vegas.

Q. And did he know the name of that --

A. Yes. He said it was a Pilot station.

Q. Was that to your best knowledge -- is that correct?

A. That's correct.

Q. Okay.

A. They built a new station since then between the Pilot and

Darvin Bates - Direct

the highway, but that was correct.

Q. Now, sir, why were you asking him these questions about Kingman, Arizona?

A. Why?

Q. Yes.

A. Well, because of his resemblance to John Doe No. 2, I had an uneasy feeling.

Q. Okay. So at the time he walked in, you had seen the sketches of John Doe No. 2 already on television?

A. Yes, sir.

Q. At the time you asked him these questions about Kingman, Arizona, were you aware that from television or other sources that Kingman, Arizona, was associated in some way with the Oklahoma City bombing case?

A. No, sir.

Q. You had not heard that?

A. No, sir.

Q. Have you subsequently come to learn that that is the case?

A. Yes, sir.

Q. Now, what shift -- you hired him. Did you hire him for a particular shift?

A. Yes, sir.

Q. What shift was that?

A. 2 p.m. till 10.

Q. 2 till 10? All right. And as far as you could observe

Darvin Bates - Direct

during the three days he worked there, was he a good employee?

A. Yes, sir.

Q. Did you -- by the way, did you ever ask him how he had come

Q. Did you -- by the way, did you ever ask him how he had come to Duncan?

A. Yes, sir.

Q. What did he tell you?

A. All he could tell me was that he caught a ride with a man in a pickup.

Q. Okay. Did he tell you where he was coming from?

A. No, sir.

Q. What direction?

A. No, sir.

Q. Did you ever see him with his own vehicle?

A. He had a bicycle.

Q. He had a bicycle?

A. Yeah. A new bicycle.

Q. Now, did he return for work the next day?

A. The second day?

Q. Yes.

A. Yes, sir.

Q. Worked a full shift?

A. Yes, sir.

Q. During this time period, were your suspicions about him and his appearance -- the fact that he resembled to your mind John Doe No. 2 -- were they allayed, or were they heightened during

Darvin Bates - Direct

this period? Were you more concerned, or less concerned?

A. More concerned.

Q. All right. Did you eventually contact the FBI about these suspicions?

A. Yes, sir.

Q. When did you contact the FBI?

A. Friday morning.

Q. So that would be the third day after he initially -- your initial contact with him?

A. Yes, sir.

Q. Okay. What time on Friday morning?

A. Probably 5 minutes after 8.

Q. All right. Tell us -- tell the jury what you did.

A. Well, my first call was to Oklahoma City, and a lady answered in the FBI office there. I gave her my name and my address and the purpose of the call.

Q. What did you tell her the purpose of the call was?

A. I told her I had some pertinent information concerning John Doe No. 2 that I felt might be of interest to the Federal Bureau of Investigation.

Q. Okay. Did you give her any more details?

A. I started to go into the details, and she said I would have to call the Lawton office.

Q. Okay.

A. And I asked for the Lawton telephone number, and she said

Darvin Bates - Direct

I'd have to -- she didn't have it or I'd have to look it up or

some way get the number.

Q. She said she didn't have it; you'd have to look it up yourself?

A. Right.

Q. Did you do that?

A. Yes, sir.

Q. When -- did you call the Lawton FBI office?

A. Yes. The same morning at approximately 8:30, I called the Lawton office.

Q. All right. Tell us about that phone call.

A. Well, a lady answered the phone there, and I gave her my name, my place of business, my telephone number and address very clearly. And I told her I had some pertinent information that might be available or might be valuable to the Federal Bureau of Investigation concerning John Doe No. 2.

Q. And did you try to give her some of the details?

A. And I started to go into the details, and she told me that --

MR. RYAN: Objection, your Honor.

MR. THURSCHWELL: Your Honor, I think it's --

THE COURT: What are you offering it for?

MR. THURSCHWELL: Just eliciting the reaction of the FBI, not offered for the truth per se but --

THE COURT: All right. Overruled.

Darvin Bates - Direct

BY MR. THURSCHWELL:

Q. You can answer.

A. She told me I would have to call back after 9 p.m. and ask for Agent so-and-so and I could talk to him.

Q. Now, you said 9 p.m.?

A. I mean 9 a.m. I'm sorry.

Q. All right. What -- what did you do after that?

A. Well, I called back after 9:00 that morning.

Q. Do you recall exactly or approximately what time you called?

A. Well, the phone record should bear it out, but it was probably 5 minutes after 9. It was close to 9:00.

Q. Okay. And tell us about that phone call.

A. I called and went through the process, and then I talked to the agent -- FBI agent and gave him my name, my address, telephone number, where place of business is at; and at first he said now, "Where is your business at?"

Q. Let me just stop you there for a second. Did you tell him that someone who matched one of the sketches that had been televised had come to your place of business?

A. Yes, sir.

Q. And that that person was working there?

A. Yes, sir.

Q. Did you give the agent a description, your own description of what the person looked like?

A. Yes.

Q. Did you mention the fact that this person had told you that he was from Kingman, Arizona?

A. Yes.

Q. And --

A. Well, I don't know if I told him he was from Kingman or not.

Q. Okay. All right. Did you tell the agent that this person would be coming to work for you at your place of business at 2:00 that afternoon?

A. Yes, sir.

MR. RYAN: Your Honor, I object to leading.

THE COURT: Well, it's harmless leading. Overruled. We're at 5:00. We'll recess.

MR. THURSCHWELL: Thank you, your Honor.

THE COURT: You'll have to --

MR. THURSCHWELL: I'm sorry. I just have very little more, but if you want to continue tomorrow morning . . .

THE COURT: Well, there is going to be cross-examination.

MR. THURSCHWELL: That's true.

THE COURT: All right. You'll have to step down now. You may step out now. We'll have you back in the morning.

THE WITNESS: Oh. Thank you.

THE COURT: Members of the jury, we'll -- having arrived at the 5:00 hour, one minute past, we will recess as promised and you will go your own ways. And, of course, continue to follow all of the cautions given at all of the times that we recess, keeping open minds, remembering that you will hear more witnesses, see more exhibits, other parts of the trial being arguments by the lawyers, instructions by me. So again, it's necessary for you to withhold judgment in your own mind about anything concerning this case and to, of course, not discuss it with anyone else, including other jurors, and not to see anything outside the evidence or hear anything outside the evidence that could influence you.

You're excused till 8:45 tomorrow morning.

(Jury out at 5:02 p.m.)

THE COURT: All right. We'll be in recess.

(Recess at 5:02 p.m.)

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REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 8th day of December, 1997.

Paul Zuckerman

Bonnie Carpenter

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