

THE COURT: Members of the jury, good morning. Another one of those days where it takes a little extra effort, and we certainly all appreciate your doing that, giving us that extra effort and getting here timely so that we can move forward in the case.

Now, before taking the testimony of the next witness, I want to instruct you with respect to a matter of evidence in this case. You'll recall that on November the 26th, Theodore Udell testified about his company's manufacture of Smurfit plastic drums. Among other things, he said that his company used a resin purchased from Nova Chemicals and an additive package purchased from Allied Chemical in what he called a proprietary formulation.

Mr. Udell also said that he thought the formulation for the natural-colored drums was unique to his company. When asked about this statement on cross-examination and again on redirect examination, Mr. Udell referred to telephone conversations that he had with persons employed at other companies producing competitive products. He referred to his making those calls in cooperation with the FBI and to notes that he had made.

Because those notes and the involvement of the FBI in these telephone calls was not previously known to defense counsel, Mr. Udell was called back as a witness after defense counsel had on December 2 received copies of Mr. Udell's notes and obtained additional information. Special Agent Jeff Hayes of the FBI was also called as a witness.

You may also recall that Exhibit 2055 was referred to on November the 26th and again in the testimony taken just this Monday from Mr. Udell and Agent Hayes. That was identified as a summary prepared by Mr. Udell from these telephone conversations. Exhibit No. 2055 was not received in evidence because it was based on hearsay and could not be considered to be reliable information about the chemical composition of the competitor's product.

Similarly, the testimony given by Mr. Udell both on November the 26th and Monday, December the 8th, about these telephone calls constitutes hearsay which should not be considered as a part of the evidence in this case.

Accordingly, in your consideration of the evidence in this case, you must now disregard the testimony of Mr. Udell and Agent Hayes about any information provided to them in the course of the telephone calls which they testified they made.

Now, with that, we're ready for the next witness.

MR. TIGAR: Mary Kay Sandels.

THE COURT: Thank you.

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

(Mary Kay Sandels 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: Mary Kay Sandels, S-A-N-D-E-L-S.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. Hello, Ms. Sandels. How are you?

A. Fine.

Q. Tell the jury where you're from.

A. Herington, Kansas.

Q. And how long have you lived in Herington?

A. 49 years.

Q. And how old are you?

A. 49.

Q. Are you married?

A. No.

Q. What do you do for a living presently?

A. At the present time, my main job is as a tour escort coordinator for S & S Tours of Salina, Kansas.

Q. Do you take people on bus rides?

A. Yes, I do.

Q. And where do you go on these bus rides?

A. Okay. We do trips to Branson, South Dakota, Cripple Creek,

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did one to Oklahoma recently, to Grove, Oklahoma. A lot of my trips are day trips to gambling casinos in Kansas or Kansas City, Missouri. I also do dinner theater trips, etc.

Q. Okay. What were you doing in April of 1995 for work?

A. Okay. At that time, I actually had four jobs. One of them was with S & S Tours but not like I do now. I was working as a volunteer in the Future Mart store. I was doing bookkeeping for a plumber. And I also had a sideline job with Intele Travel International, which makes airline reservations and Amtrak reservations and that type of thing.

Q. You were a busy lady?

A. Yes.

Q. You mentioned one job at the Future Mart store. Tell us a little bit more about that. You said you were a volunteer at the Future Mart store, but that's -- you're really an employee of sorts. Tell the jury what that was exactly.

A. Okay. Future Mart is a network-marketing-concept place. The only way you get any money out of Future Mart is if you sign people up under you and you get commissions. Network marketing, think of Amway, and Future Mart is that type of thing except we have stores. So anyone that worked in the store was actually a volunteer. We didn't get an hourly wage.

Q. And if folks came in, would the volunteers try and sign them up to be participants in the Future Mart?

A. Okay. If they were interested in buying something, your

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first purchase made you a member of Future Mart, so you had to fill out a form, and we put down what you bought on the form, like that.

Q. And would the volunteer who signed the person up receive some sort of compensation for future purchases from those new signees?

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A. The volunteer would unless someone else had sent them into the store, and then they would be that person's customer. But if no one had actually sent them into the store, they would then be whoever was working as a volunteer, their customer.

Q. Okay. And you would get a commission on each of their subsequent sales?

A. Yes.

Q. And then those people, in theory, would sign other people up and everybody would get wealthy?

A. Right. Hopefully.

Q. Did it work?

A. Well, I'm not wealthy.

Q. Okay. I'm going to put on the ELMO what has not been previously admitted as D1778 and zoom in. Do you recognize that as a photograph of Future Mart?

A. Yes. That's where it was back in '95.

Q. Okay. Did the -- does the Future Mart still exist?

A. Yes.

Q. And back in 1995, where was this location?

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A. 2 South Broadway in Herington.

Q. So right on the main street -- I guess there's a main street and Broadway -- there's a main street in Herington --

A. Broadway and Walnut are the two main streets there at that corner.

Q. This is right smack-dab in the middle of town?

A. Yes.

MR. NEUREITER: We offer D1778, your Honor.

MR. ORENSTEIN: No objection.

THE COURT: Received.

BY MR. NEUREITER:

Q. Who -- you said you were a volunteer. Was there a -- a manager or somebody who ran the store?

A. Alice Thompson was the main manager, yes.

Q. Were there other folks that you knew who were volunteers and worked in the store, as well?

A. Yes. The main one -- myself and Diane Walters were the main two people that worked in there.

Q. So Diane Walters, yourself and Alice Thompson?

A. We were the main ones, yes.

Q. And would you all talk about customers who would come in and discuss their purchases?

A. Yes.

Q. Okay. Do you know Terry Nichols? Have you met Terry Nichols might be a better question.

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A. Yes.

Q. Do you see him here in the courtroom?

A. Yes.

Q. Is he the gentleman sitting in between the two defense counsel over here?

A. Yes.

Q. When did you first meet Mr. Nichols?

A. Okay. The first time I saw Mr. Nichols was approximately one week before the bombing. When he came to the store --

Q. That's -- that's the time -- that's the best you can recollect in terms of dates? If the bombing was April 19 --

A. Okay. I -- as far as I can remember, it was like the Thursday before.

Q. Thursday before. That would have been the 13th?

A. Which the bombing was the 19th. The next day would have been the 20th, so the Thursday before would have been the 13th.

Q. Okay. Do you have a way to estimate to the best of your recollection the time that you saw Mr. Nichols?

A. That day, it was shortly before noon.

Q. Was -- and where did you see him? Tell the jury about how that came about.

A. He came into the store to make a purchase. Diane was there. Diane waited on him. I was -- I had been there and I was just getting ready to leave and Diane was taking over, and she was waiting on him.

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Q. How -- how can you pinpoint the time as well as you can with two-and-a-half years after the fact?

A. Because I had something else I was going to be doing that day around noon. Something I had to do.

Q. Was Mr. Nichols alone?

A. He had his little girl with him.

Q. And what was the purchase that Mr. Nichols made, if you know from your own observation?

A. Okay. The reason I know is because I processed the orders later because the office in -- Future Mart office, home office, is in New Braunfels, Texas; and after someone made a purchase in our store, we would process all the orders and we would have to send those to Texas. And I usually did the processing of all the orders, so I saw the order when I was ready to process it so I know what he bought; plus I -- I know that he made another purchase that was out of Alice Thompson's private inventory or whatever you want to call it.

Q. Okay. Did you see Mr. Nichols' little girl running around the store carrying anything that day when you were there?

A. She wanted him to buy her a doll.

Q. Okay. I now put on the ELMO what has not yet been previously admitted, D1471, and ask you if you recognize that.

A. Yes. That's one of our order forms.

Q. And do you see the name up there? Don't read it. Do you see it?

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A. Uh-huh.

Q. And do you see the date up here?

A. Yes.

Q. And is this the type of document that would have been kept in the ordinary course of the Future Mart's business?

A. Yes.

Q. Is this the document that would have been sent off to New Braunfels and maintained there in their files to keep track of who was -- who was a member?

A. Right. We always made a copy and kept one copy at the office and sent one in to Texas.

MR. NEUREITER: We offer it, your Honor.

MR. ORENSTEIN: May I ask one question from here?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. ORENSTEIN:

Q. Ma'am, my name is Jamie Orenstein. We spoke very briefly last night; correct?

A. Okay.

Q. Beneath the date --

MR. ORENSTEIN: And, Counsel, this is up on the ELMO. That's fine.

BY MR. ORENSTEIN:

Q. Beneath the date, there are two lines of writing.

A. Uh-huh.

Mary Kay Sandels - Voir Dire

Q. The second line beneath the date is your handwriting; correct?

A. Correct.

Q. And that was when Mr. -- a second occasion when Mr. Nichols came into the store, you wrote that down?

A. I wrote that at the time that I was processing the order.

MR. ORENSTEIN: No objection, your Honor.

THE COURT: Received. What's the number on that?

MR. NEUREITER: D1471, your Honor.

THE COURT: Thank you. Received.

MR. NEUREITER: And we move to publish.

THE COURT: Yes. You may.

DIRECT EXAMINATION CONTINUED

BY MR. NEUREITER:

Q. If you could just -- well, we were -- you were talking about how when somebody makes a first-time purchase, they not only are buying something, but they are also joining? Is that what you said before?

A. Becoming a member, yeah.

Q. Okay. And does this document reflect both the membership joining and the -- the purchase that was made on that day?

A. Yes. This is the form that we would fill out when the person made the first purchase.

Q. And if you could read the date. If you can't see it on there, I can zoom in.

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A. Yeah. I can see it.

Q. All right. Could you read the date out loud?

A. 13th of April, '95.

Q. And could you read the name of the purchaser and the address, please.

A. Terry Nichols, 109 South 2nd, Herington, Kansas.

Q. Okay. And what did Mr. Nichols buy that day?

A. The doll set for his little girl.

Q. Now, you also said you knew that Mr. Nichols bought some -- something else from Alice Thompson?

A. Yes.

Q. Now, did you see that purchase happen?

A. No, I did not.

Q. Well, tell the jury, if you could, the second time you met Mr. Nichols, if you did meet him again.

A. Yes. I met him the morning of the bombing, which would have been April the 19th.

Q. And can you give any precision with respect to the time that you met Mr. Nichols on that date.

A. As I remember, it was around 10:30 in the morning.

Q. And how can you tell us that it was at that particular time?

A. Okay. Each day, we opened the store at 10, and I know he didn't come right in after I opened the store. So it was a little later than when I opened the store; and on Wednesdays --

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this happened to be a Wednesday -- someone usually always brought me a chicken dinner at 11:00 or right shortly after.

Q. Is there a special place in Herington where they have chicken dinners on Wednesdays?

A. Yes. It was at the Sale Barn.

Q. And you were looking forward to your chicken lunch that day?

A. Right. And so Terry was there sometime between the time I opened the store and the time my dinner came, and so that's why, as I can recall it, it was probably around 10:30 or so in the morning.

Q. Certainly before noon?

A. Before I had my dinner, yes.

Q. And is there some other way that you can recall when this happened? Were you doing anything when Mr. Nichols came in or around the time that Mr. Nichols came in?

A. Okay. Not necessarily doing something right at the time. I had a call from a customer that lives in Abilene who was calling to order some products from Future Mart; and he called, I believe, right around the time Terry was leaving.

Q. Okay. By the way, we didn't talk about the types of items you sell at Future Mart. Mr. Nichols bought a doll, you told us. What other kinds of things are sold at Future Mart?

A. Okay. We have many things, all the way from synthetic oil for your cars to health food products, to food products, to the

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toys. Just a lot of different items.

Q. Okay. And Alice Thompson was the manager?

A. Yes.

Q. Did she have some items of her own that weren't part of the Future Mart sales process that she kept in the store available for sale?

A. Occasionally.

Q. Occasionally. Did that include water magnets?

A. Yes, it did.

Q. Could you tell the jury what a water magnet is.

A. A water magnet is a magnet that you attach to your water line to get the impurities, the -- the mineral junk out of the water lines that's not supposed to be good for your health. And it's supposed to attach to the magnet area where you attach it to your line and make your water healthier for you.

MR. NEUREITER: If I may approach, your Honor.

THE COURT: Yes.

MR. NEUREITER: I'm going to put in front of the witness what has been previously admitted through Mr. Killam as D794A and D794B.

MR. ORENSTEIN: May I take a brief look?

THE COURT: Yes. You may approach.

BY MR. NEUREITER:

Q. Have you ever seen items like those before?

A. Yes.

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Q. Are those the kinds of water magnets that Alice Thompson would sell in the Future Mart store?

A. Those are the kind that she had from a previous network marketing business she was in. They are not actual Future Mart water magnets.

Q. All right. But she had them in the store to sell to people who might come in?

A. Right.

Q. And you wouldn't get a commission on those --

A. No.

Q. -- water magnets if you sold them to a Future Mart person?

A. No.

Q. What's it say on the top of those two exhibits?

A. "Softron Magnetic Water Conditioning."

Q. If you could just hold it up for the jury and -- are there two pieces in each one of those magnets?

A. Yeah.

Q. And --

A. I really don't know that much about these.

Q. From what you do know, is it your understanding that they fit around the pipe?

A. Right.

Q. And the impurities would stick to the magnet?

A. Right. The Future Mart ones went around the pipes. And since these were her own private stock, I had no reason to even

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see one of these being used. But the Future Mart ones, I did.

Q. You didn't see them being used, but you saw them there in the store?

A. Yes.

Q. Okay. So Mr. Nichols comes in on April the 19th?

A. Uh-huh.

Q. And how many people were in the store at that time?

A. Just myself.

Q. And how many -- was Mr. Nichols accompanied by anyone?

A. No.

Q. He was alone?

A. Yes.

Q. And tell the jury about your conversation on that day.

A. Okay. He came in, because when he had purchased this -- the week before when he had bought the doll set for his daughter, he thought there should be some instructions with this. So he came back in to check on the instructions for it. And since I didn't actually sell it to him and I was not involved with the Softron Company, I did not know the answers to his questions.

Q. Okay.

A. And so I told him he would have to speak with Alice Thompson.

Q. All right. What was his demeanor that morning within a couple hours after the bombing in Oklahoma City?

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A. He acted very normal.

Q. Had you heard about the bombing by that time?

A. At that point, I had heard that there was a bombing. I did not know how bad it was. Someone had called and just said, "Have you heard about the bombing," because Alice Thompson's daughter lived in Oklahoma City.

And I said no, I hadn't.

And she said, "Yeah, there's been one down there."

But I had -- that's the only contact I knew about it.

Q. Did Mr. Nichols say anything about Oklahoma City that morning?

A. No. We just discussed the water magnet.

Q. Describe his demeanor.

A. He acted perfectly normal.

Q. Was he cordial?

A. Yes.

Q. Belligerent in any way?

A. No.

Q. Was this someone coming in, demanding his instructions?

MR. ORENSTEIN: Objection to leading.

THE COURT: Sustained.

BY MR. NEUREITER:

Q. This was a pleasant conversation?

MR. ORENSTEIN: Objection to leading.

MR. ORENSTEIN: OBJECTION TO LEADING.

MR. NEUREITER: I apologize.

Mary Kay Sandels - Direct

BY MR. NEUREITER:

Q. Was this a pleasant conversation?

A. Yes.

Q. Did you, in the course of your conversation, take some notes?

A. The note I took was his phone number, because since I told him he had to talk to Alice Thompson -- she was out of town on Wednesday and Thursday of that week for the two days, and I told him he would have to talk directly with her and that she could probably call him back on Thursday. And so he gave me his phone number and said to have her call when she got back to the store, which she did get back on late Thursday afternoon, early Thursday evening area.

Q. Let me stop you right there. Did -- did -- after you had the conversation about the water magnets and you took the note and number, did Mr. Nichols -- what happened then on the 19th?

