



THE COURT: Members of the jury, good morning. We will continue with the testimony of Marife Nichols.

Ms. Nichols, if you'll please resume the stand under the oath that you have taken.

(Marife Nichols was re-called.)

THE COURT: Mr. Ryan, you may continue.

MR. RYAN: Thank you, your Honor.

CROSS-EXAMINATION CONTINUED

BY MR. RYAN:

Q. Good morning, Ms. Nichols.

A. Good morning.

Q. Let me show you what has been received in evidence as 6 of 10 photograph -- photograph 6 of 10 of Government's Exhibit 1769. Can you see that all right on your screen?

A. Yes.

Q. And this is a kit -- this is a photograph of your kitchen in Herington, Kansas; is that correct?

A. Yes.

Q. And there should be a pen on top of your desk. Do you see it? It's a black pen attached to a cord. No. It's a black pen.

A. Yes, sir.

Q. Right. If you'll take that and place it underneath your

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table.

A. Okay.

Q. And you can press it right up against the screen and it'll make a mark on the screen.

A. Yes.

Q. Would you circle the drawer where Mr. Nichols kept his coins in the kitchen. Make a circle around it. Okay.

A. Okay.

Q. It isn't helping with me moving that, is it?

MR. RYAN: Now, may I approach the witness, your Honor?

THE COURT: Yes.

BY MR. RYAN:

Q. Placing before you Government's Exhibit 1875. Do you recognize that?

A. Yes.

Q. These are gold coins similar to the ones that you had -- Mr. Nichols had in the home?

A. Yes.

Q. And were these the same type of coins that you and Mr. McVeigh had sold for cash at Equity Numismatics in Wichita before you left for the Philippines?

A. I'm not sure all of it would be Maple Leafs.

Q. The two I showed you here as Government's Exhibit 1875 are gold Maple leaves; correct?

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A. Yes.

Q. Now, let me show you what has been marked as Government's Exhibit No. 62. Would you press the -- on the side of your pen there, there's a button on the side. Very good. Can you see Government's Exhibit 62?

A. Yes.

Q. And can you see the marks, the circular marks on Government's Exhibit 62?

A. This one?

Q. Yes. And then the one above it. Do you see the two circular marks?

A. Yes.

Q. And can you see that those marks -- that something left an impression like a coin on those marks?

A. Yes.

Q. And would you agree with me if I placed these coins beside the marks on Exhibit 62 that they are of the same size mark as would be left by the gold Maple Leaf coins?

A. I assume it's the same size.

Q. Now, as I recall from your testimony yesterday, you told us that Tim McVeigh had never been in the home in Herington.

A. That's right.

Q. And so if these coins and this receipt, Government Exhibit 62, came from that kitchen drawer that you -- that you indicated to us a moment ago, Tim McVeigh did not put them

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there?

A. I don't know. I didn't know that that thing is in the drawer. I've known that there's gold in the drawer, but I have no idea if there's any receipt or something in there.

Q. But Tim McVeigh had never been there?

A. To my knowledge.

Q. To your knowledge, of course. To your knowledge. Terry Nichols had never told you that he had been there?

A. That's right.

Q. And you had not seen him in some seven months?

A. That's right.

Q. Now, you note the -- the name on this receipt dated September 30 of 1994 is Mike Havens. Do you see that?

A. Yes.

Q. Now, is that a name that you know Terry Nichols used as an alias, "Havens"?

A. I couldn't tell if I have known that before or I just recently known that today. I mean, nowadays.

Q. You and Mr. Nichols have checked into motels in the past, have you not?

A. Yes.

Q. And what names did Mr. Nichols use when he checked in mo -- in at motels with you?

A. I don't know.

Q. Where --

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A. I mean, most of the time when we check in in the hotel, he's the one that come into some office or talk to some lady where you pay, and I just stay in the truck.

Q. And he's never told you what name he used?

A. He's never told me. I never asked him.

Q. Excuse me?

A. He never told me. I never asked him.

Q. Let me show you what's been received in evidence as Government's Exhibit No. 83. Can you see this registration card in the name of "Terry Havens"?

A. Yes.

Q. Did Mr. Nichols ever tell you that he checked into the Starlite Motel on October 16, 1994, using the name of "Terry Havens"?

A. I'm sorry. I have no idea on that time. I should be in Philippines.

Q. And the same would be true if I asked you about him staying at the Buckaroo Motel in October of 1994, you would have no knowledge of him using the "Havens" name at that time, either?

A. No.

Q. You told us yesterday that you twice left for the Philippines in 1994; is that correct?

A. That's correct.

Q. Once in approximately February of '94?

A. Yes.

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Q. And then once again in about September of 1994?

A. That's right.

Q. Did Mr. Nichols tell you that on both of those occasions after you left to Philippines, that he went immediately to Kingman, Arizona?

A. I don't remember.

Q. Let me place before you -- we can do this on the ELMO. I think it might be easier -- Exhibit 88. Government's Exhibit 88.

MR. RYAN: Will you zoom that, please.

BY MR. RYAN:

Q. Now, can you see that on your screen, Government's Exhibit 88?

A. Yes.

Q. Have you ever seen this lease agreement before?

A. No. I don't.

Q. Do you see the date, September 22, 1994?

A. Yes.

Q. That was the very day that you left for the Philippines, as I recall your testimony.

A. Yes.

Q. And do you see the address there? Route 2, Box 83?

A. Yes.

Q. Whose address is that?

A. That's the address that we live in in Marion, Kansas.

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Q. Now, there's been a stipulation that you would have no reason to know about that the handwriting on this document is that of Tim McVeigh's. Can you recognize it as such?

A. No.

Q. Has Terry Nichols ever used this same last name as an alias, "Rivers"?

A. I don't remember.

Q. Do you recall that the address he used at Mail Boxes Etc. in Manhattan, Kansas, was 1228 Westloop, 197?

A. Yes.

Q. Let me show you on the ELMO Government's Exhibit 1957. See "Joe Rivers" at that same address?

A. Yes.

Q. And that's the address that Terry Nichols used for a mail drop during 1994.

A. I guess so.

Q. Well, do you know that?

A. I don't remember. I might have.

Q. Where did you write him when you were in the Philippines in 1994?

A. I might have wrote the same address, but I don't remember using "Joe Rivers."

Q. But do you recognize that as a name that Mr. Nichols has used, "Rivers"?

A. No.

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Q. Did you tell the FBI on April 29 that you knew that Terry Nichols had used the name "Joe Rivers"?

A. I might have said that.

Q. Now, this shed that I showed you the lease on, Exhibit 88 --

MR. RYAN: Could we have that again, please.

BY MR. RYAN:

Q. Do you see the name, "The Mini Storage, Herington Industrial Park, Herington, Kansas"?

A. Yes.

Q. Do you know where that is?

A. I don't.

Q. Let me show you on the ELMO what has been received in evidence as Exhibit No. 97. Do you see where it places your home there in Herington, Kansas?

A. Yes.

Q. And do you see over here in the top right-hand corner where it states "Herington Industrial Park"?

A. Yes.

Q. Can you tell the jury approximately how far that is from your home?

A. I don't know. 30 minutes' drive.

Q. How many -- do you know how big Herington is?

A. Pardon?

Q. Would you not agree with me this is about a mile or 2 from

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your home in Herington?

A. Might be. I'm not an expert to that. I don't know how to drive.

Q. Did Mr. Nichols not teach you how to drive?

A. He did.

Q. Well, do you drive?

A. I know -- I don't have a driver's license, but I assume I know how to drive, but . . .

Q. Let me show you what's been received in evidence as Government's Exhibit 107A.

A. Okay.

Q. It's a receipt for a Storage Unit No. 40 in Council Grove under the name of "Joe Kyle"?

A. Yes.

Q. Have you seen this document before?

A. No.

Q. Do you recognize the name "Joe Kyle" as a name that your husband, Terry Nichols, has used?

A. I cannot remember which one he used in -- in the gun shows, so all this aliases -- it sounds familiar to me.

Q. Did you ever know that Terry Nichols had rented two storage sheds in Council Grove, Kansas?

A. No. I did not.

Q. Have you ever seen Terry Nichols with a wig?

A. No.

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Q. Or owning a wig?

A. No.

Q. Have you ever seen Terry Nichols with theatrical makeup?

A. What?

Q. With makeup. With a makeup kit.

A. Okay.

Q. Like cosmetics?

A. He's using it?

Q. Yes.

A. No.

Q. Have you ever seen Terry Nichols with a black face mask?

A. No.

Q. Let me show you what is Government's Exhibit 1549. Excuse me. Defense Exhibit 1549. Do you see that exhibit?

A. Yes.

Q. Have you ever seen Terry Nichols with that face mask?

A. No.

Q. Or owning that face mask?

A. Oh, I'm sorry. He might have used it in Michigan when he was in the farm or -- I don't know. It might not be black, but

I remember we were riding the lawnmower -- not the lawnmower -- snowmobile

SHOWMOBILE.

Q. Did he have a black, full-length face mask at any time that you knew him?

A. I don't remember, but I assume -- we would use it for

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winter or something.

Q. No. I'm not asking you to assume anything. I'm wanting to know if you'd ever seen a black face mask on Terry Nichols.

A. I don't remember.

Q. I'll place on the -- on your screen there Government's Exhibit 1871. Can you see that?

A. Yes.

Q. Did you ever see this key in the Herington home in Herington, Kansas, at any time?

A. I don't remember.

Q. Did you ever see any plastic barrels in the garage at the home in Herington, Kansas?

A. Yes, I did.

Q. You did. When did you see that?

A. When I was -- when we were living in there.

Q. Did Terry Nichols ever have a bank account?

A. Not to my knowledge.

Q. Ever have a -- have a safety-deposit box that you were aware of?

A. Not that I've known.

Q. When you saw this key, did you ask Mr. Nichols, "What is this?"

A. I -- I don't remember seeing this keys.

MR. WOODS: Your Honor, I object. She's confused as to the barrels and the keys.

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MR. RYAN: I'm sorry. Let me rephrase. I didn't realize she was confused. Let me rephrase the question.

BY MR. RYAN:

Q. A moment ago, I asked you had you seen this key inside of a plastic barrel at your home in Kansas.

A. I don't remember looking inside a plastic barrel.

Q. All right. So you've never seen this key before --

A. No. I do not.

Q. -- to your knowledge?

A. To my knowledge, I did not see it.

Q. But -- but in any event, Terry Nichols had no bank account and no safety-deposit box insofar as you knew?

A. That's right.

Q. Let me place before you on the screen Government's Exhibit 1873. Had you ever seen this safety-deposit-box key before?

A. No, I don't.

Q. Never saw it in the Herington home?

A. No.

Q. Or in any other home that you and Mr. Nichols had lived in?

A. That's right.

Q. Let me show you what's been marked as Government's Exhibit 1771, which is the second of eight photographs in that exhibit. Can you see the screen?  
A. Yes.  
Q. Do you recognize the quilt on the bed?

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A. Yes.  
Q. This is a bed in the front bedroom of your home in Herington?  
A. Yes.  
Q. Prior to going to the Philippines, had you ever seen this quilt?  
A. I don't think so.  
Q. But it was on your bed in Herington at the time you went to the police station on April 21st?  
A. That's right.  
Q. Did you have any matching pillowcases?  
A. Yes.  
Q. You did?  
A. Well, I don't know. I don't think so.  
Q. Do you have any recollection of ever purchasing this quilt?  
A. No.  
Q. Let me show you what's been marked as Government's Exhibit 113. Will you zoom it, please. Have you ever heard of Boots U-Store-It in Council Grove?  
A. No.  
Q. Or Unit No. 37?  
A. No.  
Q. Do you see the name "Ted Parker"?  
A. Yes.  
Q. And the date of the lease is -- as November 7, 1994?

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A. Yes.  
Q. Did Mr. Nichols, insofar as you know, ever use the alias "Ted Parker"?  
A. As far as I know, yes.  
Q. And when do you know him to have used that alias?  
A. Somewhere in a gun show.  
Q. Now, yesterday, you told us that you had sold on occasion or two some ammonium nitrate in a bottle.  
A. Yes.  
Q. Or container.  
A. Plastic bottle.  
Q. Had this ammonium nitrate been ground, or was it in the prill form?  
A. Some of it is been ground and some is in prill form.  
Q. On -- did you ever see more than two bags of ammonium nitrate in the home in Herington?  
A. I don't remember.  
Q. Well, what's the most number of bags that you do remember?



A. Just two inside the house.

Q. Did you ever see any more than two inside the house, outside the house, in the garage, in the shed, in the basement, anywhere on the property?

A. I don't remember.

Q. Certainly never saw 40 bags?

A. That would make -- that would make me remember, if I saw 40

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bags.

Q. And you did not?

A. No, I did not.

Q. Now, you saw Mr. Nichols grinding ammonium nitrate?

A. Yes. In our kitchen.

Q. On two occasions?

A. Yes.

Q. And he was doing it with a small kitchen mixer; is that true?

A. That's true.

Q. You never saw him using a larger mixer other than the one that you had there in the kitchen?

A. That's right.

Q. And did you call the -- did you label this bottle or did he label this bottle of this ammonium nitrate?

A. I think he did, because I don't remember labeling it.

Q. This exhibit is not in evidence, so let me just show it to you on the ELMO. It's Exhibit 2025. Excuse me. I -- I stand corrected. This is in evidence so -- do you recognize this, Mrs. Nichols?

