

McVeigh Prosecutors May Have Problem Dealing With John Doe No. 2

The Buffalo News (Buffalo, NY)

February 19, 1997 | TOM KENWORTHY - Washington Post

Federal prosecutors in the Oklahoma City bombing are having more trouble than they would like getting rid of John Doe No. 2.

At a pretrial hearing Tuesday, six weeks before the government puts Timothy J. McVeigh on trial for the bombing of the Alfred P. Murrah Federal Building that killed 168 people, attorneys for the lead suspect elicited testimony from key witnesses about an unknown person who may have accompanied McVeigh when he allegedly rented a Ryder truck in Junction City, Kan., that was used in the April 19, 1995, attack.

Both Eldon Elliott, owner of Elliott's Body Shop rental agency, and Tom Kessinger, a mechanic employed there, told the court Tuesday that McVeigh was accompanied by a second person, but could not thoroughly describe him. It was Kessinger's description of that person in the days following the blast that prompted a prolonged nationwide manhunt for the unknown accomplice dubbed John Doe No. 2.

Three weeks ago the government disavowed John Doe No. 2, asserting in court papers that Kessinger had mistaken him for another person, Todd Bunting, who rented a Ryder truck on April 18, the day after McVeigh allegedly rented the bomb truck using the alias Bob Kling.

But Tuesday, during occasionally halting and disjointed testimony before a federal judge, Kessinger at first said he thought there was someone accompanying McVeigh on April 17, and then said he was not sure. "I think I got the 18th and the 17th confused," said Kessinger.

Kessinger spoke during a hearing on defense motions to suppress testimony by a series of eyewitnesses the government may call to trace the movements of McVeigh once the trial begins March 31. The defense argues that those eyewitness accounts are tainted by massive publicity about McVeigh in the weeks following the explosion.

A second defendant, Terry L. Nichols, is to be tried after the McVeigh trial is completed. A key tactic in the defense's strategy will be to undermine the credibility of those witnesses and sow confusion in the minds of jurors, in part by introducing testimony about the shadowy figure of John Doe No. 2.

Kessinger's uncertainties Tuesday -- including whether he still believes there was a second person with McVeigh to exactly what McVeigh was wearing on the day the Ryder truck was rented -- prompted lead defense attorney Stephen Jones to

accuse him of tailoring his testimony to fit the government's case. "How could you be so wrong 60 hours after the event and so right a year-and-a-half later?" Jones asked Kessinger. "Could you be changing your mind because the government wants you to?" Kessinger replied with a simple, "No."

Government prosecutors believe jurors in the McVeigh trial will not be sidetracked by discussions of John Doe No. 2 or any other conspiracy theories and will be persuaded by the central fact that McVeigh rented the truck used in the bombing.

"Do you have any question who it was who came into Elliott's Body Shop on April 17?" prosecutor Scott Mendeloff asked. "No," replied Kessinger. "Was that Tim McVeigh?" asked Mendeloff? "Yes," replied Kessinger. "Is there any doubt in your mind?" asked Mendeloff. "There is no question about it," said Kessinger.

Still, Jones seemed pleased with Tuesday's dry run for the upcoming trial. "John Doe No. 2," said the flamboyant Oklahoma criminal defense attorney, "has more lives than a cat."