A. Nothing. Nothing really. I mean, other than just a little bit of chit-chat that I have no idea what it was at this point. I mean, nothing unusual. This -- he was wanting information about the water magnet and -- and I was trying to get the information from him where Alice could call him and --

Q. Did he leave?

A. Yeah. After he gave me his number.

Q. All right. How long an interaction was this in the morning, would you say?

Mary Kay Sandels - Direct

A. That he was there?

Q. Yeah. And you talked.

A. 15 minutes or less, probably.

Q. Okay. And then he left?

A. Uh-huh.

Q. Now, you had taken a note to give to Alice Thompson?

A. Right.

Q. And did you subsequently see Alice on the next day, on Thursday, the 20th?

A. Yes. On Thursday nights, we usually had meetings at the Future Mart store; and they were usually at 7:30. And we were all getting there about that time to come to the meeting, and she showed up so I gave her her note and --

MR. ORENSTEIN: Object to conversation between the two.

THE COURT: Well, we haven't got any conversation yet.

She just said she gave her the note.

MR. ORENSTEIN: Okay.

THE WITNESS: I gave her the note and she made the phone call.

BY MR. NEUREITER:

-- ----

Q. Did you describe what the note was about and where you had gotten the number on that note?

A. I mean, the note said, "Please call Terry Nichols about the water magnet," and his phone number.

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Q. And it had the phone number on it that Mr. Nichols had given you the day before?

A. Right.

Q. Did you see Mrs. Thompson -- is it Missus, or Miss?

A. Missus.

Q. -- Mrs. Thompson pick up a phone and dial that number?

A. Yes, I did.

Q. And did you overhear in form or substance conversation about water magnets about the person from -- from

Ms. Thompson's end? Did you hear her talking about water magnets after she dialed that number?

MR. ORENSTEIN: Object to relevance and hearsay.

THE COURT: Well, it isn't for the truth of it. It's for a conversation that was being held.

MR. NEUREITER: That's correct, your Honor.

THE COURT: All right.

THE WITNESS: I saw her dial the phone. Someone answered at the other end, and she discussed water magnets with them.

MR. NEUREITER: Okay. One moment, your Honor.

THE COURT: Yes.

MR. NEUREITER: I think that's all I have; and if counsel is not going to use the water magnets, I can retrieve them now.

MR. ORENSTEIN: Sure.

Mary Kay Sandels - Cross

CROSS-EXAMINATION

BY MR. ORENSTEIN:

Q. Good morning again, ma'am.

A. Good morning.

Q. Ma'am, you told us that Mr. Nichols came to your store the first time that you saw him on April 13th; is that right?

A. Yes.

Q. And you're able to fix the date, among other ways, by the fact, if I may use the display -- and just showing you once again Exhibit -- Defense Exhibit D1471. One of the ways that you can fix the date is through this -- this form which you helped process; correct?

A. Uh-huh.

Q. Which is dated April 13, 1995.

A. Right.

Q. And that's the day that the doll set was purchased, and you also know that that's the same date that these magnets were purchased.

A. Right.

Q. And now you filled out -- and this is what I was asking you about before -- the entry under Social Security number. You wrote "none"?

A. Okay. Occasionally --

MR. NEUREITER: Objection, relevance.

THE COURT: The question was did you write that.

Mary Kay Sandels - Cross

THE WITNESS: Yes, I did.

BY MR. ORENSTEIN:

Q. Okay. And that's based on information that you received about Mr. Nichols?

A. Yes.

Q. And now, who wrote the other portions of this top part, from the signature on up?

A. Okay. Since I did not see it being filled out, all I can do is assume the customer did, because that's who we would request to do it.

Q. All right.

MR. NEUREITER: Objection to what she assumes, if she doesn't have personal knowledge.

THE COURT: Well, that was the normal business practice?

THE WITNESS: Yes.

THE COURT: All right.

THE WITNESS: The customer was supposed to fill it out.

THE COURT: So that's what you're testifying about: That's the routine.

THE WITNESS: Yes.

THE COURT: All right.

BY MR. ORENSTEIN:

Q. And just focussing in on this signature, the signature

Mary Kay Sandels - Cross

obviously is going to be by the customer; correct?

A. Supposed to be.

Q. Right. Obviously, Ms. Thompson isn't going to put in the signature of herself.

A. No.

Q. The phrase right above the signature, "without prejudice, UCC 1-207": Is that anything to do with your business?

A. No.

Q. Do you know what that's there for?

A. No.

Q. Now, this first time when Mr. Nichols came into the store that you were there on the 13th, you mentioned on direct examination that there are membership meetings on Thursday night?

A. Yes.

Q. Were you --

A. There were back then.

Q. Back at that time. Yes. That's for all the members, weekly meetings?

A. If they wanted to come.

Q. Right. And were you still there -- I know you left the store at some point that morning while Mr. Nichols was still there. Were you still there when Ms. Walters was telling Mr. Nichols about these meetings?

A. Not that I remember anything about.

Mary Kay Sandels - Cross

Q. Okay.

A. Because the order had not been written up or anything at that point when I left that day.

Q. Okay. So you just don't know?

A. No.

Q. That's fine.

Now, Mr. Nichols bought some of these magnets that day?

A. The day of the doll-set purchase?

Q. Right.

A. Yes.

Q. And then six days later, on April 19, he came back and said, "Wait a minute, there are no instructions for this"; right?

A. Right.

Q. Do you know of any reason why he -- he didn't come back in the intervening days to talk about the lack of instructions?

A. I have no idea.

Q. You don't know what he was doing that kept him from coming in?

A. No, I don't.

Q. Now, this is a fairly simple device. You put it around your pipe. One side goes on one -- on one side of the pipe, the other side goes on the other side of the pipe, and you just stick them together; right?

Mary Kay Sandels - Cross

A. Right.

Q. Now, the only two times you saw him are the two times that you've testified about this morning, April 13th, sometime around noon, and April 19th, that morning, sometime between 10:30 and noon; correct? I don't want to pin you down to particular times.

A. Not that late.

Q. Certainly before noon?

A. Right.

Q. And -- but the morning of the 19th and the morning of the 13th are the only two times; is that right?

A. Right.

Q. And each time, he was -- he was in your presence for no more than 15 minutes?

A. The first time, definitely not, because I was on my way out. And the last time, no.

Q. And the last time, no.

Q. Okay. So other than those two brief periods on the 13th and the 19th, do you have any idea where Mr. Nichols was at any point, who he was with, or what he was doing?

A. No, I do not.

MR. ORENSTEIN: Thank you, ma'am. I have nothing further, your Honor.

THE COURT: Any follow-up questions?

MR. NEUREITER: Yes, your Honor.

If I may approach the witness, your Honor.

Mary Kay Sandels - Cross

THE COURT: Yes.

MR. NEUREITER: I'm placing before the witness what has been marked as D979B. I believe it's admitted into evidence. And inside of that is D979A, which has also been admitted into evidence.

REDIRECT EXAMINATION

BY MR. NEUREITER:

Q. Do you recognize that exhibit -- or those exhibits that have been placed in front of you there?

A. Not if it came out of this box, no.

Q. Okay. Do you -- does it say "Softron" on the top of that box?

A. Yes, it does.

Q. You don't recognize that as the kind of water magnet sold at Future Mart? If the answer is no, it's no. That's fine.

A. No. Not really.

Q. Okay. Go ahead and look in that box and see if there is an instruction packet. It might be that pink sheet that you first grabbed. What does it say on --

A. "Product Installation Guidelines."

Q. Okay. And that's a Softron box for Softron water magnets?

A. Right.

Q. Okay. And Mr. Nichols, when he came in, was curious as to why there weren't instructions with the ones he had purchased, to your recollection?

Mary Kay Sandels - Redirect

A. Yes. When he came in on the 19th.

Q. Okay. Now, the prosecutor had showed this document, D1479, and asked you about "none" in the Social-Security-number box. On your trips to the -- the gambling areas in Topeka -- is that where they are?

A. That's where the Kansas ones are, yes. North of Topeka.

Q. Do you have a certain responsibility with respect to your job in filling out forms for the gamblers who take your tours?

A. Yes.

Q. And are those given to the casinos, or what are those forms for?

MR. ORENSTEIN: Objection to relevance.

THE COURT: Sustained.

BY MR. NEUREITER:

Q. Do you have occasion to ask people on your trips for their Social Security number?

MR. ORENSTEIN: Objection to relevance.

THE COURT: Sustained.

MR. NEUREITER: One moment, your Honor?

THE COURT: Yes.

MR. NEUREITER: No further questions, your Honor.

THE COURT: All right.

MR. ORENSTEIN: Nothing further.

THE COURT: You -- is the witness excused?

MR. NEUREITER: Yes, your Honor. If we could just make a proffer when the witness is out of the room.

THE COURT: That will come at a later time.

You may step down. You're excused.

Next witness.

MR. NEUREITER: If I could retrieve the exhibit, your Honor.

THE COURT: Yes.

MR. TIGAR: Charles Farley.

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

(Charles Farley 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: Charles William Farley. F-A-R-L-E-Y.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. THURSCHELL:

Q. Pardon me. Good morning, Mr. Farley.

A. Good morning.

Q. Mr. Farley, where do you live?

A. At the present time, I live in Wakefield, Kansas.

Q. Wakefield, Kansas. And can you tell the jury where that is in relationship to Junction City, Kansas.

A. Wakefield is about 22 miles north of Junction City.

Charles Farley - Direct

Q. Are you married?

A. Yes, sir.

Q. Have children?

A. One.

Q. Okay. Are you currently employed?

Are you currently employed?

A. Yes, I am.

Q. And what is your employment?

A. My employment is Stag Hill Golf Course.

Q. I'm sorry?

A. Stag Hill Golf Course.

Q. Stag Hills Golf Course?

A. Yes.

Q. And what do you do there?

A. I'm a mechanic.

Q. What -- what are your -- very briefly, what sort of

vehicles do you service there?

A. I take care of all the motors in the golf carts.

Q. Okay. Now, I'm going to take you back to April of 1995.

A. Okay.

Q. Were you working at that time?

A. Yes, sir.

Q. And where were you working?

A. I was working for the Outdoor Recreation Center at Fort Riley.

Charles Farley - Direct

Q. And what is the Outdoor Recreation Center at Fort Riley?

A. Outdoor Recreation Center offers items for rent to military personnel, whether they are active duty, retired, National Guard, whatever. We have things like boats, campers, any number of items that they can come in and rent.

Q. Okay. Largely related to outdoor recreation?

A. Yes. Sports.

Q. And what was your job there?

A. I was the mechanic there, also.

Q. Okay. Now, do you recall the evening of Tuesday, April 18?

A. Yes, sir.

Q. Did you have occasion to travel to Geary State Lake on that evening?

A. Yes, sir, I did.

Q. And what -- what caused you to go there?

A. I had -- A couple of days before that, a fellow had come in to Outdoor Recreation and had asked me how the fishing was down at Geary State Fishing Lake. And I informed him that I hadn't been there that year, being early in the spring like that, and so I really couldn't help him out. That was another one of my duties there at the -- at the Outdoor Recreation Center, was to give out hunting and fishing information.

I'm an avid sportsman myself, and so they usually came

to me for the -- for those type of questions. And so I decided that I should go down to Geary County State Lake the evening of

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the 18th. I had actually gone into town --

Q. Let me stop you there. Did you go during your work hours, or after work hours?

A. No, sir. After work hours.

Q. And was that -- did you go immediately -- when did your work end?

A. I got off at 5:00. 1700 hours.

Q. And when did you arrive at Geary State Lake?

A. Well, it would have been probably 15 minutes to the store, probably spent another 15 or 20 minutes in the store. And then the drive 5 or 6 miles down to Geary. I was probably at Geary 10 to 6, 6:00. Right in that area.

Q. Okay. You ran an errand before you went to Geary?

A. Yes, sir.

A. Yes, sir.

Q. Now, are you certain that -- of the date of this trip to Geary Lake?

A. Yes, sir. Very much so.

Q. And how are you certain of the date?

A. I -- when I had stopped off at the store, the wife had asked me to pick up some items for supper. And I had planned on writing a check for it. When I got in there, I only had about \$5 in my pocket. When I got in the store, the items only came to 2 or \$3, so I just paid cash for it. And the next morning, I didn't -- when I got to work, I didn't have enough money for lunch. So I wrote a check out for cash where I

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worked there at the Outdoor Rec Center.

Q. Do you -- do you frequently write checks at work?

A. Yes, sir.

Q. You do?

A. At that time, we did, yes.

Q. Okay. Would you recognize that check if you saw an image of it?

A. Yes, sir. Probably made out to IMWRF.

Q. I'd like to show the witness what has not been admitted and marked as D1883.

A. Yes, sir. That's my check.

Q. Sir, you recognize this as the check that you wrote?

A. Yes, sir. That's my signature. That's my check.

MR. THURSCHWELL: Your Honor, we'd move the admission of D1883.

MR. GOELMAN: No objection.

THE COURT: Received.

MR. THURSCHWELL: If we could show the jury . . .

THE COURT: Yes.

BY MR. THURSCHWELL:

Q. Now, this is your signature in the lower right?

A. Yes, sir.

Q. Okay. And who is the check made out to?

A. It's made out to IMWRF. I-M-W-R-F. That stands for Installation Morale Welfare Recreation Fund.

Charles Farley - Direct

Q. Okay. And what was that organization at that time?

A. That's Outdoor Recreation.

Q. Okay. That was -- that was your employer?

A. Yes, sir.

Q. All right. And finally, what is the date that you see in the upper right-hand corner?

A. 4-19-95.

Q. Now, at some point during that visit to Geary State Lake, did you observe a Ryder truck?

A. Yes, sir.

Q. Before we get there, let me -- let me try to get you there.

MR. THURSCHWELL: I want to show the witness what has

been admitted as Government Exhibit G1982A and ask the witness whether he recognizes this.

BY MR. THURSCHELL:

Q. Do you recognize this?

A. Yes, sir. That's Geary State Fishing Lake.

Q. And what is this road running along here?

A. That's Highway 77.

Q. Okay. Can you show the jury with the light pen on the desk in front of you -- it's the black pen with the wire attached -- by touching the television screen beneath your desk how you entered the lake area that night.

A. Okay. I came -- I came south on 77 to this point and came in this direction.

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Q. Okay. Now, is that the southernmost entrance to the lake?

A. No, sir. There is one further south than that, but it -- the road doesn't wind around the lake. It just goes into a small fishing area and a little boat dock area down there.

Q. Okay. Can you point that out? That entrance?

A. Yes, sir. That would be this area right here. It comes in here. Comes up this way. There's a boat ramp down in this way. And it comes over this way. There's a little picnic area down in here.

Q. Okay. And that road does not connect with the road that you took?

A. No, sir, it does not.

Q. All right. Now, where -- if you could indicate very generally on this photograph where it is that you saw the Ryder truck and how you got there. And I'm going to show you a better map later, but just on this photograph where.

A. Okay. On this photograph, the Ryder truck would have been oh, probably right in this area right here.

Q. Okay. And how did you get to that area from the entrance that you pointed out?

A. By winding around the road. The road comes around the lake like this. It feeds in and around back like this, comes out this way. Up this way. It's probably a -- probably a 15-minute ride around the lake. Traveling that way. It's pretty slow going up in there. It's all gravel.

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Q. Now, make things a little easier. Let me show you what's been marked as page 2.

MR. THURSCHELL: Well, your Honor, may I approach the witness?

THE COURT: Yes.

MR. THURSCHELL: And I'm going to show him a two-page exhibit marked for identification as D1882.

BY MR. THURSCHELL:

Q. Can I ask what you see there and if you recognize it.

A. Oh.
Q. Page 1 -- what's on page 1?
A. It's "Enclosure No. 2."
Q. Title. Anything else on that page?
A. "Nichols' Exhibit D1882."
Q. What do you see on the second page?
A. This is a map of Geary State Fishing Lake, an overhead topographical map by the looks of it.
Q. Okay. Have you seen this map before?
A. I've seen maps like this before.
Q. Do you see your signature anywhere on that map?
A. Yes, sir. Yes, sir.
Q. Okay. There's a date underneath it?
A. Yes, sir. 12-9-96.
Q. Was that the date that you first were shown this map?
A. Yes, sir.

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Q. Okay.

MR. THURSCHELL: Your Honor, we move the admission of D1882.

MR. GOELMAN: No objection.

THE COURT: All right. Received. D1882.

BY MR. THURSCHELL:

Q. Show the jury -- first, zooming out, Mr. Farley, this -- now you've identified this as a topographical map of Geary State Lake; is that correct?