A. Yes.

Q. This is the label that Mr. Nichols placed around the small bottles of ammonium nitrate?

A. Yes.

Q. Do you see the name down here, Ground Zero Impact?

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A. Yes.

Q. Is that the name that he gave this product?

A. I guess so. It's on the label.

Q. And this is the address in Manhattan, Kansas?

A. Yes.

Q. This 1228 Westloop, 197?

A. Yes.

Q. Which Mr. Nichols picked up his mail?

A. Yes.

Q. Now, you told us yesterday that you attended a gun show in Grand Rapids, Michigan, I believe, in the first week of April of 1995.

A. Yes.

Q. So it would have been about a week and a half before the Oklahoma City bombing?

A. Yes.

Q. And did you stay at a Motel 6 in Grand Rapids?

Q. And did you stay at a motel 6 in Grand Rapids?

A. Yes.

Q. Let me -- this is not in evidence. Let me show you what's been marked as Government's Exhibit 2145. Do you recall arriving at the Motel 6 on April 8?

A. Yes.

Q. And departing on April 9th?

A. Yes.

Q. Do you -- were you present when Mr. Nichols checked into

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the motel?

A. I was with him in the truck.

Q. Did -- you did not go into the -- watch him fill out the card?

A. I don't remember. I don't think so.

MR. RYAN: Your Honor, the Government would offer Exhibit 2145 pursuant --

MR. WOODS: No objection, your Honor.

THE COURT: 2145 received. May be shown.

BY MR. RYAN:

Q. This indicates, as you already told us, Mrs. Nichols, that you checked into the motel on April 8th and checked out on April 9th.

A. Yes.

Q. And the address that was used here was 3616 North Van Dyke Road, Decker, Michigan?

A. Yes.

Q. And what address is that?

A. That's the address of James Nichols.

Q. Did Mr. Nichols -- Terry Nichols tell you why he used that address as opposed to your address in Kansas?

A. I don't think he told me, and I don't remember asking him.

Q. During this gun show in Grand Rapids, Michigan, did you meet a man by the name of Paulsen?

A. I met lots of people there. I don't -- I don't remember

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the name.

Q. Have you -- have you said in the past that you met someone by the name of Paulsen?

A. Paulsen. No.

Q. A gun dealer in Michigan?

A. No.

MR. RYAN: Government's Exhibit 2146. Your Honor, we would offer Government's Exhibit 2146 as a motel record from Motel 6.

MR. WOODS: Object to relevancy, your Honor.

THE COURT: Well, is that the only -- yeah.

Sustained.

BY MR. RYAN:

O. Ms. Nichols, let me show you what's been received in

evidence as Exhibit 2086.

A. Okay.

Q. Do you recognize this as a floor plan of your home in Herington, the main floor?

A. Yes.

Q. And would you take your pen and show the jury where the telephone was.

A. Over here.

Q. Just make a little circle or mark or X of some type.

And where -- now, would you go to the bedroom where you and Mr. Nichols slept.

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And then where did Nicole sleep?

A. Nicole sleep with me all the time.

Q. And no one slept in that other bedroom next to yours unless Josh was in town?

A. Yes.

Q. Now, did the phone -- did you have just but the one phone there in the home?

A. Yes.

Q. Were there occasions when the phone would ring and it would wake Nicole up?

A. No.

Q. Were there times where the phone would ring and wake you up?

A. Yes.

Q. Did you have an answering machine on that telephone?

A. No.

Q. Now, you've told us yesterday that you had not seen or heard from Mr. McVeigh in 7 months.

A. That's right.

Q. Let me show you Government's Exhibit 1888 for April 11. Would you hit the side of your pen there again, Mrs. Nichols, and erase those marks.

A. Oh. Okay.

Q. Did Terry Nichols ever tell you that Tim McVeigh was staying in the Imperial Motel in Kingman, Arizona?

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A. No.

Q. Do you know where the Food for Less pay phone is in Manhattan, Kansas, the last call there on the sheet?

A. I'm -- Manhattan, Kansas. I might have been there, but I don't know this Manhattan. I've forgotten.

Q. Did Terry Nichols ever tell you that he called the residence of Michael Fortier on April 11, 1995?

A. I don't remember.

Q. Well, let's turn to April 13. Do you recall that date? That was Thursday.

A. Yes.

Q. And you -- you have a diary, do you not --

A. Yes.

Q. -- that you created?

A. Yes.

Q. Would it help you if I provided that to you?

A. That would help me, yes.

MR. WOODS: Your Honor, we would request that counsel clarify what the diary is before we start going into it. And we certainly have no objection to its use.

THE COURT: To its use. All right.

MR. RYAN: This is Defendant's Exhibit 1329, your Honor, I'm handing to Mrs. Nichols.

THE WITNESS: Thank you.

THE COURT: All right. But I don't know -- clarifying

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it, I suppose the witness could clarify what it is. You referred to it as a diary --

MR. RYAN: I'm going to.

THE COURT: -- and let her describe --

MR. RYAN: I will, your Honor.

MR. WOODS: Thank you.

BY MR. RYAN:

Q. Mrs. Nichols, what is Exhibit 1329?

A. It's my notes that I made when I was at the FBI custody.

Q. And would it help you in recalling events and refresh your recollection if you were allowed to refer to your diary?

A. That's right.

THE COURT: Well, she isn't calling it a diary now.

MR. RYAN: Your notes.

THE COURT: Let's just make clear what it is here.

Did you make these notes during the time the FBI was with you that you already talked about?

THE WITNESS: Yes, your Honor.

THE COURT: All right.

MR. RYAN: I'll call them notes then.

THE COURT: I think that would be more appropriate.

MR. RYAN: All right.

BY MR. RYAN:

Q. Now, would you turn to April 13, and feel free to look at that and not read from it in terms of your testimony, but if it

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helps you refresh your recollection of what you did that day, then look over it. And then what we're wanting to hear from you with respect to the questions I'm going to go through with you is your own recollection.

A. Okay.

Q. Okay?

A. Thank you.

Q. On April 13, would you tell us to the best of your recollection what you and Mr. Nichols did that day.

A. Me and Terry went to buy a bed with Josh and Nicole.  
Q. I'm sorry. You did what?  
A. We went to buy -- we purchased this bed to some couple in Fort Riley. And I think we did make two trips on that because it doesn't fit all in the truck.  
Q. Was Mr. Nichols with you all day?  
A. Not all day. Because the second trip, I decided to stay home with Nicole and Josh, and Terry went to get the rest of it.  
Q. And about how long was he gone?  
A. About -- let's see. More than half an hour.  
Q. Was he ever gone from you that day, on April 13, for more than an hour?  
A. I don't think so.  
Q. Let me show you what has been received in evidence as Exhibit 265B, which is a receipt from Wal-Mart in Arkansas City

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showing a date of April 13.

A. April 13.  
Q. Do you see that date?  
A. Yes. Yes. This is in Arkansas?  
Q. Arkansas City, which is approximately 175 miles or so from Herington.  
A. Okay.  
Q. Mr. Nichols did not have -- you did not go to Arkansas City on April 13 to buy an oil filter, did you?  
A. No.  
Q. And neither did Terry Nichols?  
A. I assume he never went there. He's -- he's not that far gone.  
Q. Now, do you recall Friday, April 14?  
A. Yes.  
Q. What do you recall about that day?  
A. Terry was gone, but I cannot remember where was he going. He might have went to the sealed bid. Josh was with us.  
Q. Let me show you Government Exhibit 1888 for April 14. Do you see the first call that is set forth in this exhibit?  
A. The first call. Yes.  
Q. A call that was at 9:51 a.m.?  
A. Yes.  
Q. From the J & K Bus Depot phone in Junction City, Kansas?  
A. Yes.

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Q. Do you see that?  
A. Yes.  
Q. It shows a call to Terry Nichols and it gives a phone number.  
A. Yes.  
Q. Do you see that? Is that the correct phone number for where you and Mr. Nichols -- where -- you and Mr. Nichols' home in Herington, Kansas, in April of 1995?

in Herington, Kansas, in April of 1995.

A. I guess so.

Q. Excuse me?

A. I think so.

Q. Did Mr. Nichols ever tell you that Tim McVeigh had called him on April 14 from the J & K Bus Depot?

A. No.

Q. Did Mr. Nichols tell you that Mr. McVeigh was in central Kansas on April 14th, 1995?

A. No.

Q. If Mr. McVeigh had been in town, in Herington or Junction City, you would have expected him to stay with you?

A. Yes.

Q. Because it would be the customary practice that you and Mr. Nichols had developed over the years with Mr. McVeigh for him to stay with you?

A. Yes.

Q. Now, you do recall that he had been gone sometime that

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morning or that day --

THE COURT: Are you asking that --

BY MR. RYAN:

Q. -- or not?

MR. RYAN: Excuse me. Let me rephrase my question, your Honor.

BY MR. RYAN:

Q. Do you recall that at some point during the day of April 14, 1995, that Mr. Nichols was gone from the home?

A. Yes.

Q. And do you know where he was?

A. I don't remember.

Q. Did he tell you where he went?

A. I forgot.

Q. Now, let's turn, if we could, to April 15. Can you tell us approximately what time you got up that morning?

A. Somewhere at 8 or 9.

Q. When you got up, was Mr. Nichols home?

A. Yes.

Q. Did you tell the FBI on May 1 that Mr. Nichols was not home when you got up on April 15th?

A. I don't remember.

Q. Did you tell them that he was gone and had left no note?

A. On that date?

Q. Yes, ma'am.

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A. I don't remember.

Q. Do you recall that later that day that you and Mr. Nichols traveled to Junction City?

A. Yes.

Q. And do you remember that you went to the Conoco --

A. Gas station --

Q. -- gas station to get gas for the pickup?  
A. Yes.  
Q. And do you recall after going to the Conoco station that you went to Manhattan for Mr. Nichols to get his mail at Mail Boxes EtcÄÄ?  
A. Yes.  
Q. And you remember this being in the afternoon?  
A. Yes.  
Q. And do you remember that Mr. Nichols went into the Mail Boxes EtcÄÄ by himself?  
A. Yes.  
Q. You did not go?  
A. Yes. I did not go.  
Q. And when he came back to the vehicle, what did he tell you about the mail?  
A. I don't think I asked him about the mail.  
Q. Isn't it true that he told you that he had no mail except for one piece of junk mail?  
A. I don't remember.

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Q. After that, you went to Kinko's for business cards. Do you recall that?  
A. Yes.  
Q. On April 15th?  
A. Yes.  
Q. And then after that, you went to the Wal-Mart there in Manhattan?  
A. Yes. On the way home.  
Q. Excuse me?  
A. On the way home.  
Q. Let me show you what has been received in evidence as --  
A. Okay.  
Q. -- Government's Exhibit 2000. Can you see that, or do you need me to zoom it a little closer?  
A. Yeah. A little closer, please. That's good.  
Q. Do you see the date here at the bottom of April 15, 1995?  
A. Yes.  
Q. Is that the date that you went to the Wal-Mart's in Manhattan?  
A. Yes.  
Q. And do you see the time there of 1440, which I believe is military time for about 2:40 in the afternoon?  
A. Yes.  
Q. Does that coincide with your recollection of when you went to that Wal-Mart?

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A. Yes.  
Q. Do you see here at the top, it shows the Manhattan, Kansas, Wal-Mart store?  
A. Yes.

Q. And so the items here that we've listed that are listed here on Exhibit 2000 are the items that you purchased that day at Wal-Mart?

A. Yes.

Q. Now, do you recall that while you were at that Wal-Mart that day, that Mr. Nichols went in to return an oil filter?

A. Yes.

Q. And you recall telling the FBI that you had no idea when he had purchased this oil filter?

A. That's right.

Q. And after he went in to get a refund on the oil filter, he came out, having forgotten to get the refund?

A. Yes.

Q. And then you traveled over to Junction City after that?

A. Okay. What was the last question?

Q. Yes.

A. We come out and then he remember.

Q. Yes. Let me go back over it. After he came out of the Manhattan, Kansas, Wal-Mart and Mr. Nichols came out after having taken the oil filter in and came out, he forgot to get his receipt?

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A. Yes.

Q. Do you remember that?

A. We were already driving on the way.

Q. Right. And did you drive over to Junction City and go to another Wal-Mart over there?

THE COURT: Just a minute. You said he forgot to get the receipt? Is that what you meant?

MR. RYAN: I'm sorry, your Honor. The refund.

BY MR. RYAN:

Q. Forgot to get the refund at the Wal-Mart there in Manhattan?

A. Yes.

Q. And he remembered that after he had gotten in the car and had started driving to Junction City; is that correct?

A. Yes.

Q. All right. When you got to Junction City, did you go to another Wal-Mart?

A. He did. We just stayed in the parking lot.

Q. And the purpose of him going in was to get his refund?

A. Yes.

Q. And did he get his refund that day?

A. I don't think so.

Q. He came out and did he tell you the lines were too long?

A. Yes.

Q. Did you have any idea on April 15th where Mr. Nichols had

Marife Nichols - Cross

obtained this receipt for an oil filter?

