

THE COURT: Members of the jury, good morning.

JURORS: Good morning.

THE COURT: Again, forgive us the delay, but I had

some matters to discuss with counsel so that we can proceed without interruption, and we are prepared to do that.

Now, before proceeding, I told you that the evidence was closed when we recessed last Thursday; but we have now, by agreement, determined to reopen the evidence for the limited purpose of receiving four additional exhibits, and this is, as I say, by agreement between both sides.

Let me explain what these exhibits are. As you will recall, Richard Wahl testified before this jury on November 20, 1997. Mr. Wahl testified that on the morning of April 22, 1995, he called an FBI hot line to report information on the Oklahoma City bombing investigation. This hot line had been established for individuals to call and report information related to the Oklahoma City bombing. The FBI agent who received this call in Washington, D.C., completed an FBI information control sheet. This control sheet -- control sheet is marked as defendant's -- Defense Exhibit 1891 and has been admitted as an exhibit in this case.

You will also recall that Agent Christopher Budke testified that on April 26, 1995, he spoke to Mr. Wahl at a Burger King in Junction City regarding this information. And that later that day, he summarized the conversation on another FBI information control sheet. This information control sheet was referred to as a lead sheet during Agent Budke's testimony. This information control sheet has also been admitted as a defense exhibit. This exhibit is numbered as D1890.

You will also recall that during Agent Budke's testimony, there was a reference to an interview of Mr. Wahl by FBI Agent Walter Schaefer. Also admitted as a defense exhibit is a portion of an FD 302 reflecting the interview of Mr. Wahl by Agents Schaefer and Francis E. Carey, III, on April 26 and 28, 1995. This exhibit is numbered as D1890A.

Also admitted as a defense exhibit is a portion of Mr. Wahl's prior testimony before a federal grand jury on July 19, 1995, in which he described the second vehicle he observed at Geary Lake on April 18, 1995. This exhibit is numbered D1892.

So these four exhibits have been received as an addition to the evidence, and with that, the evidence is now closed. And the exhibits will be handed in and will be a part of the exhibits that will be given to the jury in the case.

Now, members of the jury, we are with that ready to proceed with the last two stages or phases of trial, which are the closing arguments of counsel, following which I will instruct you in detail with respect to the law that governs in this case.

Under our procedure on closing arguments, because the Government has the burden of proof in the case, you will hear first from counsel for the Government, then counsel for the defense, then counsel for the Government has an opportunity for a rebuttal argument.

Following all of the arguments, I will instruct you on

the law. With respect to scheduling today for these arguments, please remember that it is important that we give full consideration to the arguments that are made by counsel in the case, and this is an opportunity for the lawyers on each side to advocate to you their respective positions as to what the evidence in the case does or does not show.

In the course of these arguments, there may be placards and other items shown to you to illustrate the points being made in argument. Now, these things are different from any exhibits in the case, of course. They're not received as exhibits and they're not the same as demonstrative exhibits which were used in the course of the taking of testimony to assist in the -- in the explanations being given by witnesses in their testimony. These exhibits are -- they're not exhibits -- these placards and charts are for the purpose of assisting counsel in illustrating the argument. And of course, you will recognize that the arguments of counsel, just as the opening statements of counsel, are not a part of the evidence in the case. They are simply suggestion to you being made by each side as to how you may analyze the evidence that is before you.

Also with respect to our recesses now, we'll anticipate perhaps several additional breaks so that counsel will have an opportunity to tell us where convenient times to interrupt the arguments might be, and we will close the noon hour down to an hour to assist us here. So that will be our schedule. And we'll proceed, then, and hear from counsel for the Government. Miss Wilkinson.

CLOSING ARGUMENT

MS. WILKINSON: May it please the Court, counsel, ladies and gentlemen of the jury. Good morning.

Looking back on September 1994, most of us would be hard-pressed to remember what we were doing. People went to work, people took their kids to day-care centers, and Americans around the country performed their daily routine. But for Terry Nichols, September 1994 was the month when his hatred for the government evolved from thought into action.

Terry Nichols decided, along with Timothy McVeigh, to construct and then execute a plan to bomb the Alfred P. Murrah Building and to commit mass murder. In seven months, Timothy McVeigh and Terry Nichols acquired everything they needed to bring down the Alfred P. Murrah Building, to kill 168 innocent men, women, and children, and to shatter every American sense of what would never happen in our country.

For the past two months, you have heard the evidence that proves that Terry Nichols plotted and carried out his plan to attack the Government. His countless actions over many months show you that he intended death, destruction, and chaos in Oklahoma City on April 19, 1995; and there was.

You have heard from the witnesses. You have seen the exhibits. And soon, you will hear the law from the Court. And when you are through, you will have only one question to answer. There's only one question in this case: Did Terry Nichols intentionally help Timothy McVeigh bomb the Alfred P. Murrah Building and kill the people inside of it? We submit to you the answer is obvious, the answer is yes. This was no mistake. no coincidence. It wasn't a toss of the coin

...chance, no coincidence. It was a case of the coin
conspiracy: Heads, Terry Nichols was in; tails, Terry Nichols
was out.

The evidence is not simply a collection of mere
chances. Rather it was an accumulation of deliberate, ongoing
choices and decisions, choices that Terry Nichols made
intentionally, and knowingly.

As I review the evidence with you this morning, I'd
like you to consider three things: The time, the distance, and
the persistence of Terry Nichols. The time of seven months
that he took to plan and carry out the bombing of the Alfred P.
Murrah Building, the thousands and thousands of miles that he
drove to accomplish these tasks, and the persistence he showed
in overcoming obstacles to secure all of the bomb components
that he and Timothy McVeigh needed.

All of those facts point to only one answer: Terry
Nichols repeatedly made the choices to participate in the plan
to bomb the Murrah Building.

When the arguments are done today and the words in
the
courtroom are silent, the only thing that will remain with you
is the evidence. So this morning, I want to spend my time with
you reviewing the evidence, and this review will take some
time. I hope you'll be patient with me as we start with Terry
Nichols' actions back in August and September of 1994 and trace
his steps through April of 1995.

There has been so much evidence in this case; it can
best be described as a avalanche of evidence against Terry
Nichols. The momentum of this evidence has been apparent over
the past two months: The links between Timothy McVeigh and
Terry Nichols, all of the actions that they took to obtain bomb
components, and perhaps most frightening, the elaborate
measures that they took to hide their identities and to conceal
these components until April 19, 1995.

Now, if you were to separate one piece of evidence,
it
may tell you about one fact. But in order to see all of the
different facts, you have to look at all of the different
evidence and see the picture that it paints of Terry Nichols'
actions. We ask you to evaluate all of that evidence together.

His Honor has told you from the beginning and has
repeated every day that you must keep an open mind and wait
until you hear and see all of the evidence to make your
decision. The purpose of that instruction is to ensure that
you do not make up your mind before you can evaluate all of the
evidence together. We want you to do that. Do not consider
any one piece of evidence in isolation, but consider it in the
context of all the other proof.

If you do that, you will see that there's not only
evidence beyond any reasonable doubt, but you will see the
momentum of the evidence, the connections that cannot be
explained away again and again by coincidence, or bad luck.
The evidence -- the avalanche of evidence is a mountain of
proof that Terry Nichols cannot dispute.

To help us review what Terry Nichols did over the
seven months preceding the bombing in Oklahoma City, we've
designed a chart that sets forth the major steps that Terry

Nichols took to help Timothy McVeigh acquire the bomb components, construct the bomb, and detonate it in Oklahoma City. Terry Nichols and Timothy McVeigh started in September 1994 down the road to destruction.

You can see on this chart the major steps as alleged in the indictment that Terry Nichols took to help Timothy McVeigh with the bombing, starting in September 1994, when the Alfred P. Murrah Building was a glass-faced office building in downtown Oklahoma City, where people from various Government agencies did the work of the Government, providing services for the men, women, and children of Oklahoma City.

But on September 30, Terry Nichols purchased one ton of ammonium nitrate fertilizer. Within days, over October 1 and 2, he stole explosives from the Martin Marietta quarry.

And just another step down the road, on October 18, he drove to McPherson, Kansas, and purchased the second ton of ammonium nitrate fertilizer.

Within three days, he was on the road again down to Ennis, Texas, helping Timothy McVeigh purchase three barrels of nitromethane.

The beginning of November, Terry Nichols, armed with a shotgun, robbed Roger Moore of all of his property to help fund the bombing conspiracy.

And then just days before the bombing, Terry Nichols and Timothy McVeigh got together in central Kansas and made their final plans.

On April 16, Terry Nichols drove to Oklahoma City and stashed the getaway car for Timothy McVeigh.

Just 24 hours before this happened on April 19 at 9:02 a.m., in downtown Oklahoma City, Terry Nichols built the bomb. He constructed it with his own hands and manufactured a 4,000-pound ammonium nitrate bomb to devastate the building and kill the people inside of it.

Now, any of these steps, ladies and gentlemen, if you find Mr. Nichols guilty of any one of these actions, knowing that he intended to bomb the Murrah Building, you can find him guilty of the crimes. But we submit to you, there is evidence beyond a reasonable doubt of every one of these actions, showing that Terry Nichols knowingly, intentionally killed 168 people.

As you can see from this road to destruction, some of the trips were long, and some of the trips were short. But Mr. Nichols spent many, many hours and many, many days and many, many months thinking about what he intended to do. He had time with Timothy McVeigh to think and plan and plot.

We will use this chart as we go along to keep track of all the actions Mr. Nichols took in his plot to carry -- his plot that he carried out to bomb and kill. And as we review the evidence, I'll put up charts here for you to review all the different types of proof we have for each one of these allegations.

You'll see as we review those that Mr. Nichols and Mr. McVeigh had patterns, their MO that they used to carry out

this crime, patterns of using fake names, of using tele -- of using the Bridges telephone calling card, of using pay phones and of covering their tracks so that no one would know what they were doing for seven months.

As we review this evidence and see the net that it tightly weaves, I will point out to you the different patterns of behavior that Mr. Nichols engaged in. You will see the repetition, the attempts to conceal, and you will conclude that these are no coincidences. These are the actions of a guilty man.

Now, Mr. Nichols' counsel has told us that it is wrong to judge someone by the literature they had in their house or by the words they may have spoken. So how does one judge someone? By their actions. As we review the evidence and see all the accumulation of actions Terry Nichols took on this road to destruction, there will be no doubt that he is guilty because of the actions that he took. It is his own deeds that will tell you everything that you need to know about his role in the crime.

Let's start back at the very beginning, back in August and September of 1994 when Terry Nichols and Timothy McVeigh were together in central Kansas. You know from Michael Fortier that Timothy McVeigh sent a letter to him, telling him that Terry Nichols and Timothy McVeigh had agreed to take action against the Government. How do you know that that's true? You know that Timothy McVeigh arrived in Kansas in August of 1994. And you know Marife Nichols, Mr. Nichols' wife, left Kansas in September of 1994 and didn't return to the United States until March 17, 1995, just a month before the bombing.

So back in the fall of 1994, Terry Nichols was free to be with Timothy McVeigh for those crucial weeks when they obtained most of the bomb components. Marife Nichols had left, and Terry Nichols and Timothy McVeigh began to immediately carry out their deadly plan.

The first thing they did was rent a storage shed in Herington, Kansas. You can see that on Government Exhibit 88, which shows the rental agreement that Timothy McVeigh signed.

Excuse me. Thank you.

You may be able to see it.

Well, if you could see it -- and you'll see it when you go back into the jury room -- Government Exhibit 88 is the rental agreement between Timothy McVeigh and the Herington storage unit. But it's not in his true name; it's in the name of Shawn Rivers, and it was rented on September 22, 1994, and eventually paid in cash so that the unit was available to Mr. McVeigh and to Mr. Nichols through April of 1995.

Just that very first action tells you something about what Terry Nichols and Timothy McVeigh planned back in September. Back in the fall of 1995, they knew that they were going to use that storage shed to store the bomb components that they would accumulate but not use until April 19, 1995. So let there be no doubt about it, even back in the fall of 1995 (sic), they knew what their objective was: They knew that they wanted to attack the government and bomb the Murrah

they wanted to attack the government and bomb the Murrah Building in downtown Oklahoma City in the fall of 1994.

You also know that this was their mind-set, because you heard a defense witness, Steven Hodge, tell you about Timothy McVeigh and what he was thinking back in the summer of 1994. Mr. Hodge, Timothy McVeigh's best friend in Lockport, New York, told you that McVeigh was trying to persuade him to take -- that taking violent action against the Government was justified. Timothy McVeigh took 23 pages to try and convince Steven Hodge that violent action was warranted and warned him that blood would flow in the streets.

But when Steve Hodge said he did not agree that violence was warranted, Timothy McVeigh rejected him. On July 14, 1994, Timothy -- after that, Timothy McVeigh never contacted Steve Hodge again. After being friends since childhood, after exchanging at least 66 letters, Timothy McVeigh turned his back on his friend and went to central Kansas to be with Terry Nichols, someone who did share his views and someone who was willing to act on those views.

Timothy McVeigh and Terry Nichols were together.

On September 30, the first day depicted on "The Road To Destruction," Terry Nichols made a choice. He made a choice to get on the road with Timothy McVeigh and leave behind a good job. It was a crossroads for Mr. Nichols. He had been employed by Mr. Donahue, who many of you remember was the farmer from Marion, Kansas. He had been receiving a good salary. But instead of continuing to work for Mr. Donahue, who told you that he would like -- he would have liked to have Mr. Nichols as a worker as long as Mr. Nichols was willing to stay, Terry Nichols made a different choice. He chose on September 30, to begin gathering bomb components for the deadly destructive device that he and Timothy McVeigh knew would kill and destroy the Murrah Building. Leaving behind an honest job and hard work, Terry Nichols started down the road to the biggest terrorist act in the history of our country.

Instead of working at an honest job and truly building a life, Terry Nichols chose to quit his job, send his wife and child halfway around the world, and he joined up with Timothy McVeigh.

You also heard evidence about what Mr. Nichols' state of mind was at that time. Mr. Donahue told you that at the time that Mr. Nichols decided to leave his employment, he started talking about bombs, Waco, and overthrowing the government. That was at the same time that Timothy McVeigh was in Kansas with Terry Nichols. Terry Nichols told Mr. Donahue that he believed it was justified to overthrow the government, and he justified it by quoting Thomas Jefferson. That was a quote that you heard or you saw in a different context. The quote: "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants," was the same quote that Timothy McVeigh had on his shirt after he was arrested in Oklahoma on April 19, 1995.

Mr. Nichols used Thomas Jefferson to justify violent action. Well, Thomas Jefferson never bombed a day-care center.

There is no justification for what Terry Nichols and Timothy McVeigh did. But on September 30, Terry Nichols made a

choice, and he purchased one ton of ammonium nitrate. On that day, he wasn't building a life. He was building a bomb and he was building an alibi. He used a fake name on September 30, 1994, to purchase that ton of ammonium nitrate; and for the next seven months, as he and Timothy McVeigh proceeded down the road to destruction, at every point, when Terry Nichols obtained bomb components, stole bomb components, robbed Roger Moore and plotted the final stages of the bombing, he used false statements and fake names to provide an alibi for his participation in the Oklahoma City bombing.