A. Yes, sir.

Q. Can you just show the jury on this map where the point where you entered the -- the lake area from Highway 77?

A. Yes, sir. Entered at this point right here.

Q. Okay. And where on this map did you observe the Ryder truck?

A. The Ryder truck would have been located about right there.

Q. Okay. And do you see a road connecting that point to Highway 77?

A. Yes, sir.

Q. Is that, in fact, a road?

A. That's a blacktop road.

Q. Okay. What kind of road is the road that runs along the lake there that you've identified?

A. This road here is a gravel road. Okay? Now, this road at the gate -- there is a gate here. It's blacktop from here down

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to Highway 77. And from here back up this way, again, it's a gravel road.

Q. Okay. Now, can you -- did there come a point in time in your trip when you actually got out of your -- you got out of your vehicle?

A. Yes, sir.

Q. What were you driving that night, by the way?

A. I had a Lincoln. An '88 Lincoln Town Car.

Q. Okay. Can you just show the jury by running the pen along the road the route you took up to the point where you got out of your -- your vehicle.

A. Yes, sir. I -- again, I came in from this direction. I followed the road around like this, came back up through here, came out, came out this gate, and turned around at this point, went back in the gate.

Q. Now, let me stop you right there. At that time, did you observe any Ryder truck or other vehicles?

A. No, sir. There were no vehicles at the lake at that time, that I could see anyway.

Q. Okay. Where did you go from there?

A. Okay. At that time, I came back around this curve, and there's a parking area located right here. Okay. I backed the car into that point. I got out of the car and walked about halfway down to the lake.

Q. What was your purpose in --

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A. Again, the customer had been into Outdoor Rec and asked me about the fishing areas up there and what it looked like, and I walked down to that point to kind of take a look at the lake to see where the water level was. I fished Geary County a number of times, and you can generally tell by the water level where the fishing is going to be good at so --

Q. Did there come another -- a point in time when you returned to that north gate that you identified?

A. Yes, sir.

Q. Okay. And about how long a period of time was it between the time that you stopped and the time that you got back to the north gate?

A. It shouldn't have been any longer than probably 10 to 15 minutes.

Q. Okay. Now, I'm going to zoom in on that north gate area.

A. Okay.

Q. And ask, first, do you see some markings made along the road there?

A. Yes, sir.

Q. Circles? Were those markings that you made at a previous time?

A. Yes, sir.

Q. Okay. Without regard to those now, I want to ask you about what you saw when you arrived back at the north gate.

A. At the gate itself?

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Q. Yes.

A. Initially, as I came up the road here, as I came along this road, when I got about to this point, I could see the Ryder truck, which was in this area right here, and a brown car that was setting in this area.

Q. Okay.

x. 0001.

A. And setting in this area was a -- probably a 2-ton farm truck.

Q. All right. And did you see anything ahead of the farm truck?

A. After I got past the farm truck, I did, yes, sir.

Q. Okay. Now, let me go back. The Ryder truck that you saw, can you estimate its size?

A. Probably not in feet. It was a -- one of the larger trucks. It wasn't a small one.

Q. Okay. And did you notice whether it had a so-called granny attic or an overhang over the cab?

A. I didn't notice.

Q. All right. Now, could you just make a little X where you saw that Ryder truck.

And then you saw another vehicle just in front of it?

A. Just --

Q. Let me back up. I'm sorry. Which direction was the Ryder truck pointing?

A. Which was it pointing?

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Q. Yes.

A. It was pointing to the east.

Q. And was it -- which side of the road was it -- which direction is east on this map?

A. East is this way.

Q. Okay. And -- and which side of the road was it parked on?

A. It was parked on the south side of the road.

Q. South side of the road. Now, you said there was another vehicle parked directly in front of it?

A. Yes, sir.

Q. Okay. And what was that vehicle?

A. It was a brown -- an older car. A heavy car. Maybe a Buick deuce and a quarter. The old 225 Buick or a big Oldsmobile of some kind. Maybe a 98, something like that. Kind of a brownish color.

Q. Are you familiar with cars, automobiles, trucks and their different models and years?

A. Pretty much, sir. I owned a body shop.

Q. Now, both of those vehicles, I take it from the map -- I'm sorry. Could you put a little spot or X where you saw that other brown vehicle?

A. Brown vehicle would have been right there.

Q. And do you recall about how far away from the Ryder truck that was parked?

A. It was fairly close to the Ryder truck.

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Q. Okay.

A. Probably 10 feet between them.

Q. Okay. Now, those were both, I take it, to the west of the gate area where you exited?

A. Yes, sir.

Q. All right. Now, you mentioned one or two other vehicles, I think you said, were parked to the east.

A. Yes, sir.

Q. Were those -- how many vehicles did you see when you got to the gate?

A. Two.

Q. All right. And what --

A. To the right. To the east.

Q. To the -- okay. What side of the road were they parked on?

A. Again on the south side.

Q. Okay. On the south side of the road. And moving east, what was the first vehicle that you observed?

A. The first vehicle that I observed was the farm truck, and it was -- the rear end of the farm truck was almost even with the road coming out of the park, itself.

Q. With the -- with the eastern end of the gate area?

A. Yes, sir.

Q. That end of the park?

A. Right.

Q. Okay. Now, can you describe that what you're calling a

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farm truck to the jury?

A. 2-ton, stake bed.

Q. What do you mean by -- what do you mean by stake bed?

A. It had a flatbed on the back with stakes on the side, a wooden fence on the side, wooden rails. Loaded, completely loaded. White bags sticking up even above the -- the fence, the rails. It looked like it was completely weighted down. That was my initial thought was that it had -- that it had broken down and it was just bottomed out on the spring, and I thought the thing had been broken and hence the Ryder truck and they were just going to unload the thing and --

Q. Okay. What -- was the vehicle then proceeding east, parked in front of it?

A. Okay.

Q. Let me back -- what -- were all these vehicles parked in the same -- pointing in the same direction?

A. Yes, sir.

Q. And what -- what direction was that?

A. That was east.

Q. They were all pointing east?

A. All pointing east.

Q. Proceeding east from the gate, what was the next vehicle that you saw?

A. Okay. This vehicle right here -- and again, it was parked directly in front of the farm truck -- was a '73 to a '75

Charles Farley - Direct
Chevrolet or GMC 3/4-ton pickup.

Q. Okay. Now, do you recall the color of that?

A. Green and white, sir.

Q. Green and white?

A. Kind of a light green and white.

Q. Okay.

A. Very rusty on the -- on the bed.

Q. Did you see any individuals at that time when you got up there to the gate?

A. Yes, sir. Initially, when I got to the gate, there was one individual standing at the back of the farm truck, at the back left corner of the farm truck.

Q. Okay.

A. I had to kind of inch my way out because I didn't know if there was traffic coming from the other way. That's how close that farm truck was parked to the gate. And as I inched my way out, you know, kind of looking to my right to see if there were vehicles coming, I looked to the left, also, to make sure there wasn't anything coming that way. I seen three individuals standing down between the Ryder truck and the brown car, one of them standing in the -- in the road just a little bit, one of them leaning against the front of the Ryder truck and the other one just kind of standing between them.

Q. Now, do you -- could you describe any of those three individuals?

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A. No, sir. I just -- I glanced down that way. I seen them standing there and turned my head away. I have no idea what they were --

Q. You couldn't provide any description at all?

A. No, sir.

Q. How about -- now, did you see any other individuals apart from those four?

A. Yes, sir.

Q. Okay.

A. One other individual. As I rounded the truck, the farm truck, coming out, I also turned to the east. When I come out the gate here, I turned and came this direction. As soon as I was out, I seen an individual walking alongside of the farm truck. He was probably at the cab when I first seen him. And I was really going slow. I mean, I was just creeping. And I was going to roll the window down and ask him if he needed some help. And -- give me kind of a dirty look and I decided, well, if you're going to be that way, me too, and I'm just going to leave; so I just drove away.

Q. Okay. Did you get a clear look at that individual?

A. Yes, sir, I did.

Q. It was still light out enough for you to --

A. Yes.

Q. -- view him. Let me come back to the stake-bed truck. You said it was heavily loaded down with white bags?

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A. Yes, sir.

Q. Did you -- from prior experience, did you recognize those bags?

A. I believe so, sir.

Q. What did you think at the time when you saw them?

A. I thought it was ammonium nitrate fertilizer.

Q. Okay. And what did you base that on?

A. Well, as a kid, I grew up in Iowa on a farm, and we used to use them -- use ammonium nitrate fertilizer to make stock ponds with.

Q. To make stock ponds with?

A. Stock ponds.

Q. What -- what do you mean by that?

A. Water ponds. To feed -- you know, to water cattle, pigs, what have you.

Q. And how did you -- how did you use ammonium nitrate to make stock ponds?

A. Back then, you know, the average farmer didn't have a bulldozer.

MR. GOELMAN: I'm going to object to this answer and question as irrelevant.

THE COURT: Overruled. Go ahead.

THE WITNESS: Back then, you know, the farmer didn't have a bulldozer or bucket loader or skid loader or any of that. He just used what he had. And ammonium nitrate

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fertilizer was an excellent explosive. Mix a little bit of used motor oil with a couple of bags of it, you know, put a blasting cap in it, and you could blow a pretty good-sized stock pond, you know. Fill it up with water, and you had water for your cattle.

BY MR. THURSCHELL:

Q. Had you -- had you used ammonium nitrate to do that?

A. My father had, yes, sir.

Q. Okay.

A. I had been around it.

Q. And so -- and -- did these bags that you observed in the truck resemble the bags of ammonium nitrate that you recalled from that experience?

A. Yes, sir.

Q. All right. Now, let me come back to the individual -- the last individual you mentioned. I think you said he gave you a dirty look?

A. Yes, sir.

Q. Well, let me ask this: Did there come a time when you reported this -- these events to the FBI?

A. Yes, sir.

Q. And was there some event that caused you to decide to go ahead and make that phone call?

A. Yes, sir.

Q. All right. And without telling the jury what you heard,

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can you tell them what you saw that caused you something to make you decide to go ahead and call the FBI.

A. I had -- I hadn't really placed the fact that -- you know, that it had taken place at Geary County or what I'd seen. I didn't realize, you know, what it was, probably like everybody else. And when they came out on the news and said that the bomb had possibly been mixed at Geary County State Fishing Lake, I started putting two and two together immediately. And that same day, we were watching -- and I can't remember what channel it was. It was a channel out of Topeka. We had cable at the time. I seen the individual again on TV.

Q. Okay. Now, if you saw a photograph of that individual, would you recognize him?

A. Yes, sir.

MR. THURSCHELL: I would like to show the witness what has not been admitted but marked as Defense Exhibit D1884. This has not been previously admitted. Sorry. I didn't realize --

BY MR. THURSCHELL:

Q. Mr. Farley, do you -- do you recognize the individual depicted in this picture?

A. Yes, sir.

Q. And who is that individual?

A. That was the individual that was standing at the door of the truck, the individual that gave me a dirty look.

Charles Farley - Direct

Q. Okay. And do you recognize this individual as the one that you saw on television?

A. Yes, sir.

MR. THURSCHELL: We move the admission of D1884.

MR. GOELMAN: No objection.

THE COURT: Received. It may be shown.

BY MR. THURSCHELL:

Q. Mr. Farley, what did you do to contact the FBI?

A. Initially, I called the 1-800 number that -- excuse me -- that appeared on the television at that time and really got no response from them. I was a little nervous at the time, a little upset.

Q. And why was that?

A. Well, I was -- you know, if you get people that do stuff like that, what's one or two more people, the way I looked at it. Kind of putting my family in jeopardy.

Q. Why were you putting your family in jeopardy?

A. Well, if I can recognize someone, you know --

Q. Was there a specific concern that you had at that time based on --

A. Not specific. I just, you know -- I was really close to this guy, you know. We were closer than myself to the young lady setting here. I'm sure if I can recognize him, he can sure recognize me.

Q. Okay.

Charles Farley - Direct

A. Okay.

Q. All right. Go ahead. You contacted the FBI. You called the FBI?

A. Called the FBI and really got no response from -- from the 1-800 number that I felt -- they told me to contact the local FBI. They had set up -- FBI had set up a command post there on Fort Riley, and we had no telephone numbers to contact them with. I called the post MPs, the post CID, Criminal Investigation Division. They couldn't give me a number to them. And about two weeks later, an FBI agent showed up at my workplace, which was Outdoor Recreation.

Q. And -- and did that agent immediately approach you to speak to you about the phone call you had made?

MR. GOELMAN: Objection, your Honor.

THE COURT: Overruled.

THE WITNESS: Yes, sir, he came in. I assumed that he was there to talk to me. I was on my way out the door. I was going downtown to pick up some parts. And he came in and -- and approached the young lady that was at the counter and identified himself as an FBI agent. I immediately turned around and said, "Sir, I believe I'm the one that you want to talk to." And at that time, I took him back to the back of the Outdoor Recreation building to my office in the maintenance bay and proceeded to tell him my -- my story.

MR. THURSCHWELL: Nothing further, your Honor.

THE COURT: All right. Mr. Goelman.

CROSS-EXAMINATION

BY MR. GOELMAN:

Q. Good morning, Mr. Farley.

A. Good morning.

Q. Where did you live at the time of the Oklahoma City bombing?

A. I lived in Milford.

Q. Milford, Kansas?

A. Yes.

Q. About how far is that from Junction City?

A. Probably 12 miles north of Junction City on the same highway there.

Q. And after the bombing in Oklahoma City, did you -- did you hear about it?

A. Yes, sir. Immediately. You know, we see the TV. I guess it was probably -- oh, it was probably noon or later before we actually, you know, turned the TV on there at work and got pictures.

Q. Did you hear about it when investigators traced the bomb truck to Junction City?

A. Well, I -- I kind of assumed that was all in one -- you know, I seen it on one newscast; and then at the same time, they said, yeah, the truck had been rented in Junction City and -- and the bomb had been mixed at Geary County State

Charles Farley - Cross

Fishing Lake, or they assumed it had been. They were --

Q. Did you learn after the bombing that investigators had suspected that there was ammonium nitrate used in the bomb?

A. I don't know. I can't say. I don't know.

Q. About how long after the bombing was it when you first heard about it?

A. About a week.

Q. And did you work during that week?

A. Yes, sir.

Q. Okay. You didn't hear about it at all in the seven days after the bombing, though?

A. You know, the TV at work, we don't have cable. And all we get is the Fort Riley channel that's piped in there. So whatever come over the Fort Riley channel at work is what we got.

Q. And the Fort Riley channel never had anything about the bombing for the week afterwards?

A. Not very much. Very little.

Q. You -- I'm sorry.

A. Very little.

Q. Very little, but maybe something?

A. Possibly. Possibly. You know, the investigation is ongoing and -- something to that effect. Now, again, I did watch at night when I got home.

Q. You did?

Charles Farley - Cross

A. Sure.

Q. But during the week after the bombing, you never saw anything about the bombing?

A. Not until that time.

Q. You did have cable at home in April of 1995, didn't you, sir?

A. Yes, sir.

Q. And you stated on direct examination that you were familiar with ammonium nitrate from your childhood; is that right?

A. Yes, sir.

Q. Familiar with the explosive capabilities of ammonium nitrate?

A. Yes, sir.

Q. And you recognized those white bags that you saw in the back of the farm truck on April 18 as ammonium nitrate, didn't you?

A. I assumed they were, yes, sir.

Q. And you at that time knew that ammonium nitrate could be used to build a bomb?

A. Yes, sir. But it's also a fertilizer.

Q. Sure. But you did know about its explosive capabilities?

A. Oh, yeah. Sure.

Q. And until you saw that newscast where you recognized that individual, you never called the FBI and told them that you'd seen a --

Charles Farley - Cross

A. No, sir.

Q. -- you'd seen a truck --

A. I had no cause to --

Q. Excuse me -- seen a truck with bags of ammonium nitrate, did you, sir?

A. No, sir.

Q. And you never called them and said you'd seen that truck right near a Ryder rental truck, did you, sir?

A. No, sir.

Q. Now, your job at the time of the bombing was mechanic; is that right?

A. Yes, sir.

Q. No one asked you to go out to Geary Lake specifically to scout out the fishing, did they, sir?

A. No. They didn't ask me to do that.

Q. You took it upon your --

A. I wasn't instructed to do that. No. Yes, sir, I did it on my own. I did it on my own.

THE COURT: We've got to do -- we've got to do this question and answer --

THE WITNESS: Yes, sir.