A. No. I don't.

Q. Now when you -- do you remember coming home later that



Q. Now, when you -- do you remember coming home later that day?

A. Yes.

Q. Do you remember finding a letter from Tim McVeigh to Terry Nichols?

A. I don't remember. I know in that period of time that I found a letter, but I don't remember the dates.

Q. But you remember that it was written in some type of secret code that was hard for you to understand?

A. Okay. I would not put it in a secret code because when people put terms and stuff like that in English, I just don't understand most of it.

Q. What are the two phrases that you recall from that letter?

A. There's a word sec -- what was it? "Second half."

Q. Do you recall the words, quote, "shake and bake," end of quote?

A. Yes.

Q. That was in the letter from Tim McVeigh to Terry Nichols?

A. Yes.

Q. Do you recall the words, quote, "needed an excuse for your second half"?

A. Yes.

Q. End of quote?

Marife Nichols - Cross

A. Yes.

Q. Those were the two phrases that you recall from this letter?

A. That I don't understand.

Q. I understand. But these -- these are the two phrases that you recalled from this letter that you saw the week before the Oklahoma City bombing?

A. That's right.

Q. Now, on April 16th, you told us that you went to church?

A. Yes.

Q. That's a Sunday. This is Easter Sunday?

A. Easter Sunday.

Q. Now --

A. Yes.

Q. -- had you ever been to -- did you go to church in Herington?

A. We passed by there, but never go in there on Sunday mass.

Q. Had you ever been to the church in Herington?

A. No.

Q. You went to -- you went by the church in Herington and didn't go in?

A. That's right.

Q. Because you went to another church?

A. Well, the Herington church wasn't open on that date.

Q. So did you go to another church?

Marife Nichols - Cross

A. Yes.

Q. Where was that?  
A. Somewhere in Junction City.  
Q. Had you ever been to that church before?  
A. No.  
Q. When you came home that evening -- or excuse me. Not that evening. But after church that day to fix Easter dinner -- is that what you said?  
A. That's right.  
Q. Is it true that you were expecting Tim McVeigh to come by Herington for Easter dinner that day?  
A. I was expecting Tim McVeigh to stop by somewhere in that weeks because Terry had told me that he picked up -- and Josh had told me that he already picked up the TV set in Las Vegas.  
Q. On the subject of the -- of the television set, was that something that you wanted to have, the TV set?  
A. Yes.  
Q. Is that something that was your idea to insist upon getting the TV set from Las Vegas to Kansas?  
A. No. I asked Terry if we can get a TV. I didn't insist that he could get the TV in Las Vegas.  
Q. I understand. But you were -- you were the one who said, "We need a TV here in Kansas"?  
A. That's right.  
Q. Okay. Now, did you cook extra food on Easter because Tim

Marife Nichols - Cross

McVeigh might come by that day?

A. I was guessing, yes.

Q. And did you cook extra food?

A. That's right.

Q. And I think you told us yesterday that you sat down to eat around 3:00 or so?

A. Yes. Somewhere in there.

Q. And while you were seated at the table, your meal was interrupted?

A. Yes.

Q. By a telephone call?

A. Yes.

Q. Let me show you Exhibit 1888 for April 16th. Can you see that?

A. Yes.

Q. Do you see the time of the call there is 3:08 in the afternoon?

A. Yes.

Q. That call is about 3 minutes? Do you see that?

A. Yes.

Q. Is that about the length of the call that Mr. Nichols had with Mr. McVeigh that afternoon?

A. I think so.

Q. Now, do you know where Tim's Amoco pay phone is?

A. It's in Herington. It says here.

Marife Nichols - Cross

Q. Let me show you Exhibit No. 97. Do you see this exhibit?

A. Yes.

Q. Do you see where it says "Tim's Amoco" at the bottom right-hand corner?

A. Yes.

Q. Had you been to that gas station before?

A. I think we passed by there most of the time.

Q. It's seven or eight blocks from your house?

A. Yes.

Q. Did you know Mr. McVeigh was in Herington, Kansas, at the time of the call on Easter Sunday?

A. No, I don't.

Q. Did Mr. Nichols ever tell you that?

A. No.

Q. Now, I think you told us yesterday that Mr. Nichols left 10, 15 minutes or so after that phone call?

A. Yes.

Q. And what did he tell you when he left?

A. He needs to go and help Tim in Omaha.

Q. Because he was having --

A. And pick up the TV, too.

Q. Because he was having car troubles?

A. Yes.

Q. You know now that that was not true?

A. That's right.

Marife Nichols - Cross

Q. It wasn't true that Tim was in Omaha?

A. That's right.

Q. And it wasn't true that Tim was having car troubles?

A. Oh, I don't know that.

Q. Now, you knew, did you not, that Mr. McVeigh was traveling from Kingman, Arizona, to New York?

A. That's what I heard from Terry.

Q. Now, I know you were born in the Philippines and have spent most of your life there; correct?

A. That's right.

Q. But you know a little bit about the geography of the United States?

A. Yes.

Q. And you know that Omaha, Nebraska, is not on the way from Kingman, Arizona, to New York?

A. That's right.

Q. And that troubled you, didn't it?

A. That's right.

Q. It concerned you to the extent that you called your mom that evening in the Philippines?

A. That's not the reason that I called my mom, but . . .

Q. You did call her?

A. I did mention that to her.

Q. And you told her that night that it didn't make sense that Terry was going to Omaha to meet Tim McVeigh?

Marife Nichols - Cross

A. It did not make sense for Tim to go up in Omaha when it's not on his way, but maybe he has friends there that he's stopping by.

Q. Now, Josh was present; correct?

A. That's right.

Q. At the home there that Easter Sunday?

A. That's right.

Q. And Josh was about 12 or so at the time?

A. Yeah.

Q. And as far as you know, Mr. Nichols had not seen Josh in two or three months prior to that week --

A. Yes.

Q. -- when Josh came to visit there --

A. Yes.

Q. -- just before Easter? And do you remember Josh telling Mr. Nichols that he, Josh, wanted to go with his father on the trip to Omaha?

A. That's right.

Q. And what was said about that by Mr. Nichols?

A. He doesn't want Josh to go because -- what was the -- there's not enough room and it's a long drive and -- I don't -- he doesn't know what kind of trouble Tim is.

Q. He told Josh that there would not be room in the pickup for Josh, Tim McVeigh, and him and the television set?

A. Yes. And I understand that because I know sometimes Josh

Marife Nichols - Cross

is not that much patience.

Q. Well, let me show you on the ELMO what's been received in evidence as Exhibit 51. Do you recognize this vehicle?

A. Yes.

Q. That's Terry Nichols' vehicle; correct?

A. That's correct.

Q. With a camper shell on it.

A. Correct.

Q. There's certainly room in the back of the camper shell for a television set?

A. That's right.

Q. And the camper shell protects the television set from the elements and rain and all that?

A. That's right.

Q. Now, let me show you what has not been received in evidence as Exhibit 2129. Do you recognize that as the interior of Mr. Nichols' pickup?

A. That's right.

MR. RYAN: Your Honor, we would offer Government's Exhibit 2129.

MR. WOODS: No objection.

THE COURT: Received.

BY MR. RYAN:

Q. Now, for the benefit of the jury, this is the inside of the front bench of Mr. Nichols' pickup truck?

Marife Nichols - Cross

A. Yes.

Q. We're not -- you know what bucket seats are; correct?

A. Pardon?

Q. Do you know what bucket seats are? The term "bucket seats"?

A. No.

Q. This had one long bench all across the front of the seat in the pickup truck?

A. Okay.

Q. Is that right?

A. Yeah.

Q. And all week long, prior to Easter Sunday, you had been traveling in the vehicle with Mr. Nichols?

A. And Nicole and Josh.

Q. And Nicole's car seat?

A. No. Because we would not fit in.

Q. Okay. But the four of you had been traveling in this vehicle all week long?

A. Yes.

Q. But Mr. Nichols told Josh that day there was no room for him?

A. That's right.

Q. Now -- you --

A. But he also told he doesn't know what kind of trouble Tim McVeigh is in.

Marife Nichols - Cross

Q. Now, when you saw Mr. Nichols talking to Tim McVeigh on the telephone -- or did you see him talking to Tim McVeigh?

A. Yes.

Q. Did you see Mr. Nichols writing down any directions or where to go?

A. I don't remember.

Q. To your knowledge, had Terry Nichols ever been to Omaha, Nebraska?

A. I don't know.

Q. Did he leave that day, as far as you could tell, that Easter Sunday -- did he leave on his trip to Oklahoma City without any notes and without any directions as to how or where he would meet Mr. McVeigh?

A. I don't know. I did not ask him.

Q. And -- but you did not see any such notes?

A. That's right.

Q. And you never saw him scribbling down anything as he was talking to Mr. McVeigh for these 3 minutes?

A. No.

Q. Now, you told us yesterday that Mr. McVeigh -- excuse me -- that Mr. Nichols did not return to Herington on Easter Sunday evening?

A. That's right.

Q. You went to bed, you said, at 12:00 or so?

A. That's right.

Marife Nichols - Cross

Q. And when you woke up the next morning, you did talk to Mr. Nichols?

A. Yes.

Q. He was there?

A. Yes.

Q. Let me show you what's been marked as Exhibit -- received in evidence as Exhibit 1888 for April 17th. Before we look at that, did you expect Mr. McVeigh to come back to Herington with Mr. Nichols?

A. Yes.

Q. But he did not, as far as you knew?

A. Yes.

Q. Terry Nichols never told you he came back, that Mr. McVeigh --

A. No.

Q. -- came back with him to Kansas?

A. No. He never told me, I never asked him.

Q. Did Mr. Nichols ever tell you that he had received a telephone call on Monday morning, April 17th, from Mr. McVeigh at approximately 9:00?

A. No.

Q. Did he tell you at any time that he had dropped Mr. McVeigh off at a closed McDonald's in Junction City with a rucksack at 1 or 2:00 in the morning?

A. No.

Marife Nichols - Cross

Q. Did he tell you at any time that Mr. McVeigh was staying at the Dreamland Motel?

A. No.

Q. Had Mr. Terry Nichols ever, prior to the week before the bombing, not told you the truth about his activities with Tim McVeigh?

A. Not to my knowledge.

Q. Now, that evening, I think you told us that you drove to the Kansas City airport with Mr. Nichols?

A. Yes.

Q. To drop Josh off?

A. Yes.

Q. Do you recall that Mr. Nichols was carrying a gun?

A. I don't -- I don't know.

Q. Do you recall telling the jury yesterday that Mr. Nichols made a telephone call from the pay phone?

A. In the airport.

Q. At the Kansas City airport.

A. Yes.

Q. And did Mr. Nichols tell you that the phone call he made was to Tim McVeigh?

A. No. I asked him. It was Lana because I was there.

Q. Do you see the second call here on the screen, Exhibit 1888, for April 17?

A. Yes. Yes.

Marife Nichols - Cross

Q. Do you see a call from the airport telephone in Kansas City?

A. Yes.

Q. To the Dreamland Motel?

A. Yes.

Q. Prior to this moment, were you aware of that fact?

A. No.

Q. Now, you got home late that evening.

A. Yes.

Q. I think you told us yesterday 2 or 3:00 in the morning.

A. Yes.

Q. When you woke up on the morning of the 18th, Terry Nichols was gone; is that correct?

A. Yes.

Q. You didn't know where he'd gone?

A. I forgot right now. I forgot where he had gone.

Q. He didn't leave you a note?

A. No.

Q. That had been his practice, had it not, to leave you a note to tell you where he was going to be?

A. I don't remember. It would -- it's not an occasion where he would normally leave a note.

Q. Well, it was the first time you saw Terry --

A. I'm sorry.

Q. That's all right. When was the first time you saw Terry

Marife Nichols - Cross

Nichols on April 18th, as best you can recall?

A. At noon.

Q. And what happened at noon that day?

A. I forgot. We went to -- we went to a store and rent movies.

Q. I want to make sure you're together with me on the date here, Mrs. Nichols.

A. Yeah.

Q. I'm asking you about Tuesday, April 18th. Okay? Is it still your recollection that you saw Mr. Nichols around noon that day?

A. Yes.

Q. And that was the first time you had seen him on that occasion?

A. Yes.

Q. And did he later, after he came home -- did he have lunch that day at noon?

A. Yes.

Q. And do you recall that after he had lunch with you that morning -- I mean -- excuse me -- at noon that day that he

nothing I mean excuse me at noon that day, that he said he had to go to the DRMO for an auction?

A. Yes.

Q. Did you have any knowledge that Tim McVeigh and Terry Nichols were together on the morning of April 18th?

A. No.

Marife Nichols - Cross

MR. WOODS: Your Honor, I would object if he's reading that from here. That's certainly not what's reflected.

MR. RYAN: I'm not reading anything, Mr. Woods.

MR. WOODS: All right.

THE COURT: All right. Let's clarify it to make sure everybody -- the source of your question was not reading from this?

MR. RYAN: No, your Honor, it was not.