Now, the first question we need to answer about Terry Nichols and the purchase of the ammonium nitrate fertilizer on September 30 is: Who was Mike Havens? We submit to you that Terry Nichols was Mike Havens, and we have presented lots of different types of proof to show you why.

As you can see here, this is just a list of all the different types of proof that show you why Terry Nichols was Mike Havens on September 30. Let's start at the top. And the first thing we have is the actual purchase of 2,000 pounds of ammonium nitrate fertilizer by Mike Havens.

You saw this receipt many times in evidence, Government's Exhibit 62, which shows the purchase on September 30, 1994, in the name of Mike Havens, for 40 bags of 50 -- 40 50-pound bags of ammonium nitrate fertilizer with a tax of \$12.74 and a total of \$228.74. This was the same receipt you saw Mr. Ryan show Miss Marife Nichols that has the two coin impressions, and it was found in Terry Nichols' house.

We know that Terry Nichols had the opportunity to be Mike Havens on September 30 because Mr. Donahue told you that he left work early that day. That was supposed to be his last day at work, Friday, September 30; but in an unusual turn of events, he asked Mr. Donahue to leave early. He left early enough to make that purchase and to return back to the farm where Mr. Donahue saw him later that evening around 7:00 and noticed for the first time that that white camper shell was on top of his dark blue truck.

You have seen Government's Exhibit 51, which is the photograph of Mr. Nichols' truck. That is the truck Mr. Donahue saw on September 30, the white camper top, and the blue truck that Mr. Nichols used to purchase the am -- the one ton of ammonium nitrate fertilizer.

So so far we have a purchase for 2,000 pounds, a false name of Mike Havens, and a large cash purchase. You heard from Mr. Nattier who told you that was a very unusual transaction for the Mid-Kansas Co-op, because normally, customers who purchase that amount of fertilizer, purchased it from an account. It was, in fact, the largest transaction in cash at the Mid-Kansas Co-op in McPherson that year.

Let's go to the most obvious fact, the next one on the list, that the Mike Havens receipt, the one I just showed, Government's Exhibit 62, was found in Terry Nichols' kitchen. It was found in his kitchen three days after the bombing in a house that his wife told you they had just moved into in March of 1995. Mrs. Nichols also told you that Timothy McVeigh had

never been in that house, as far as she knew, and that all of those coins that were in the kitchen cabinet where this receipt was found belonged to Terry Nichols. In fact, she identified the two coins that were found with the receipt and told you that those coins were Terry Nichols'.

Mr. Nichols also told the FBI that Timothy McVeigh had never been to his house and that he hadn't had personal contact with Timothy McVeigh in the months prior to the bombing. The only conclusion, then, ladies and gentlemen, is that Terry Nichols made that purchase on September 30. The Havens receipt was found in Terry Nichols' kitchen. The one thing that Terry Nichols should have learned in the real estate business was location, location, location.

The next reason that you know that Terry Nichols is Mike Havens is because he used the name "Havens" on two different occasions. In Government's Exhibit 83, you can see the Starlite registration that Mr. Havens used. Terry Havens. You can see the address, Route 2, Box 28, in Hillsboro, Kansas, another fake address used by Mr. Nichols on several different occasions. You know that he's Terry Nich -- Terry Havens because he doesn't dispute it. That's his handwriting, as we heard. And this registration occurred on October 16, 1994. That's just two days before the second purchase of ammonium nitrate fertilizer on October 18, 1994. You also know that there were fingerprints found on the Terry Havens Starlite registration card -- another good reason for Mr. Nichols to admit that it was his handwriting.

We saw Mr. Nichols use that name "Havens" one other time: when he checked in at the Buckaroo Motel under the name "Joe Havens" on October 25, and again, notice the information that's on this receipt: The name "Havens," the same false address, Route 2, Box 28, Hillsboro, Kansas. And then look down at the bottom. Gives you the number of the party, two; the make of the car, the pickup; and the license plate, WX1640. As you know from seeing the photograph of the license plate in Nichols' house, you can see right here, WX1460 was his Michigan license plate at that time. He transposed the two numbers, the 4 and the 6, but this is his license plate that he used on his dark blue pickup truck with a light camper shell in the fall of 1994.

So so far, we have 2,000-pound purchase and a fake name, we have that name being used by Mr. Nichols on two different occasions, and we have the same fake address and license plate being used on those registration cards.

But that's not all. We also have the identification of Mr. Nichols' truck at the Mid-Kansas Co-op on September 30. You heard from two of the employees from Mid-Kansas Co-op who told you that they had worked on the transaction on September 30 and one who had worked on the transaction on October 18, 1994. They both recalled the transaction was for 2,000 pounds of ammonium nitrate, and Mr. Schlender recalls that Havens -- the Mike Havens who made this purchase -- had a dark-colored pickup truck with a light-colored camper shell. That was the same day that Terry Nichols left work early.

You also heard that during that transaction, the customer did not want the tax exemption, despite the fact that

customer did not want the tax exemption, despite the fact that he said that he was a farmer and he was going to use the ammonium nitrate for his wheat crop. Now, here's where you can use your common sense. Who spends money that they don't have to? What farmer who is going to use the ammonium nitrate for his crop wouldn't take the tax exemption? Well, we know why Terry Nichols didn't want the tax exemption: Because it would have created a paper trail, and Terry Nichols was very careful from the very beginning to try and cover his tracks. So instead of saving the money, the \$12.74 that every farmer would want to save by filling out the tax exemption paperwork, Terry Nichols chose to pay that money and hide his true identity.

I've already told you that the coins and the receipt were identified by Marife Nichols. So there can be no suggestion from the evidence that you've heard that Timothy McVeigh took that receipt, wrapped it around Terry Nichols' coins, and put it in his house. There is no evidence that supports that theory.

Now, you've heard descriptions of Mike Havens from Mr. Schlender and Mr. Showalter, one who had done the transaction on September 30, and one who recalls the transaction from October 18. Both described the person similarly, but what's most obvious is both say it was not Timothy McVeigh. Mr. Schlender said it was a white male who was 35 to 40 years old, 5' 8" to 6 feet tall, with a slight build, light brown hair, but not cut in a crew cut, and it was not McVeigh. He also told you that the person who made the purchase on September 30 was the same person who made the purchase on October 18.

Mr. Showalter said he also recalled that Mr. Havens was a white male in his late 30's and early 40s, 5' 9" to 5' 10", dark brown hair and an average build. He, too, told you that it was not Timothy McVeigh.

It is for all these reasons, ladies and gentlemen, all the reasons listed on this one chart, that you can conclude beyond a reasonable doubt that Terry Nichols was Mike Havens on September 30, 1994, and that he purchased 2,000 pounds of ammonium nitrate.

The next step that Terry Nichols took on the road to destruction occurred almost immediately thereafter. After loading the ammonium nitrate into the storage shed, Mr. Nichols returned to his home and on October 1, we know he wasn't working. We know he wasn't working because Mr. Donahue told us that his last day of work was the Friday, September 30. So he and Timothy McVeigh were in Marion, Kansas, on October 1 and 2. Mr. Donahue told you that when he went over to check to see if Terry Nichols had left that weekend, Mr. Nichols' truck was still there. So once again, we know that Terry Nichols had the opportunity to rob the Martin Marietta quarry which was located just down the street.

And here are the reasons why you know Terry Nichols robbed the quarry. Again, let's start with the obvious one. The quarry was just down the road from the ranch where Mr. Nichols worked. You heard that to go to the bank where Mr. Nichols cashed his check every two weeks, he had to drive

right by the quarry. He, again, had the opportunity, and he had the tools.

We know that the quarry was burglarized. There's no debate about that. You heard from Mr. Radtke who described what's depicted here in Government Exhibit 123, the quarry magazines that were held shut by the padlocks which are underneath these small protective areas in metal here so that someone who wanted to drill those locks would have to reach up with some kind of cordless drill and reach under that protective area to drill the padlocks.

You heard from Mr. Radtke, who was the blaster who worked at the Martin Marietta quarry every day; and he told you that on September 28, he had checked those magazines to make sure that they were secure. When he came back the next time to check them on October 3, after the weekend, he realized that some of the magazines had been broken into, and that explosives had been stolen. You heard that electric blasting caps had been stolen, and dozens of the non-electric, Primadet, 60-foot, eight-second delay blasting caps with that orange shock tube had been taken. And finally, you heard and saw what's depicted here in Government's Exhibit 122, that cases of the sausages of Tovex, a high explosive, were also missing that day. These explosives were the explosives that Terry Nichols and Timothy McVeigh needed to detonate the ammonium nitrate that they had already purchased.

The next day, you heard Mr. Radtke tell you that he also checked the ammonium nitrate and fuel oil trailer where they had those big heavy sacks of premixed ANFO, and he noticed that one of locks there had been partially drilled. He took that lock and turned it over to law enforcement. And you saw that lock here in court.

You know that up until the bombing in Oklahoma City, the robbery was not solved. But there is no question that the quarry was robbed. So for you the question is: Who did it? We know that Terry Nichols and Timothy McVeigh had those explosives because you heard that they were stored in Kingman, Arizona, in Unit E10. In Government's Exhibit 177, Michael Fortier picked out for you E10, which is right here in the middle, and told you that he had seen Timothy McVeigh and Terry Nichols inside that storage shed. The storage shed itself was rented on October 4. That date's no coincidence. That's the date that follows the robbery in Marion, Kansas. Mr. McVeigh rented that storage shed under his true name, because he had to show identification, and he and Terry Nichols stored the explosives there.

But how do you know that what Mr. Fortier told you was true? How do you know that Terry Nichols was actually in the storage shed with the explosives? Well, first of all, we found Primadet in Kingman that had Mr. Nichols' fingerprint on it. There was the Primadet that was found in Mr. Nichols' house, Government's Exhibit 140, the exact same kind of Primadet that was stolen from the quarry and the exact same kind of Primadet that was found in Kingman, Arizona. Mr. Nichols had that Primadet in that house, and he had his fingerprint on the Primadet in Kingman.

That is the type of corroboration that we want to show you each time we ask you to believe Michael Fortier. We're not asking you to rely on his testimony alone, but we're asking you to look for other facts that support what he said.

The fingerprint found on the Primadet in Kingman tells you that Mr. Nichols was there, just as Mr. Fortier told you, handling the high explosives.

You also heard that he came out in early October and had parked his car in front of the storage shed and was inside, moving other items -- I believe it was a tire that he was moving at that time -- in and out of the storage shed. So clearly, he had access to that shed where all of those explosives were.

At that same time, Timothy McVeigh showed Michael Fortier a box marked "explosives" where they contained sausages of explosives, which we call Tovex. That box that was marked "explosives" with the yellow diamond looked exactly like the box that Mr. Radtke described for you that was stolen from the quarry back over the weekend of October 1 and 2.

Now, I asked you at the beginning when we consider this evidence to consider the distance that Mr. Nichols went to carry out this crime. Just in this trip alone, ladies and gentlemen, he drove over 1100 miles and crossed four state lines to store the explosives in Kingman.

Now, ask yourselves, why would he get in his car and drive that car far, all the way from Marion, Kansas, at a time when he had no job, to store explosives with Timothy McVeigh? The answer is simple: He and Timothy McVeigh had stolen the explosives from the Marion quarry, and they wanted to store them as far away from the crime scene as they possibly could. They wanted to make sure that law enforcement didn't know what they were doing as they were accumulating bomb components because if anyone stopped them at any step, they would never get to their final point of destruction on April 19, 1995.

Unfortunately, Terry Nichols and Timothy McVeigh were very successful at covering their tracks and no one had any idea before the bombing that they had robbed the quarry.

Now, in case you need any other evidence about why Terry Nichols robbed the quarry, you also found -- or you also heard that a Makita drill, cordless Makita drill, was found in his house after the bombing. That cordless drill had a set of bits, and that bit was used and analyzed and compared to the padlock.

Now, before we get into the analysis that was done -- and you can see the drill here on Government's Exhibit 2011 -- look at the drill itself. It is a Makita cordless drill. Michael Fortier told you that he had heard from Timothy McVeigh that Terry Nichols and Timothy McVeigh had robbed the quarry. He also told you that a Makita drill had been used. Now, how would he have known that? How would he have known that if that weren't true? When we went to Mr. Nichols' house, that's exactly what we found; we found a cordless Makita drill that could be used to reach under those padlocks and drill the lock. Again, corroboration for what Mr. Fortier told you. After the

lock and drill bit were turned over to law enforcement, two different tool mark examiners compared the marks made by the drill bit, the quarter-inch drill bit, to the padlock that had been recovered from the quarry. And you heard that there were similarities between both of those items. Mr. Krivosta from the New York Suffolk County laboratory told you that those were picture-perfect similarities. But you don't need to rely on those folks. You can make the comparison yourself. You can look at those marks and see that they match. You can see that the drill bit found in Mr. Nichols' house was used to drill the padlock at the Marion quarry.

Now, all of this evidence shows you that Terry Nichols and Timothy McVeigh robbed the quarry. But you also heard part of the story from Michael Fortier, and he told that he had seen the explosives, as I said, in the shed, and he said that he had heard the story from Mr. McVeigh.

Defense counsel has suggested to you that you can't believe Michael Fortier. But he suggests to you that you can only disbelieve him on certain counts. That is, he wants you to use selective believability. He wants you to believe that Timothy McVeigh did the bombing, and that Timothy McVeigh carried out all the activities to support it. But Terry Nichols wants to try and convince you that Michael Fortier was lying when he says Terry Nichols was involved with the crime. Michael Fortier was right about Timothy McVeigh, but supposedly wrong about Terry Nichols. Everything that Michael Fortier has told you about the bombing has been corroborated. And to believe the theory that Mr. Nichols wants you to believe, you have to believe that Michael Fortier remembers all the details about Timothy McVeigh correctly, but just happens to remember all the details about Terry Nichols incorrectly.

That can't be true. We know that the basic things that Mr. Fortier told Timothy -- or that Timothy McVeigh told Michael Fortier are true. He told them that they were going to bomb the federal building in Oklahoma City. They did that. They told you that they were going to obtain components to mix that bomb and use the site of Geary Lake. They told you that they were going to attack the federal government to retaliate for Waco. And Mr. McVeigh told Michael Fortier that they were going to mix racing fuel and ammonium nitrate in 55-gallon plastic barrels and detonate the mixture with the explosives they stole at the quarry. They did that.

That in fact, the bombing itself, ladies and gentlemen, is the most tragic corroboration of what Mr. Fortier told you.

Michael Fortier also told you that Timothy McVeigh had told him about the plan to bomb the building and the plan to get away. That plan included Terry Nichols. The two options that they were considering was whether they would drive to Oklahoma City several days before the bombing, leave Mr. McVeigh's car there, and drive back to central Kansas so that Timothy McVeigh would have a getaway vehicle when he actually detonated the bomb in front of the building.

The other plan was that Mr. Nichols would be waiting in a car nearby and drive Mr. McVeigh away from the scene after the bombing. Well, we know that Mr. McVeigh's car was parked

the bombing. Well, we know that Mr. McVeigh's car was parked in the area where Mr. Fortier told you -- that is; right near the YMCA building -- because you saw the key. You saw the key that was recovered from the crime scene that was found in that alleyway; right around the YMCA building on the way to the parking lot.

Timothy McVeigh had said that he wanted to make sure there was a building between him and the blast, and that's what he did. He left the truck in front of the Murrah Building, walked around the YMCA, dropped the key, and went to his parked vehicle right around the corner.