THE COURT: -- so the court reporter can get it down.

So let's wait for the question and you wait for the answer.

Proceed.

BY MR. GOELMAN:

Charles Farley - Cross

Q. Going out there on April 18 was not part of your official duties at the Outdoor Recreation area, was it, sir?

A. No, sir.

MR. GOELMAN: Court's indulgence.

BY MR. GOELMAN:

Q. Showing you Government Exhibit 1982A. You've indicated on direct, sir, that the route you took, you came -- were you going south or north on 77?

A. I was coming south on 77.

Q. Coming south on 77. You turned to this road right here?

A. Yes, sir.

Q. And then followed it down there?

A. Yes, sir.

Q. Now, you fished at Geary Lake before?

A. Yes, sir.

Q. So you know that there's a fishing pier down here; right?

A. There's a little dock down there, yes.

Q. And that's where people fish off?

A. They fish down there. There's a boat ramp down in that area, also.

Q. There's a boat ramp and -- and a little pier?

A. A little picnic area, yes, sir.

Q. Now, you didn't go down there on April 18, 1995, did you,

sir?

A. No, sir.

Charles Farley - Cross

Q. And your purpose in going to Geary Lake was to check out and see how the fishing was?

A. To see how -- what the water level was. By looking at the water level in that lake, you can generally determine how the fishing is going to be at that time of year. Croppie is -- you

know, in April, croppie are available.

Q. Mr. Farley, you went out to Geary Lake in order to see how the fishing was so you could inform customers about that?

A. Yes, sir.

Q. And there's no way to get from this road down here up to where you saw the Ryder truck here without going back on 77, is there, sir?

A. Not that I'm aware of.

Q. I mean, there's no kind of shortcut back here?

A. You have to go across -- cross country, so to speak.

Q. Now, at the time that you went out to Geary Lake on April 18, 1995, Mr. Farley, you didn't think any of your observations were particularly significant at the time, did you?

A. I didn't go out there on the 19th, sir.

Q. The 18th. You didn't think any of your observations were particularly significant, did you, sir?

A. No, sir, I didn't.

Q. And how long did you spend at that intersection where the gravel road meets the blacktop road?

Charles Farley - Cross

A. Total, probably a minute.

Q. You sat at that intersection for a minute?

A. By the time I worked my way out -- I slowed down. Like I told you, I was going to talk to the individual, ask him if he needed help. The whole thing probably lasted a minute.

Q. Did you actually stop your car at any point?

A. Yes, sir.

Q. Did you put it into park?

A. No, sir.

Q. How long did you stop your car for?

A. I stopped, you know, pulling out because I was afraid there were vehicles coming or traffic coming from where I couldn't see it around the farm truck. And slowly inched my way forward.

Q. Did any vehicles pass you on the blacktop road while you were sitting there? You said that --

A. As I turned out onto the blacktop road?

Q. You said you were waiting to see if traffic was going to go by; right?

A. There was no traffic.

Q. No traffic. But you still stayed at that intersection for a minute?

A. Not right at the intersection, sir. From the time I entered or got to the intersection until the time I pulled away from that front truck was probably a minute's time.

Charles Farley - Cross

Q. And during that period of time, you were able to see a brown car to your left; is that right?

A. Yes, sir.

Q. You agree that that car was about 40 to 50 yards away?

A. No, sir. I'd say 20.

Q. Did you previously say 40 to 50 yards away?

A. Sir, it's been two years ago. I don't know.

Q. You don't remember saying that?

A. No, sir.

Q. Behind that brown car, you saw a Ryder truck, sir?

A. Yes, sir.

Q. And you noticed three individuals behind that Ryder truck?

A. Three individuals in front of the Ryder truck: one leaning against the Ryder truck, one standing in the roadway, and one just standing between the truck and the car.

Q. And that car that was a brown car that was on your left, Mr. Farley; is that right?

A. Yes, sir.

Q. Had you seen that car previously that day?

A. Yes, sir.

Q. And tell us about that.

A. The area where I showed you on the map where I was parked, where I had backed into the walk down toward the lake, as I came back up and got in my car, just before I -- I had my door to my car open and I heard a vehicle coming and I turned and

Charles Farley - Cross

looked, and that car was coming up the road. If we could have the map again, I could show you --

Q. Sure thing. I'm showing you 1982A.

A. No. The -- the other map.

Q. The aerial?

A. Yes. Okay. Again, as I was parked in this area, okay, the brown car approached me for the first time. The first time I noticed it, it was probably right in this area. That's about when I heard it. And it came up this way and just continued on around this direction. I sat there for approximately a minute. I lit up a cigarette, rolled my window down, and then pulled out.

Q. The first time that you spotted that brown car, Mr. Farley, was it approximately 1 kilometer away from you?

A. Probably about that, yeah. About 1,000 meters.

Q. Okay. In the time that you were at that intersection between the gravel road and the blacktop road, sir, you were able to estimate the year of the farm truck that you saw?

A. Yes, sir. I was

A. Yes, sir, I was.

Q. You estimated that as between 1950 and 1953?

A. Yes, sir.

Q. In fact, you were so sure about the particular year of that farm truck that when you were shown an FBI report of your initial interview, you corrected the model of that car from late 40's, early 50's, to 1950 to 1953; isn't that right?

Charles Farley - Cross

A. Yes, sir.

Q. And you were able to see that the stakes had been removed from the back of that particular truck?

A. Yes, sir.

Q. And able to see that there was -- what there were -- there were white bags of what you thought were ammonium nitrate; isn't that right?

A. Yes, sir.

Q. And that those bags were piled seven or eight bags high?

A. Yes, sir.

Q. And that they were higher in the middle of the truck than they were on the sides of the truck; is that right?

A. Yes, sir.

Q. They were about 6 to 8 inches higher in the middle of the truck than they were the side of the truck, is that fair?

A. That would be a fair assumption.

Q. You also saw two men to your right in addition to the three men to your left?

A. Yes, sir.

Q. And the man closest to you when you initially made that turn to your right, he was a younger man?

A. Younger than the individual that I could actually identify, yes, sir.

Q. About how old was he?

A. Under 30. Above 25. Under 30.

Charles Farley - Cross

Q. He had long hair; is that right?

A. Yes, sir. Long, dark hair.

Q. Was wearing jeans?

A. Wearing blue jeans and a black T-shirt.

Q. Black T-shirt that had some writing on it; is that right?

A. Yes, sir.

Q. And he was carrying on his hip, was he not, a folding knife?

A. Yes, sir. It was in a leather -- a leather case.

Q. And you were able to see that case that he was carrying this folding knife in was not Cordura; is that right?

A. No, sir. It was leather.

Q. You were able to tell that in the time that you made that turn?

A. Yes, sir.

Q. And this other individual whose picture you've identified today, he -- he had a beard; is that right?

A. Yes, sir.
Q. No mustache?
A. No, sir.
Q. What was he wearing?
A. He had on slacks and a sport shirt. Short-sleeved sport shirt.
Q. Short-sleeved sport shirt?
A. Yes, sir.

Charles Farley - Cross

Q. You previously indicated that he was wearing a long-sleeved shirt?
A. Not that I'm aware of, I didn't, no.
Q. From that brief encounter that you had with this man, did you later become convinced that you could pick him out of 200 people?
A. Yes, sir.
Q. And he gave you a mean look; is that right, sir?
A. Yes, sir, he did.
Q. Kind of glared at you?
A. Just kind of glared at me, kind of like, you know, what are you doing here and -- that was my opinion.
Q. Did he actually lean down and peek into your window when he glared at you?
A. He didn't have to, sir. He was directly in front of my windshield, to the right side of my windshield.
Q. You were looking at him through the windshield, not through the side window?
A. Yes, sir.
Q. And in front of that particular farm truck, you saw another truck; is that right?
A. Yes, sir.
Q. Pickup truck?
A. Yes, sir.
Q. With a green cab?

Charles Farley - Cross

A. The farm truck had a green cab.
Q. What color was the pickup truck?
A. The pickup truck was green and white.
Q. Green and white.
A. Yes, sir.
Q. And what model was it?
A. '70 -- I'm sorry. '73 to '75 Chevrolet or GMC.
Q. Could you tell me anything --
A. Three-quarter-ton.
Q. I'm sorry. What?
A. Three-quarter-ton.
Q. Three-quarter-ton. And could you tell how many lug nuts were on this particular truck?
A. There were six, sir.
Q. You counted six lug nuts?

A. You know, you do that at a glance. When you're used to working on those types vehicles -- which I had done many times in my body shop -- you know, it's not something you count. You just look at it and recognize it as such.

Q. Because of the number of lug nuts, is that what made you conclude that it was a three-quarter-ton truck?

A. Yes, sir.

Q. And if it had five lug nuts, it would have been a half-ton truck; is that right?

A. Half-ton, yes, sir.

Charles Farley - Cross

Q. Have you previously said that there were actually eight lug nuts on that particular truck?

A. Not to my recall, sir.

Q. Do you remember talking to an FBI agent and two other people from the government back in September 1996?

A. Yes, sir.

Q. At that point, sir, you indicated that a -- that you knew it was a three-quarter-ton vehicle because a three-quarter-ton vehicle has eight lug nuts and a half-ton vehicle has five; isn't that right?

A. Not to my recall, I didn't say that.

Q. Now, is it true that you couldn't see except for the man who you identified here today -- you couldn't see the other men well enough to identify who they were?

A. No, sir.

Q. Couldn't see if -- well enough to identify if they were any of the people you later saw on television as suspects in this case?

A. No, sir. The first individual that I seen, the fellow with the blue jeans, the long hair, black T-shirt, kind of stocky fellow -- you know, he was -- I wouldn't call him fat, but he was pretty well -- pretty well put together.

Q. Did he say anything during the time it took you to turn the corner?

A. That individual did not, no.

Charles Farley - Cross

Q. It was the individual with the beard who said something?

A. Yes, sir.

Q. Again, what did he say?

A. His comment was something to the effect of "we've got to get this done," or "we've got to get going, we've got to get moving." Something like that.

Q. Sir, do you remember talking to a Mr. David Fechheimer?

A. Yes, sir.

Q. He was an investigator for Tim McVeigh; is that right?

A. Yes, sir.

Q. And that was on December 13, 1996; is that right?

A. I guess so.

Q. Did you tell him that it was actually the younger man who yelled at the older man with the beard and said "Hurry up

yelled at the older man with the beard and said, "hurry up, we've got to get moving"?

A. No, sir, I did not tell him that.

Q. You did not tell Mr. Fechheimer that. Were you by yourself when you were at Geary Lake on April 18th?

A. No, sir, I was not.

Q. Who were you with?

A. My daughter was with me.

Q. And where was she riding?

A. She was in the passenger seat next to me.

Q. What's her name?

A. Her name is Beth.

Charles Farley - Cross

Q. And how old was she at the time?

A. Probably 17.

Q. 17?

A. Yeah.

Q. Did you previously say that she was 19 at the time?

A. She's mentally handicapped, sir.

Q. Did you previously indicate that you were by yourself, sir?

A. When I had -- the very first FBI agent I talked to, yes, sir, I told him that.

Q. Okay. Do you remember talking to H. C. Bodley, an investigator for Mr. Nichols?

A. Yes.

Q. And that was on October 21, 1997; isn't that right?

A. Yes, sir.

Q. A month and a half ago?

A. Yes, sir.

Q. You told him that you were by yourself, didn't you, sir?

A. He didn't ask me, sir.

Q. Did you tell him someone was with you?

A. He didn't ask me, sir.

Q. Did you tell him that someone was with you?

A. No, sir, I did not.

MR. GOELMAN: One moment, your Honor.

THE COURT: Yes.

MR. GOELMAN: That's all I have.

Charles Farley - Cross

MR. THURSCHELL: One question, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. THURSCHELL:

Q. Sir, why didn't you -- why did you not tell the FBI about the fact that your daughter was with you the very first time that you spoke to them?

A. I'm trying to protect my daughter.

Q. You're trying to protect your daughter?

A. Yes, sir. Like I said, she's mildly mentally handicapped and she doesn't need this.

MR. THURSCHELL: Nothing further, your Honor. The

witness is excused.

MR. GOELMAN: Your Honor, I just have one more question.

THE COURT: All right.

REXCROSS-EXAMINATION

BY MR. GOELMAN:

Q. Mr. Farley, earlier, you told us that you went from work to the store and then directly to Geary Lake; is that right?

A. Yes, sir.

Q. Was your daughter at work with you?

A. Yes, sir.

Q. The whole day?

A. No, sir. I picked her up after school.

MR. GOELMAN: Nothing further.

MR. THURSCHWELL: Nothing further, your Honor.

THE COURT: Excusing the witness?

MR. THURSCHWELL: Yes.

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

MR. TIGAR: May I consult with Ms. Hasfjord, your Honor?

THE COURT: Yes.

MR. TIGAR: Call William Tobin, your Honor.

THE COURT: I'd like to take the morning recess.

MR. TIGAR: I'm sorry, your Honor. That -- I think that would help us. I'm making a little change in the order here.

THE COURT: All right. Well, we'll take our midmorning recess, members of the jury, again, remembering that we've still a ways to go and you still have an obligation to wait till we've heard it all before you talk about it or think about it. And accordingly, please withhold any comments or views about the case until it's given to you for decision. You need to avoid things outside the evidence that could influence you.

So you're now excused. 20 minutes.

(Jury out at 10:16 a.m.)

THE COURT: Okay. Recess.

(Recess at 10:16 a.m.)

(Reconvened at 10:37 a.m.)

THE COURT: Be seated, please.

MR. THURSCHWELL: Your Honor, may we approach?

THE COURT: Yes.

(At the bench:)

(Bench Conference 118B2 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

(Jury in at 10:41 a.m.),

THE COURT: Next witness, please.

MR. TIGAR: Call William Tobin.

THE COURT: All right.

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

(William Tobin 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: William A. Tobin, T-O-B-I-N.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. TIGAR:

Q. Mr. Tobin, what do you do for a living?

A. I'm a special agent with the Federal Bureau of Investigation.

Q. How long have you been a special agent of the FBI?

A. Approximately 26 1/2 years.

Q. Showing you now, sir, what has been marked for identification but is not in evidence as Government's Exhibit -- it's marked as Government's Exhibit 151C. Do you remember having seen that before?

A. May I open it?

William Tobin - Direct

Q. Yes, sir.

A. Yes, I did.

Q. When did you first see it?

A. On or about June 2, 1995.

Q. Now, showing you now, sir, what has been received in evidence as Government's 151A, was 151C inside of 151A when you received it?

A. It was, yes.

Q. On June -- about June 2, 1995?

A. Yes, sir.

MR. TIGAR: Okay. With the Government's consent, we would offer 151C under the Government's exhibit number.

MR. MACKEY: No objection.

THE COURT: All right. Received.

BY MR. TIGAR:

Q. I'm going to show you now, sir, what has not been received but has been marked for identification as D1877, a photograph. Does that appear to you to be a photograph of that Makita drill box and the little bit box, the same one I just showed you?

A. As much as I can see of it, it does appear to have some of the same contents.

MR. TIGAR: We offer D1877, your Honor.

MR. MACKEY: No objection.

THE COURT: Received.

BY MR. TIGAR:

William Tobin - Direct

Q. Sir, I recognize you did not take this photograph. Correct?

A. No.

Q. The date on here is April 29, 1995. Is that right, sir?

A. Yes.

Q. When you received -- you're -- in June of 1995, you were employed in the FBI Laboratory. Correct, sir?

A. Yes.

Q. And you say that on or about June 2, 1995, you got this Exhibit 151A and C. Correct?

A. Yes, sir.

Q. Now, at the time you got -- I'm holding things up from it. At the time you got 151A and C, were these -- was this manual in this condition that I'm holding it up here with these markings on it?