THE COURT: All right.

BY MR. RYAN:

Q. Do you recall that later that afternoon, Mr. Nichols watched a movie?

A. Yes.

Q. A video?

A. Yes.

Q. It was a video that Tim McVeigh had given him, was it not?

A. I don't know. What --

Q. Do you recall that Mr. Nichols that afternoon watched a video about taxes that Tim McVeigh had given him?

A. I recall him watching that, but I forgot what date.

Q. And on April 19th, you know that is the day of the Oklahoma City bombing?

A. Yes.

Q. Terry Nichols, did he know how to make a bomb?

A. I don't know. I've seen him back in Michigan, but I would

Marife Nichols - Cross

not call this a bomb.

Q. Did you tell the "American Journal" when they interviewed you in Cebu that Terry Nichols knew how to make a bomb?

A. I don't think so.

Q. Did you tell them that he had even taught Josh how to make a bomb?

A. I don't remember that.

Q. Were you concerned -- did you tell Raymond Boyd that you were concerned about Mr. Nichols and his use of explosives?

A. I don't remember that.

Q. Raymond Boyd is your good friend?

A. Yes.

Q. On April 20th -- do you recall that day, the day after the Oklahoma City bombing?

A. Yes.

Q. As of the morning of April 20th, you had no knowledge of the Oklahoma City bombing; that's what you --

A. That's right.



Q. And Mr. Nichols did not tell you that he knew anything about the Oklahoma City bombing, either, as of that morning?  
A. Somewhere that day, yeah.  
Q. Later that day, he does?  
A. Yeah.  
Q. Yes. Did he -- did Mr. Nichols tell you that on April 20th, he went to a storage shed and picked up belongings

Marife Nichols - Cross  
of Mr. McVeigh?

A. On that day? No.  
Q. Did he ever tell you that Mr. McVeigh had leased a storage shed in Herington?  
A. No.  
Q. Did you ever at any time see a key or combination or any indication of a storage shed in Herington?  
A. No.  
Q. You said later, Mr. Mc -- Mr. Nichols brought home three newspapers that -- that evening or late afternoon?  
A. That evening, we did bought -- I mean, he bought it. I went with him.  
Q. He bought three newspapers?  
A. Yes.  
Q. On that same day, did you wash the clothes, April 20th?  
A. I forgot. I might have.  
Q. Now, as of April 20th, that afternoon, and when you read these newspapers, you became aware of the bombing in Oklahoma City?  
A. That's right.  
Q. And after you became aware of it, did you call anyone and talk to them about it?  
A. Who?  
Q. Did you call anyone to talk to them about the Oklahoma City bombing?

Marife Nichols - Cross

A. No.  
Q. Did you call Raymond Boyd on April 21st?  
A. I think I did.  
Q. And did you call him twice on that day?  
A. I don't recall calling him twice, but I did talk to him.  
Q. And sometime that day, I think you told us in the afternoon, Mr. Nichols came home and told you he had heard his name mentioned on the radio?  
A. Yes.  
Q. And what did he do after that?  
A. He told me that he's going to the police station.  
Q. What did he do after that?  
A. He was in and out of the house.  
Q. Do you recall that he went into the garage?  
A. Yes. And I went with him, too.  
Q. And did you see a fuel meter spread on the floor of the

garage?

A. I see something spread in the garage, but I don't know if that was a fuel meter.

Q. Did Terry Nichols say, "I have to do something about that"?

A. Yes. Because he told me he's fixing it. I asked him, "What is that?"

And he said that he is fixing it, he had to do something about it.

Q. But this is after receiving news of the Oklahoma City

Marife Nichols - Cross

bombing?

A. That's right.

Q. And after receiving news that his name had been mentioned in connection with the Oklahoma City bombing --

A. That's right.

Q. -- did you see him spreading ammonium nitrate on the yard after --

A. No.

Q. -- hearing his name on the radio?

A. No.

Q. Now, you say that you left the home that day with Terry Nichols?

A. Yes.

Q. That he had given you some money and you agreed to go to the police station?

A. I decided to go.

Q. And the direction he went, however, was not the police station, was it?

A. On that, I have no idea where's the police station, so . . .

Q. Do you remember going to Surplus City?

A. Yes. I remember --

Q. This is the junkyard you were telling us about yesterday, I think.

A. I thought it was a junkyard.

Marife Nichols - Cross

Q. All right. And do you recall that Terry Nichols said as he pulled into the parking lot there at Surplus City, "There are two black cars following us"?

A. Yes.

Q. And do you recall at that time, he turned the car around and went back in the other direction?

A. Yes.

Q. And you went to the police station?

A. Yes.

Q. And prior to entering the police station, he told you something?

A. What?

Q. He told you what he had been doing the Sunday three days before the bombing in Oklahoma City?

A. He told me -- He told me that he was going to me about

A. He told -- yes. He told me that he was lying to me about Omaha.

Q. And he told you this moments before entering the police station?

A. That's right.

Q. At a time after he saw two black cars following him?

A. I think so, yes.

Q. And at a time that he knew he was about to be questioned?

A. Yes.

Q. And at that time, he tells you for the first time he had not gone to Omaha?

Marife Nichols - Cross

A. That's right.

Q. He had really gone to Oklahoma City to the place where the bombing occurred?

A. Yes.

Q. And he tells you -- does he tell you at that time that he knew that Tim McVeigh was at the Dreamland Motel the entire four days prior to the Oklahoma City bombing?

A. On that time?

Q. Yes.

A. No.

Q. Did he tell you that he had been with Tim McVeigh the day prior to the bombing?

A. No.

MR. RYAN: No further questions, your Honor.

THE COURT: Do you have redirect?

MR. WOODS: Yes, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. WOODS:

Q. Good morning, Mrs. Nichols.

A. Good morning.

Q. Yesterday, the prosecutor asked you about your English ability. Did your parents speak English in the home when you grew up?

A. No.

Marife Nichols - Redirect

Q. Do they still speak English?

A. My father does.

Q. He speaks some English?

A. Some, yes.

Q. When you were growing up in the home and in school, when was the first year that you had English taught in the school?

A. First grade.

Q. Okay. What -- when did you start having English classes?

A. Somewhere in high school.

Q. All right. What language do you speak in the Philippines?

A. Bisaya.

O. Pardon me?

A. Bisaya.

Q. All right. And when -- your classes begun in English in high school; is that correct?

A. That's right.

Q. All right. How would you classify your ability in speaking English back in '95 when you were interviewed by the Government?

A. I don't know.

Q. Was it as good as your English is now, two-and-a-half years later?

A. I don't think so.

Q. All right. Okay. Now, the prosecutor showed you the notes that you made when you were being questioned by the FBI; is

Marife Nichols - Redirect  
that correct?

A. That's correct.

Q. And you have those notes in front of you?

A. Yes.

Q. What -- why did you make those notes?

A. Because I get confused in dates, and that's me. And I was just trying to remember things. And I know that by the next day or so, I would forget everything that I did.

Q. All right. Were the agents questioning you over and over concerning the dates and what happened on certain days?

A. Yes.

Q. Okay. Were you advised that you were going to testify in front of a grand jury?

A. Yes.

Q. Okay. Were you making the notes to try to help you remember the dates?

A. That's right.

Q. Okay. Did you ever testify in front of the grand jury?

A. No.

Q. Did you go to Oklahoma City on two times -- two separate occasions to testify at grand jury?

A. Yes. But I never got in the courtroom.

Q. What were you told on the second time the reason why you weren't going to testify in front of the grand jury?

MR. RYAN: Objection, your Honor.

Marife Nichols - Redirect

THE COURT: Overruled.

BY MR. WOODS:

Q. What did they tell you the reason was that they weren't going to put you in front of the grand jury?

A. One of the lawyers told me that "We decided not to put you on the grand jury because we think you are telling us the truth."

Q. All right. And what did they say after that?

A. I don't remember. I forgot.

Q. All right. At any rate, you never went to the grand jury?

Is that your testimony?

A. Yes.

Q. Do you remember approximately what date that was or how long you had been with the FBI, answering their questions?

A. I don't know. 20 days.

Q. All right. It was in late May, if you recall?

A. The subpoena was May 16.

Q. Okay. The subpoena for your appearance at grand jury?

A. Yes.

Q. Now, up until that date, had you been questioned over and over by the FBI?

A. Yes.

Q. And had you been questioned by lawyers from the Department of Justice on several occasions as of that day?

A. They questioned me once before. I was there once.

Marife Nichols - Redirect

Q. And in Oklahoma City?

A. Yes.

Q. And you met with lawyers?

A. Yes.

Q. How many; do you remember?

A. Three, four. There was FBI, too.

Q. All right.

A. And Mr. Thomeczek and Sheila Dobson was with me, too.

Q. And how long did that meeting last where they asked you questions?

A. I forgot. Two, three, four hours. I'm not --

Q. All right. Now, you made these notes. Do you remember when you started making these notes to try to recall your recollection on what happened on these days?

A. Late in April.

Q. Okay. Before you were interviewed by the -- by the Government lawyers; is that correct?

A. That's right.

Q. Now, did the Government lawyers examine those notes and make a copy of them?

A. I don't know.

Q. Okay. Do you remember whether or not you gave the notes to the Government lawyers?

A. I don't remember, but I remember it was left in the office.

Q. You left the notes there in the office; right?

Marife Nichols - Redirect

A. Yes.

Q. And somebody returned them to you later?

A. Yes. The -- the black lawyer.

Q. Okay. Do you remember who you left the notes with?

A. No.

Q. Did someone ask you for the notes?

A. Yes.

Q. Okay. How long was it before they were returned to you?

A. Weeks, because we went back to Kansas.  
Q. Okay. So you didn't get the notes for several days later?  
A. I'm not sure.  
Q. Okay.  
A. I forgot now.  
Q. But at any rate, the notes that are in front of you, are those the notes that you made at that time?  
A. Yes.  
Q. And are they in your handwriting?  
A. Yes.  
Q. You answered some questions from the prosecutor, and I'll go through those in order with you. First off, Mr. -- the prosecutor asked you if you were forbidden to use the Daryl Bridges phone call -- phone card. Do you recall that question?  
A. Forbidden.  
Q. That you were not allowed to use the phone card?  
A. I never asked, so I don't know if I'm allowed or not.

Marife Nichols - Redirect

Q. All right. Do you remember early in December when you went from Decker, Michigan, to Las Vegas and when you stopped in Arizona -- do you remember using the card?  
A. Rather than -- I don't.  
Q. Let me just show what's in evidence -- I'm going to show you what's been introduced into evidence as Government's Exhibit No. 553. And the first two calls that were made on this card --  
A. Yes.  
Q. -- can you tell the jury who Richard Gibson is.  
A. Richard Gibson is the boss of my Auntie Lori.  
Q. All right.  
A. She works -- I mean, she's the housekeeper of Richard Gibson.  
Q. Now, did you make that call, or did Terry Nichols make that call?  
A. I think I did.  
Q. Okay. And you recall this date of December the 7th, '93?  
A. Yes.  
Q. Being in Nevada?  
A. Yes.  
Q. All right. And then the next day, December the 8th --  
A. Yes.  
Q. -- do you recall whether or not you used the card?  
A. I might have, but --

Marife Nichols - Redirect

Q. Now, you told the prosecutor yesterday that Tim McVeigh had called one time and asked for the number of that card and that you gave it to him.  
A. Yes.  
Q. How did you have the number?  
A. When he called, I tried to find the card. So I gave it to him

.....

Q. You gave Tim McVeigh the number?

A. The number, yes.

Q. And the number is the number that allows you to make long distance calls? Is that your understanding?

A. Yes.

Q. Okay. Now, Richard Gibson again is who?

A. The boss of my Auntie Lori.

Q. And do you recall whether or not you spoke with your aunt in December of '93?

A. Yes.

Q. Ms. Nichols, when you were in the Philippines after December, '93, when this card was obtained -- you went to the Philippines in early '94; is that correct? February of '94?

A. Yes.

Q. Okay. And you returned to Terry Nichols at the Marion farm in like April, '94?

A. Yes.

Q. And then you went back to the Philippines in September,

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'94?

A. Yes.

Q. And you returned to the United States in March of '95; is that correct?

A. That's correct.

Q. During those occasions, did Terry Nichols call you?

A. Yes.

Q. Okay. Do you have a phone where you live with your parents?

A. Yes.

Q. Where is the phone?

A. It's in the office. We live in the lumberyard, and it's in the office.

Q. Okay. You live in an apartment attached to a lumberyard?

A. Yes.

Q. And the phone is in the lumberyard?

A. Yes.

Q. So is the phone in your home where you would answer it?

A. No.

Q. Okay. Would you get messages, then, from the lumberyard that you had a phone message?

A. That's right.

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

THE COURT: Yes.

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BY MR. WOODS:

Q. Ms. Nichols, I want to show you what's been offered into evidence by the Government as 553. And I want you to just flip through these pages. This shows the place the call is placed from, and this shows the call is placed to a certain location.

And if you would, without going through each separate page -- but hurriedly flip through and notice the number of calls that were made to the Philippines.