On April 16, 1995, Terry Nichols helped Timothy McVeigh plant that getaway car just the way Michael Fortier told you.

Let's go back for a moment, if we could, to the other things that you heard from Michael Fortier about the stolen explosives. We have other ways of proving that Terry Nichols was in Arizona at the time those explosives were stored and at the time Michael Fortier saw him. Let's take a look at Government's Exhibit 1888 which are the phone records for October 6. And as you can see here, it shows that at 5:30 in the afternoon, there was a call from Kingman, Arizona, to Lana Padilla's house in Las Vegas. And shortly after that, another call was made from that same pay phone to Lana Padilla's house for 5 minutes and 27 seconds.

She told you -- Miss Padilla told you that she had never spoken to Mr. McVeigh for any length of time. So you know these calls are from Terry Nichols to his ex-wife and son in Las Vegas, Nevada. Another piece of evidence that shows you that Terry Nichols was in Arizona in early October, 1994.

You also know that in late October, 1994, Terry Nichols returned to Kingman, Arizona, to help Timothy McVeigh clear out the explosives and bring them back to Kansas. Michael Fortier told you that Terry -- Timothy McVeigh had been at his house at the end of October and that he was waiting for Terry Nichols. Timothy McVeigh got tired of waiting. He told Fortier to give Terry Nichols the message to pick up the stuff and meet him in New Mexico. When Fortier asked him what stuff he was talking about, McVeigh said that Terry Nichols would know.

McVeigh was right. When Terry Nichols showed up just 20 minutes later, Fortier gave Timothy -- gave Terry Nichols the message, and Terry Nichols didn't ask any questions. He just nodded his head and went on. He didn't ask what stuff McVeigh was talking about, he didn't ask where in New Mexico he was supposed to meet Timothy McVeigh. He just nodded.

And if we look at the phone records for that time, on October 29 on Government's Exhibit 1888, we can see evidence, again, that Terry Nichols came to Kingman, Arizona. Here on October 29, there's a call at 9:52 a.m. from Michael Fortier's house to Lana Padilla, and within minutes that morning, there's a call from a pay phone, a phone of choice for Terry Nichols, to Michael Fortier's house returning that call for 4 minutes and 46 seconds. It is on that day that Terry Nichols then left Kingman, Arizona -- excuse me, left Las Vegas, Nevada, and came to Kingman, Arizona, to pick up the explosives and to meet Mr. McVeigh in New Mexico.

We know Mr. McVeigh was in New Mexico that day because he has a hotel or motel registration from Motel 76. Here on Government's Exhibit 227 you can see Timothy McVeigh checked in at the Motel 76 in Albuquerque on October 31, 1994, the hotel where Terry Nichols and Timothy McVeigh met after they collected some of the explosives out of the Unit 10 in Kingman.

Michael Fortier told you one other thing about the explosives. He told you that Timothy McVeigh and Terry Nichols wanted to make sure that they were going to get it right on April 19, 1995, so they conducted a small test blast. You recall that Mr. Fortier saw that jug of ammonium nitrate and fuel oil and a sausage explosive that Terry Nichols and Timothy McVeigh were going to use out in the desert to conduct their test. They asked Mr. Fortier whether he wanted to accompany them, and he said no. But at that time, when Michael Fortier was listening to Terry -- to Timothy McVeigh tell him about the test blast, Terry Nichols was standing just six inches away. He was there when Michael Fortier was touching that sausage of Tovex, and he was there when Timothy McVeigh was talking about the test. He was there with his dark-colored truck and a light camper shell.

Terry Nichols went with Timothy McVeigh to do the test blast. Michael Fortier did not.

It is for all those reasons, ladies and gentlemen: The quarry near Mr. Nichols' house, the proximity of the location; the Primadet found in his house; the Primadet found in Kingman with his fingerprint on it; the explosives locker padlock that was drilled out that has similarities to Mr. Nichols' drill and drill bit; and the stories from Michael Fortier about Mr. Nichols' presence in Arizona at the times when the explosives were being handled that all tell you that Terry Nichols stole explosives from the quarry in October of 1994.

Within just a couple of days of making the choice, the choice to go down the pathway to destruction, Terry Nichols had already purchased a ton of ammonium nitrate, he had already chosen to rob a quarry, and he had already driven all the way to Kingman, Arizona, to store those explosives. He had lots of time on the road to think about what he was doing. And he chose to take the next step. He chose on October 18 to purchase the second ton of fertilizer. He chose to make sure that he built a big bomb, as Linda Jones said, a very big bomb.

So he went back to the Mid-Kansas Co-op, and what did he do? He purchased on October 18, 2,000 pounds in the same name: Mike Havens.

Terry Nichols was Mike Havens on October 18, 1994. He was Mike Havens because he used the same name, Havens, that he had used during that same time period. Folks who handled the transaction told you it was the same man. We have the same name. It was for the same amount, and it was from the same store. All of the facts exactly like the transaction on September 30.

But by this time, Terry Nichols and Timothy McVeigh had accumulated a rather large amount of bomb components and they needed another storage shed, another place to store their bomb components. So just one day before the purchase of ammonium nitrate on October 17, Terry Nichols went to Council Grove, and you can see it here on your monitor, how he rented this storage shed, Unit 40, under a fake name. He used the name "Joe Kyle" to rent No. 40 storage shed just 24 hours before he was about to purchase the second ton of ammonium nitrate.

Why did Terry Nichols choose to use the name "Joe Kyle"? Well, we know that every time he wanted to do something to assist the bombing conspiracy, he used a fake name. He had already used Mike Havens for the purchase, so he chose the name "Joe Kyle," the same name that he had used on several other occasions. We know it's his name because he admits that it's his name. He told the FBI that he had used the name "Joe Kyle." He used the name "Joe Kyle" on several different occasions, and he used it to hide his true identity from the folks at the storage unit at Boots U-Store-It to rent storage shed No. 40.

But you heard in opening statement counsel suggest to you that Mr. Nichols had some creditor problems and perhaps that's why he had to buy the Daryl Bridges phone card in a fake name and why he would rent storage sheds in a fake name. Well, throughout this trial, there's been no evidence that Mr. Nichols had any credit problems. But even if he did, why would you rent a storage shed in a fake name to hide from

creditors? First of all, creditors don't go around searching storage sheds to look for people's belongings.

But Mr. Nichols didn't have any belongings to store on October 18. Nothing had happened at that time for him to need a place to store anything but bomb components. He had moved out of his house on October 1 or 2. So any items that he had to store, he had to store in Mr. McVeigh's storage unit in Herington, the storage shed under the name of Shawn Rivers. He had to have a place to put his things because we know after October 2, he didn't have a house. He didn't have a home. His family was gone. He was on the road and he was living in motels. So if he had any large items to store, he would have had to store them in the Herington storage shed back at the beginning of October 1. So why, then, did he use -- need Council Grove No. 40 on October 17? We submit to you that he needed it because he was getting ready to purchase the second ton of ammonium nitrate.

During the case, you saw a lot of phone records, and you heard a lot about the Daryl Bridges phone card. Those phone records are important because they show you many times where Terry Nichols and Timothy McVeigh were and what they were trying to do. In opening statement, we presented those phone records to you and counsel suggested that there were some problems with them. But over the trial, defense counsel used those phone records just the way the Government did. Indeed, during the defense case, you heard one of the counsel say, "The phone records speak for themselves." We submit to you: They

phone records speak for themselves. We submit to you: they do.

The phone records in this case show you why Terry Nichols is the purchaser of the 2,000 pounds of ammonium nitrate in the name of Mike Havens on October 18. If you look at the phone records for that day, you can see where Terry Nichols was. You might recall that the purchase of ammonium nitrate was somewhere between 12 and 1:30 that day back in McPherson, Kansas. Mr. Schlender told you that it was sometime around the noon hour. You can see that there are a series of phone calls in Council Grove; right near the Council Grove storage shed, several hours after that purchase. That gave Terry Nichols time to purchase the ammonium nitrate, to put it in the storage shed, and go to the phone -- excuse me, the pay phone to make these phone calls.

And look at what the series shows. They start at 3:32 in the afternoon. And there's one call after another -- one, two, three, four, five, six calls, many to companies that provide barrels. You know from this series of calls that the person making these telephone calls on the Bridges card was Terry Nichols, and you know that because you can see this last call highlighted here from the Coastal Mart pay phone, the same phone being used for all these previous calls, to Equity Standard. That's the coin shop that Mr. Nichols was at the following morning, on October 19.

Here's the videotape that you saw of Mr. Nichols, Government's Exhibit 238B, and see the highlighted portion up in the left-hand portion: It says 10-19, 1994. Mr. Nichols called the coin shop the day before from Council Grove and showed up that morning at 10:11 a.m. And there he is; right there in the -- inside the blue circle. You heard from Kevin (sic) Dunlap that he recalls that transaction with Mr. Nichols. He recalls it because he bought coins from him that day. Those coins, ladies and gentlemen, that he purchased -- that he turned in for cash -- cash we submit was used just two days later on October 21 to purchase the nitromethane.

But Mr. Nichols was there that morning, had the transaction with Mr. Dunlap, and left immediately to start making calls for barrels at a phone booth right down the street from the coin shop.

Here you can see on this overhead map or photograph -
-
excuse me -- the coin shop up here in the center where Mr. Nichols was that morning and the Denny's where the pay phone was where the calls began around 10:24 a.m.

You can see those calls on Government's Exhibit 1888. And these are the calls that begin right after Mr. Nichols leaves the coin shop, gets his cash, and goes down the street to the Denny's. Look at the time: Starts at 10:24 from Denny's to Liberty Lobby, where Mr. Nichols often called in to check his balance for the Bridges card. And then there's a series of calls, 10:36, 10:49, and so on, down to 11:22, where he tried repeatedly to contact barrel companies to obtain the containers he needed for the ammonium nitrate he had just purchased.

It is with this series of calls, ladies and gentlemen,

that you can see exactly where Mr. Nichols was. He rented the storage shed in Council Grove on the 17th. He went to the Mid-Kansas Co-op on the 18th, around noon, and purchased the second ton of ammonium nitrate. He stored it in the storage shed in Council Grove. He made phone calls that afternoon to the barrel company and to the coin shop, and then he showed up at the coin shop that next morning and continued his calls to the barrel companies as soon as he'd received his cash.

You know that eventually Mr. Nichols did obtain barrels, because we found four plastic barrels in his house. These are the barrels in Government's Exhibit 1774, No. 4; and they show the four barrels stacked up in Mr. Nichols' garage.

The one thing you may recall is that Agent Jasnowski told you there were no trash in these barrels. The barrels were empty except for the one barrel which contained Roger Moore's safe-deposit box keys. Mr. Nichols wasn't using these barrels for trash. He was using these barrels for containers for the ammonium nitrate and fuel oil that he and Mr. McVeigh planned -- used to bomb the Murrah Building on April 19.

You know that these are similar barrels because you heard that the plastic fragments that were recovered at the scene were analyzed by Tony Tikuisis, the chemist, and that those fragments were Smurfit barrels.

You heard an instruction from the Court that you could not rely on the phone survey that Mr. Udell did. But you can rely on the chemical analysis that Mr. Tikuisis did when he told you that those fragments were Smurfit plastic. He also told you that two of the barrels found in Mr. Nichols' house were Smurfit plastic. The barrels in Nichols' house matched the fragments at the crime scene.

And you can be sure if Terry Nichols knew that there was some other manufacturer who had used a different -- used the same recipe that Smurfit used, you would have heard from that witness. Now, Mr. Nichols has the right to remain absolutely silent. He has the right to present no witnesses. The burden is on the Government to prove to you beyond a reasonable doubt that Terry Nichols is guilty of the crime. But Mr. Nichols chose to present witnesses; and because he chose, you can analyze what evidence he presented and what evidence he did not. We did not hear evidence of any other manufacturer who used the same recipe that Smurfit used to manufacture these barrels. So you can conclude that the Smurfit plastic at the crime scene matched the Smurfit barrels found in Mr. Nichols' house.

It is all of these facts that suggest to you that on the third step on the road to destruction, Terry Nichols knowingly and intentionally bought another ton of ammonium nitrate for the bomb that and Timothy McVeigh planned to use at the Murrah Building.

Thus far, within three weeks, we have Terry Nichols' purchasing 2 tons of ammonium nitrate and stealing explosives that he could use to detonate the ammonium nitrate. We have him storing those explosives, and we have him on the road with Timothy McVeigh, on the road to destruction.

After Timothy McVeigh and Terry Nichols collected those components, they knew that they needed something else.

They knew that they needed a fuel to mix with the ammonium nitrate so that it would actually explode in front of the Murrah Building.

So within two days of purchasing the ammonium nitrate, Timothy McVeigh and Terry Nichols got on the road again and drove all the way to Ennis, Texas. You know that Terry Nichols and Timothy McVeigh wanted to obtain fuels, because there's numerous calls on the Bridges cards showing their attempts to try and find fuel. You know that back in early -- or in mid September of 1994, Timothy McVeigh and Terry Nichols made calls on the Bridges card to obtain that fuel. David Darlak came in and told you -- and Glynn Tipton -- that Timothy McVeigh had called them trying to find racing fuels.

If you review those calls, you'll see that there were 10 calls to racing companies and 18 calls to chemical companies, all in search of fuel for their bomb. These numbers, again, show you the persistence of Terry Nichols and Timothy McVeigh in trying to obtain the components that they needed.

Well, their persistence paid off on October 21, when they bought three barrels of nitromethane. You know where they were the day before on October 20 by looking at this phone record, Government's Exhibit 1888, from October 20. You can see that in the morning, at 10:01 a.m., they were back in Junction City, and they were calling Coogle Trucking, a company that Mr. Chambers told you sells racing fuel. That was the last call for racing fuel on these records, because after they left Junction City and drove to Pauls Valley, Oklahoma, and Ennis, Texas, they obtained the racing fuel they had been seeking for so many weeks, and there was never a phone call again for racing fuel.

Once again, the phone call here at Junction City at 10:01 shows you where Timothy McVeigh and Terry Nichols were that morning. At that time, Terry Nichols didn't have a job, he didn't have a home, and he didn't have a family with him. So he got on the road and drove to the Amish Inn, Pauls Valley, Oklahoma. We know he stayed there because you heard from Mr. Patel, who told you that someone named "Joe Kyle" checked in on October 20 for one night. Joe Kyle is that same name that Mr. Nichols uses every time he's engaging in criminal activity on behalf of the bombing plot, and the same address that he uses every time: Route 2, Box 28, Hillsboro. And once again, he switched the license plate: XW1640, Michigan, a plate that he had used over and over.

This is a map you saw earlier during the testimony which shows Junction City, Kansas, up here, Geary Lake, Herington, Marion, goes down through Arkansas City, get on 35 right here, drive straight through Oklahoma City and down to Pauls Valley. That's what Terry Nichols did on the morning of October 20. He drove from Junction City with Timothy McVeigh through Oklahoma City and down to Pauls Valley; Pauls Valley, which is just three to three-and-a-half hours from Ennis, Texas, where he and Timothy McVeigh went the next day to purchase the three barrels of nitromethane.

On this road to destruction, Terry Nichols took a long

drive from Junction City, to Ennis, Texas, to obtain the fuels that he and Timothy McVeigh wanted.