A. There was a -- there were some similar documents inside, but they were not the focus of my attention.

Q. And was there water inside the box when you got it?

A. There was, yes.

Q. How much water was there?

A. I didn't measure the amount. I characterized it in my notes, I believe, as "prevalent."

Q. "Water was prevalent." Is that what your observation was at the time?

A. Yes.

William Tobin - Direct

Q. And in addition to that, sir, was the -- were the contents "moldy and heavily moisture-laden"?

A. Yes.

Q. Were the steel items inside corroded?

A. There was -- there was some corrosion present, yes.

Q. My question is did you note at the time "steel items inside corroded"?

A. May I refer to my notes?

Q. I'll be happy -- do you have your notes with you, sir?

A. Yes.

Q. Are they Bates' stamped?

A. No.

Q. Well, let me show you a page, sir, and we can --

A. Yes.

Q. So you did make a note at that time: "Steel inside corroded." Is that correct?

A. Yes.

Q. Now, June 2, 1995: At that time, this material had not yet

Q. Now, June 2, 1995. At that time, this material had not yet been sent to Agent Cadigan for his examination; is that correct?

A. I'm not aware that it had, no.

Q. When you saw the box in this condition, did you inquire of your assistant, Derek Carver, as to what had happened to it?

A. Yes, I did.

Q. What did you find out had happened to it while it was in

William Tobin - Direct
the FBI's custody?

A. I was told that there had been an accidental exposure of the items to a substantial amount of water.

Q. And where had the item been when it was exposed to a substantial amount of water while it was in the FBI's custody?

A. In the custody of the Explosives Unit examiner.

Q. And did you find out what it was that had -- where it was exactly within the Explosive Unit that all this water had happened to it?

A. No.

Q. Did you understand how the water had gotten into the box?

A. Not specifically. All I was told is that there was some accident or plumbing problem that occurred in the vicinity.

Q. And in the box when you received it, was there a quantity of standing water?

A. I believe there was some minimal standing water in the box, yes.

Q. Now, you've completed -- there came a time when you completed your examinations; correct, sir?

A. Some of the exams, yes.

Q. Yes. And then you sent -- when you were done with it -- when were you finished with the box?

A. On or about July 11 of 1995.

Q. And did you then send it back to the Explosives Unit?

A. I did, yes.

William Tobin - Direct

MR. TIGAR: No further questions.

CROSS-EXAMINATION

BY MR. MACKEY:

Q. Mr. Tobin, very briefly, the reference you made in your note about steel items being corroded: Did you intend to represent that every steel item inside this blue box bore some evidence of rust or corrosion?

A. No. Not only did every steel item not exhibit corrosion but not all surfaces of the items that were corroded were in fact corroded.

Q. In your examination, you received Government's Exhibit 151A, this large blue box with the prominent label "Makita"; correct?

A. Yes, sir.

Q. You opened it up; correct?

A. Yes.

Q. And you found inside yet another case, a yellow case marked Government's Exhibit 151C; correct?

A. Yes, sir.

Q. You opened that up; correct?

A. Yes.

Q. And inside, did you find two quarter-inch drill bits?

A. I did, yes.

Q. Did you notice on the tip, on the very top, the very tip of those two quarter-inch drill bits any corrosion?

William Tobin - Cross

A. There was very little -- very little to no corrosion on the surface -- on those surfaces.

Q. On those two quarter-inch drill bits?

A. That's correct. On the tips.

Q. Excuse me?

A. On the tips.

Q. Yes. I understand.

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

REDIRECT EXAMINATION

BY MR. TIGAR:

Q. Sir, you were interested in the corrosion issue enough to take a picture and make a note. Correct?

A. Well, I routinely take as-received-condition photographs, so that did not drive my photo documentation.

Q. So it's part of your routine to take as-received-condition photos. Is that your testimony?

A. Yes, sir.

Q. How many as-received-condition photos did you take on this occasion?

A. I don't recall offhand.

Q. Let me just show you to refresh your recollection a portion of your notes. Would you look through there and see if that's all the as-received-condition photos that you took?

A. No, they are not -- they would not comprise all of the

William Tobin - Redirect
photographs in their entirety.

Q. Are those all the photographs that are in -- that you stapled into your notes and put a notation beside?

A. May I compare them to my own --

Q. Of course, sir.

A. -- records?

Yes, these are the photographs that I attached to my notes under that particular laboratory number.

Q. Now, I notice that you brought some notes with you today, sir. Is that anything other than the notes that to your knowledge have already been furnished to us --

A. The only --

Q. -- the notes that you brought with you to the witness stand?

A. The only difference is my notes have an additional page of the laboratory worksheet on the top and metallurgy --

MR. TIGAR: I'm sorry. May I approach and look, your Honor?

THE COURT: Yes, you may look.

BY MR. TIGAR:

Q. May I just see the notes that you brought, sir? Thank you.

The notes that I'm now looking at plus what you have in your envelope: It's your understanding those have all been turned over to the defense. Correct, sir?

A. Yes.

William Tobin - Redirect

Q. Now, coming back to your photograph, then, it is your recollection, sir, that you took 16 as-received photographs. Is that correct, sir?

A. No.

Q. How many did you take?

A. I don't recall again.

Q. How many did you mount in your notes?

A. How many are there? I didn't count them.

Q. I'm sorry. I have 16, sir.

A. Then there would be 16 attached to my notes.

Q. All right. And attached to your notes, is any of those 16 photographs an as-received photograph of the tip of a quarter-inch drill bit?

A. Not specifically, no.

Q. Well, will you look, sir? Is there one that is a photograph of the tip of a one-quarter-inch drill bit generally or specifically?

A. Generally, yes.

Q. Which one is the generally one, sir?

A. That would be Photograph No. 12 on page 6.

Q. May I see the color version of that?

And the photograph here: Is that the one that shows these markings here? Is that one of the drill bits, the one in the middle?

A. Yes.

William Tobin - Redirect

Q. And would it be fair to say that those markings are consistent with significant corrosion on the shaft of that drill?

A. Yes, sir, there are.

Q. That is a side view of the drill, or is it an end-on view of the tip?

A. It's a side view of the flutes on the drill; however, because of the angle on the rake face -- on the face of the bit, one can see some surface. But in answer to your question, it's intended to be a side view.

MR. TIGAR: No further questions.

MR. MACKEY: Just a couple.

RECROSS-EXAMINATION

RECROSS EXAMINATION

BY MR. MACKEY:

Q. Photograph No. 12 that you've identified shows a side view of three different drill bits; correct?

A. Yes.

Q. The one Mr. Tigar asked you about was the one in the center; correct?

A. Yes, sir.

Q. Your testimony that I'd like to elicit is based on your observation back in June of 1995. Did you notice on the tip of any of those three drill bits corrosion?

A. Yes. There was minimal corrosion on the center one and almost no corrosion on the other two but very minimal on the

William Tobin - Recross

face -- on the tip of the center one.

Q. There are three drill bits there. Two of them on the outer sides of that same photograph show, do they not, no corrosion?

A. That's correct.

Q. The only one that has any evidence is the one in the middle?

A. Yes, sir.

Q. Do you know from your firsthand knowledge, Mr. Tobin, which, if any, of these three were later examined by Mr. Cadigan?

A. No.

MR. MACKEY: Nothing else.

MR. TIGAR: No further questions, your Honor.

THE COURT: All right. The witness now excused?

MR. TIGAR: Yes, your Honor.

MR. MACKEY: Yes.

THE COURT: Is that agreeable?

You may step down. You're excused.

Yes, please.

MR. TIGAR: Joan Millar.

THE COURT: All right.

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

(Joan Millar 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: Joan Irene Millar, M-I-L-L-A-R.

DIRECT EXAMINATION

BY MR. NEUREITER:

Q. How old are you, ma'am?

A. 56.

Q. Where are you from?

A. Elohim City, Oklahoma.

Q. Did you say Elohim City, Oklahoma?

A. Yes.

Q. How is that spelled for the court reporter?

A. E-L-O-H-I-M, City.

Q. Okay. Where is that located in Oklahoma?

A. It's in Adair County near Muldrow, Oklahoma.

Q. Where would that be in relation to Oklahoma City?
A. About 185 miles east and a little bit north.
Q. Is that east on I-40?
A. I-40, yes.
Q. What's your educational background?
A. I'm a registered nurse by profession.
Q. High school and then nursing training?
A. Yes, sir.
Q. Where are you originally from?
A. Toronto, Canada.

Joan Millar - Direct

Q. And when did you move to Elohim City?
A. We visited off and on in the 70's, and we moved there about '81, '82.
Q. Are you married?
A. Yes, sir.
Q. What is your husband's name?
A. It's my second marriage. His name is Bruce.
Q. Is that Bruce Millar?
A. Yes, sir.
Q. What is his father's name?
A. Robert Millar.
Q. Do you have children?
A. We have eight between us. I have five girls.
Q. And you have grandchildren?
A. Yes. Yes, sir.
Q. Tell the jury a little bit about Elohim City and what kind of a community it is.
A. We were founded in 1973. I wasn't there then. The people are from different backgrounds, Christian backgrounds: United Church, Anglican . . .
Q. This is a religious community?
A. Yes. I think I would call it that.
Q. Who founded Elohim City?
A. Robert Millar.
Q. Is this an incorporated town?

Joan Millar - Direct

A. No. The -- the property is incorporated. The homes are owned individually. We have about 400 acres.
Q. About 400 acres?
A. 481, I think it is.
Q. Do you abutt a mountain?
A. We're on the side of a mountain.
Q. How do people make their livings there at Elohim City?
A. We have a sawmill. Some of them work in the sawmill. We have -- some of the young men have a construction company and they work in the area. We have -- we do a lot of cutting of firewood in the winter. A lot of people in the neighboring community buy firewood from us.
Q. How many people total would you say live in Elohim City on

a permanent basis?

A. Probably between 70 and 80.

Q. And are many of those related to you and David Millar?

A. Yes, sir.

Q. Without going into detail, can you describe for the jury the particular religious faith that is practiced there at Elohim City?

A. Well, everybody has their own beliefs, and what I might believe might be a little bit different from even my husband or some of the other people; but we do believe in the power of God

to heal. We believe in healing. We believe in the baptism of the Holy Spirit. We believe in speaking in tongues.

Joan Millar - Direct

Q. Do you have any particular beliefs with respect to the white race?

A. We believe that the -- the Scriptures teach that the -- the lost tribes of Israel migrated through Europe and Britain and have settled in America, so we do believe that we are part of the -- the white race is part -- is -- are the lost -- some of the white race are the lost tribes of Israel.

Q. Would it be fair to characterize your beliefs as the white race is the chosen people spoken of in the Bible?

A. Yes, sir.

Q. What is the view at Elohim City with respect to interracial marriages?

A. We believe that all the races are special and unique, but we believe that you should marry within your own race.

Q. You oppose interracial marriages?

A. We would not marry someone from another race.

Q. In the 19 -- early 90's, did there develop some concern in your community with respect to the incidents at Waco and Ruby Ridge?

A. Yes.

Q. Could you tell the jury about that, please.

A. We had had some -- the press had done some reports on us before Waco and knew we were a community and that we pretty much kept to ourselves; but after what happened at Waco, they began asking us if we were concerned that it might happen to us

Joan Millar - Direct

or that they might come out. And I think we became a little apprehensive.

Q. When you say "they might come out," who did you mean by "they"?

A. The -- whether it was the ATF or the government, we had concerns because -- we just were concerned that they might just come in on us like they had at Waco.

Q. Did your community take steps with respect to security as a result of those concerns?

A. I think it was probably after that that we had -- we had -- we live about 20 miles from the nearest town and there is

we live about 30 miles from the nearest town, and there is no -- the local police do not provide patrol or anything out there; so we -- we developed a security system for ourselves.

Q. Was part of the reason for that security system that you felt it would dissuade any attack by the ATF or the FBI?

A. Yes. Our stance has never been offensive; but when we saw what happened at Waco and Ruby Ridge, we felt -- the men felt they wanted to be able to protect the women and children if they would come in on us, on a surprise.

Q. As parts of those concerns, did Elohim City organize security patrols?

A. Yes.

Q. Who is Andreas Strassmeier?

A. He was a young, German gentleman that was in the -- had lived in Houston, and he came to live at our place probably in

Joan Millar - Direct

1992. And he had had a lot of training in the -- in the -- in Germany in the army. He knew a lot about weapons, and he knew a lot about first aid and fire prevention and that.

Q. Was Mr. Strassmeier given some responsibility with respect to the security precautions taken at Elohim City?

A. Yes. He sort of headed up the patrols. He wasn't the head of security. We didn't feel that he knew enough about the -- that he was as in tune with the spiritual values of our community, so he didn't have free reign in this, but he did organize if we felt that we should have patrols at night or something to make sure nobody just came in unannounced; that he didn't -- he organized these.

Q. How did Mr. Strassmeier carry himself as he walked about your community while he was there responsible for security?

A. He took his -- he took his position very seriously. He did not -- he didn't walk relaxed. He always walked like he was on parade or whatever. You didn't see him just slouch around or walk. He was very exact in his manner.

Q. Did Mr. Strassmeier, to your knowledge, go to gun shows for a particular purpose with respect to Elohim City?

A. He would maybe go to two or three a year. He would -- he would go with some of the other young men. He would advise them if they wanted to purchase something. He would, you know, help them pick up things. He picked up camouflage clothing and things like that.

Joan Millar - Direct

Q. Was part of -- were these trips to gun shows part of his responsibility in terms of assisting in the security precautions at Elohim City?

A. Not necessarily, but most of the local people in our area, if there was a gun show in town, they would -- a lot of them would go to it. It wasn't just -- it wasn't specific to Elohim City.

Q. Would Mr. Strassmeier take orders from people in the community about what kinds of supplies they needed before he

went to a gun show?

A. Frequently, yes.

Q. Did you attend a gun show with Mr. Strassmeier?

A. I went to one, yes.

Q. Who is Dennis Mahon?

A. He's a gentleman that lives in Tulsa. I don't know him very well. He had a trailer at Elohim City for a short period of time.

Q. Was he affiliated, to your knowledge, with an organization with the initials WAR?

A. I believe so, yes.

Q. What is that? What do those initials stand for?

A. White Aryan Resistance.

Q. Did Mr. Mahon come and live at Elohim City?

A. No, he just visited. He had a camper there. He might come down for a day. I think once or twice he stayed overnight, but

Joan Millar - Direct

he had no long-term stay there.

Q. Did Elohim City have a practice with respect to visitors coming and staying or not staying?

A. We didn't solicit people to come and stay there. Most of the people that were there have grown up there, our children and our grandchildren. But if someone had heard about us and wanted to stay, we have a -- what we call a "333" policy. They could come for three days; and if it worked with us and with them, then they could stay for three weeks or three months, but it wasn't something -- we just didn't open our arms to anybody that came along.

Q. In the 1992, '93, '94 time period, did you have visitors -- did you have a number of young men come to visit?

A. Yes, sir.

Q. And if you could describe generally the political viewpoint of those young men.

MS. WILKINSON: Objection as to relevance.

THE COURT: Overruled.

THE WITNESS: We had some come that were -- I guess you'd call them "survivalists," a few that had lived off in the woods; and they had heard about us and wanted to come see what we were about. We had some come that maybe were from the -- I guess would be called "skinheads," but I don't know really how to define that. But they were maybe more radical in their viewpoints than we were.

Joan Millar - Direct

BY MR. NEUREITER:

Q. You would not actively solicit people to come and visit; is that right?

A. No, sir.

Q. Did there come a time in April of 1995 when you received a phone call at Elohim City?

A. Yes, sir.

Q. And if you could tell the jury exactly what your role was at Elohim City in terms of manning the phone.

A. We -- the phone company had wanted a quarter of a million dollars to bring a phone line up, and we couldn't afford that; so we ran our own telephone line for about 2 miles, and we only had three phones at the time. But the one that the community used was in my house. So when it rang, it was usually -- I was usually the one that answered it.

Q. To your knowledge, when Mr. Strassmeier went to gun shows, would he on occasion give out cards?

MS. WILKINSON: Objection.

THE COURT: Well, she has to know this from her own knowledge.

MR. NEUREITER: Yes, your Honor. I think we established she did attend one gun show.

THE COURT: Well, you said multiple times.

BY MR. NEUREITER:

Q. Did you ever see Mr. Strassmeier hand out cards?

Joan Millar - Direct

A. No, sir.

Q. You did tell us that you received a phone call in April of 1995?

A. Yes, sir.

Q. I'm going to show you what's been marked -- has been previously admitted as Government's Exhibit 553. And this is page 189 of that exhibit.