A. Okay.

Q. Okay. And don't take a long time.

A. Okay.

Q. Just --

A. Okay. I'll do my best. Do I have to put this in order later?

Q. No. I'll do that.

A. Okay.

MR. RYAN: Your Honor, we would offer to stipulate that there are a number of calls there to the Philippines if that might --

MR. WOODS: That might save time, your Honor.

THE COURT: All right. Accept --

MR. WOODS: The jury will be able to count them up.

I would offer the stipulation there are 117 calls to the Philippines.

MR. RYAN: I've not counted them. If Mr. Woods says

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that, I'll accept that.

THE COURT: You'll accept 117?

MR. WOODS: Rather than go through, this takes too much time. Thank you, Mrs. Nichols.

THE WITNESS: Okay.

THE COURT: 117 is a lot to count.

MR. WOODS: Yes, your Honor.

BY MR. WOODS:

Q. Mrs. Nichols, you testified to the prosecutor about where your phone was located there in the home: In the kitchen; is that correct?

A. That's right.

Q. And where were you eating when you were having the Easter meal?

A. In the living room.

Q. Okay. When Mr. Nichols was on the phone in the kitchen, could you see whether or not he was writing notes? Was he standing in front of you?

A. No.

Q. Okay. On that phone, do you have Caller ID?

A. No.

Q. Do you know what Caller ID is?

A. I know now.

Q. Okay. Did you have any way to determine where calls were coming from when you would receive them there at the home?

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A. No.

Q. All right. And you didn't have an answering machine; is



that correct?

A. That's right.

Q. Okay. Now, yesterday, the prosecutor asked you that "Do you recall that Terry and Tim McVeigh were upset about Waco?"

And you said that "Terry was not as upset as Tim about Waco?" What did you mean by that?

A. Well, okay. Terry's more closer to me than Tim. When we were together, we don't talk about Waco. But when I -- when Tim and Terry talk about it, there's like most of the time I heard Tim talking about it. It's -- it's just a number of -- of time that I heard Tim McVeigh talking about Waco.

Q. All right. Would you say that he was somewhat agitated about it, or upset about it?

THE COURT: "He" being --

MR. WOODS: "He" being Mr. McVeigh. Thank you, your Honor.

THE COURT: Mr. McVeigh.

THE WITNESS: Yes.

BY MR. WOODS:

Q. All right. Did your husband, Terry Nichols, seem to be as upset as Tim McVeigh about it?

A. No.

Q. Okay. Now, the prosecutor asked you yesterday about the

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time you were reading a letter and that Terry Nichols grabbed it out of your hand.

A. Yes.

Q. And you told the prosecutor that Terry was teasing; is that correct?

A. That's right.

Q. Did Terry often joke and tease with you?

A. Yes.

Q. The prosecutor asked you about the use of aliases at gun shows. Did Terry Nichols ever tell you why he was using aliases at gun shows?

A. Yes. I asked him about that, and he said he don't want the customer -- because we're selling this guns or stuff, that you don't know if it works or not. We don't want the customer to bother us afterwards when they buy it.

Q. Okay. You were not offering any guarantee or warranty with the guns or the items that you were selling?

A. I don't know.

Q. Okay. Did he offer any other explanation to you why he was using aliases at the gun shows?

A. No.

Q. Okay. Now, you further mentioned that you used an alias of "Mary Thomas"; is that correct?

A. Yes.

Q. Did the FBI have you registered at hotels under the name

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"Mary Thomas"?

A. Yes.

Q. Okay. Were they using an alias with you during those 37 days that they were moving you from eight cities in different motels?

A. That's what I heard from Mr. Thomeczek, that he put my name as "Mary Thomas."

Q. Okay. Did you ever see the motel receipts or the registration?

A. No.

Q. You were told that your name was "Mary Thomas"?

A. Yes.

Q. Okay. Were you ever allowed -- were you allowed to make phone calls out of there?

A. Yes.

Q. Now, concerning the phone calls, when -- back when you were in the Herington police station and you went downstairs to see Terry Nichols to advise him you were leaving, did you tell Terry Nichols where you were going?

A. No.

Q. Did you know where the agents were taking you at that time?

A. Yes. They were taking me to Junction City.

Q. Okay. Did you tell Terry that?

A. I might have.

Q. Okay. Did he give you a phone card so that you would be

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able to make phone calls?

A. Yes.

Q. Did he tell you that was the reason why he was giving you the card?

A. Yes.

Q. Okay. Now, were you able to make phone calls utilizing that Southwestern Bell phone card while you were with the FBI those numerous days?

A. Yes.

Q. Did the FBI allow you to leave a name and number where you could be reached?

A. They told me I -- it's for my own safety that I would never leave my number or where I'm at.

Q. Okay. And that was for your safety?

A. That's what they said.

Q. And how many days were you with them?

A. 36 days.

Q. Okay. Did you ever have a lawyer during that time?

A. No.

Q. Now, the prosecutor asked you about when McVeigh was staying there in the Marion farm with you in August and September, 1994, and you told him that Mr. McVeigh would come and leave; is that correct?

A. That's correct.

Q. Okay. I want to show you what's been offered into evidence

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as Government's Exhibit 2046 which has been represent -- you've never seen this exhibit before; is that correct?

A. That's right.

Q. Okay. This has been represented by the Government to be an application for a Blockbuster card in Grand Junction (sic), Kansas, in August, '94, by Tim McVeigh. It's been stipulated that's his handwriting.

A. Yes.

Q. Were you able to rent videos in Marion, Kansas?

A. Yes.

Q. And even in Herington, Kansas, I assume you could rent videos because you did; is that correct?

A. Yes.

Q. Do you know of any reason why Mr. McVeigh has to go to Junction City to sign up for a rental card for movies?

A. No.

Q. Okay. Did he ever tell you that he was going to Junction City?

A. No. I never asked.

Q. Okay. Do you know whether or not Mr. McVeigh had friends in Junction City that he was visiting these times that he was in and out of your home in August and September of '94?

A. No.

Q. Did he ever tell you anything about going to Junction City or seeing friends?

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A. No.

Q. Okay. What did he tell you he was doing when he was in and out during those times in August and September of '94?

A. I don't remember.

Q. Do you remember him telling you anyplace that he was going or people he was seeing?

A. He told me the first time he stopped by that he was going to Kingman, Arizona; and the second time, he was going to New York.

Q. Okay.

THE COURT: Is this a convenient --

MR. WOODS: Yes, your Honor.

THE COURT: -- place to interrupt?

MR. WOODS: Thank you.

THE COURT: All right. We'll take the morning

recess,

Mrs. Nichols. You may step down now.

Members of the jury, we will again take our usual recess with the customary cautions always given at recesses, so please do not discuss the testimony of this witness or any of the witnesses or anything about the evidence in the time of the recess. And keep open minds. Wait till next week when we give you the case for decision. So -- and avoid anything outside the evidence, of course.

You're excused now for 20 minutes.

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

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THE COURT: May I have counsel for just a minute.

(At the bench:)

(Bench Conference 121B2 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

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(In open court:)

THE COURT: All right. 20 minutes.

(Recess at 10:19 a.m.)

(Reconvened at 10:39 a.m.)

THE COURT: Please be seated.

(Jury in at 10:39 a.m.)

THE COURT: Ms. Nichols, resume the stand.

Mr. Woods, you may continue.

MR. WOODS: Thank you, your Honor.

BY MR. WOODS:

Q. Ms. Nichols, the prosecutor yesterday asked you a question about you made a statement that Terry told you that "The younger ones are easier to train."

A. Yes.

Q. Do you recall that? Was Terry joking with you, or was he serious when he said that?

A. Part joking.

Q. What did you take that to mean?

A. I don't know. I mean, I understand myself, I'm young and I'm still learning.

Q. Did you ever feel that you were restricted in doing anything you wanted to do?

A. No.

Q. Did Terry ever say anything to you about school?

Q. Okay. Did Terry encourage you to go to school?

A. Yes.

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Q. Did he encourage you to get a driver's license?

A. Yes.

Q. Did he try to teach you how to drive?

A. Yes.

Q. Did he encourage you to go out and meet other people?

A. Yes.

Q. Now, you mentioned about these notes that during these 30 -- how many days was it that you were with the FBI?

A. 36 days.

Q. -- that you made these notes so that you could recall and answer their questions that they were asking you. Is that correct?

A. That's correct.

Q. Did you make them over a series of days there?

A. I think so.

Q. Okay. And you gave them to the Government. Is that correct?

A. I don't remember giving it to the Government.

Q. But it was in the Government's possession for a certain period of time, then they gave them back to you?

A. Yes.

MR. WOODS: Your Honor, we would offer into evidence the Defense Exhibit 17 -- whatever the number was.

MR. RYAN: Objection.

THE COURT: Sustained. We ought to make the record as

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to what the number is, though, so that it's clear.

MR. WOODS: Yes, your Honor.

THE COURTROOM DEPUTY: D1329.

MR. WOODS: 1329, your Honor, thank you.

THE COURT: All right.

BY MR. WOODS:

Q. Ms. Nichols, do you have any recollection, any memory right now about August 18, a Tuesday, the day before the bombing, without referring to notes that you made at the time?

A. Excuse me?

Q. Yes, ma'am. Do you have any present memory about August 18?

A. August 18?

Q. Excuse me. April 18. Excuse me. No wonder you're asking.

Do you have any present memory about April 18 in your memory now other than what you wrote down at that time when it was fresh on your mind?

A. No, I don't.

Q. All right. And were the events that you wrote down for April 18 -- were they fresh in your mind at that time as to what your memory was?

made your memory was.

A. Yes.

Q. And is the way that you're able to recall what happened on April 18, '95, is to refer to those notes you made for that day?

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A. Yes.

MR. WOODS: Your Honor, we would offer into evidence, then, the notes relating solely to April 18, '95.

MR. RYAN: Same objection, your Honor.

THE COURT: Well, I'll receive that day.

MR. WOODS: Thank you.

THE COURT: We ought to mark that as a separate exhibit.

MR. TIGAR: I'll get an exhibit sticker, your Honor.

MR. WOODS: Yes. This would be D1888, your Honor,

and

she has a copy of it in front of her.

THE COURT: All right.

MR. RYAN: Mr. Woods, could I see it, please. I gave her mine.

MR. WOODS: That's mine.

MR. RYAN: I'll give it right back to you.

MR. WOODS: Oh, okay.

THE COURTROOM DEPUTY: Mr. Woods . . .

MR. WOODS: I've got one, Pat. You can keep that.

MR. RYAN: Okay.

BY MR. WOODS:

Q. Now, Ms. Nichols, when the prosecutor was talking to you a while ago, did you understand the difference between "going to" and "gone" that he was questioning you about on the events of April 18?

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A. Yeah.

Q. Okay. What do you recall -- all right. Well, let's look at April 18, what you wrote down when it was fresh on your mind.

THE COURT: Well, what is the number of this single page?

MR. TIGAR: D1888, your Honor.

THE COURT: Thank you. And that's being received.

MR. WOODS: May I publish it, your Honor?

THE COURT: Yes.

BY MR. WOODS:

Q. Ms. Nichols, can you read what you wrote down at that time that was fresh on your mind as to the events of April 18?

A. "April 18, 1995, Tuesday.

"9 a.m. Joshua called from Las Vegas."

Q. Let me stop you a minute. When you say "9 a.m.," what does that say if you look at it closely?

A. "Joshua called from Las Vegas."

Q. All right. Is it "9" or "9:30"?

A. I think it's -- oh. It's "9:30."

Q. I don't want to add words to what you're saying. Just read it as best you can.

A. Okay. "11:30 a.m. I woke up. Terry is gone. Nicole watched a movie, 'The Lion King.'"

"1:30 p.m. Terry is home. He said he went to the

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sailed" (sic) "bid somewhere in Fort Rally" (sic).

At "2 p.m. We ate Filipino food, broccoli with beef and rice.

"Terry made a phone call to a guy who is supposed to send the laser.

"I sit around and watch the rest of the movies.

Terry

was in and out the house. He took some big ammo cans into the house so that we can dust it.

"We went to the IGA movie store, returned the movies, and buy one sing-along movies, 'The Mermaids,' rent to tapes, 'A Girl to Kill,' western movies.

"Sleep.

"'Nice night, no arguments.'"

Q. Now, Mr. Ryan asked you about watching a movie that -- that Tim McVeigh had given to Terry Nichols. Do you recall anything about watching a movie that Terry Nich -- Tim McVeigh had given Terry?

A. I recall him watching that movie, but I'm not sure if it's from Tim McVeigh, and I'm not sure when was that.

Q. All right. Now, you mentioned that when you were questioned by Mr. Ryan that you ate lunch and then Terry Nichols went to the auction. Was that your recollection?

A. Yes.

Q. Your notes reflect that he came home at 1:30 and said that he had been to the sealed bid. What do you understand that to

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mean?

A. He has been to the sealed bid.

Q. Do you understand the difference between "going to" and "gone," the tense -- tenses of the word?

A. I guess I don't.

Q. When you first saw Terry Nichols on that day, do you recall what he said where he had been?

A. Yes. He said he's been to a sealed billed.

Q. All right. And then you ate lunch at home; is that correct?

A. That's right.

Q. And Terry was home the rest of the day?

A. Yes.

Q. Now, is that your best recollection at the time that you wrote that down when --

A. At that time.

Q. -- when you were with the FBI?

A. Yes.

Q. And these are the notes that the Government had in their possession for some days before they returned them to you. Is that correct?