Now, why would Terry Nichols use the false name of Joe Kyle if he was just going to Pauls Valley, Oklahoma, for some other reason? Well, we know he wasn't going to a gun show. You didn't hear any evidence of that. You know he wasn't going to work, because he didn't have a job. We know he wasn't going to see his family, because he didn't have any family in Pauls Valley, Oklahoma. He was using a false name on October 20 because he was hoping he wouldn't leave any records. He was obtaining bomb components with Timothy McVeigh, and he didn't want to leave a paper trail.

You heard from Timothy Chambers that the actual purchase of the three drums of nitromethane was done by one man. Mr. Chambers -- you may remember him -- was quite a colorful character; and he told you that racing fuel is his business. He loves those fast cars, and he knows a lot about the sale of nitromethane. He had never sold three barrels of nitromethane for cash in his career. So he recalls that transaction. He recalls that one man came and bought three barrels from him, left the racetrack, and came back in about an hour with a dark or with a shiny pickup truck with a white-colored or light-colored camper shell. These are the barrels that Mr. Chambers sold those days, barrels clearly marked "VP Racing Fuels" and on the top clearly marked "nitromethane," for racing.

When Mr. Chambers testified, he didn't identify for you who the purchaser was. He gave a general description. But he didn't tell you who the actual purchaser was. But in this case, that doesn't matter, because defense counsel told you in his opening that the purchaser was Timothy McVeigh. Timothy McVeigh was the one who purchased three drums of nitromethane on October 21, 1994.

MR. TIGAR: Object to what defense counsel said in opening, your Honor. Not evidence.

THE COURT: Well, you'll limit remarks, of course, to the evidence that's before the jury.

MS. WILKINSON: There's no dispute, ladies and gentlemen, that Timothy McVeigh was the purchaser of nitromethane. He bought those three barrels, and Mr. Chambers loaded them up in that pickup truck with the light-colored camper shell. And Mr. Chambers remembers that light-colored camper shell because he had to maneuver those heavy barrels to actually roll them into the truck. Those barrels were heavy. They were heavy because they each weighed approximately 543 pounds. Those barrels of nitromethane cannot be lifted by one man alone.

Timothy McVeigh needed someone to help him get those barrels out of the truck and load them into the Herington storage shed. That's what Terry Nichols did. Terry Nichols drove his truck down to Pauls Valley, Oklahoma, with Timothy McVeigh, and drove right through Oklahoma City that day. He let Timothy McVeigh use his truck to purchase the nitromethane, and the two of them drove all the way back from Ennis, Texas, to Junction City -- well, really to Herington that day -- to unload the barrels.

around the barrels.

You know that those nitromethane barrels were in the shed because you saw the barrel marks on Government's Exhibit 2054. On this red circle here, you can see the partial rings left by the nitromethane barrels.

Terry Nichols cannot deny that he saw those barrels. He had access to the Herington shed. Those three barrels you saw are clearly marked and were standing three abreast in that Herington shed for the months that Timothy McVeigh and Terry Nichols waited to bomb the Alfred P. Murrah Building. But not only did he see them when they were in the shed, he helped Mr. McVeigh unload them from the truck and put them in there on October 21.

The only commonsense explanation for seeing Mr. Nichols' truck, which was identified on the Pauls Valley registration, in Ennis, Texas, with Timothy McVeigh is that Terry Nichols and Timothy McVeigh drove back together to Herington, Kansas.

Now, Terry Nichols wants you to believe that he had no idea what was going on. He wants you to believe that he took his truck from Junction City to Pauls Valley, Oklahoma, and somehow miraculously Timothy McVeigh had it when he purchased three barrels of nitromethane; that Terry Nichols then got back in the truck, having no idea that 1600 pounds of nitromethane were in the back of his truck; that the barrels got unloaded by Timothy McVeigh into the storage shed without Terry Nichols' ever having a clue as to what was going on.

We submit to you that can't be true. That defies common sense. Terry Nichols was a careful and deliberate man. Terry Nichols did not give Timothy McVeigh his truck on October 21 and then get back into it and have no idea that 1600 pounds of racing fuel were in the back of his truck.

People don't loan their trucks and ride with their passenger for that many hours and not talk about what they're doing. Anyone knows that if you put 1600 pounds in the back of a pickup truck, as you're driving, you can feel that weight, you can notice how it affects how fast you're going. Terry Nichols knew exactly what was going on. He had turned in those coins for cash and helped Mr. McVeigh pay for the nitromethane that they needed to mix their ammonium nitrate bomb.

They drove over 500 miles, approximately 10 hours, together in Terry Nichols' truck. What were they talking about? Your own experience tells you that when people take long car trips, especially if they're business partners who are supposedly starting up a gun show business, they would be talking about what they were doing. You heard no evidence in this case that Terry Nichols was at any gun shows in the fall of 1994. You know that he and Mr. McVeigh weren't starting up in the gun show business. That was just another false statement that they told others to cover up what they were really doing.

Terry Nichols drove from Junction City, through Oklahoma City, to Pauls Valley, Oklahoma, and Ennis, Texas, to purposely and intentionally obtain nitromethane to mix in the bomb that he and Timothy McVeigh would use to kill innocent Americans in Oklahoma City on April 19. Terry Nichols

committed his energy and his time to furthering this plot in the fall of 1994. He had nothing else to do. He and Timothy McVeigh had made a commitment together to obtain all the components that they needed in the first few weeks of the fall and then wait. Terry Nichols and Timothy McVeigh obtained those components, stored them in the sheds, and waited.

They waited for months while people like Susan Hunt from HUD planned to use new space in the Alfred P. Murrah Building. She had a plan. But Terry Nichols had a different plan. Terry Nichols let the people in the Alfred P. Murrah Building go on with their business in the fall of 1994, having no idea that he and Timothy McVeigh were obtaining those bomb components and waiting for the day, the choice that they made of April 19, 1995, to bomb the Murrah Building and kill the people inside of it.

From September 30 through October 21, Terry Nichols made choice after choice after choice. He wasn't doing anything by happenstance. These weren't coincidences. He and Timothy McVeigh were in business together, but they were in business to bomb the Alfred P. Murrah Building.

But the business got a little expensive, and Terry Nichols wanted to make sure that he and Timothy McVeigh had enough money to replenish their funds, to live in motels, and to do other things they needed to cover their tracks in the months as they waited for the date of April 19 to arrive.

Terry Nichols and Timothy McVeigh decided that a good way for them to get money was to rob Roger Moore on November 5, 1994. There are lots of reasons you know Terry Nichols robbed Roger Moore, and these are a list of just some of them:

The first one begins with the actual date of the robbery, 11-5 or November 5, 1994. By that time, Terry Nichols and Timothy McVeigh had obtained most of the components that they needed, and they had paid 2700 or approximately \$2,775 for the nitromethane that they would use to mix the bomb. They had stolen the explosives that they needed as a booster. And they had identified the target. But they needed more money. They didn't have jobs; they didn't have any income; and they knew they were going to have more expenses.

So they decided to rob Roger Moore. He was the perfect target. He was rich, he was paranoid, and he had no security system.

Roger Moore had befriended Timothy McVeigh, and Timothy McVeigh knew about Roger Moore's house. He knew that Roger didn't have any security. He knew that Roger kept a lot of cash in his home and that Roger had a gun collection. And he knew that Roger Moore was paranoid. Roger Moore would be the first one to suspect law enforcement's involvement in the robbery.

But Timothy McVeigh couldn't be the robber, he couldn't be the one to hold up Roger Moore, because Roger would recognize him. So Terry Nichols was the one who carried out the armed robbery. And as Michael Fortier told you here in court, Timothy McVeigh told you that -- told him that, quote, "Terry did Bob," Bob Miller, the gun dealer from Arkansas, whose true name is Roger Moore.

Roger Moore's another character. You can say a lot

of things about him. You could say he's rude, you could say he's paranoid, you can say he's suspicious of the government. But everyone who came into this courtroom said Roger Moore got robbed. Government witnesses and defense witnesses alike told you Roger Moore was robbed on November 5, 1994. Mr. Moore came in here and described the details of that robbery. Karen Anderson told you about the property that was stolen. The deputy sheriffs who investigated the robbery told you what they found: the duct tape, the plastic ties, the report of the stolen items. Even the insurance reps, who processed Mr. Moore's claim for \$5900, told you that Mr. Moore was robbed.

But let's step back for a moment and forget about who did the robbery. We know that Roger Moore's property was found throughout Terry Nichols' home. What the heck was he doing with Roger Moore's property in his house? The question is so obvious, but it's one that was never answered by the defense witnesses. It wasn't answered because it can't be. That property was there because Terry Nichols robbed Roger Moore.

Marife Nichols, Mr. Nichols' own wife, came forward and told you that the quilt depicted here in Government's Exhibit 1771, I believe, No. 2, was a quilt in their house, a quilt that she had not purchased and a quilt that didn't have matching pillowcases, as you can see from the picture.

Mr. Nichols even took the quilt off Mr. Moore's bed -

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or Miss Anderson's bed, that is, when he committed the robbery. He put it on his own bed in his house in Herington, Kansas. Why did he leave it there? He never thought anyone would know that he was the robber. He committed the robbery on November 5, 1994. And as of April 19, 1995, no one ever suspected that he was involved.

But he didn't just have this quilt in his home. He had guns, lots of guns, long guns, that he had stolen from Mr. Moore. He had two safe-deposit keys that belonged to Mr. Moore, of little good to anyone else other than Mr. Moore. He had a blanket. He had ammunition that belonged to Mr. Moore and Miss Anderson's business. He even had the four Army motion detectors that Mr. Moore had to try and protect his property -- all of that different property spread all throughout Mr. Nichols' house, property that the defense does not dispute in part belonged to Roger Moore.

So because they can't dispute that the property belonged to Roger Moore, they have tried to suggest that Mr. Moore was not really robbed. They basically tried to put Roger Moore on trial. They tried to raise questions about his relationship with his wife and Miss Karen Anderson. They tried to raise questions about his political views, views that they claim don't say anything about who a person is and what actions he takes. They tried to raise questions about Mr. Moore's connections to Timothy McVeigh, and they even tried to suggest that Mr. Moore had committed some kind of insurance fraud for \$5900.

None of these claims were ever substantiated. The important facts that the Government alleged at the beginning of the case -- that Mr. Moore was robbed by an armed gunman in a

THE CASE THAT MR. MOORE WAS ROBBED BY AN ARMED GUNMAN IN A ski mask -- were proven. They were proven beyond a reasonable doubt by the Government's witnesses and by the defense witnesses.

For the defense theory to be true -- that is, that Roger Moore somehow was not robbed and that he engaged in some form of insurance fraud -- you would have to defy your common sense. The theory makes no sense. If Mr. Moore was not robbed, why did he give police and the insurance claims adjuster Timothy McVeigh's name and location? Mr. Spivey, who was called by the defense, told you that Mr. Moore told him that Timothy McVeigh lived in Kingman. Mr. Moore also told the police that Mr. McVeigh was from New York and had been at Fort Riley, the three places that we know Timothy McVeigh had been: Kingman, central Kansas, and New York.

If Mr. Moore was not robbed, why did he call the police week after week? Why did he demand from the insurance company that they assist him in finding the robber? And why did he even contact a private investigator when he was so upset at the sheriff's office, who he thought hadn't done enough and who he thought might be involved in the robbery? If someone were trying to engage in insurance fraud or give property away to some other person, why would they contact their own private investigator to get on the case? That behavior, we submit to you, is not consistent with someone who arranged his own robbery for some type of insurance fraud, but it's behavior consistent with someone who is a victim of a crime.

Your Honor, this might be a good stopping point.

THE COURT: All right.

We will take our recess at this time; and we may be taking more than the usual recesses, as I've already told you. We will at this time take a 20-minute recess. And during this time, of course, I'm sure you are aware -- but I need to point out the obvious -- that the case has not been given to you; that we are in the middle of Government Counsel's arguments, and that it would be a violation of your oath, of course, to begin now to discuss the case based on partial argument. Wait till you hear -- have heard not only from Government counsel but defense counsel and of course from me with respect to the law to be applied. So -- the case has not been given to you, the trial is not complete, and your instructions during this recess are the same: Keep open minds, avoid discussion of the case among yourselves and all others, and avoid anything outside the evidence. We're going to recess now for 20 minutes.

(Jury out at 10:19 a.m.)

THE COURT: We'll be in recess.

(Recess at 10:20 a.m.)

(Reconvened at 10:38 a.m.)

THE COURT: Be seated, please.

(Jury in at 10:38 a.m.)

THE COURT: Continue, please, Ms. Wilkinson.

MS. WILKINSON: When we broke, we were talking about the Roger Moore robbery and why the defense theory that this wasn't a robbery makes no sense.

I told you about all the different contacts that Mr. Moore made to try and find a robber, but we also know that

Mr. Moore had no reason to try and perpetrate any kind of insurance fraud. He had millions of dollars, and he had no reason to give away the property that was important to him like his father's Hornet rifle that he had had for 30 years and that was found in Mr. Nichols' house. He had semiprecious stones and jade and gold Tiki dolls that he himself had dug out of Costa Rica back in 1974.

If he wanted to give someone money and get rid of his property, or get rid of his property, to fund something, why didn't he just give away cash? You heard him say and others say that he carried around large amounts of cash and he also had access to other money. So if he wanted to give money away, he could have done that without giving away any items that could be traced.

He also didn't get much money for the property that was stolen. If he was trying to perpetrate an insurance fraud, why would he have given away his luxury items, the items that he knew weren't covered by his insurance?

You heard Mrs. Dies, who was the insurance agent in Royal, Arkansas, tell you that he was never concerned about those riders. He knew that he didn't have them, and he told you the reason he didn't have them: because he didn't want to tell anybody about the property that he had. He was paranoid. And he told Mrs. Dies the same thing after the robbery, when she asked him why he had never insured all of these items.

So you can say that he's paranoid, you can say he's distrustful of the federal government, but you can't say that he gave away over \$60,000 in property to get \$5900 back, knowing that he would never recover the full value of those items.

You know that, then -- that Terry Nichols was the robber; but you know it not just because of all the property that we found in his house, but you know it by his actions, what he did around the time of the robbery on November 5, 6, and 7.

You know first of all on November 5, he has no alibi. We don't know where Mr. Nichols was that day. Again, he wasn't at work, he wasn't at a gun show, and he wasn't buying army surplus. He wasn't with his wife, because she was in the Philippines. And he had no home.

So on November 5, he had plenty of time to drive to Royal, Arkansas, commit the robbery, and come back to Junction City where he stayed that evening. You know that he stayed at the Sunset Motel that night. And we've shown you the registration card, Government's Exhibit 1757, right here. He uses his favorite fake name for criminal activity, "Joe Kyle." But this time, he uses his address back in Michigan, 1400 Decker. Well, not really his address back in Michigan but a variation of the Decker, Michigan, address. And he checks in on November 5, 1995 -- 1994, the evening of the robbery.