And do you see at the top it says "April 5, 1995"?

A. Yes, sir.

Q. And there is a number of phone calls here. I'm going to zoom out so you can just see the whole sheet.

Do you see that there are a number of phone calls listed?

A. Yes, sir.

Q. And here there is a call placed from "phone subscribed by" -- "call placed to," "phone subscribed by." Do you see that?

A. Yes, sir.

Q. And to zoom in a little bit, the first call on this page is from the Imperial Motel to a Ryder Truck Rental? Do you see that?

A. Yes, sir.

Q. The second one is from the Imperial Motel -- if you could just read the "to" indication there, if you can.

A. It says, "To David Millar, Muldrow, Oklahoma, (918)

Joan Millar - Direct

427-7739."

Q. Do you recognize that phone number?

A. Yes, sir.

Q. What phone number is that?

A. That's the phone number that at that time was in my house.

Q. And if we look at the other calls, they're all from the Imperial Motel and then one as "Spotlight balance," then "National Alliance," "Spotlight balance" and "National Alliance." Do you see that?

A. Yes, sir.

Q. Do you remember getting this phone call at the phone in your house on April 5, 1995?

A. I don't remember the date, but I remember the phone call.

Q. Could you describe the phone call to the jury, please.

A. When I answered the phone, it was a male voice. He gave a name, but it wasn't "McVeigh." He said that he had -- he would be in the area within the next couple weeks and he wanted to know if he could come and visit Elohim City.

Q. And what did you say back in response to that initial --

A. I asked him how he had heard about us, because we weren't in the habit of just letting anybody that called up come and visit.

And he replied that he was reluctant at first, and then he said that he had been at a gun show and he had met some of the young men from Elohim City and someone had given him a

Joan Millar - Direct

card with the phone number on it.

Q. Did he describe in any way, shape, or form -- did you say anything back?

A. I asked him who it was that gave him the card, and he said, "I don't remember his name, but he had a very broad foreign accent."

Q. How many people at Elohim City had broad foreign accents at that time?

A. Just Andy.

I said, "Was it Andy?"

And he said, "That might have been his name."

Q. What was next said?

A. I asked him if he wanted directions.

And he said no, but he would call -- or something to the effect that he -- that he'd need directions, and he said he'd be coming by in the next few weeks and he would call when he got into the area.

Q. And what next was said, if anything?

A. Let me look here. I wrote down --

Q. Are you looking at a sheet of paper up there? Is that a sheet of paper up there that you're looking at?

A. Yes, sir.

Q. What is that sheet of paper?

A. When the press kept saying we had a phone call and I remembered this call, I wrote down what I remembered.

Joan Millar - Direct

Q. Don't read it yet, please.

A. Okay.

MS. WILKINSON: Your Honor, I'm going to object and

MS. WILKINSON: YOUR HONOR, I AM GOING TO OBJECT AND
ask that we be provided with copies of her notes.

MR. NEUREITER: I have not seen the notes before,
your
Honor.

THE COURT: We're finding out what the notes are
first. Let's do that.

BY MR. NEUREITER:

Q. Around what time period -- go ahead -- don't -- I ask that
you don't read the notes. Go ahead and turn that over.

When did you write those notes? What time period?

A. I wrote this sometime after May, when all the press kept
saying we had a phone call. I remembered that there was a call
that the person that phoned never showed up, and that was the
only strange call that I could recollect.

THE COURT: May of what year?

THE WITNESS: '95.

BY MR. NEUREITER:

Q. So shortly after the bombing, within a month of the
bombing?

A. Probably, yes.

MR. NEUREITER: I have no objection to Counsel
looking
at the notes. I haven't seen them either, if they assist her.

THE COURT: I suggest you pick them up, look at them,

Joan Millar - Direct
and also show them to Ms. Wilkinson.

MR. NEUREITER: Thank you, your Honor.

THE COURT: I trust that the purpose is to use them
only for recollection.

MR. NEUREITER: Yes, your Honor. That would be the
purpose.

BY MR. NEUREITER:

Q. Would looking at that document help refresh your
recollection as to exactly what transpired during that
conversation?

A. You asked me about the last part, and I wasn't sure if
there was more I should --

THE COURT: I think what he's asking you is would
your
recollection be improved by looking at what you wrote down in
May of 1995?

THE WITNESS: It may be. I don't know.

THE COURT: Okay.

BY MR. NEUREITER:

Q. Go ahead and glance at them, if it helps. Don't read the
notes out loud, but if it just helps you remember.

Does it help you remember?

A. Yes.

Q. Did anything else happen after -- after that last part you
told the jury about?

A. No. That was the end of the phone call.

Joan Millar - Direct

Q. Where is Mr. Strassmeier today?

MS. WILKINSON: Objection.

THE COURT: Sustained.

MR. NEUREITER: One moment.

Pass the witness.

THE COURT: Ms. Wilkinson.

MS. WILKINSON: Thank you, your Honor.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good morning, Ms. Millar.

A. Hello.

Q. We've never met before, have we?

A. No, ma'am.

Q. You told us, I believe, during your direct examination that you have people from all different backgrounds the Elohim City. Is that right?

A. Yes.

Q. That's not really true, is it? You don't have -- you don't allow anyone of the black race to live on your compound, do you?

A. Just -- the situation has never come up, but --

Q. You wouldn't allow them, would you?

A. Probably not.

Q. And you wouldn't allow anyone of the Jewish faith to live there, either, would you?

Joan Millar - Cross

A. They probably wouldn't want to, either. I don't --

Q. And you wouldn't want them there, would you?

A. I don't think we would -- I don't think it would come up. I don't think they'd ask to live there.

Q. Now, in addition to preaching about the supremacy of the white race, you also talk at your compound about your views concerning the government; correct?

A. We don't use the term of the "supremacy of the white race." We talk about God's chosen people as Israel, which is the white race, but we don't use the term "supremacy."

Q. In addition to that about your views of the white race, you also talk about your views about the government. Correct?

A. No. Our stress is more on our views -- on what the Scriptures talk about, about God's kingdom coming to earth.

Q. So no one at your compound to your knowledge advocates violence against the government. Is that right?

A. They don't -- they're not -- some of us may not be happy with some of the things the government is doing, but there is not an advocacy to go out and attack the government or anything.

Q. So in your mind there is a big difference between being unhappy with the government and taking violent action against the government?

MR. NEUREITER: Objection.

THE COURT: What's the objection?

Joan Millar - Cross

MR. NEUREITER: Relevance.

THE COURT: Overruled.

THE WITNESS: Our position -- the position of the leadership there has never been offensive. It's been only if someone would come against our wives and children, we would resist.

BY MS. WILKINSON:

Q. As self-defense; correct?

A. Yes.

Q. Defending your people.

So you're not aware of anyone advocating violence against the government at your compound. Correct?

A. As far as any plan for it, no.

Q. So if someone came in here and said the people at your compound had advocated violence, you have no knowledge of that?

A. I -- some of the young people were disgruntled and might have talked about things, but I wasn't there when --

Q. Well, you all have regular prayer meetings; correct?

A. Yes, ma'am.

Q. And Reverend Millar makes -- preaches during those meetings?

A. Sometimes, yes.

Q. And he talks about the views of the people that are at the compound; correct?

A. Yes.

Joan Millar - Cross

Q. And that's the leadership that you're talking about?

A. Yes.

Q. And he doesn't advocate violence against the government, does he?

A. No. I haven't heard him talk against the government. I've heard him talk for God's kingdom coming to earth and that there needs to be a change and there needs to be righteousness in the nation.

Q. And he believes there is a problem of race in America; correct?

A. I think he feels although every race is u -- I can't really speak for him. I don't know that that's right.

Q. But you've never heard him preach that people in your compound should take violent action against the government --

A. No.

Q. -- on their own? And is it the policy of your compound that if you heard someone having those type of discussions, you would not allow them to live there any longer, if you were aware of it?

A. If we've been aware of discussions like that, we -- we really haven't been that aware of any plans for anything on that, but we do object to being called a "compound."

Q. I'm sorry. Tell me what you would rather have me refer

Q. I'm sorry. Tell me what you would rather have me refer to -- refer --

A. We refer to ourselves as a village. There was a time

Joan Millar - Cross

when -- our land is owned corporately. We are strong on family life. We teach our own children. When you say "a compound," other than the Kennedy compound in the East, I think of walls and fences, and we don't have that.

Q. Would you allow anyone to live in your village if they advocated taking violent action against the government?

A. I don't believe so, if we knew that that was their intent.

Q. And you had no knowledge that anyone in your village intended to take any violent action against the government before April of 1995; correct?

A. No, I had no knowledge of that.

Q. All right. And you know Mr. Strassmeier?

A. Yes, ma'am.

Q. And Mr. Strassmeier was present in April of 1995 at your village; correct?

A. Yes, ma'am.

Q. You know his whereabouts for those days, don't you?

A. Yes.

Q. Do you recall where he was?

A. Yes, ma'am. He was fixing fence at a neighbor's on the morning of the bombing.

Q. And you know he was at your village in the days prior to the bombing; correct?

A. Yes.

Q. So you know he was not in Kansas on April 16, 17, 18, and

Joan Millar - Cross

19; correct?

A. To the best of my knowledge, he was at home those days.

Q. Okay. Now, this conversation that you recall: You don't have any independent recollection of what date it occurred on; correct?

A. No.

Q. And you don't know who the caller was?

A. No. He didn't -- they showed me a list of aliases, and I didn't recognize any of them; but I know that it was -- it was a man.

Q. Well, I just want to ask you about your recollection, not about conversations you had with anyone else, if we could. All right?

A. Okay.

Q. Based on your own recollection, you have said in the past that the person gave you the name "Hansen"; correct?

A. I think it was. I'm not a hundred percent sure on that.

Q. But that was your best recollection?

A. Yes.

Q. Two years ago; correct?

A. Yes.

Q. And you had no idea of what date that conversation occurred with this person who could have left their name as Hansen?

A. No.

Q. And when the person called, they did not say that they knew

Joan Millar - Cross

Mr. Strassmeier; correct?

A. No. They asked if they could come and visit Elohim City.

Q. They didn't even know Mr. Strassmeier's name; correct? You had to provide the name "Andy"?

A. I provided the name "Andy."

Q. And they didn't give -- that person didn't give any details about Mr. Strassmeier or any meetings with Mr. Strassmeier; correct?

A. The only thing he mentioned was he had a broad foreign accent.

Q. And he thought he had met him at a gun show; correct?

A. Yes.

Q. And this person told you that he wanted to visit your compound; correct?

A. Yes.

Q. And you would permit someone to visit your compound on certain occasions; correct?

A. Yes.

Q. But that person never showed up?

A. Yes. That's why I remembered the call, the fact that they never came.

Q. And to your best recollection, that person never called back?

A. I don't remember getting another call.

Q. And you had a conversation with Mr. Strassmeier about this

Joan Millar - Cross

call; correct?

A. Yes, ma'am.

Q. And he didn't recollect anything about the person who called; correct?

MR. NEUREITER: Objection to hearsay.

THE COURT: Sustained.

BY MS. WILKINSON:

Q. Mrs. Millar, you were asked to look at one page of telephone records from April 5. Do you recall that on your direct examination?

A. Yes, ma'am.

Q. And if I asked you to review or take a look at the records on the dates from April 5 to April 19, could you do that and tell us whether there are any other telephone calls to the number that you told us was in your home back in April of 1995?

MR. NEUREITER: Your Honor, we believe the records speak for themselves, and we would so stipulate.

THE COURT: All right. You agree that there are none?

MS. WILKINSON: There are no other calls.

THE COURT: All right. Thank you.

BY MS. WILKINSON:

Q. And you don't recall getting any other calls from this person?

A. No, ma'am.

Q. Either before April 5, 1995, or after; correct?

Joan Millar - Cross

A. No, ma'am.

Q. Mrs. Millar, if you were driving from Oklahoma City to get to your village, you don't need to go north on I-35, do you?

A. No, ma'am.

Q. That wouldn't get me to your village, would it?

A. No, ma'am.

Q. It would be the wrong direction?

A. Yes, ma'am.

MS. WILKINSON: Thank you very much. We have no further questions.

THE COURT: Anything else?

MR. NEUREITER: Just one question.

REDIRECT EXAMINATION

BY MR. NEUREITER:

Q. Mrs. Millar, you said you don't have a specific recollection of the date that you received this call. Can you put it in some time frame prior to the Oklahoma City bombing?

A. I knew it was in the first part of April. That's all. It was early in April sometime.

MR. NEUREITER: No further questions.

THE COURT: Is she excused?

MS. WILKINSON: Yes, your Honor.

THE COURT: Agreed.

MR. NEUREITER: Yes.

THE COURT: Mrs. Millar, you may step down. You're excused.

Next, please.

MR. TIGAR: Carol Howe.

THE COURT: Okay.

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

(Carol Howe 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: Carol Elizabeth Howe, H-O-W-E.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Proceed.

DIRECT EXAMINATION

BY MR. THURSCHELL:

Q. Good morning, Ms. Howe.

Ms. Howe, where do you live?

A. In Tulsa, Oklahoma.

Q. And if you could just lean forward a little bit and speak into the microphone, it would help people hear.

Ms. Howe, in the fall of 1994, you were present at

Ms. Howe, in the fall of 1994, were you present on numerous occasions at the area known as Elohim City?

A. Yes, I was.

Q. And if I showed you a map of the state of Oklahoma, could you identify for the jury where it's located?

Carol Howe - Direct

A. Yes, I could.

MR. THURSCHELL: I'm going to show the witness and the jury what's been previously admitted as D1801.

BY MR. THURSCHELL:

Q. Now, can you -- let me back out.

Do you recognize this map as a map of Oklahoma?

A. Yes, I do.

Q. Okay. And I cut it off a little bit here, but I'll extend it.

And focusing in, can you see that this is Oklahoma City where I'm pointing right here?

A. Yes, sir.

Q. Now -- and then this would be Tulsa, which is where you live?

A. Yes, sir.

Q. Okay. Now, in relation to Tulsa, what we see here -- can you point on this map to where Elohim City is located? I can zoom in a little bit, if that would help.

What you have to do is take the light pen that's on your front of you -- it's attached to the wire -- and touch it to the actual television screen.

You have to go underneath the glass. I'm sorry.

A. It's right around in this area somewhere in there.

Q. I'm going to focus in on that area. It's going to change where your marks are, but tell me if I still have the right

Carol Howe - Direct

area. Do you see -- do you see a town that -- where Elohim City is located and a post office address?

A. In Muldrow, which is right there.

Q. And is Muldrow -- what is that major highway that's indicated running right next to Muldrow?

A. Interstate 40.

Q. And if you go east on Interstate 40, where do you get to? What's the first state you reach?

A. Arkansas.

Q. Okay. And if you -- what's the first major city you get to if you travel west on I-40?

A. Sallisaw, Oklahoma.

Q. And after that?

A. Oklahoma City.

Q. Oklahoma City. Okay. Thank you very much.

I-40 runs directly through Oklahoma City?

A. Yes, sir.

Q. Now, in your -- the occasions that you were present at Elohim City, did you have a chance to overhear conversations

Elohim City, and you have a chance to overhear conversations among individuals who identified themselves with Elohim City?

A. Yes, sir.

Q. Okay. And did you get a chance to observe their activities?

A. Yes, I did.

Q. Did you get a chance to overhear any of the individuals who

Carol Howe - Direct

identified themselves talking about their political views?

A. Yes, I did.

Q. Can you tell the jury what the political views -- if there was a general sentiment there towards the federal government? Can you describe that for the jury?

A. Yes. There was a very antigovernment sentiment out at Elohim City that the federal government was an evil entity, talking about destroying the government. Very antigovernment.

Q. You say talk about destroying the government. Did you ever hear any individuals who identified themselves at Elohim City advocate the direct use of violence against the government?

A. Yes, I did.

Q. By force of arms?

A. Yes, sir.

Q. Do you know who Robert Millar is?

A. Yes, I do.

Q. Who is he?

A. He's the patriarch at Elohim City, the leader at the compound.

Q. Did you ever hear him advocate the use of direct violent action against the federal government?

A. Yes, I did.

Q. And if you can, was -- did he -- was he a religious leader?

A. Yes, he was.

Q. And were at least one of those occasions where you heard

Carol Howe - Direct

him advocate that during a sermon?