A. That's correct.

Q. Now, the prosecutor asked you yesterday about Mr. Nichols giving up a good job where he had a home in Marion, Kansas, and a good, full-time job to go on the road to do gun shows. Do

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you remember that testimony?

A. Yes.

Q. Did Terry tell you why he wanted to leave a job and to go to gun show work?

A. Well, it is a good job as far as I understand, but I complained almost every day because we don't have -- I don't have somebody -- it's out of nowhere.

Q. Did Terry ever say he wanted to spend more time with you and Nicole?

A. Yes.

Q. Did he say that this would give him an opportunity to spend more time at home and go to gun shows on the weekend?

A. Yes.

Q. The prosecutor showed a photograph of your kitchen this morning. Were you allowed to go back to that home twice to pack up some things while you were with the FBI?

A. Yes.

Q. Did you notice the black marks around your kitchen and other areas?

A. Yes.

Q. Was that the way you had left the house on April 21?

A. I don't think so.

Q. Did you keep the kitchen dirty like that?

A. I kept the kitchen dirty? I'm sorry.

Q. No, did you -- did you notice the photo that made the

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kitchen look dirty with the black marks all around the handles?

A. Yeah, I notice it; but I don't think I made all this black marks.

Q. Did you notice what that was when you went to the house?

A. No.

Q. Did you notice it was a black powder that was spread around the handles and various places in the house?

A. No.

Q. Do you know what fingerprint dust is?

A. I have no idea.

Q. Okay. All right. At any rate, that photo that you saw: That was not the condition of the house that you left on April 21; is that correct?

A. That's correct.



A. That's correct.

Q. Now, the prosecutor asked you some questions about keys in a barrel, and you were confused. You said, "Yes, I had seen them." You were talking about the barrels. Is that correct?

A. The barrels, yes.

Q. How many barrels do you recall seeing in the house?

A. I don't remember.

Q. Did Terry ever tell you what he was going to do with the barrels?

A. I don't remember.

Q. Okay. Did he mention anything about using them in a gun show or selling them in a gun show?

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A. I don't remember I asked him that. I don't know.

Q. Do you recall when those barrels were in the house?

A. Somewhere when I was there.

Q. When you were unloading the shovels and other items into the garage, they were there?

A. Yes.

Q. And that was in early April, when you went to the Fort Riley to get the goods that Terry had bought at an auction?

A. Yes.

Q. All right. Now, the fuel meter that was there in pieces with all the gears on it: Do you remember how long that had been in the house?

A. No, I don't.

Q. When was the first time you ever saw it?

A. The day that we went to the police station.

Q. Okay. Had it been -- had you been in the garage other times?

A. I don't -- yeah. I help him clean up and load stuff.

Q. Was it something that you would have noticed if it was there?

A. Yeah, if it was on the floor, yeah.

Q. What if it was up on the rack on a box?

A. I don't know. I don't think I would notice it.

Q. Now, you mentioned concerning the face mask that the prosecutor asked you about that when you lived in Michigan, you

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used to go snowmobiling. Is that correct?

A. Yes.

Q. Did you use masks at that time?

A. I think I remember I did.

Q. Do you remember having sort of olive-drab and gray mask up there at that time, or do you remember the color?

A. I don't remember the color.

Q. Did you ever go skiing with Terry?

A. No. I only went with him one time the snowmobile.

Q. Do you know whether or not Terry skied?

A. I don't remember asking him that.

Q. The letter that the prosecutor asked you about that was

from Tim McVeigh: Do you remember when that was in the house?

A. I don't remember the dates.

Q. Okay. And do you remember the context of the words that you mentioned to the jury? You mentioned to the jury about "need an excuse for second half" and "shake and bake." Do you remember the context of how that was in the letter?

A. I don't.

Q. Okay.

A. I just -- he just remind me about the "shake and bake"; and yes, I did remember that words.

Q. Okay. Do you remember anything else about that page?

A. No.

Q. Did you ever hear the term "shake and bake" in the military

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usage when Tim and Terry were talking about anything?

A. No.

Q. Okay.

A. I remember Shake 'N Bake in, you know -- if you bake pork, or something, or chicken.

Q. Have you seen those labels of adding Shake 'N Bake to meat or some dish?

A. Yes.

Q. Did you ever use that yourself?

A. No, I don't.

Q. But you've seen the labels?

A. Yes.

Q. Okay. Now, the prosecutor asked you about whether or not you were expecting Tim McVeigh that day on Sunday. Were you expecting him that day, or sometime that week?

A. Sometime that week.

Q. And why was that?

A. Because Terry and Josh told me that he already picked up the TV and that would be something that I would want to expect.

Q. Okay. So Josh mentioned to you that Tim had picked up the TV?

A. Yes.

Q. And was there any date known as to when he would be driving through?

A. No, I don't.

MR. WOODS: All right. That's all the questions I have, your Honor.

THE COURT: Any recross?

MR. RYAN: Can I have just a moment, your Honor?

THE COURT: Yes.

MR. RYAN: No questions, your Honor.

THE COURT: All right. Mrs. Nichols, you may step down.

THE WITNESS: Thank you, your Honor.

THE COURT: Mr. Tigar?

MR. TIGAR: Yes, your Honor. At this time we would like to publish the summary of the testimony of David Paulsen pursuant to --

THE COURT: Let me just advise the jury that David Paulsen is a person not available to be here to give testimony, and what we've agreed to do -- you know, sometimes we've done this with videotape, sometimes we've done it by reading to you; and in this situation, I believe we have an agreed summary of what he would say if called as a witness.

Is that right?

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

MR. MACKEY: Yes.

THE COURT: So Mr. Tigar is going to read to you this agreed summary of what David Paulsen would be expected to say if he were available to be a witness and testify here with us.

MR. TIGAR: Yes, your Honor. In the middle, we will publish the two exhibits. We've marked for identification 418B for demonstrative purposes only. It's just an enlargement of what's in evidence as 418.

THE COURT: That's agreed?

MR. MACKEY: It is.

THE COURT: Proceed.

SUMMARY OF TESTIMONY OF DAVID PAULSEN

MR. TIGAR: "My name is David Edward Paulsen. I turned 22 years old on July 12 of 1995. I live in Melrose Park, Illinois, which is 20 miles from downtown Chicago. During the week, I am employed at Webb Dodge Dealership.

"My father is Edward Paulsen. My father's business is Paulsen's Military Supply. Paulsen's Military Supply does mail-order business for retail or wholesale for canvas goods, canteens, gun-cleaning kits, clips, pouches. In other words, it is a military surplus business.

"My father also sells parts for guns. He used to sell firearms. I'm not sure if he still does. I do not have a federal firearms license.

"Up until the Oklahoma bomb investigation, I helped my father in his gun business.

"In December of 1994, my role in my father's gun business was as follows: I'd go out to a fairgrounds somewhere, to a flea market, and sell merchandise from the store. I would go to gun shows. A gun show is similar to a flea market. You go there with your vehicle that you can fit your stuff in, find out where your table is and unload it and set up the table how you want it to look. Space is rented from a promoter. My father reserved the tables with the promoter and paid for them.

"As part of my father's business, I went to gun shows about -- just about every weekend, in the areas of Illinois, Indiana, and sometimes Wisconsin. I have been to Michigan a few times, but Michigan is a farther drive, and it's an hour time difference, making it hard for me to get off work early to get up there. So to go to Michigan would be unusual for me.

"At gun shows, I would routinely have between six and seven tables. My father and I used the correct name of our business, and there was never an occasion when I used a false name.

"I did attend the gun show at Kalamazoo, Michigan

"I did attend the gun show at Kalamazoo, Michigan, which was held in the first weekend of December of 1994. It occurred on Friday, December 2; Saturday, December 3, and Sunday, December 4. At that gun show, I followed my usual routine in setting up the show. I arrived Friday night, and had, I believe, seven tables.

"I met Timothy McVeigh at the Kalamazoo gun show. I met McVeigh on Saturday, December 3, 1994. McVeigh was another dealer at the gun show and had a table of his own. He only had one table. His table was close to mine, just on my end, like -- and like a rectangle, he was a little bit kitty-corner to me, pretty much across, but not correctly across. I would set up my tables up in a rectangle with one open table at the end and the other end open.

"What first drew my attention to McVeigh was he had some gun parts I was interested in on his table. There was a white male helping him there at the table. McVeigh was dressed in military fatigues -- I remember that because it just stuck in my mind.

"I walked over to his table to look at the gun parts on his table. I actually talked with McVeigh. I asked him what he wanted for the gun parts, how much money he was talking. In addition to the gun parts, I was also interested in two mercury switches I got from him. I bought the gun parts, too.

"The gun parts were a selector and a disconnecter for an AR-15 rifle. My purpose in buying these parts was to resell them. There is a market for such parts. My father resells them in his mail-order business.

"A mercury switch is a small glass tube, oval in shape, with mercury inside of it. It is about an inch and a half long. A mercury switch can be made -- can be used to make an alarm for tonneau," T-O-N-N-E-A-U, "covers, on the back of a pickup truck. When the cover is lifted, the mercury switch sets off the alarm so you can't steal the hard tonneau cover. I intended to buy these mercury switches for a man I know at work who makes such pickup truck alarms.

"Total, I took two mercury switches from McVeigh.

"I paid money for the gun parts, and I traded for the mercury switches. We did not initially agree exactly what it would be that I would trade for the mercury switches. I asked McVeigh if he could come by my table and see if there was anything he was interested in to trade for. At my table I had gun-cleaning kits, magazine pouches, canteens, that sort of thing -- surplus. I also had first-aid kits and gun parts.

"Later on Saturday, McVeigh came to my table. I believe, but I cannot be certain, that he took a magazine pouch for gun clips in exchange for the mercury switches. This would be just a canvas pouch that could hold a gun magazine clip or a first-aid kit. I don't know what mercury switches are worth. The pouches on my table cost between \$2 and \$15. A guy at work got a mercury switch from Radio Shack and paid around \$8 for it.

"During this second meeting, the one at my table, McVeigh and I had a conversation about him wanting to sell me some blasting caps. The subject came up because he saw materials on my table. I have books like explosives and

-----  
improvised munitions and that sort of thing. Another reason was he might have thought that I was doing something else with the mercury switches. I'm sure I did not say anything to him that would lead him to believe I had some kind of big plan for mercury switches.

"McVeigh did not talk about the explosives books with me.

"So McVeigh asked me if I wanted to buy some blasting caps. We discussed a price in the vicinity of 3- to \$5,000. I did not tell him anything that would lead him to believe I could afford \$5,000 for blasting caps.

"I never had any intention to buy any blasting caps from him, and I could not afford them anyway. I do not buy blasting caps; and to my knowledge, there is no market for them. My father does not deal in blasting caps.

"I did tell McVeigh that I might buy his blasting caps. I did it just to string him along. Sometimes I do that at a show if I'm busy.

"I would imagine that when McVeigh walked away from that second conversation, he believed that I would buy those blasting caps.

"During the second conversation, we also discussed whether I could get him dynamite.

"He did not say why he needed it, and I did not ask him. I did not care.

"After he asked me if I could get him dynamite, I told him, 'I'll see what I can do.' I told him this, even though I could not get him dynamite. I led him to believe that I could.

"McVeigh did discuss a price for the dynamite. I asked him what it is worth. He said \$5 a stick. I do not know if that's a good price. I've never sold dynamite and I've never possessed dynamite.

"From what I said, when McVeigh walked away from that second conversation, he might have believed that I could and would get him dynamite.

"I recognize this" -- placing on the overhead the  
418B  
for demonstrative purposes -- "as a copy of my father's business card. The front says 'Paulsen's Military Supply,' and it's got an address in Antigo, Wisconsin.

"I gave this card to Timothy McVeigh."

Placing the second page of 418B.

"It's my card, and it's got my number on the back where it says 'Dave' and then a phone number. I wrote the name and phone number.

"In other writing it says, 'TNT at \$5 a stick, need more. Call after 1 May, see if I can get some more.' I do not know who wrote that.

"At the time McVeigh was arrested on April 19, I had not provided any dynamite to him. With respect to the 'call after 1 May,' I made that up when I told him, I was going to talk to a guy in May. There is no explanation for why I made

that up.

"I gave him the phone number so I could get more gun parts from him if he got them.

"The gun parts on his table were unusual in that they had NSN numbers on them -- indicating they were actual military parts. The significance of that is that these are authentic military parts, not made by remanufacturers or aftermarket. To some people, authentic military parts are more valuable than aftermarket parts.

"This same date, Saturday, December 3, I talked to McVeigh again. He asked me again about the dynamite. He asked me if I could get the stuff. I don't know why he would bring it up again. I told him I'd see what I could do. His attitude toward me during this third conversation was just persistent, no anger or anything. He did not make me uncomfortable or try to move up the May date.

"I gave him both my father's business number and my personal number in Melrose Park.

"Tim McVeigh called me at my personal number, but I do not remember dates very well. I did have telephone conversations with Tim McVeigh at my home.