What's unusual about this is you know that Mr. Nichols stayed at the Sunset Motel on many occasions in 1994 and 1995. In fact, he stayed there seven times. We showed you this chart, Government's Exhibit 1764, which documents all of Mr. Nichols' stays at the Sunset Motel. Take a look at it. On each and every occasion, other than November 5, Mr. Nichols

used his true name. He used a variety of addresses, as you can see here: the true Decker address, no address in February, a general Manhattan address in the middle of February and his post office box in Manhattan in March. But on each occasion he used his true name, "Terry Nichols." It was only on November 5, when he was trying to cover his tracks and create an alibi, that he checked in for "Joe Kyle."

He told you -- or Mr. Chowdhury told you, who runs the Sunset Motel, that when Mr. Nichols checked in that evening, he claimed he was checking in for a friend. He was expecting a friend and he wanted to check in for the man under the name "Joe Kyle," and he took the keys to the room.

We submit to you there was no friend. Terry Nichols checked in that day under the name of "Joe Kyle" because that's the name that he used as an alias. He used it on October 17, when he rented the storage shed at Council Grove for the ammonium nitrate. He used it three days later on October 20, when he checked into the Amish Inn in Pauls Valley, and then he used it on November 5 after he had robbed Roger Moore. He used it to hide his identity and to cover his tracks.

But that's not the only thing he did after November 5 to hide his identity and cover his tracks. Mr. Nichols was a very busy man after the robbery of Roger Moore. The next morning, Sunday, November 6, he immediately wanted to get in touch with Timothy McVeigh. He wanted to tell them about the success -- tell him the success of their plan to rob Roger Moore.

Take a look at these phone records from November 6. You can see that first thing in the morning, Mr. Nichols was in Junction City, Kansas, as we know, at the Sunset. He went down to the video pay phone and checked his Spotlight balance. Thereafter, he immediately tried to call William McVeigh in Pendleton, New York. You know from the agreement that William McVeigh is Timothy McVeigh's father and that Timothy McVeigh was at a gun show in Ohio on November 5 and was in Pendleton, New York, following that time at his father's home.

Terry Nichols knew, that, too; and that's why he wanted to contact Timothy McVeigh that morning to tell him exactly what had happened in Royal, Arkansas; to tell him about the cache of weapons, cash, semiprecious stones, and jade that he had stolen from Roger Moore.

You can see that this call to Mr. McVeigh's residence was very short. Probably Mr. Nichols was not successful in getting in touch with Timothy McVeigh that morning, but that didn't stop him.

He made some other phone calls. He called to Esquire Realty, as you know, which is Lana Padilla's business phone that was forwarded that day to her phone at home in Las Vegas.

She had a very unusual conversation with Mr. Nichols that day, and we'll talk about that in a moment. Later that afternoon, Terry Nichols tried again. This time he tried from one of his favorite pay phones in Manhattan, Kansas, the Waters True Value pay phone, trying again not to create any phone records that would ever show you what Terry Nichols was doing that day.

Terry Nichols knew that a pay phone would not create

Terry Nichols knew that a pay phone would not create a record. But what Terry Nichols didn't know was that the Bridges phone card would, so he used that Bridges phone card to contact the McVeigh residence again and had approximately a minute phone call, tried again for another minute. And that evening, he contacted Lana Padilla at her residence again. And we see a phone call, the very last phone call of the evening, where Timothy McVeigh went to the Convenient Mart pay phone right down the road from his house at Pendleton and tried to contact Mr. Nichols at the Waters True Value pay phone in Manhattan, pay phone to pay phone, conspirator to conspirator, to discuss their illegal activities.

But that evening at 7:41, Mr. McVeigh was not successful in getting in touch with Terry Nichols.

We do know that Terry Nichols left his number at the Waters True Value with the McVeighs, because you saw Government's Exhibit 1889. This was a piece of paper recovered from Mr. McVeigh's home with "Terry Nichols" written down and the number "(913) 539-9702." Everyone agreed that that was Jennifer McVeigh's handwriting. She wrote down Terry Nichols' number; but go back to the phone records for November 6 and look at the number for Waters True Value: (913) 539-9702. Terry Nichols told the McVeighs that his phone number was the Waters True Value.

It does not look like Timothy McVeigh and Terry Nichols got in touch that day, but that didn't stop Mr. Nichols. He wanted to tell Timothy McVeigh what he had done, how successful he had been; so he tried again on November 7, that Monday morning after the robbery.

He made a phone call very early that morning at 8:23 -- well, excuse me. The first phone call at 8:23 was from Mr. McVeigh's residence back to that Waters True Value pay phone, the same number Mr. Nichols had given. Timothy McVeigh wanted to find out what had happened, and he tried first thing in the morning to get in touch with Mr. Nichols.

You can see that the next few calls, the next two calls, the one at 8:23 and 8:46, were not successful, two different pay phones in Lockport, New York, to the same Waters True Value pay phone. Mr. McVeigh could not reach Mr. Nichols.

And there was a reason he couldn't reach him, because Mr. Nichols was using the business hours to accomplish many of the tasks that he needed to, to hide what he had done at Roger Moore's and to fund the conspiracy.

On November 7, after being Joe Kyle that Saturday, Terry Nichols decided he was Daryl Bridges. And that morning, he purchased a money order for the Daryl Bridges phone card, Government's Exhibit 495, which has Terry Nichols' handwriting and his fingerprints on it, a purchase for \$100 in the name of Daryl Bridges.

Terry Nichols, although he was leaving for the Philippines just two weeks after that, decided to pay \$100 on the Bridges card. Now, why would he do that if he were going to the Philippines and had broken away from Timothy McVeigh? There is no reason to fund the card for Timothy McVeigh if they were no longer partners. He funded it because they were partners. He knew he couldn't use the Bridges card in the

Philippines. You heard that from the witnesses from The Spotlight company, from the Darrell Bridges -- that owned the Darrell Bridges card. The card did not work calling from the Philippines to the United States. So Terry Nichols took just a teeny bit of the money that he had stolen from Roger Moore, \$100, and funded the Darrell Bridges card for Timothy McVeigh while he was away in the Philippines.

Terry Nichols not only was Joe Kyle and Darrell Bridges that weekend, but he became Ted Parker just a few hours later when he rented another storage shed at Council Grove. You see here the agreement for Ted Parker -- Ted Parker -- excuse me -- with the Van Dyke, Decker address, Mr. Nichols' family home, for Unit 37 on 11-7-94. That's November 7, 1994.

Now, ask yourselves again: Why did Terry Nichols need yet another storage shed? He hadn't moved. He didn't have a house. He had no belongings to store. And he already had another storage shed at this same facility. We know he rented Council Grove No. 40 on October 17. So what had changed from October 17 to November 7?

Terry Nichols had robbed Roger Moore, and he had all of the stolen property in the back of his pickup truck on the first Monday open for business after the date of the robbery.

Terry Nichols needed a place to store all of his stolen property, so he went back to the storage unit facility. And you heard from Sharri Furman. She identified Mr. Nichols as the person who rented the storage shed under the name "Ted Parker." What he didn't -- what Terry Nichols didn't tell Mrs. Furman at that time was that he already had another unit there under yet another name.

So she rented him the storage shed under the name of "Ted Parker"; and within three days, Terry Nichols was three different men: Joe Kyle, Daryl Bridges, and Ted Parker. He was three different men because he was trying to cover the best that he could all of the criminal activity that he had engaged in.

If we were to ask ourselves who had used that many fake names, nine fake names that Mr. Nichols has used throughout this entire case, the only person in this courtroom who would raise their hand would be Terry Nichols.

Those aren't trade names, as were suggested to you. Those are aliases, fake names, used by Mr. Nichols to cover his tracks.

Trade names are names that people use for -- so that people know who they are, so they recognize their name, like "Xerox." It's not a name that someone uses to hide their identity and conceal the paperwork or to create fake paperwork so no one can track their activities.

Terry Nichols used Joe Kyle, Daryl Bridges, and Ted Parker so no one would know what he was up to in early November of 1994.

He did this one more time on November 7, after he had bought the money order for the phone card and after he had rented the storage shed. He checked in at the Travelers Motel, using that same name, Ted Parker, claiming he was from Lum, Michigan.

Now, once again, he put down his pickup truck as YX1640 Michigan.

He checked into the Travelers; and by that time, he still had not reached Timothy McVeigh. So as soon as he was done checking in, he walked over to the Mini Mart, which you know is just down the street from the Travelers Motel, and started to call Timothy McVeigh one more time.

Here is a chart that shows all of the phone records that were made on the 7th. You can see the calls from Lockport, New York, the two calls in the morning to the Waters -- the Waters True Value pay phone where Mr. Nichols had left his number. You can then see the phone call that evening after Mr. Nichols had been three different men and he rented a storage shed and checked into a motel, from the Mini Mart pay phone at 5:59, when he called to check his balance on The Spotlight balance check.

Several minutes later, he went back to the Travelers Motel and called the McVeigh residence for a minute and 14 seconds, just enough time to try to make an arrangement to have their true criminal call from pay phone to pay phone. And what do you see? Just minutes later after 6:04, Timothy McVeigh went to the Convenient Mart Pendleton pay phone and made one, two, three, four, five, six, seven attempts to reach out for Terry Nichols at the Mini Mart pay phone just down the road from the Travelers Motel.

These two men wanted to get in touch with each other, and they wanted to get in touch so they could talk from pay phone to pay phone about what had happened to Roger Moore.

Finally, after being unable to reach each other through the pay phones, Mr. Nichols went back to the Travelers Motel where he had checked in under the name "Ted Parker"; and at 7:22, he had a 6-minute conversation with Timothy McVeigh at the William McVeigh residence. Finally, they had achieved their goal: They had reached each other so Terry Nichols had 6 minutes and 9 seconds to tell Timothy McVeigh about how the Roger Moore robbery had gone and how he had stored all the items in Kansas.

These were two men who were determined, and they were persistent. Over two days and 15 phone calls, Timothy McVeigh and Terry Nichols wanted to get in touch with each other to tell each other what they had done.

This suggests to you, ladies and gentlemen, that Terry Nichols and Timothy McVeigh did not part ways in November of 1994, as Counsel suggested during opening statement.

These two men were together from the beginning until the end.

We know from many different sources that Terry Nichols did not leave or part ways with Timothy McVeigh in November of 1994. We can see it from the activity of robbing Roger Moore, to the telephone calls. We heard it from Marife Nichols when she told you that Terry Nichols had arrived in the Philippines as a surprise. She wasn't even expecting him. She called it a vacation.

Terry Nichols had paid for the Bridges card before he left, the card that he shared with Terry -- with Timothy McVeigh; and he had left the stolen property in a storage shed

right down the row from the bomb components.

But perhaps the best evidence that Terry Nichols and Timothy McVeigh were together in November of 1994 -- that is, together in mind and purpose -- is the letter that Terry Nichols left for Timothy McVeigh in case of his death. He wanted -- he wanted to ensure that even if he died, this conspiracy would go forward. He wanted to ensure even if he died that the Murrah Building was destroyed and the people inside of it were killed.

Their goal was clear at that time. They knew from the very first day on September 30 that they didn't want anyone to stop them; and Terry Nichols wanted to make sure that when he left for the Philippines, Timothy McVeigh had everything he needed if for some unknown reason Terry Nichols didn't return from the Philippines.

Terry Nichols wrote this letter, Government's Exhibit 1857, and left it with Lana Padilla on November 22 as he boarded the plane to the Philippines.

You can also see this letter on your screen.

You'll recall that Lana Padilla told you that Terry Nichols left her with a package that was wrapped and was not supposed to be opened unless he didn't return from the Philippines. But Ms. Padilla did what many people would do. She worried about Mr. Nichols and she was curious, so she opened the package; and luckily for us, she did, because here on Government's Exhibit 1857, you can see what Terry Nichols' state of mind was in November of 1994. You can see how devoted he was to this plan to bomb the Murrah Building and how far down the road to destruction he had already gone on November 22, 1994.

He wrote this letter so that Timothy McVeigh could understand it and he wrote it in code, but a code that Timothy McVeigh would understand because they had been together in the fall of 1994 and Timothy McVeigh knew exactly what Terry Nichols had been doing.

He said, "Tim, if you should receive this letter, then clear everything out of CG 37 by 1 February 95 or pay to keep it longer under Ted Parker of Decker."

Now, you know what CG 37 means now. You know that it means Council Grove Unit 37. And you know what "under Ted Parker of Decker" means now.

But Lana Padilla didn't know what that meant when she read that letter, and neither would anybody else who wasn't able to accumulate all the evidence that we've accumulated for you.

This was written by Terry Nichols to Tim McVeigh, who knew that he had already had storage sheds at Council Grove, who knew that Terry Nichols had rented the Council Grove storage shed No. 37 and that he would rent it under a false name, the name listed here, Ted Parker, of Decker. Timothy McVeigh and Terry Nichols were communicating in code, and Terry Nichols used that code because he knew Timothy McVeigh would understand.

He also told him exactly the status of this letter, what would have happened if he had received it. He says, "This

what would have happened if he had received it. He says, "This letter has been written and sealed before I left, 21 November '94, and being mailed by Lana as per my instructions to her in writing." He assures Timothy McVeigh that if this letter were to ever reach Timothy McVeigh, it's because he could not come back from the Philippines and because Lana had mailed it.

But most tellingly, ladies and gentlemen, he said, "This is all she knows." Ask yourself: What does that mean? Why is he assuring Timothy McVeigh that the only thing Lana Padilla knows is that this letter was sent on his behalf? He is trying to keep a secret about his activities from everyone, from the mother of his son, from his family, from his friends, and even from his current wife.

He wants to assure Timothy McVeigh that the two of them are the only ones who know about their plot to bomb the Murrah Building. Lana doesn't know. "This is all she knows."

He goes on to say, "It would be a good idea to write or call her to verify things," and gives the number at home and office"; just ask for Lana," enough instructions for Timothy McVeigh to go to Council Grove 37, retrieve the weapons that had been stolen and fund the bombing plot until April 19, 1995, when they intended to decimate downtown Oklahoma City.

And just in case there is any question, Terry Nichols made sure Timothy McVeigh knew that he was with him in spirit. He said, "You're on your own." You're not with John Doe 2, you're not with anyone else. "You're on your own. Go for it."

Now, you've heard a lot about what this phrase "go for it" means. There are all kinds of suggestions made to you in opening statement.

We submit to you it means exactly what it says, what you know it means: Go for it, achieve your objective, do what you intend to do.

Ms. Padilla can come in and here tell you that this was a phrase used by an insurance company, and you can hear that it was on the side of a box of Girl Scout cookies, but it doesn't change the meaning. In this context, Terry Nichols was telling Timothy McVeigh: If I don't come back, if I die in the Philippines, I want you to succeed. I want you to bomb the Murrah Building. "You're on your own. Go for it."

After signing it "Terry," he gives him a few more instructions so that nothing possibly could go wrong. Terry Nichols, the deliberate, careful man, who plans everything, makes sure that Timothy McVeigh has no questions if Terry Nichols is not able to return.

He says, "Also liquidate 40." Now, what does he mean by that? If you didn't see all the evidence about the storage sheds that he rented, you'd have no idea. If you were Lana Padilla reading this letter back in November, 1994, you'd have no idea.

But you all do know. You know that "liquidate 40" means liquidate Council Grove Unit 40, the other storage shed that they had rented to store the ammonium nitrate.

Terry Nichols told Timothy McVeigh to have his mail forwarded to Lana, "but use my name and her address." In other words, don't use any of my aliases, don't use my fake names, use my own name and mail it to Lana's address.