A. Yes, sir.

Q. And where numerous members of the community were present?

A. Yes.

Q. Did you hear talk about violence against the federal government and advocacy of violence against the federal government from others who lived at Elohim City?

A. Yes.

Q. Do you know who Andreas Strassmeier is?

A. Yes, I do.

Q. What was his position or role at Elohim City, if you know?

A. He was a head of security in charge of security checks and weapons training, that sort of thing.

Q. Now, you say "weapons training." Were there weapons at Oklahoma -- at Elohim City, if you know?

A. Yes.

Q. Were there -- can you -- are you familiar -- did you come

to be familiar with certain weapons that were legal and certain weapons that were not legal?

A. Yes, sir.

Q. Were the weapons at Elohim City legal, or illegal?

MS. WILKINSON: Objection, your Honor.

THE COURT: Sustained.

BY MR. THURSCHELL:

Q. Was it -- was it common for individuals to carry arms and

Carol Howe - Direct

use them at Elohim City?

A. Yes, sir.

Q. Would it -- could you characterize the number or extent of the armament there during the period that you're familiar with?

A. Very extensive armaments.

Q. Mr. Strassmeier: Did you ever hear him advocate direct violent action against the federal government?

MS. WILKINSON: Objection.

THE COURT: Overruled.

THE WITNESS: Yes, sir.

BY MR. THURSCHELL:

Q. And you heard that from others as well?

A. Yes.

Q. Are you familiar with an individual by the name of Dennis Mahon?

A. Yes, I am.

Q. And was Dennis -- did Dennis Mahon spend considerable time at Elohim City during the period that you are familiar with?

A. Yes, he did.

Q. Did he at any point live there?

A. He had a trailer out there that he would go and stay in while he was out there, but he did not take up permanent residence there.

Q. Was he affiliated with another political group that you know of?

Carol Howe - Direct

A. Yes.

Q. Would that be the group with the initials WAR?

A. Yes.

Q. And what does that -- what do those initials stand for?

A. White Aryan Resistance.

Q. Was Mr. Mahon an individual who -- did you ever hear him advocate direct violent action against the federal government?

A. Yes, sir.

Q. Now, are you familiar with what Timothy McVeigh looks like, Ms. Howe?

A. Yes, sir.

Q. Have you seen photographs of Timothy McVeigh?

A. Yes, I have.

Q. Did you ever see Timothy McVeigh at the Elohim City compound?

- . . . - . . .

A. I believe I did.
Q. All right. When did you see him?
A. It was in July of 1994.
Q. Okay. And where did you see him?
A. He was at a section of the compound walking across a lawn near the church building.
Q. And was he accompanied by any other individuals who you know?
A. Yes, he was.
Q. And who were they?

Carol Howe - Direct

A. A man named Peter Ward and a man named Andreas Strassmeier.
Q. About how far away were you when you believe you saw Timothy McVeigh?
A. Approximately 70 feet.
Q. At the time that you saw him, did you know his name was Timothy McVeigh?
A. No, sir.
Q. You subsequently came to learn his name was Timothy McVeigh?
A. Correct.
Q. Now, did you have occasion to -- did Mr. Mahon -- strike that.

Did Mr. Mahon have an apartment in Tulsa, Oklahoma, during this time period?

A. A house, yes.
Q. A house. And did you have occasion to spend time there during the time period we're talking about, fall, 1994?
A. Yes, sir.
Q. Did Mr. Mahon in your recollection -- did he ever receive any phone calls while you were in the house with him?
A. Yes, sir.
Q. Do you recall Mr. Mahon ever saying or mentioning the name "Tim Tuttle"?

MS. WILKINSON: Objection.

THE COURT: Overruled.

Carol Howe - Direct

THE WITNESS: Yes, I do.

BY MR. THURSCHELL:

Q. Okay. Could you tell the jury not any contents of the phone call that he related to you but how you came to hear his name; that is, Tim Tuttle's name?
A. Mr. Mahon received a phone call. We were sitting in the living room. He went into the bedroom to answer the phone, and I heard his statements from where I was sitting.
Q. And what did you hear him say?
A. I heard him say, "Tim Tuttle, Tuttle, Tuttle, Tuttle, Tuttle," and laughed.
Q. And you subsequently had a conversation about that phone call that he had received?
A. Yes. When he came back --

A. Yes. When he came back.

MR. THURSCHELL: No, just so we know.
Nothing further, your Honor.

THE COURT: All right. Ms. Wilkinson.

CROSS-EXAMINATION

BY MS. WILKINSON:

Q. Good morning, Ms. Howe.

A. Good morning.

Q. We've not met, have we?

A. No, ma'am.

Q. When you were at the compound or the village -- how do you refer to Elohim City?

Carol Howe - Cross

A. As a compound.

Q. When you were at the compound, did you know Joan Millar?

A. Pardon?

Q. Did you know Joan Millar?

A. Yes, sir (sic).

Q. And she knew most of the people there?

A. Yes, ma'am.

Q. She knew everybody there?

A. Yes, ma'am.

Q. And she attended some of these same sermons that you've described for the jury?

A. Yes, she did.

Q. And as far as you know, she's an honest person?

A. Yes, ma'am.

Q. And she would be more knowledgeable than you, wouldn't she, about what occurred at Elohim City?

A. I would think so.

Q. She was there every day; correct?

A. More often than me, yes.

Q. You were not.

A. Right.

Q. And so if we wanted to know about Elohim City and what occurred there, she would be a good source; correct?

A. I would think so.

MR. THURSCHELL: Objection, your Honor. Opinion.

Carol Howe - Cross

THE COURT: Sustained.

BY MS. WILKINSON:

Q. Ms. Howe, you look a little different today than you did when you were back at Elohim City, don't you?

A. Yes, ma'am.

Q. Changed your hair color?

A. Yes, ma'am.

Q. And you had a tattoo, didn't you, at that time?

A. Yes, I did.

Q. What kind of tattoo did you have?

A. Swastika on my shoulder.

Q. You were a believer at certain times in your life in

white -- white supremacy, weren't you?

A. At one period, yes.

Q. Well, you were a believer back in March of 1994; correct?

A. Yes, ma'am.

Q. You had an incident, you claim, with several African-Americans; correct?

A. Three. Yes, ma'am.

Q. And right after that time, you got yourself in touch with a number called a "racist hot line," didn't you?

A. Yes, I did.

Q. And that's what you did after you thought that you had some encounter with some African-American men?

A. When I did, yes.

Carol Howe - Cross

Q. And you decided that the correct response was to call a hot line; correct?

A. I was angry at the time, and so I did call.

Q. And in response, you called a number where you heard a racist message; correct?

A. Yes, ma'am.

Q. And you didn't just hear it, you wrote to the address that they gave you on that message; correct?

A. Later, I did, yes.

Q. You wanted to meet people that had similar views?

A. Yes, ma'am.

Q. And you did that, didn't you?

A. Yes, I did.

Q. That's how you met Dennis Mahon?

A. Yes.

Q. And you began to socialize with him?

A. Yes, I did.

Q. And you had some kind of falling out; correct?

A. Yes.

Q. And after that, you visited Elohim City?

A. Prior to that and then after that.

Q. So you went to Elohim City when you were still in touch with Mr. Mahon and on good terms; correct?

A. Yes, ma'am.

Q. And you went there willingly?

Carol Howe - Cross

A. Yes, I did.

Q. With him?

A. Yes.

Q. And you knew what the beliefs were at Elohim City?

A. Not until I went there.

Q. But you knew what Mr. Mahon's beliefs were?

A. Yes, I did.

Q. He was a white supremacist; correct?

A. Correct.

Q. And you agreed with him at that time?
A. That's correct.
Q. And after you heard these conversations in April of 1995, you heard about the bombing on April 19; correct?
A. Correct.
Q. And you saw pictures of Mr. McVeigh?
A. Yes, I did.
Q. And in fact, you reported that you had information, didn't you?
A. Yes.
Q. And when you reported that information, you said you might know who John Doe No. 1 was?
A. I was asked to identify some composites, yes.
Q. And you gave some information, didn't you?
A. Yes, I did.
Q. And you said you thought you knew who John Doe No. 1 was?

Carol Howe - Cross

A. Yes.
Q. And you said you thought you knew who John Doe No. 2 was?
A. Correct.
Q. And you said they were the Ward brothers that were were at Elohim City; correct?
A. Correct.
Q. And in fact when you made those statements, you compared them to Timothy McVeigh and said they didn't look like Timothy McVeigh, didn't you?
A. Correct.
Q. And at that time, you never mentioned that you had seen Timothy McVeigh at Elohim City, did you?
A. Not on that date.
Q. No, you didn't. Even though you were asked about John Doe No. 1 and John Doe No. 2 and the photographs of Timothy McVeigh; correct?
A. Correct. Later on, I did talk about Tim McVeigh.
Q. You didn't do that right after the bombing when your memory would have been freshest, did you?
A. Not on April 21.

THE COURT: Let's let her finish the answers. Go a little slower, here.

BY MS. WILKINSON:

Q. If you could just respond to my questions, Mrs. Howe.
You did not report that information on April 21, just

Carol Howe - Cross

two days after the bombing, did you?
A. No, ma'am.
Q. And that's when your memory would have been freshest, wouldn't it have been?
A. Yes.
Q. And after that, you agreed with law enforcement to go into Elohim City and do some investigation, didn't you?

A. Yes, I did.

A. Yes, I did.
Q. You cooperated with law enforcement at that time?
A. Yes.
Q. And you went back to Elohim City?
A. Yes, I did.
Q. And you tried to look for the Ward brothers?
A. Yes.
Q. And after that, you were debriefed by the agents, weren't you?
A. Yes, I was.
Q. And at that time, you never reported that you had seen Timothy McVeigh at Elohim City, did you?
A. It would have been at that time, yes, that I did.
Q. You did?
A. Yes.
Q. When was that?
A. It was approximately April 25 or 24. I was at the Tulsa ATF office. At the time that I was at that office, I was shown

Carol Howe - Cross

videotape. One videotape included Timothy McVeigh. I looked at the videotape and I told them that he looked familiar; that I had seen him at a rally.
Q. You said you had seen him at a Klan rally. You didn't say that you had seen him at Elohim City?
A. They're all white separatists.
Q. But they're different locations, aren't they?
A. They hold rallies at Elohim City.
Q. But you said you had seen him at a Klan rally -- correct -- not at a rally at Elohim City? You said you had seen him at a Klan rally?
A. At a Klan rally.
Q. So your memory has improved since then, hasn't it?
A. Not particularly.
Q. Well, you now know more details, don't you?
A. No.
Q. Well, you never mentioned a conversation about Tim Tuttle at that time, did you?
A. No. I didn't know the significance.
Q. In fact, you were very concerned about the bombing in Oklahoma City, weren't you?
A. Yes, I was.
Q. And you were trying to help out?
A. That's right.
Q. Trying to cooperate?

Carol Howe - Cross

A. Correct.
Q. And you've said you were very concerned and assisting the Government in any way you could?
A. That's correct.
Q. And you never provided that information as to Tim Tuttle to the United States Government, did you?

A. Not at that time, I didn't.

Q. You didn't provide it for many months, did you?

A. No.

Q. In fact, you've never provided it to the U.S. Government, have you?

A. No. Through testimony, I have.

Q. But never provided it to the agents that you were --

THE COURT: Well, are you speaking specifically about what she's just said with respect to Dennis Mahon?

MS. WILKINSON: No -- yes, about him hearing "Timothy Tuttle."

THE COURT: I think we should be very specific when you're asking her questions like this as to what you are asking.

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

BY MS. WILKINSON:

Q. You've never provided the United States Government with the information you testified to today concerning hearing Mr. Mahon say the name "Tim Tuttle."

Carol Howe - Cross

A. No.

Q. You were asked, were you not, when you were cooperating with the Government right after the bombing, Ms. Howe, about what you knew about Mr. Mahon, weren't you?

A. Yes, I was.

Q. And you provided that information?

A. Yes, I did.

Q. You provided that he had been at the compound?

A. Yes, ma'am.

Q. And that he shared some of the views of the people out at Elohim City?

A. Yes.

Q. And you never mentioned at that time that he had talked about some man named "Tim Tuttle"?

A. No.

Q. Correct?

A. He talked about a lot of people. I didn't know the name was significant at the time.

Q. You were also asked about Mr. Strassmeier, weren't you, after the bombing?

A. Yes.

Q. And you told the Government what you knew about Mr. Strassmeier?

A. Correct.

Q. And you never mentioned to the Government at that time that

Carol Howe - Cross

you had seen Andreas Strassmeier and Tim McVeigh together at Elohim City; correct?

A. I didn't know Tim McVeigh at that point.

Q. On April 21, you didn't know who Tim McVeigh was?

A. No. I was met early Friday morning before apparently that I had seen all the video and the TV.

Q. How about when you were interviewed on April 25?

A. At that time, I had seen video of him.

Q. Everyone in America had seen Timothy McVeigh's picture, hadn't they?

A. I think so.

Q. And you didn't mention when you talked about Andreas Strassmeier on that day that you had seen him with Timothy McVeigh at the compound in Elohim City, did you?

A. No.

Q. And you were debriefed again in May, weren't you, after you --

A. Yes.

Q. -- cooperated? And you never mentioned that you had seen Andreas Strassmeier and Timothy McVeigh on the compound in Elohim City in May of 1994, did you?

A. Not then, no.

Q. You knew they were very interested in information about Timothy McVeigh, didn't you?

A. Yes.

Carol Howe - Cross

Q. You knew he was under arrest?

A. Yes.

Q. You knew he was one of the main suspects in the bombing?

A. Yes.

Q. And you knew that they were questioning you about Andreas Strassmeier?

A. At that time, no. On the first --

Q. You didn't provide any information on Andreas Strassmeier after the bombing.

A. Yes, I did, but not at the time that I thought you were asking about, the 1st through the 3rd of May.

Q. You knew that the Government was trying to investigate whether there was any connection between Elohim City and Timothy McVeigh; correct?

A. I'm sorry. Could you repeat that?

Q. You knew that the Government was trying to investigate in May of 1995 whether there was any connection between Timothy McVeigh and Elohim City.

A. I didn't know -- yeah, I think so.

Q. That's why you went to the compound, didn't you?

A. Yes.

Q. That was your whole purpose in cooperating?

A. Right.

Q. And you knew that; and even knowing that, you never told them that you saw Andreas Strassmeier and Timothy McVeigh

Carol Howe - Cross

together in Elohim City in 1994, when you had those conversations with agents in May of 1995?

MR. THURSCHELL: Objection, your Honor. Asked and answered several times.

THE COURT: Yes. We've been over this with her.

MS. WILKINSON: No further questions.

THE COURT: All right. Any redirect?

MR. THURSCHELL: Yes. Briefly, your Honor.

REDIRECT EXAMINATION

BY MR. THURSCHELL:

Q. Ms. Howe, you were asked by the prosecution about a visit to Elohim City you undertook at the request of the Government after the bombing. Is that right?

A. Correct.

Q. Did you on that visit get -- speak to people at the compound about the bombing?

A. Yes, I did.

Q. What was the general sentiment at the compound about the bombing?

A. They were supportive of the bombing.

Q. All right. Now, at the time -- you also said, I believe, in response to a question that you were not aware -- you were not aware of the significance of the name "Tim Tuttle" at the time that Ms. Wilkinson was asking you about. Is that correct?

A. Yes.

Carol Howe - Redirect

Q. All right. And do you recall when you first became aware that Tim Tuttle had anything to do -- the name "Tim Tuttle" had anything to do with the Oklahoma City bombing case?

A. It was approximately the first of this year, and somebody mentioned the name to me; and I didn't understand in what context. They only said, "Have you ever heard the name 'Tim Tuttle'?" And at that point, I remembered that I did because of the incident that had occurred; and then I -- I didn't know the significance of the name, but I -- I did realize that it was significant.

Q. Were you at that point in time -- were you providing information to the ATF? Were you still -- were you under some kind of government contract or --

A. Yes, I was.

Q. All right. Now, have you testified under oath before about the -- your overhearing the name Tim Tuttle and seeing Timothy McVeigh at the compound?