"McVeigh called approximately a month or less after the gun show. I have seen phone records that pertain to my home number, and there are 34 calls between December 17, 1994, and January 7, 1995, that come from a credit card with the number (800) 793-3377. The vast majority of those calls don't show an answer. I had answering machine at my home and then got rid of it. I don't remember when I had the answering machine at my home. It is possible that my uncle had taken the answering machine prior to December 17, 1994.

"I remember three actual phone conversations with Tim McVeigh. He identified himself as 'Tim from Michigan' when he called me -- when he talked with me over the phone.

"The records show a call lasting only half a minute that took place around midnight on December 17, 1994. I remember I was sleeping during that call, and I cannot remember what was said. I answered the call, but I don't remember the conversation.

"There came a time when I had a conversation with McVeigh about the blasting caps. It was the second time he called my house. I answered the phone, but I said that he, meaning Dave Paulsen -- me -- was not there. McVeigh asked when I was going to be home, and McVeigh wanted to talk about 'winter caps' or 'stocking caps.' I can't remember which one. This call came on December 21, 1994, and lasted less than 2 minutes. It is my best memory that this is when I would have told him I was not there. It is possible I had told him this on the first conversation; but during some conversation, he had spoken with me about winter caps or stocking caps.

"By using this -- these words, I would most likely think he was talking about blasting caps.

"I don't know why he would call blasting caps 'stocking caps.' This is no code I have ever heard before.

"The next phone call after the one where I said I

wasn't there was the call where he wanted to set up a rendezvous.

"I have no actual memory of when this call came in. He wanted to meet with me at a Denny's in Calumet City, which is about 45 minutes away from where I live, towards Indiana. It is near Highway 294.

"McVeigh suggested the Denny's at Calumet City. I have never been the Denny's at Calumet City. I don't remember the time of day he wanted to meet; but when I was interviewed, I believe I said "noon."

"The meeting was to take place on a Friday or Saturday a couple of days after the phone call on the weekend afterward. I told him I would be driving a white Chevy van, and I believe he said he was driving a pickup truck. I lied when I told him what I would be driving. I lied because I had no intention of meeting him.

"Over the phone I agreed to meet him because I was just stringing him along. That's when I started getting worried, because I told him I would go, and I was not going to show up, and this guy had my home number and he was an extremely, extremely persistent person.

"The purpose of this meeting was to get blasting caps. He was going to bring the blasting caps. In terms of him talking about how much money I should bring, the 3- to 5,000 from earlier sticks in my head, but I don't remember if we did in that conversation or not.

"I don't remember any conversation about how I would pay him.

"Looking at the phone records, it is my belief that the third call occurred on the 4th of January, 1995. This call is a real conversation that lasts about a minute 54 seconds. It is my belief that this is the call arranging the meeting. There was another call to the store, but I did not talk to him there.

"I did not meet McVeigh. In the days before I was supposed to meet him, I never thought about changing my mind and actually meeting him. I had nothing to meet him for. I did not have money for the blasting caps.

"After the third time I talked to McVeigh on the telephone in January of '95, I never talked to him again. I never saw him again other than pictures they showed me.

"I never directly or indirectly supplied any explosive material to Tim McVeigh, and I never supplied dynamite to Tim McVeigh. I never gave Tim McVeigh a lead to somebody who might supply dynamite to him."

That's the statement, your Honor.

THE COURT: All right. So we accept that as a summary of what the testimony of David Paulsen would be if he were here as a witness.

MR. TIGAR: Your Honor, at this time we would like to publish the transcript of the testimony of James Rosencrans.

THE COURT: All right.

MR. TIGAR: May I ask Mr. Paris to read the other

part?

THE COURT: Yes, sure.

Now, here, too, let me explain, members of the jury. We did this once before where a witness is unavailable, as this one is, and cannot come in here and testify. This witness did answer questions under oath on an earlier occasion, and we'll take those questions and answers now as his testimony.

(James Rosencrans was called.)

DIRECT EXAMINATION

BY MR. TIGAR:

Q. Sir, will you please identify yourself.

A. My name is James Rosencrans, R-O-S-E-N-C-R-A-N-S.

Q. Mr. Rosencrans, you presently live in Kingman, Arizona; is that right?

A. Yes, sir.

Q. You indicated and is it not true that you are a neighbor of Michael Fortier?

A. Yes.

James Rosencrans - Direct

Q. That's F-O-R-T-I-E-R?

A. I don't know how to spell his name.

Q. Don't know how to spell it. And you've known him for more than a year?

A. Just a little over a year.

Q. You also have met Timothy McVeigh through Michael Fortier. Is that correct?

A. Yes, sir.

Q. When you first met Timothy McVeigh, was he driving or did he have use of a vehicle?

A. Yes, sir.

Q. Can you tell us what vehicle he had when you first met him?

A. I don't know exactly what type it is.

Q. Just describe it as best you can.

A. A little four-door, gray car.

Q. And more recently, did he have a different kind of vehicle that he was using?

A. Yes. It was a little Pontiac station wagon.

Q. Do you know the model of that?

A. I sure don't.

Q. Did Mr. McVeigh at any time ever ask you to drive one of those cars for him?

A. Yes, he did.

Q. And which car was it he asked you to drive?

A. Pontiac station wagon.

James Rosencrans - Direct

Q. You indicated yesterday that you were either in your front yard or Mr. Fortier's front yard when Mr. McVeigh approached you to make this request. Is that correct?

A. Yes, sir.

Q. Is it correct that you were in one of those front yards



when he approached you?

A. Yes.

Q. Is it also correct that Mr. McVeigh asked you to drive him in his car?

A. Yes.

Q. And did he offer to pay you or give you anything for that service?

A. Yes, sir.

Q. Do you recall what he offered to give you or pay you for that service?

A. Yes. He offered to either give me a rifle or like \$300 cash.

Q. And the value of the rifle was approximately what?

A. \$300.

Q. Did he specify a particular rifle?

A. Yes. A Mini-14.

Q. Do you know that the value was in the range of \$300, or did he tell you that?

A. That's what he told me.

Q. And did you tell him you were interested in doing the job?

James Rosencrans - Direct

A. Yes. I needed the money.

Q. And did you tell him you wanted the rifle, or you wanted the cash, or anything? Did you respond to his offer?

A. I told him I needed the cash.

Q. Did he tell you how long a drive it would be?

A. He said it could range anywhere from 5 hours, 10 hours, 15. He didn't know.

Q. And did he tell you where you would be picking him up or where you would meet him to drive him?

A. No.

Q. Did he tell you where would you be dropping him off after the 5-, 10- or 15-hour or so drive?

A. No.

Q. Did he tell you what you would do, what he wanted you to do after you dropped him off?

A. Yes. Wherever I dropped him off, I was supposed to take his car and take it to an airport and park it and leave it.

Q. Meaning abandon it at the airport?

A. Yes. Just leave it there in a parking space.

Q. And did the two of you discuss how you would get home from the airport?

A. No.

Q. Did you ask him what purpose this was going to serve or why he wanted you to do this driving?

A. Yes.

James Rosencrans - Direct

Q. What did he say?

A. He never told me.

Q. Well, what did he say to you when you asked?

A. He said that he just -- basically just didn't tell me. He just said that I didn't need to know.

Q. So he told you you did not need to know?

A. Yes.

Q. Did the subject matter ever come up again?

A. Yes.

Q. I may have asked you, but when he asked -- let's go to the first time the subject matter came up. Which car did he then use?

A. Well, he had that little Pontiac station wagon then.

Q. It was the station wagon, not the other four-door car that you described earlier?

A. No.

Q. The subject matter did come up again?

A. Yes.

Q. And where were you when the subject matter came up again?

A. Out shooting in a canyon.

Q. Were with you Mr. Fortier there as well as Mr. McVeigh?

A. Yes, yes.

Q. And when Mr. McVeigh talked to you, was Mr. Fortier present?

A. No.

James Rosencrans - Direct

Q. How did that happen?

A. He was off shooting about 20 feet away, 30 feet away, and Tim called me off to the side.

Q. So Mr. Fortier was shooting at a distance from you, and Mr. McVeigh called you and asked you to go off with him to talk?

A. Yes, sir.

Q. And did you walk away with Mr. McVeigh then?

A. Yes.

Q. And during this time in the canyon when he asked you to walk away with him to talk, do you recall what he said to you?

A. He just asked me if I was interested in driving to wherever he needed to go still.

Q. And you indicated you were willing to, or not?

A. Yes, sir. If the cash was still there.

Q. I beg your pardon?

A. If he still had the cash, yes.

Q. You said you were willing to do it for the cash?

A. Yes.

Q. Was there a discussion? Was there anything further in the discussion?

A. No. We got interrupted at this point.

Q. You got interrupted because you saw a van that you thought might be used by law enforcement agents; is that right?

A. Yes.

James Rosencrans - Direct

Q. And did you ever have an opportunity to ask Mr. McVeigh again why it was he wanted you to do this driving for him?

again why it was he wanted you to do this driving for him?

A. Yes. I got the same answer again.

Q. What was that?

A. I didn't need to know. Basically, just change the subject.

Q. I'm just confused on whether you're telling us that you didn't need to know, or he told you you don't need to know.

A. He told me I didn't need to know.

MR. TIGAR: That's it, your Honor.

THE COURT: All right.

Then we have one other person unavailable as a witness? Is that right?

MR. TIGAR: Yes, your Honor.

THE COURT: And here, the -- we're going to take the testimony, as it were, of this witness in still a little different fashion. This is a person who signed an affidavit under oath on October 20 of 1995, and I'm going to read to you from the affidavit of this person, who is not here as a witness and who is unavailable as a witness. So this is yet another form in which we take what is to be regarded as her testimony.

SUMMARY OF TESTIMONY OF PATRICIA EDWARDS

"My name is Patricia Ann Edwards. I was born July 26, 1969. For a period of time prior to the summer of 1995, I lived at 3039 McVicker in Kingman, Arizona, with James Rosencrans. Michael Fortier and his wife, Lori Fortier, lived next door to us for a period of time. I met Tim McVeigh sometime in the summer of 1994 at Michael and Lori Fortier's residence.

"I have seen Tim McVeigh at their residence on four or five occasions between Thanksgiving of 1994 until March or April, 1995. Tim McVeigh also stayed at the Fortiers' house for a period of time. I did not know his last name while he was staying there but later came to know it.

"On Friday, April 21, 1995, sometime prior to 1 p.m., Michael Fortier came over to our house and said: 'Tim's the one who did it,' in reference to the Oklahoma City bombing.

"Sometime after the bombing in Oklahoma City, I received a package of items, including videotapes concerning the events in Waco, Texas, and some other items which included various types of literature and an army supply catalogue. The army supply catalogue had Tim McVeigh's name on it. I gave the package to Charles Rosencrans, as I did not want it at my house. I included some other items in the bag that I did not want at my house.

"Mike Fortier gave James Rosencrans a .22-caliber Hornet rifle around the time the FBI first went over to Fortiers' house.

"At sometime around the search warrant at Michael Fortier's house, James Rosencrans told me he had gotten a bag of fertilizer from Fortier which James did not want at the house and got rid of.

"I did not know or see what the fertilizer -- what the fertilizer was in at that time."

And that we will consider as what would be the testimony of Patricia Ann Edwards, if she were to be called and

available to us as a witness at this trial.

MR. TIGAR: Defense rests.

THE COURT: The defense rests.

Are you prepared with rebuttal, or --

MR. MACKEY: Yes, your Honor. We'd like to call two additional witnesses. We would start with FBI Agent Christopher Budke.

THE COURT: All right. Thank you.

THE COURTROOM DEPUTY: Raise your right hand, please.  
(Christopher Budke 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: Yes. My name is Christopher, my middle initial is A., my last name is Budke, B-U-D-K-E.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Mr. Mackey.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Agent Budke, you work for the FBI?

Christopher Budke - Direct

A. Yes, I do.

Q. How long have you been employed with the FBI?

A. Be 14 years this January.

Q. Are you a special agent?

A. Yes, sir.

Q. Where are you currently assigned?

A. To the Kansas City office.

Q. In Kansas City, Missouri?

A. Yes, sir.

Q. Were you assigned there in April of 1995?

A. Yes, sir, I was.

Q. Did it fall to you and other agents of the FBI to participate in an investigation in the state of Kansas in April of 1995 as it relates to leads generated by the Oklahoma City bombing?

A. Yes, sir.

Q. And was that your duty station then and after the days of the Oklahoma City bombing?

A. Yes, sir.

Q. Where specifically were you working -- after the bombing in Kansas?

A. Initially, I worked in the command post that was set up in the Kansas City, Missouri office. Later in the week, I was assigned to work in Junction City, Kansas, as they moved the command post to there.

Christopher Budke - Direct

Q. Was that at a command post on Fort Riley in Junction City?

A. Yes, sir.

Q. Let me direct your attention, Agent Budke, to Wednesday,

April 26, 1995. Did you have occasion to meet an individual named Sergeant Richard Wahl?

A. Yes, sir, I did.

Q. Would you describe to the jury when it happened?

A. Okay. On that particular day, it was a day that the director of the FBI, Louie Freeh, had come to visit us at the command center. And it happened to be the only day while working out there that I wore a suit and tie.