Terry Nichols gives a few more instructions about the

Council Grove 40 when he says -- excuse me -- the Council Grove 37 when at the bottom here he says, "The Parker deal was signed and dated 7 November 94," two days after the Roger Moore robbery, "so you should have till 7 February plus five days' grace if close or they disagree, then should pay another term period." Terry Nichols knew that these storage sheds were not for his personal belongings but for the stolen goods and the bomb components, and he made sure Timothy McVeigh knew that that storage shed was paid only through February of '95 and that if he wanted to keep it going for that next term period -- that is, through April of '95 when they planned to bomb the Murrah Building -- he needed to make another payment.

He made sure Timothy McVeigh knew everything about those storage sheds, storage sheds that weren't used for just personal property but were used for the bombing plot.

But if you had any question in your mind, any question

whatsoever about what Terry Nichols intended in November of 1994, it's answered in these last two lines of letter. He says, "As far as heat, none that I know of. This letter would be for the purpose of my death."

You're not going to see, "as far as heat, none that I know of," on the side of any Girl Scout cookie box. That means exactly what you know it means; that as for law enforcement knowing what they've been doing, none that Terry Nichols knows of. He was concerned in November of 1994 about law enforcement, and he was concerned because he didn't want anyone to stop him, him and Timothy McVeigh, from bombing the Murrah Building and killing as many people as they could.

Now, in criminal cases, you don't often get a written record of someone's intent; but here you have it: 1857 tells you all you need to know about Terry Nichols' state of mind in November of 1994. He was not leaving Timothy McVeigh. He was going to the Philippines with the intent of returning in 60 days, which he did; but he was going to make sure that if for some reason he didn't come back, the bombing plot would be successful. Even in his death, he wanted the Murrah Building destroyed.

Now, even though he had rented the storage shed at Council Grove 37 for the stolen weapons, he rented one more storage shed in November of 1994 before he left. You recall he rented a storage shed in Vegas -- in Las Vegas -- under his true name, because again they asked for identification. In that storage shed, which Ms. Padilla told you was not full, he left some of the other items that he took from Roger Moore. He left the jade wrapped in tissue in the cigar box just the way Mr. Moore described it to you. Ms. Padilla saw it. He left some of the coins. He left some of the semiprecious stones; but most importantly, he left the tools of the robbery. He left a ski mask, a wig, and pantyhose.

Why did he take some of the items from the robbery and

leave them in Las Vegas and keep the others in Council Grove? No one knows. Perhaps he had found more at Mr. Moore's house than he ever imagined. Perhaps he wanted to keep some of the valuable items for himself. But what we do know is those items

were there and those items were taken from Mr. Moore.

Lana Padilla came into this courtroom and told you that she had seen those items. You can say a lot of things about a lot of witnesses in this case, but you know that Ms. Padilla had no axe to grind, no motive to lie, no reason to implicate Terry Nichols. She came in here to tell you the truth. She told you she had found the ski mask, the wig, the makeup and the pantyhose; and the first thought that came to mind was what is Terry Nichols doing? Robbing banks? She was pretty close. He was robbing Roger Moore.

She had the same reaction when she found that \$20,000 in cash hidden in a secret compartment in her kitchen, something we submit to you doesn't happen very often to normal

people; but Terry Nichols wanted to make sure that he hid that \$20,000 and had it for himself upon his return.

When Lana Padilla found it, she wondered how he could ever have \$20,000 cash when he had no job and his family was in the Philippines.

Terry Nichols had that money because he had robbed Roger Moore, and he had those items in the storage shed because he had robbed Roger Moore.

To counter the proof of Lana Padilla and her identification of the ski mask and the wig, Terry Nichols continued to lie even after his arrest. Lana Padilla told you that after Terry Nichols' arrest in the summer of 1995, she went to see Mr. Nichols and Mr. Nichols told her that the ski mask and the wig had been used by him to scare Marife Nichols on Halloween.

His attempts to lie, his attempts to build that ridiculous explanation as an alibi for that ski mask, had failed. Marife Nichols told you she never saw those items. Never mind that she was in the Philippines on Halloween so Terry Nichols couldn't have scared her. Terry Nichols lied. He lied to the FBI, he lied to his wife, and he even lied to his ex-wife months after his arrest. Terry Nichols has never stopped trying to create an alibi. He's never stopped trying to confuse and deceive and deny his role in the bombing of the Alfred P. Murrah Building; and he went to such ridiculous lengths as telling his own ex-wife that a ski mask and a wig were used to scare Marife Nichols.

He did that because he knew exactly what you would know if you heard that testimony: That he had been the robber who robbed Roger Moore at gunpoint.

With all that proof, ladies and gentlemen, there is one piece of evidence about the Moore robbery that is the most devastating, the one piece that no one can argue with, and that is the jade that Barry, Lana Padilla's son, took from the storage shed back in the fall of 1994 and turned back in to the FBI after the bombing that shows that Terry Nichols took the jade from Roger Moore's house. Here is the photograph that Roger Moore produced, Government's Exhibit 1747, that shows all the jade pieces he had taken from Costa Rica in 1974 and the gold Tiki dolls.

Lana Padilla and Barry told you that Government's Exhibit 1748, this piece of jade, was taken from Terry Nichols' storage shed in Las Vegas in the fall of 1994. This piece of

storage shed in Las Vegas in the fall of 1994. This piece of jade is right there on the photograph, right in the center to the right, right down the center one, two, three rows. You can see this piece of jade. You can make that match yourself.

Terry Nichols robbed Roger Moore and took this jade and stored it in Las Vegas before he left for the Philippines in November of 1994.

Now, in light of all this overwhelming proof that Roger Moore was robbed by Terry Nichols, I suspect you will hear much about the robbery during the defense argument and especially about the list of 14 serial numbers that Karen Anderson provided during her testimony.

We are not asking you to rely on that list in any way.

That list is flawed. The list has one serial number that according to ATF paperwork belongs to Terry Nichols, but that gun was never introduced into evidence, it was never presented to you as Roger Moore's gun; and that single entry on that list does not diminish all of this overwhelming proof about the robbery of Roger Moore.

We do not want you to rely on that list in any way, and we are not asking you to determine that Terry Nichols robbed Roger Moore based on that list.

What we are asking you to do is look at all of the evidence that they cannot dispute: the quilt, the stamp, the stamped ammunition, the jade, the storage shed, the phone calls, the motels, the firearms, ammunition, and the safe-deposit keys that were in Terry Nichols' house. It is all of this evidence that can convince you beyond a reasonable doubt that Terry Nichols robbed Roger Moore and funded the bombing conspiracy.

One other thing about the robbery: You know from all the evidence that Timothy McVeigh was not the robber. Roger Moore told you that he was not and that he could have identified him or he could have recognized his voice and his build if it was him, and Roger Moore told you he couldn't identify the robber at all because of the ski mask blocking the man's face.

But we know that Timothy McVeigh was involved with the robbery and that he was familiar with Roger Moore's house, and we know that he and Terry Nichols used the revenue that they generated from robbing Roger Moore to pay for their expenses.

Michael Fortier told you that and Michael Fortier identified Council Grove No. 37, the storage shed that Terry Nichols used to store the stolen weapons, when he came in to testify before you; again, another piece of evidence that supports his testimony.

Timothy McVeigh could not be the gunman, so Terry Nichols was.

When Terry Nichols left the package for Lana Padilla, he was planning for every contingency for Timothy McVeigh down to the use of his truck. You may remember there was another

letter in the package that showed -- Government's Exhibit 231 -- that showed Terry Nichols' making arrangements for his storage shed and his vehicle. Down at the bottom there, you can see highlighted Terry Nichols is talking about his '84 GMC half-ton, diesel truck, the same pickup truck that he used throughout the entire bombing plot. And at the very bottom, in case Timothy McVeigh had any question, he told him that if he used the truck, the oil had to be changed every 3,000 miles and that they needed a PH13 Fram oil filter. Even back in November of 1994, Terry Nichols knew exactly what kind of oil filter was necessary for his truck. And he knew it wasn't the one that was purchased at the Arkansas City Wal-Mart on April 13 and the one he returned to Wal-Mart in Kansas on April 15.

So Terry Nichols, the careful, deliberate man, made arrangements with Timothy McVeigh that if he ever wanted to use his truck while he was away in the Philippines, Timothy McVeigh knew exactly where it was and knew exactly what it needed.

Terry Nichols did one other thing that tells you what he was thinking back in November of 1994 before he left for the Philippines. He had one other conversation, a conversation with Lana Padilla, that tells you what his mind-set was in the fall of 1994. On November 6, the day after the robbery, when Terry Nichols couldn't reach Timothy McVeigh, he reached out for Lana Padilla. Lana Padilla just wanted to talk about Josh, but Terry Nichols wanted to talk about Waco, civil unrest, government overreaching, and shooting at the White House. Terry Nichols told Lana Padilla that shooting at the White House was justified, another example of Terry Nichols' advocating violence.

But on November 6, when Lana Padilla wanted to talk about their son and what they should do about him, Terry Nichols was obsessed with his cause. He had just robbed Roger Moore. He had found the money that he needed to fund the conspiracy; and he was excited, if you can call it that, about the potential for civil unrest. He predicted to Lana Padilla that people were going to be killing each other in the streets.

Well, little did he know -- or little did Lana know that the street and the killing that he was predicting was 5th Street in downtown Oklahoma City, where he knew he and Timothy McVeigh were going to kill as many people as possible.

Padilla talked about her son; Terry Nichols talked about Waco.

But look at the timing. Waco had occurred over a year and a half before that, and Terry Nichols was still angry. He was still predicting civil unrest at that time. In his tortured mind, he thought that the government's actions at Waco justified violence.

He made these statements advocating violence and discussing the shooting at the White House while he was on the road to destruction in the fall of 1994, the road that he and Timothy McVeigh were on that led to violence against the government; that led to the intentional killing of government agents and workers and the destruction of a federal building.

When Terry Nichols now comes before you and tries to

claim through counsel that he's never advocated violence, he is trying to make you believe that what you know is true is not.

Terry Nichols was a man of few words. You heard that from several witnesses. He did not make speeches. He didn't write letters setting forth his views on the government; but he did take actions to make his views clear. He didn't pay his taxes. He signed documents "UCC without prejudice," and he hated the government.

As you know, actions speak louder than words. Terry Nichols did what was much more dangerous than making speeches. He took actions. He planned the intentional murder of innocent civilians and the destruction of the federal building with Timothy McVeigh to retaliate for Waco. It is his actions and not his words that killed 168 people.

Words could not have caused the death of the 19 children in the Murrah Building that day. Terry Nichols' actions caused the murder of 19 children.

It wasn't words that caused 35 -- 18 women from the credit union to fall to their deaths that day. It was Terry Nichols' actions that caused the death of 18 women in the credit union.

So regardless of whether Mr. Nichols spoke about what he intended to do, the judgment you must make must be based on his actions; and his actions, his steps down the road to destruction, are what caused the decimation of the Murrah Building and the 168 deaths.

As you can see from the fall portion of "The Road to Destruction," Terry Nichols and Timothy McVeigh had obtained almost all the bomb components that they needed. They had money to fund their activities, and all they had to do was wait. Think about it. They knew exactly what they were going to do. They knew they were going to kill people on April 19, and they waited. They left those bomb components in the storage shed and went about their business.

Terry Nichols went to see his wife in the Philippines for 60 days and returned in January. And his actions again in January tell you exactly what he was doing and that he was working with Timothy McVeigh in their final stages in their plot to bomb the Murrah Building.

Terry Nichols returned to the United States on January 16, 1995, and Lana Padilla picked him up from the airport. That same day, she received a call. On Government's Exhibit 1888, we can see the call for January 16. Lana Padilla right here at the top received a call from Kevin Nicholas' residence. You know from Mrs. Nicholas that Timothy McVeigh was visiting them in January of 1995. Timothy McVeigh knew exactly when Terry Nichols was coming back, and he reached out for him on the 16th.

That evening, Mr. Nichols arrived; and first thing the next morning, within hours of Terry Nichols' arriving in the United States, Timothy McVeigh called him and spoke to him for 6 minutes from the Nicholas' residence at Lana Padilla's house. 6 1/2 minutes were not quite enough for Terry Nichols and Timothy McVeigh to make their plans, so Terry Nichols called Timothy McVeigh back just few minutes later for another 5

minutes, calling from Lana Padilla's residence to the Nicholas' house in Vassar, Michigan.

Within 24 hours of returning to the United States, Terry Nichols was in touch with his partner, his best friend, Timothy McVeigh.

They made plans then to meet in Junction City, Kansas; and you know they were there because of two different documents. One, Timothy McVeigh's registration at the Sunset Motel for January 19. That's Government's Exhibit 1758. Here, Timothy McVeigh checked in on the 19th of January into Room 56. That number is very important, because Terry Nichols received a ticket that next day and gave his address as Room 56 at the Sunset Motel.

Here you can see Government's Exhibit 1900 and the ticket on the 20th of January, 1995, the name of Terry Nichols; and right under there, "Room 56," the Sunset Motel. Timothy McVeigh and Terry Nichols were staying together within three days of Terry Nichols' returning to the United States from the Philippines, certainly no sign that Timothy McVeigh and Terry Nichols had parted ways in November of 1994.

But there wasn't much for Terry Nichols and Timothy McVeigh to do then. They had the components they needed. They had the money they needed. The only thing they really needed to do was rent the truck and build the bomb. They were smart enough to know that they weren't going to do that until right before the date of destruction.

Terry Nichols and Timothy McVeigh did speak to each other in February, and we know that one more time from the phone records. We know that on February 12 and 13 -- 12 and 13, Timothy McVeigh was staying at the Hilltop Motel in Kingman, Arizona, and Terry Nichols was staying at his favorite motel, the Sunset, on that same day.

You can see a series of calls here where Timothy McVeigh is trying to call Terry Nichols, and Timothy McVeigh finally reaches Terry Nichols and speaks to him for almost 5 minutes on Monday, the 13th of February.

Once again, the two men keeping in touch until it's time for their final plans.

During that time, Terry Nichols had tried to convince you that he was building a life. He was trying to convince you that he was a family man; that he bought a home in Herington, Kansas, which we don't dispute, and that he was going about his business getting into the -- getting on the gun show circuit.

We submit to you, ladies and gentlemen, that was just one more step down the road to destruction, one more attempt to cover his tracks and to give you excuses for what he was really doing.

You know that he was still building a bomb in the spring of 1994, because beginning on April 11, 1994, Timothy McVeigh and Terry Nichols were in touch. On April 11, there is a telephone call from the Imperial Motel to Terry Nichols' residence in Herington. There is another call right after that from Imperial to his residence; and within 40 minutes, there is a call from the Food for Less pay phone in Manhattan, Kansas, right up the road from Mr. Nichols' house, to Michael Fortier's residence.

That suggests that Timothy McVeigh and Terry Nichols

That suggests that Timothy McVeigh and Terry Nichols had a plan. How did Terry Nichols know if he were at the Manhattan -- in Manhattan, Kansas, at the Food for Less pay phone that he was supposed to call Timothy McVeigh at Michael Fortier's address? That call is only 1 minute, but it suggests that Timothy McVeigh and Terry Nichols had agreed to reach out for each other on Monday -- excuse me -- Tuesday, April 11, a week before the bombing and a week before they were going to execute the final steps of their plan.