A. Yes, I have.

Q. Prior to this?

A. Yes.

Q. Prior to this date?

A. Yes, I have.

Q. And that was fairly recently?

A. Yes, it was.

MR. THURSCHELL: Nothing further, your Honor.

MS. WILKINSON: May I have a moment, your Honor?

THE COURT: Yes.

MS. WILKINSON: We have no further questions.

THE COURT: The witness now excused?

MR. THURSCHELL: The witness is excused, your Honor.

MR. THURSCHELL: THE WITNESS IS EXCUSED, YOUR HONOR.

THE COURT: You may step down. You are excused.

Next, please.

MR. TIGAR: Kenneth Siek.

THE COURT: Thank you.

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

(Kenneth Siek affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please.

MR. THURSCHELL: Your Honor, may Ms. Howe's witness -- lawyer be excused?

THE COURT: Yes. You're excused, sir.

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

THE WITNESS: Kenneth Leroy Siek, S-I-E-K.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. NEUREITER:

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

A. Fine.

Q. If you could lean forward a little bit and just keep your

Kenneth Siek - Direct

voice up, then everybody could hear. Can you hear me okay?

A. Very good.

Q. Okay. Where are you from, Mr. Siek?

A. Abilene, Kansas, presently.

Q. Do you know Kevin and Ray Siek?

A. You bet.

Q. Who are they?

A. Kevin is my nephew, and Ray is my brother.

Q. Did you live in Herington, Kansas, in 1995, or did you have a house there?

A. In 1995, no, not 1995. I had a house there, but I didn't live there.

Q. You had a house there, though?

A. Yes.

Q. How old are you, sir?

A. 71.

Q. And what is your occupation?

A. Road construction.

Q. And you're still working?

A. Still working.

Q. Tell us about the house you had in Herington in 1995.

A. 1995? That was 109 South 2nd. I put it on the market with the Rucker Real Estate.

Q. Would that have been with Georgia Rucker Real Estate?

A. Georgia Rucker --

Kenneth Siek - Direct

Q. I interrupted you.

A. Georgia Rucker.

Q. Did you get an offer?

A. Yes, I did.

Q. Can you remember around what time period you got that offer?

A. I would believe it was around February of that year that I got that offer.

MR. NEUREITER: I want to put on the ELMO what has been previously admitted as D1465 -- and correct me if I'm wrong. I think it's been admitted.

This will be -- Bates' page 4 would be first.

BY MR. NEUREITER:

Q. And you can look down on that TV screen in front of you, sir.

Is that the first page of the offer you got in 19 -- in February of 1995?

A. Yes.

Q. And did Georgia Rucker give you that offer sheet?

A. Yes, she gave it to me.

Q. And just to switch over, is that the second page of that offer sheet?

A. Yes.

MR. NEUREITER: For the record, that's Bates' 005 of that exhibit.

Kenneth Siek - Direct

BY MR. NEUREITER:

Q. Was it Mr. Terry Nichols who offered you -- put the offer on the house?

A. Terry Nichols.

Q. That is the Terry Nichols who is sitting here in the courtroom today?

A. Yes, it is.

Q. And you later met him?

A. Yes, I did.

Q. What did you think of that first offer?

A. I didn't think much of it.

Q. Did you tell Georgia, "I'm not going to sell the house for that"?

A. That's what I told her.

Q. Was this a particular kind of an offer in terms of was it going through the bank, or was there a different financing kind of situation?

A. It was a contract offer.

Q. It was a land contract?

A. Yes.

Q. And what is a land contract exactly, for the jury? Folks might not know what it is.

A. Well, a land contract is you pay so much down and then you make payments over a number of months, a number of years.

Q. So it's financed by the previous owner of the house?

Kenneth Siek - Direct

A. Yes.

Q. Had you bought this particular house yourself on a land contract?

A. Yes, I did.

Q. So it's common to do that in this part of the country?

A. Oh, yes.

Q. The part of the country you're from?

A. Yes.

Q. So you told them, "No, I'm not going to take that"? You told Ms. Rucker to decline that particular offer; correct?

A. Yes, I did.

Q. Were there more negotiations that occurred?

A. Yes, there was.

Q. Could you tell us about those.

A. Well, he decided to meet with me and see if we could come up with a more reasonable offer.

Q. Okay. You say he decided to meet. Whose idea --

A. Terry Nichols'.

Q. Okay.

A. So we met at the -- she was the one that notified me. Most of this was done through the real estate office. She's the one that notified me that Terry would like to meet with me and perhaps renegotiate.

So I met with him in her office, and he gave me another offer; and it was on a weekend. And he said on the

Kenneth Siek - Direct

weekends, he was usually out of town with his business, military surplus.

Q. Did he describe the nature of his military surplus business to you?

A. Yes, he sure did. He gave me one suggestion -- he said, "Buy ammunition boxes real cheap and sell them for quite a markup."

Q. So that was him describing what he did for a living?

A. Yeah.

Q. Were you concerned about what he did for a living, if this was going to be a land contract?

A. No. I wasn't concerned at all. One of the most respectable houses in Herington is met by -- lives in with a -- does the same kind of business, Larry Miller.

Q. Were you concerned at all about his financial stability in terms of making payments to you?

A. We discussed it, but we came away with the emphatic yes, to go ahead and go through with the -- the final negotiation offer I gave him.

Q. Did you ask him for some references?

A. Yes, I did.

Q. And why was that?

A. I didn't even know him.

Q. And you thought you needed to know something about somebody before you sold a house?

Kenneth Siek - Direct

A. I needed to know something about somebody that I was going to sell the house to.

MR. NEUREITER: I'm going to put up on the ELMO what has not been previously admitted, D1526.

BY MR. NEUREITER:

Q. Do you recognize that document, sir?

A. Yes, I do.

Q. And is that the -- just tell us what that is, if you could.

A. Those are the two references he gave me to call.

Q. And is that in your handwriting, or is that in his handwriting?

A. That's his handwriting, all except for up there at the upper right-hand corner where it says, "2 hours earlier." I think that had something to do with the time element.

Q. Okay. Did he write that down on a sheet of paper and gave it to you?

A. He wrote that down, but that looks like my printing.

Q. In the upper right-hand corner?

A. Yes.

MR. NEUREITER: We offer this exhibit, your Honor.

MR. ORENSTEIN: No objection.

THE COURT: Received. It was D1526; right?

MR. NEUREITER: 1526, your Honor.

THE COURT: All right.

BY MR. NEUREITER:

Kenneth Siek - Direct

Q. And if we zoom in here so everybody can see, that first name: Could you just read that first name off?

A. "Lana Padilla."

Q. And when you were saying "2 hours earlier," that's -- you said that was your handwriting?

A. That's my printing, yeah.

Q. And do you have a recollection why you would have written "2 hours earlier" then?

A. I would presume it might have something to do with the time element. I'm not sure.

Q. You were in Kansas, and this address is in Las Vegas?

A. Yeah.

Q. The next entry, the next reference he gave you?

A. "Kevin Nicholas."

Q. And you wrote down something about when he could be reached?

A. He wrote that down. That's Terry's writing. He wrote that down, "nights." I believe it's his writing. I'm not 100 percent certain.

Q. Did you make an effort to contact the references?

A. Yes, I did.

Q. And were you able to reach Mr. Nicholas?

A. No, I wasn't ever able to reach him.

Q. Were you able to reach Mrs. Padilla?

A. Yes, I was.

Kenneth Siek - Direct

Q. And did you proceed with the sale?

A. Did I proceed with what?

Q. The sale. I'm sorry.

A. Oh, yes, I proceeded with the sale after talking to her.

Q. And did there come a time when you had a final settlement?

A. Yes, there did.

Q. Do you remember what date that might have been?

A. I'm not -- it was in February, I presume.

MR. NEUREITER: Okay. I'll put on the ELMO what has not been previously admitted, D1524.

Your Honor, this one is a little big to show on the ELMO. If I could approach the witness?

THE COURT: Yes, you may.

BY MR. NEUREITER:

Q. Do you recognize that document?

A. Yes, I do.

MR. ORENSTEIN: I'm sorry. Which number, Counsel?

THE COURT: 1524.

MR. ORENSTEIN: Thank you.

BY MR. NEUREITER:

Q. Could you tell us what document that is.

A. It's a settlement document.

Q. Does it have a date on there, without --

A. "February 20, 1995."

Q. And does it have your signature on there? Might be on the

Kenneth Siek - Direct

second page.

A. Yes, it does.

MR. NEUREITER: We offer it, your Honor.

THE COURT: Any objection?

MR. ORENSTEIN: No objection.

THE COURT: D1524 is received.

BY MR. NEUREITER:

Q. You had told the jury that this -- this document was on February 20, it's dated?

A. Yes.

Q. I'll zoom in. Is that the date up there?

A. Yes, it is.

Q. Do you remember what you sold it for?

A. Yes, I do.

Q. Is that reflected on this document somewhere?

A. Yes, it is.

Q. Down at the bottom there?

Could you read that for the jury?

A. "Cash at settlement, to/from seller, gross amount due to seller, \$25,048.82. Less reductions in amount due seller, 24,277.94. Cash from seller, 770.88."

Q. Did you learn that -- over the course of these negotiations -- that Mr. Nichols only dealt in cash?

A. Yes. I learned that he only dealt in cash.

Q. Did that cause you any concern?

Kenneth Siek - Direct

A. No.

Q. Why is that?

A. Well, because several people in my territory, anyway, do that. They deal only in cash. I don't know about the rest of the country.

Q. And you -- were you both present at this settlement?

A. Yes.

Q. You had met him during your negotiations?

A. Yes.

Q. And then there was a second meeting here at the settlement. Did you ever meet Mr. Nichols again in person before today?

A. No.

MR. NEUREITER: One moment, your Honor?

THE COURT: Yes.

MR. NEUREITER: Pass the witness.

THE COURT: All right. Mr. Orenstein?

CROSS-EXAMINATION

BY MR. ORENSTEIN:

Q. Good morning, sir. My name is Jamie Orenstein. We haven't met before; correct?

A. Pardon?

Q. We haven't met before; right?

A. No.

Q. Sir, I just have a very few questions for you. You got an offer from Mr. Nichols for your house; correct?

Kenneth Siek - Cross

A. Yes.

Q. And then you had some negotiations with you -- he had some negotiations with you for the sale of your house?

A. Yes.

Q. And he had put together that offer himself?

A. Yes.

Q. And it had a lot of terms in it?

A. Yes.

Q. And it was clear to you that he had done a lot of careful thinking and planning before taking some action on buying this house from you; correct?

A. Yes.

Q. Now, you told us that obviously you want to know something about the man you're selling the house to; is that right?

A. Yes.

Q. And so you asked Mr. Nichols, among other things, why he had chosen to live in Herington, Kansas?

A. Yeah. I -- I believe I did, but I'm not for certain, it's been that far back.

Q. Well, do you recall saying that to an investigator from the defense team that you ask asked him about that?

A. Yes.

Q. And do you recall that he didn't give you a direct answer?

Q. And do you recall that he didn't give you a direct answer?

A. He didn't give me a direct answer, no, but he heard that was just a good place for him to set up his business.

Kenneth Siek - Cross

Q. Did he tell you anything about whether or not he had any storage sheds in the area?

A. No.

Q. Now, the last time you saw Mr. Nichols was in -- on February 20 of 1995; correct?

A. What was that month?

Q. February 20, the date on that --

A. Yeah, that's right.

Q. -- on that settlement document?

A. That's correct.

Q. From then until today, you never saw him; is that right?

A. I've -- I saw him after that, but I never did talk to him anymore. I saw him -- I saw him by the house there.

Q. All right. But you can't say where he was or who he was with or what he was doing at any particular time from February 20 until today; correct?

A. No.

MR. ORENSTEIN: Thank you, sir.

I have nothing further.

THE COURT: Any other questions of this witness?

MR. NEUREITER: If I could consult with counsel.

THE COURT: Yes.

MR. NEUREITER: No more questions, your Honor.

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

MR. NEUREITER: Yes. Thanks for coming.

THE COURT: You may step down. You are excused.

You don't have about a five-minute witness, do you?

MR. TIGAR: No, your Honor, we don't. Not five, not two -- no short ones.

THE COURT: Well, we'll take --

MR. TIGAR: Your Honor, I could read a stipulation, if your Honor wants.

THE COURT: All right.

The reason that I'm asking, members of the jury, is simply that I know that I have to recess till about 1:40 because of a matter unrelated to the case, so I simply wanted to go ahead.

MR. TIGAR: Your Honor, these are stipulations reached between counsel for Mr. Nichols and the United States with respect to what two individuals would say --

THE COURT: All right.

MR. TIGAR: -- these individuals being unavailable to testify.

"Shawn W. Morris (Date of birth: 3-28-70) was interviewed within the confines of the Douglas State Prison, offices of the Criminal Investigations Unit, Arizona Department of Corrections by Special Agent Phillip E. McClanahan. Morris was advised of the identity of the interviewing agent and the nature of the interview. He voluntarily provided the following information:

INFORMATION.

"Morris advised he dealt methamphetamines with the assistance of Jim Rosencrans and another individual whom Morris identified as Rob Rowdy. Morris was again incarcerated in April and May of 1994 and, following his May incarceration, stayed in jail until he was released on October 14, 1994.

"Upon his release from jail, Morris moved into 103 West Oak Street in Kingman where he resided with Kathleen Candelaria. He drove a 1965 or 1964 Valiant which was registered to Kathleen Candelaria. He used this car to traffic in drugs. Morris advised that he tried to shake his methamphetamine habit but failed. He again started dealing with Rosencrans. During this time, he sold methamphetamines to Michael Fortier. Morris advised that he sold Fortier much more methamphetamines than Fortier could use himself. Morris stated that he did not know Fortier's wife and did not know if she was dealing drugs or used drugs.

"Fortier was always asking for a price break on the methamphetamines he purchased from Morris. Morris advised he only talked with Fortier on maybe five occasions."

THE COURT: All right. That's agreed as to what his testimony would be?

MR. MACKEY: Yes, your Honor.

THE COURT: I want to explain to you, members of the jury, there is a difference now between stipulations about what testimony would be and stipulations of fact. This witness is not available to come here and testify, so what the counsel have done is agreed to what the witness would say if he was here with us; but it's not a stipulation of fact as such.

And you have such a stipulation about another witness?

MR. TIGAR: Yes. Same, your Honor.

"On June 28, 1995, Special Agent Kenneth J. Williams and Special Agent Bradford C. Petrie conducted an interview of Jason J. Hart, date of birth June 29, 1965. Hart was advised of the identities of the interviewing agents and the nature of the interview. He voluntarily provided the following information:

"Hart was in Arizona state prison from November, 1989, through April, 1993. Hart was in prison for being in possession of crystal methamphetamine with intent to distribute. He did not maintain contact with Rick Fortier or Michael Fortier during his incarceration. Hart reestablished contact with them upon being paroled from prison.

"Michael Fortier used crystal methamphetamine during the time period that Hart associated with them. Michael Fortier also used to sell the drug. Hart knows this because Hart was Fortier's supplier. Fortier never sold large amounts of the drug. Hart stopped supplying Fortier because Fortier started using more of the drug than he was selling.

"Hart claims that he (Hart) also sold Timothy McVeigh a quarter (\$25) Baggie of crystal methamphetamine on one occasion. He never saw McVeigh use the drug but believes that he did use it."

THE COURT: All right. And it's agreed that would be the substance of the testimony of Mr. Hart?

MR. MACKEY: Yes, your Honor.

THE COURT: All right. Well, we'll take the recess

now, members of the jury, and it may be about 1:45 till I can be available. As I say, the delay here has nothing to do with the case.

During this time, of course, please continue to follow the cautions given at all recesses, keeping open minds, avoiding discussion of anything in connection with the case among yourselves and with all others and avoiding anything outside of the evidence in the case that could relate to the issues to be decided.

You're excused now. We'll hopefully resume by 1:45.
(Jury out at 12:07 p.m.)

THE COURT: Be in recess.
(Recess at 12:07 p.m.)

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D1524	13762	13762			
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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 10th day of December, 1997.

Paul Zuckerman

Bonnie Carpenter

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