During the lunch break that particular day, I was standing in line at a Burger King to get some lunch, and Sergeant Wahl approached me in the line and said, "How long are you all going to be here?"

And I was a little surprised that he knew who I was and realized that I had forgotten to take off my photo ID that we use to get in and out of the command post.

So I took that off and told him that we'd be here for a little while.

He then asked me where we were located.

And I told him that we were located here on base.

He ordered his food and I ordered mine, and I went and sat down and ate. And a few minutes later, he came over and he asked me if he could ask me something.

Christopher Budke - Direct

And I said yes, he could.

And he said he had contacted our 1-800 number that was established and provided some information several days ago and hadn't been contacted and he wondered why he hadn't been contacted.

And I asked him to go ahead and relay the information to me; I could see what I could do for him.

Q. At that time at the restaurant on April 26, did Mr. Wahl report to you at least in general terms a sighting he had made at Geary State Lake?

A. Yes, sir.

Q. Did you attempt to conduct a full interview of him at that time?

A. No. We had been instructed when we obtain a new piece of information like that --

MR. TIGAR: Excuse me, you. Not responsive.

THE COURT: Yes. Not what you were instructed, what you did.

THE WITNESS: Okay. No, I did not.

BY MR. MACKEY:

Q. Did you take his name and phone number?

A. Yes, I did.

Q. With that information that same day, Agent Budke, what did you do with it?

A. I went back to the command post, recorded -- advised my

Christopher Budke - Direct

Christopher Budke - Direct

supervisor of the information he had provided me, and he advised -- or told me to record it on a lead sheet and that it would be assigned to -- as a lead to an agent.

Q. That same day, on April 26, Agent Budke, did you meet with FBI Agent Walter Schaefer?

A. Yes, sir.

Q. And to your knowledge, was he the FBI agent assigned to interview Mr. Wahl that same day?

A. Yes, sir.

Q. Did you relay the name and the phone number?

A. Yes.

Q. And to your knowledge, did Mr. Schaefer first interview Richard Wahl on April 26, 1995?

A. Yes. He immediately went out and contacted him.

Q. Agent Budke, during the time that you were assigned in Fort Riley, did you become aware of a motorists canvas, or road stop, around Geary Lake?

A. Yes. We had decided that we would make an attempt to set up a road stop on the same day of the week that Sergeant Wahl had seen the Ryder truck and a pickup truck out at the lake in hopes that maybe people who were driving by the road, the highway that the lake was located near, might also -- had seen that truck.

Q. To your knowledge, was the FBI -- did they conduct that canvas on Tuesday, May 2 --

Christopher Budke - Direct

A. Yes, sir.

Q. -- 1995?

A. Yes, sir.

MR. MACKEY: Nothing else, your Honor.

THE COURT: Mr. Tigar?

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good morning, Agent Budke.

A. Good morning, sir.

Q. Director Freeh was at Fort Riley?

A. Yes, sir.

Q. Was that for photo opportunity, or visit? What was he doing there?

MR. MACKEY: Objection.

THE COURT: Sustained -- I mean overruled.

If you know what he was doing there.

BY MR. TIGAR:

Q. Do you know why he was there?

A. I don't know specifically why he was there. He did give a speech to those of us that were working there, advised us that he understood that it was a hardship on our families to be

there but appreciated the hard work we were doing. He went around and shook people's hands; and beyond that, I don't know what else he did while he was there.

Q. Did you have your picture taken with him that day?

Christopher Budke - Cross

A. No.

Q. Now, you said you were in the Burger King. That's the one at Fort Riley?

A. Yes, sir.

Q. That's right on the base?

A. Yes. I think it's within the base compound, near the PX.

Q. And Sergeant Wahl came up to you and said that there has been a 1-800 number that he had called. Is that right?

A. Yes.

Q. And you knew that there was a 1-800 number; correct?

A. Yes.

Q. The purpose of that was so that when people called in leads, somebody would contact them; correct?

A. When people called in leads, a determination was made whether an individual would be contacted, yes.

Q. Well, what was the normal procedure if somebody called in something you were interested in about getting back to them?

A. I'm not sure that I know the answer to that, because the 1-800 number was answered by agents in Washington, D.C., so . . .

Q. So you don't know what basis people decided whether to call people back after they had called or not; is that right?

A. That's correct.

Q. And you don't know what kind of a delay there was between the time somebody would call and somebody would get back to

Christopher Budke - Cross

them if they were going to; correct?

A. That's correct.

Q. Now, from your standpoint, it was important to get as much information from citizens as possible about things they'd seen that might help you solve the case; correct?

A. That's what I tried to do, yes.

Q. And so -- and that is the responsibility of the FBI, is it not, to try to get as much information from citizens that's going to help them solve the case; correct?

A. Yes.

Q. And Sergeant Wahl came up to you and you said in the chow line --

A. He initially -- he initiated the conversation as we were standing in line waiting to order.

Q. After you got your meal, he came to see you again; correct?

A. Yes, sir.

Q. And he said that he had called the 800 number and provided information; right?

A. That's correct.

Q. He said he provided information about a Ryder truck?

A. Not at that point in time. He did later as I asked him to relay the information to me so that I could check to see what had happened with the call or if the information warranted to have somebody contact him.

Q. You -- did you have a pencil with you?

Christopher Budke - Cross

A. Yes.

Q. Did you write down something that he told you?

A. I wrote down his name and his telephone number on a napkin.

Q. And the napkin, you threw away later?

A. Yes.

Q. Did you write down any details, information that he provided to you?

A. No.

Q. All right. And he told you that he had seen a Ryder truck; correct?

A. Yes.

Q. Did he tell you he had seen a pickup truck?

A. Yes.

Q. All right. Did he describe the pickup truck to you?

A. Yes. He said it was a dark-colored --

Q. Hold it a second. Did he describe it? Yes or no.

A. Yes.

Q. So now you were getting some information from a man who had said he had seen a Ryder truck and a pickup truck at the lake; correct?

A. Yes.

Q. You are interviewing this gentleman; correct?

A. No. I'm not.

Q. Well, you were talking to him; correct?

A. Talking to him, yes.

Christopher Budke - Cross

Q. Did -- you know what an FBI FD302 is; correct?

A. Yes.

Q. Did you make a 302 about it?

A. No, I did not.

Q. Did you ever memorialize -- that is to say, write down -- "Sergeant Wahl told me about a Ryder truck and a pickup truck"?

A. Yes, I did.

Q. And what's the date of that --

A. April --

Q. -- that you wrote it down?

A. April 26.

MR. TIGAR: May I have a moment, please.

THE COURT: Yes.

MR. TIGAR: May we approach, your Honor.

THE COURT: You may.

(At the bench:)

(Bench Conference 121B3 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)



Christopher Budke - Cross

(In open court:)

THE COURT: We're going to look for a copy of this.

BY MR. TIGAR:

Q. All right. Now, I've now been shown a copy of a document. I want to show that to you, sir.

A. Uh-huh.

Q. Is the upper portion of that what you wrote on that day?

A. Yes, it is.

Q. And will you help me, sir, by reading that word.

A. The copy is not very good.

If I'm -- I'm going to guess, but if I were to guess, it would be "gray." I'm guessing.

Q. All right. So what it says is he observed a Ryder truck and a gray Chevy pickup truck parked at the lake. Isn't that what you wrote?

A. That's what I wrote.

Q. And then you also wrote that he never observed any people associated with the truck; correct?

A. That's correct.

Q. And that's what he told you?

A. He told me it was a dark-colored pickup truck, possibly gray.

Q. Sir, do you see the words "dark-colored" anywhere on this document that you wrote?

A. No, I don't; but that's what he told me.

Christopher Budke - Cross

Q. Is it your habit, sir, to write down something different from what witnesses tell you when you're conducting investigations?

A. No, but it was not a verbatim of what he had told me.

Q. Sir, my question -- And since this time, you've learned that it's the Government's theory that it was a dark-colored pickup truck; correct? You know that, don't you?

A. I know that Mr. --

Q. You know Mr. Nichols has got a dark-colored pickup truck, don't you, sir?

A. After having had that conversation with him, I have seen a photograph of Mr. Nichols --

Q. And you know Mr. Nichols has a dark-blue pickup; correct?

A. Yes, I do.

Q. And do you know what Mr. Wahl testified to when he came in here?

A. No, I do not.

Q. But you wrote down "gray Chevy," didn't you, sir?

A. Yes, sir.

Q. And you wrote it down on the 26th of April, 1995, didn't you, sir?

you, sir:

A. Yes.

Q. And you wrote it down at 12:45 p.m., didn't you, sir?

A. I don't know what the time was, sir.

Q. All right.

Christopher Budke - Cross

A. It was after lunch.

Q. See a time on there?

A. Yes. 12:45.

Q. Is that when you wrote it?

A. I don't know if that would have been when I wrote it, or that's when I talked to him.

Q. Okay.

A. I'm not certain.

Q. Well, how long -- now, you were at the Burger King. You say you didn't -- you sat down, had your burger meal; right?

A. Yes.

Q. And about how long after you had your burger did you go back and write this?

A. Immediately afterwards.

Q. So this was written just as soon as you could get a place where you could find a lead sheet and a pencil; correct?

A. That's correct.

MR. TIGAR: No further questions.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. MACKEY:

Q. Agent Budke, in this lead sheet, you wrote down Mr. Rick Wahl's name; correct?

A. Yes, sir.

Q. And then you said, "Wahl was fishing at Geary State Fishing

Christopher Budke - Redirect

Lake on Tuesday, April 18, 1995" --

A. Yes.

Q. -- "between 9 and 12 p.m."?

A. Yes, sir.

Q. Do you have any idea whether that's the note that you made, how it corresponds to the testimony Mr. Wahl gave in this courtroom?

A. No, I don't.

Q. You went on to say in your note, "Wahl observed a Ryder truck and a gray Chevy pickup truck parked in a somewhat remote area," period. Do you know whether that note -- and how it corresponds to the testimony of Mr. Wahl?

A. No.

Q. You wrote in your note, "Wahl never observed any people associated with the trucks." Do you know how that note corresponds to the testimony of Mr. Wahl?

A. No, sir.

Q. You wrote that "Wahl advised the lake is located between Junction City, Kansas, and Herington on Highway 77." Same

question.

A. No, sir.

Q. And your last entry was, "Wahl has called the 1-800 number and reported this and was never contacted by the FBI." That's what he told you?

A. That's correct.

Christopher Budke - Redirect

Q. On two occasions at the Burger King, he initiated contact with you?

A. Actually, three occasions, yeah, but two short questions while we stood in line and then once while I sat down and ate my meal.

Q. Agent Budke, to your knowledge, had the FBI received any direct information about the sighting of a Ryder truck and a pickup truck at Geary Lake before Sergeant Wahl approached you?

A. I have learned subsequently that there was a record made when he called --

MR. TIGAR: I object to what he learned subsequently, your Honor.

THE COURT: Yes. Sustained.

BY MR. MACKEY:

Q. Agent Budke, do you know how many thousands of phone calls the 1-800 number received between April 19 and April 26?

A. Hundreds of thousands.

MR. TIGAR: Object, your Honor, unless he has personal knowledge.

THE COURT: Yes. Objection sustained. The answer is stricken, unless it's personal knowledge, which I don't know how it could be.

BY MR. MACKEY:

Q. You don't know, Agent Budke?

A. I don't know the specific number. I know --

MR. MACKEY: I have nothing.

MR. TIGAR: No further questions, your Honor.

THE COURT: All right. You may step down.

May I have counsel again for a moment.

(At the bench:)

(Bench Conference 121B4 is not herein transcribed by court order. It is transcribed as a separate sealed transcript.)

(In open court:)

THE COURT: Members of the jury, we're going to recess now -- that's what I've just been talking with counsel about -- because it would be easier to recess now, even though it's earlier than our normal luncheon recess, and come back about 1:10 and then hear the additional testimony. And there won't be very much more. You'll be released early today, and the evidence will then be closed.

But -- or we expect it to. But I want to caution you, of course, once again when you hear me say, as I told you yesterday afternoon, as we get close, I know that it is only human nature to think about all that you have heard at that time and think about what you think a decision ought to be; and that's what you must not do, because as I told you yesterday afternoon, in addition to additional testimony, you're going to hear other very important parts of the case, the closing arguments and the instructions.

So this recess is not different from any of the others. Please be careful, avoid discussion among yourselves about anything connected with the trial, and wait till the case is given to the jury next week.

But what I'll tell you now is that you can expect to be released early today and then we'll be resuming on Monday, so you're going to have a very long weekend, which always worries me. But you're excused now till about 1:10.

(Jury out at 11:40 a.m.)

THE COURT: Okay. We'll recess, 1:10.

(Recess at 11:40 a.m.)

\* \* \* \* \*

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PLAINTIFF'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
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2145	13988	13988			
2146	13989				

DEFENDANT'S EXHIBITS

Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D1329	14045				
D1888	14047	14047			

\* \* \* \* \*

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 11th day of December, 1997.

---

Paul Zuckerman

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Bonnie Carpenter

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