All they needed to do was make the final arrangements for mixing the bomb. So what happened? Timothy McVeigh left Arizona. He left Arizona on April 12 and checked out of the motel and drove toward Kansas, drove back to central Kansas to be with his partner in crime, Terry Nichols.

But this time, Terry Nichols was very, very careful. Terry Nichols did not want anyone to know that he was involved with this plot, and he took every step he could to avoid detection, including lying to his wife.

As Timothy McVeigh proceeded from Arizona to Kansas, he was having car trouble with his Pontiac J2000, and he stopped at the Wal-Mart in Arkansas City on April 13 to purchase an oil filter. Here on Government's Exhibit 265B, you can see the date of the purchase, April 13, 1995, and see that it occurred at approximately 5:42 p.m., the store where it was purchased as "Arkansas City Wal-Mart," and it was an oil filter that Mr. Kordyak testified would fit Timothy McVeigh's Pontiac J2000. It was an oil filter that would not fit Terry Nichols' GMC pickup truck. So Timothy McVeigh in his car stopped to try and fix the problem in Arkansas City. But by the time he got to Junction City on the morning of April 14, he knew his car was not going to make it. He went straight to the Firestone station where he met with Mr. Manning, the man that you all saw on the video deposition, who said that Timothy McVeigh came in with his Pontiac J2000 smoking and had serious problems.

Timothy McVeigh realized that he needed to have a getaway car, needed a way to escape from Oklahoma City after he drove the Ryder truck down to the Murrah Building; so he turned in the Pontiac J2000 to Mr. Manning, paid a couple hundred dollars, and bought the yellow Mercury Marquis, the yellow Mercury Marquis that became the getaway car. But once he did that, he had no need for that oil filter, no need for the oil filter he had bought just a few hours before that in Arkansas City.

Mr. Manning told you that while Mr. McVeigh was there purchasing the car, he did several things. One thing is Mr. Manning told you he doesn't remember seeing any TV set in that car. But Timothy McVeigh left for a few moments. He left the Firestone and went down the road to the J & K Bus Depot to make some phone calls. Here's a photograph showing you the Firestone -- excuse me -- showing you the J & K Bus Depot; and if you look back in the center of the photo, you can make out the word "Firestone."

Just a block away, Timothy McVeigh left his car and Mr. Manning and went to make two important phone calls.

Who was the first person that he called? Terry Nichols. Before calling the Ryder truck company or Elliott's Body Shop, he checked in with his co-conspirator in crime,

Terry Nichols. He called at 9:51 a.m. and spoke for just 54 seconds from the pay phone to Terry Nichols' house.

You know that Terry Nichols got that call because Terry Nichols was home that morning, like Marife Nichols said; and you can see that just a few minutes later, he was on the phone with Quarton U.S. Limited, the same folks he had been speaking to April 13, the day before, and the same records that show you that Terry Nichols could not have been in Arkansas City the day before to purchase that oil filter. So you know Terry Nichols received a 54-second call from Timothy McVeigh. You know that it was him and not Marife Nichols because she told you she had never spoken to Mr. McVeigh during that week preceding the bombing, so the only person in the home that could have received the call from Timothy McVeigh was Terry Nichols.

After checking in with Terry Nichols that morning, Timothy McVeigh did just what Terry Nichols and he planned: He called the Ryder rental company, what we know as Elliott's Body Shop, and checked on the rates. You heard from Vicki Beemer, who gave him an estimate and recalls the call taking over, I believe she said, 7 minutes. This call is 7 minutes and 36 seconds from the pay phone to the Ryder truck company.

Timothy McVeigh now had made arrangements for the truck, and he and Terry Nichols only needed to move the bomb components and mix them at Geary Lake.

Just these phone calls show you that Terry Nichols lied again and again. He lied to his wife, who he never told about Timothy McVeigh or their contacts; and he lied to the FBI just two days after the bombing, when he said that he had not had contact with Timothy McVeigh in the months prior to the bombing other than the letter he had written about the television set.

You also know that Terry Nichols lied about meeting with Timothy McVeigh. You know he met with Timothy McVeigh sometime on April 14 or 15, because Terry Nichols had Timothy McVeigh's Wal-Mart receipt in his wallet at the time of his arrest.

You also know that he met to obtain that Wal-Mart receipt that was generated on April 13 because Marife Nichols told you that he returned the oil filter on April 15; so for Terry Nichols -- for Timothy McVeigh to purchase the oil filter on the 13th and Terry Nichols to return it on the 15th, he and Timothy McVeigh had to be face to face either on April 14 or the morning of April 15. He didn't tell anyone about that. He didn't tell his wife and he didn't tell the FBI.

On the morning of April 15, Timothy McVeigh tried one more time to get in touch with Terry Nichols. Over these days just preceding the bombing, Timothy McVeigh and Terry Nichols talked or tried to get in touch with each other every single day.

On Saturday, you can see from the phone records Timothy McVeigh called from the Dreamland Motel where he was staying to Terry Nichols' residence. The length of the call is zero, which indicates that Timothy McVeigh was unable to reach Terry Nichols that morning.

Timothy McVeigh went about his business and went over

to the Elliott's Body Shop by himself and paid a down payment for the Ryder truck that he was going to use with Terry Nichols to bomb the Alfred P. Murrah Building.

You know a few other things about the final preparations that Terry Nichols and Timothy McVeigh took in the days before the bombing, because Marife Nichols came in and told you about a letter that she had seen that arrived at their home sometime a week or so before the bombing. That letter had two phrases that she didn't understand, two phrases that tell you that not only did Terry Nichols intend to mix the bomb but that he intended to deceive his wife.

The first thing that she recalls is that the letter said something about "shake and bake". We all know they weren't talking about chicken. "Shake and bake" was code for them to discuss making the bomb. Marife Nichols didn't understand it, and she wasn't supposed to understand it. Terry Nichols didn't want his own wife to know anything about what he was doing that week.

The other phrase that she remembers is "need an excuse for second half." Timothy McVeigh is acknowledging that for Terry Nichols to leave his home and help him store the getaway car in Oklahoma City, he needs an excuse for his second half, for his wife, Marife.

So Terry Nichols and Timothy McVeigh had planned an excuse. They planned to have Timothy McVeigh bring the television set so that when Terry Nichols arrived back at his home Monday morning, Marife Nichols and his son, Josh, would have no idea what Terry Nichols was really up to. Terry Nichols had come up with an excuse for his second half.

If there is one day that tells you the most about Terry Nichols and his activities to further the bombing plot in Oklahoma City, it's Easter Sunday, April 16. That's the day that Terry Nichols and Timothy McVeigh stashed the getaway car in Oklahoma City and planned Mr. McVeigh's escape.

That morning, Terry Nichols and his family were home in Herington, Kansas. They went to church and they had dinner. But that was the same day that Terry Nichols chose Timothy McVeigh and his plot for destruction over his own family.

Timothy McVeigh called Terry Nichols at approximately 3:08 that afternoon to tell him he was on the road and they were -- they should get ready to go one step further down the road to destruction. This call on the Bridges card, the only call that day, was from Tim's Amoco pay phone in Herington, just eight blocks down the street from Terry Nichols' house.

Timothy McVeigh wanted to make sure that Terry Nichols was ready to go and help him stash the getaway car down in Oklahoma City.

This map shows you how close Timothy McVeigh was to Terry Nichols at 3:00 on Easter Sunday.

When that call came in, Terry Nichols knew exactly what was going to happen. They had planned it. Terry Nichols also knew that he could never tell his wife what he was really doing. So he lied. He lied to Marife Nichols, he lied to his son Josh, and he said he was going to Omaha to pick up Timothy McVeigh.

Just ask yourselves why if Terry Nichols was doing

JUST ASK YOURSELVES WHY, IF TERRY NICHOLS WAS DOING nothing wrong, if he had no idea what Timothy McVeigh was do -- why would he lie to his own family about where he was going? Because, he says to the agents, that he, Timothy McVeigh, was a secretive man? Well, that's true. But he lied because he knew he could never tell anyone that he was going to Omaha -- to Oklahoma City three days before the Alfred P. Murrah building would be destroyed and three days before 168 people would be killed. He didn't want anyone to know after the bombing occurred that he had been anywhere near Oklahoma City in those hours before the bombing. He didn't want his wife to know, he didn't want his son to know, he didn't want anyone to know. So he lied.

And he chose Timothy McVeigh over his family when he refused to take his own son on the trip with him. Marife told you that Josh Nichols wanted to go with his father. It was the last day he had before he returned to Las Vegas to be with his mother. He was his son. He wanted to be with his father.

Terry Nichols said no. Terry Nichols rejected his own son and chose Timothy McVeigh. He lied to Josh and told him that there wouldn't be room in the truck for him, but he told him a partial truth when he said he didn't know what kind of trouble McVeigh was in. He knew what kind of trouble he and Timothy McVeigh were in, but it was the kind of trouble he didn't want anyone to find out about. He knew that he was going to be helping Timothy McVeigh store the getaway car, and he knew he was going to Oklahoma City to do it. And he didn't want his son, Josh Nichols, to have any idea; so he rejected his son and once again chose Timothy McVeigh.

When he did that, you know he had planned to do it, because when he took that phone call from Timothy McVeigh, he didn't write down any directions. He knew exactly where he was going. He knew he was going to Oklahoma City, and he knew that he was going to help Timothy McVeigh park the getaway car far enough away from the Murrah Building so that Timothy McVeigh would have been safe after he killed 168 people. Terry Nichols didn't need any directions. He knew the plan.

Marife didn't see him write down anything, and he didn't tell the agents about any directions he had written down. He knew where he was going, and he knew why he was going there.

On Government's Exhibit 97, you can see how long it takes to get from Junction City, Kansas, to Oklahoma City. Terry Nichols didn't just drive 5 hours each way to pick up a used television set from Timothy McVeigh. He didn't drive 282 miles back from Oklahoma City to Junction City to drop off Timothy McVeigh because he was just doing a friend a favor. He drove to Oklahoma City to help with the plot. He drove down there in his truck, picked up Timothy McVeigh, left the getaway car, and turned around and went up Route 35 to Route 77 north to Herington.

Terry Nichols told the agents that he took Route 77; and as you can see from this map, to take Timothy McVeigh all the way to Junction City, he had to bypass his own home. Why, if Terry Nichols and Timothy McVeigh were just good friends and Terry Nichols had no idea what Timothy McVeigh was planning?

Why in the middle of the night would he drive past his home in Herington and drop off Timothy McVeigh at a closed McDonald's?

Marife Nichols told you she would have expected Timothy McVeigh to stay at their home if he had been in town. That was what they always did.

Terry Nichols didn't want to stop in Herington, even though it was another 50 miles out of his way to go to Junction City and back that evening because he didn't want anyone to know he was with Timothy McVeigh in those days before the bombing.

So he got in his truck, drove all the way from Oklahoma City past his home in Herington; and at sometime at 1 in the morning he dropped off Timothy McVeigh at a closed McDonald's.

During that drive, Terry Nichols admitted that he and Timothy McVeigh discussed Waco. He tried to claim that he didn't know the anniversary date of Waco, even though he had literature in his house that made that date apparently clear or abundantly clear. He tried to minimize his conversations with Terry Nichols (sic) because he knew two days after the bombing when he was speaking with the agents that everyone suspected that Timothy McVeigh and Terry Nichols had bombed the building in retaliation for Waco. Terry Nichols even admitted that Timothy McVeigh said something big was going to happen. Terry Nichols tried to shift the blame from himself to Timothy McVeigh because he knew Timothy McVeigh had already been caught.

He knew that if he could blame his friend, perhaps the suspicion would move from him and people wouldn't discover all the steps he had taken, all the miles he had driven down the road to destruction, and all the ways he had tried to conceal his activity and his identity.

He did that the evening of April 16, when he dropped off Timothy McVeigh at a closed McDonald's. He kept trying to make an alibi, to evade detection. He left Timothy McVeigh there, if you believe his story, in a place where he couldn't get food and a place where he wouldn't have a room. Terry Nichols, who was Timothy McVeigh's best friend, supposedly left his best friend without knowing where he was going to stay or what he was going to do.

That, we know, was not true. But in case there is any question in your mind whether Terry Nichols knew what Timothy McVeigh was going to do in Oklahoma City, we found a drawing in Mr. Nichols' trash that shows you that Terry Nichols knew what Timothy McVeigh was up to. This is Government's Exhibit 352, which when you will look at it at first just looks like a bunch of scribbles, two large squares, a couple marks, and a couple arrows. I want to focus for a moment on several of the marks here to show you that Terry Nichols and Tim McVeigh had discussed exactly what Timothy McVeigh was going to do; and they had done a little drawing -- once again a drawing in code, not a map for any of us to understand -- to show what Timothy McVeigh was going to do on April 19.

Down here in the far left-hand corner is the Alfred P. Murrah Building. Right in front of it, you can see a little circle depicting where he was going to leave the truck the morning of April 19. The next building catty-corner is the YMCA that you've seen on diagrams and seen on the model. The key was found right there where it's marked. And Timothy McVeigh left that truck, walked around the Murrah Building -- excuse me -- walked around the YMCA, dropped the key; and if you follow the circle, you'll see a little black dot right where Timothy McVeigh parked his getaway car, where and he and Terry Nichols left it on April 16.

Timothy McVeigh took his Mercury and drove straight up two blocks in this alley, took a right where that arrow is, showing that even though this is a two-way street -- Timothy McVeigh was showing Terry Nichols he was going to take a right and go up to the top of that street and go over to the right to get on the highway and get out of Oklahoma City.

This diagram depicting what Timothy McVeigh was going to do was found in Terry Nichols' trash just two days after the bombing.

You can also compare that diagram to a map of downtown Oklahoma City, and we've done that for you.

Here is the drawing from Mr. Nichols' trash, and we've identified some of these streets and buildings for you. Here is the Murrah Federal Building which you've seen over here on the aerial map you've seen many times in evidence, located right here.

6th Street is one full block up right here.

The YMCA depicted in this diagram catty-corner from the Murrah Building is right here -- catty-corner -- excuse me -- catty-corner from the Murrah building on 5th Street.

This right here, slotted mark, is the alleyway that runs up in this direction; and the other one going east and west is another alleyway right behind the YMCA where you heard the key was recovered.

The dot here next to the YMCA is the parking area that you heard described right next to the Y during testimony in this case. That's where Mr. McVeigh parked his car with Terry Nichols on the night of April 16.

This street, 6th Street, as the arrow depicts, is a one-way street going the other way; and it shows that you can come around in front of the Murrah Building, like Mr. Nichols described that he did, by going one way on 6th this way and coming back down and going down 5th the other direction. Here is a parking lot and North Broadway and Robinson Avenue crossing through 7th, 6th and 5th.

Now here you can see an arrow going all the way across from this alley to north Broadway. You can see that normally is a two-way street which we've depicted for you; but the arrow, we submit to you, is showing how Mr. McVeigh plans to leave the scene and get out to North Broadway and to get out to the highway to leave Oklahoma City.

Now there is two things on this diagram we can't

Now, there is two things on this diagram we can't explain to you, and that's these numbers: 24th, 18th. We know that there are no 24th Street and 18th Street in this area of downtown Oklahoma City. We don't know what these numbers mean, and we weren't supposed to.

These were numbers for Timothy McVeigh and Terry Nichols, but clearly this diagram shows what Timothy McVeigh intended to do that day, how he planned to park the Ryder truck in front of the Murrah Building, get to his car over here by the YMCA, drive up the alleyway where he wouldn't be seen, get on 7th Street, and go up and out of Oklahoma City.

And Terry Nichols knew that's what Timothy McVeigh was doing, because he had this diagram in his trash on April 21.

With the car safely parked down in Oklahoma City and the "do not tow" sign which you saw in Timothy McVeigh's handwriting protecting that car so it wouldn't be towed away before April 19, Terry Nichols and Timothy McVeigh had only one major step left. They had to build the bomb. We know it wasn't very hard to build the bomb. We heard that from all the experts. Sadly, it wasn't very difficult at all.

But Terry Nichols and Timothy McVeigh had to get together, put the components into the Ryder truck, mix the ammonium nitrate and the fuel oil, and get it ready for detonation.

So on the morning, Monday morning after they had taken the road trip to Oklahoma City, Terry Nichols -- or Timothy McVeigh called Terry Nichols. Now, on Government's Exhibit 1888, we can see Timothy McVeigh, who was at the Dreamland Motel, called Terry Nichols and spoke to him for a little less than a minute on Monday morning. Once again, we know he was the one who received that call, because Marife Nichols told you he was home Monday morning and that she never received any phone calls from Timothy McVeigh. We also know Timothy McVeigh was at the Dreamland Motel, because you saw his registration form and you heard testimony about his stay there from April 14 through April 18 from Lea McGown.

On the 17th, Terry Nichols and Timothy McVeigh made three important phone calls. That first morning, Timothy McVeigh checked in with Terry Nichols just hours after Terry Nichols had left him in Junction City. But it's the calls in the evening, the calls that night from the airport, that tell you everything about Terry Nichols and tell you that he was lying to the FBI two days after the bombing.

Josh Nichols had to fly home to Las Vegas that evening, and Terry Nichols and Marife drove him to the Kansas City airport so he could catch his flight at approximately 10:30. Terry Nichols used the airport pay phone to call Timothy McVeigh at the Dreamland Motel.

There is no doubt that Terry Nichols made these calls.

You can see they're from the same airport pay phone, and they're made within 10 minutes of each other: one -- and the first one -- to his partner in crime, Timothy McVeigh, and the second one to Lana Padilla to let her know that Josh Nichols was safely on his way home.

These calls tell you three things: (1) that Terry Nichols picked Timothy McVeigh over his family. Terry Nichols, when he had his first opportunity to do so, called Timothy McVeigh, not Lana Padilla, but called Timothy McVeigh to check in with him on their final plans to mix the bomb at Geary Lake that next day.

After he was done making sure his plans were in order, then, and only then, did he call Lana Padilla to say Josh was on his way home.

You know from these calls also that there is no doubt that Terry Nichols used the Bridges telephone calling card from the beginning until the end. And after Terry Nichols made this final call to Timothy McVeigh to arrange to build the bomb, there were no other calls on the Daryl Bridges phone card. This was the last call that Terry Nichols needed to make to complete his plan, and he did.

That morning, on April 18, Terry Nichols and Timothy McVeigh had planned to meet at Geary Lake. We know Mr. McVeigh left the Dreamland Motel that morning because Lea McGown saw him very early that morning in a Ryder truck.

Terry Nichols told the agents that he had received a phone call from Timothy McVeigh on the morning of April 18, Tuesday, the day before the bombing. But you've seen no record of that. There was no call on the morning of the 18th. It was

the evening of the 17th, that Monday night when Terry Nichols was at the airport that he and Timothy McVeigh made the final plans. And it was that same night that shows you that Terry Nichols knew exactly where Timothy McVeigh was staying. He knew that Timothy McVeigh was at the Dreamland Motel, and he lied to the agents about it because he didn't want to show how much he had been a part of the plan to bomb the Murrah Building.

At Geary Lake that morning, Terry Nichols and Timothy McVeigh were careful. They had Terry Nichols' dark-blue pickup truck with the white camper shell, and they had the large Ryder truck, but no one came into this courtroom to tell you that they had seen either Terry Nichols or Timothy McVeigh there. Terry Nichols and Timothy McVeigh did not want anyone to see them building the bomb. If there was anything that could stop them, if there was anything that would stop their plot prematurely, it would be someone seeing them mix ammonium nitrate fuel, adding boosters, and building a bomb.

So they stayed inside the Ryder truck; but you know there were people there, because we heard Mr. Wahl and Mr. Nelson talk about the trucks and we heard that they were moved. So someone had to be there during that three hours that Mr. Wahl saw the Ryder truck and the pickup truck; but they were two people who knew how to be very, very careful, how to make sure that no one saw them building the bomb.

But Mr. Wahl, who had every opportunity to see those trucks, who was there fishing with his son that day, and who reported the sightings long before the road stop that the FBI did, noticed two trucks. He noticed a large Ryder truck and a pickup truck with a white camper shell or at least a white

portion of the truck.

Unlike many of the other witnesses, Mr. Wahl had every opportunity to see these trucks, he was down at the lake for approximately three hours, and he knows he saw a Ryder truck. He also identified the pickup truck, and you know that it's Terry Nichols' truck. Terry Nichols' truck, the same truck that matches the description of the truck used to purchase the 2 tons of ammonium nitrate, the same truck used to purchase -- used to load the three barrels of nitromethane, and the same pickup truck that you saw on videotape that was in Oklahoma City on the evening of the 16th of April, 1995: Mr. Nichols' truck was there with the Ryder truck.

But why is Mr. Nichols' fighting this? He told the FBI that he had loaned his truck to Timothy McVeigh. If Timothy McVeigh is the bomber and they don't dispute that and Timothy McVeigh rented the Ryder truck that blew up the building and they don't dispute that, why would there be any problem with Terry Nichols' truck being with the Ryder truck at Geary Lake? It makes sense if Mr. Nichols was telling the truth about loaning his truck.

Well, he was telling the truth about his truck being at Geary Lake; but he wasn't telling the truth about how it got there. He probably knew that someone could have seen him or at least seen his truck down at Geary Lake that day. If Mr. Wahl had been there for three hours fishing with his son and seen the trucks, it would be very easy for someone who was inside those trucks to look out and see people fishing.

So when Terry Nichols got to the police station in Herington on April 21, he was going to be very careful to admit what he knew the FBI could find out and deny what he thought they could never figure out.

So on the 21st, when he talked to law enforcement agents, he said that he had loaned his truck because he thought there was a very good chance that someone could have seen his pickup truck with the Ryder truck at Geary Lake. And he was right: Mr. Wahl and Mr. Nelson saw those trucks.

The defense has claimed that we had a theory that Mr. Nichols was part of this crime and we built our evidence around that theory.

They're wrong. What we had was evidence. Our witnesses had seen those trucks before the roadblock, before the publicity about Geary Lake. Those folks came in right away, unlike the defense witnesses. The defense witnesses, who, if you believe them, saw a Ryder truck at Geary Lake for every day in the week preceding the bombing, all came forward after the stop, after they had plenty of chance to hear about the publicity.

Now, we're not arguing that people think they saw certain things. But the difference is what opportunity did they have to see those things and when did they come forward with that information. Mr. Wahl and Mr. Nelson came forward right away. They testified before you and told you what they saw. And Mr. Kitchener, who we called as the final witness, told you that he had done surveys in the week before the 19th down at Geary Lake and had never seen a Ryder truck.

The only day that he wasn't there for a survey -- or

one of the only days -- was April 18, the morning when we know that Mr. Wahl saw Terry Nichols' truck and the Ryder truck used to bomb the building at Geary Lake.

But the real reason that you know that Terry Nichols was there building the bomb was because of the alibi that he tried to create for himself and told the FBI about for April 18. He needed an alibi because he had lied to the FBI about loaning his truck. You know from the proof about DRMO, the military surplus sale -- you know about the truthfulness of Terry Nichols' alibi.

At DRMO on April 18, as Mr. Tigar would say, Terry Nichols wasn't there.

On the morning of April 18, Mr. Nichols wasn't building a life, he wasn't buying military surplus; he was building the bomb at Geary Lake, a bomb that within 24 hours was going to decimate the Alfred P. Murrah Building and kill 168 innocent men, women, and children. And he knew how to build that bomb.

After building the bomb with Mr. McVeigh, he went to DRMO and checked in. He signed in, as you saw from the sign-in sheet on Government's Exhibit 1956A, at approximately 12:50. As noted here, this is Mr. Nichols' handwriting, showing that he came in at approximately 12:50. During the defense opening, you heard several promises about Terry Nichols' whereabouts on April 18. Both Mr. Tigar and Mr. Woods promised you that you would see video footage showing huge, fenced-in lots and hundreds and hundreds of items. They also promised to call a number of witnesses who would tell you that it takes hours to look at these items in this huge, fixed area; and finally they promised to introduce catalogues that show that Terry Nichols marked items that he was interested in bidding on, and they told you that the catalogues would match penny to penny with the prices listed on Mr. Nichols' bid sheet for April 18, 1995.

We promised you just one thing. We promised you that no one would be able to place Terry Nichols at the DRMO during the early morning hours of April 18, 1995, because he wasn't there. Instead, he was with Timothy McVeigh building the bomb at Geary Lake.

And what is the evidence that you have about DRMO that tells you that Terry Nichols wasn't there for six hours looking at property outside? You heard it was a small sale, you heard it was terrible weather, and you heard about how much time it takes to view that property outside. Nobody came in here to tell you that anyone spends hours outside looking at that property. Mr. McDonald, who has worked there since 1989, hasn't seen one person stay in the yard longer than 45 minutes. And he didn't see Terry Nichols there on April 18, 1995.

We promised you that no one would put Terry Nichols there because he wasn't there. You've heard from DRMO witnesses from the Government and you've heard from DRMO witnesses from the defense. And they all said one thing: No one saw Terry Nichols there on the morning of April 18. Instead, all the documentary evidence suggests to you that he did sign in at in 12:50 and submitted his bid at approximately 1:37.

You also know from reviewing the catalogues that Terry Nichols wasn't there marking the items he was interested in

Nichols wasn't there marking the items he was interested in from the mail-order catalogue that he got because you saw that. And that catalogue mailed to Joe Rivers at his Manhattan address didn't have the prices in it. It was the catalogue that he picked up when he went to DRMO, the catalogue he got when he signed in at the sign-in desk where he had marked the prices that matched his bid sheet.

So what did Terry Nichols really do that morning? He went to Geary Lake in his dark-blue pickup truck with a white camper, he got inside the Ryder truck and he mixed the ammonium nitrate and fuel oil to make the bomb to kill the people in Oklahoma City.

He left, as Marife Nichols told you, and either returned home somewhere around noon, or arrived later than that.

He then went to DRMO to cover his tracks. He checked in at the sale at 12:50 and then quickly went around looking at items, marking them down, and filling out a bid at 1:37.

You know that he intended to fill out that bid and put it in after he signed in at 12:50. Now he's trying to claim to you that when the bid was made, he made it after he went to look for Timothy McVeigh. His story to the FBI agents was that he was there all morning, came out around noon, looked for Timothy McVeigh, did not find him, and then went back in and submitted a bid.

Well, if Terry Nichols was really there to bid on items, why wouldn't he have put in the bid before he left at noon to go out and look for Timothy McVeigh? Because if Timothy McVeigh had been there at noon, he would have gotten in the car and left and never put in a bid.

Terry Nichols said that because it wasn't true.

Terry Nichols didn't go out at noon to look for Timothy McVeigh. He arrived around 12:50, signed in, made his bid, and left.

So Terry Nichols' alibi doesn't hold up for the most important day of the conspiracy, for the day before the bombing, April 18, 1995. And if there is any question in your mind about where he was that day, Marife Nichols told you she had no idea where he was. His own wife, the woman he had been with every other day before that, had no idea where Terry Nichols was on the morning of April 18, 1995.

The bomb that Mr. Nichols made was not only a very, very big bomb but it was a bomb that was designed to kill people. Terry Nichols built that bomb with Timothy McVeigh on April 18 because he wanted to destroy the Murrah Building and kill people and he knew that it would do it. He knew because he had read the Hunter. He knew because he knew how to build ammonium nitrate and fuel oil bombs, and he knew what the consequences would be because he read the Hunter.

You can see here on the excerpts. This is the book that was found in Mr. Nichols' house, Government's Exhibit 185. You heard there were 13 fingerprints of Mr. Nichols found in this book, so there is no doubt that he read this book.

And once he read this book, he knew exactly what would happen if someone built an ammonium nitrate and fuel oil bomb. In fact, he knew even down to the detail of what would happen

to a bomb -- to a building that was glass-faced. Look at this excerpt, 158A. "It was a large, modern store with lots of plate glass," and it talks about a medium-sized truck.

Terry Nichols knew what would happen if a truck was placed in front of a glass-front building.

Here on pages 179 and 180, Government's Exhibit 158E, he knew that the plate-glass windows had been transformed into a "glittering hail of deadly shards."

That's what happens, ladies and gentlemen, when you place a bomb, an ammonium nitrate and fuel bomb, in front of a glass building.

You heard testimony from the agents who were at the scene and from many of the victims that there was glass everywhere around the Murrah Building. The bomb had blown out all the windows, just like described here in the Hunter.

But most disturbing is the description that ". . . the

glittering shards which had cut down four pedestrians on the sidewalk in front of the store. Dense smoke poured from the interior of the building. No one could survive inside."

Terry Nichols knew that if he and Timothy McVeigh built a bomb of ammonium nitrate and fuel oil and placed it up next to a glass building, no one inside could survive.

He even knew that a bomb of that size would create a crater and cause many, many deaths. On page 180, Government's Exhibit 158F, describes where the van had been was a gaping crater, just like what Ms. Jones described for you and the agents who were at the crime scene, a gaping crater where the Ryder truck had been. When you go down to the bottom, it describes what happens to the people that were anywhere near that bomb: "He counted the remains of six, maybe seven persons in the wreckage of the offices. Undoubtedly others were buried under the rubble." Tragically you heard testimony about that, too: That people were buried in the rubble.

Florence Rogers of the credit union told you about the morning of April 19 when she was seated with several of her colleagues. Women she had worked with for up to 18 years were seated around an office table, the bomb blew up, and her colleagues fell in front of her to their deaths, buried in the

rubble, just like as described in the Hunter.

Terry Nichols knew exactly what he was doing, and he knew that the bomb that he was building on April 18 would kill people, just as he intended that it would.

Your Honor, I believe this is probably a good place to break. I'm almost done.

THE COURT: All right. Well, we'll take our recess. As I indicated earlier, we're going to make this a one-hour luncheon recess; and of course, again, emphasize -- I do emphasize to you that you've heard most of what you're going to hear, I guess, from one side, but you haven't heard from the other side and you haven't heard from me. So once again, please, do not discuss this case or anything about it among yourselves or with any other persons during this recess. Wait until you've heard it all and you've heard me instruct you

about the law and that it's time to deliberate before you talk about it.

So, members of the jury, you're excused now for. We'll make it 1:15.

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

THE COURT: 1:15.

(Recess at 12:13 p.m.)

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CLOSING ARGUMENTS

By Ms. Wilkinson

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REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 15th day of December, 1997.

Paul Zuckerman

Kara Spitler

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