

McVeigh Defense Team Suggests Real Bomber Was Killed in Blast

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The lawyers for Timothy J. McVeigh opened his defense today by raising the possibility that the real Oklahoma City bomber had died in the blast.

That effort began with testimony from Oklahoma's medical examiner, who told the jury that he had never found a body to match a severed leg found at the scene. And a former chief medical examiner for Northern Ireland testified that in his opinion, the leg could have belonged to the bomber.

The defense also took aim at the prosecution's assertion that it was Mr. McVeigh, using the name Robert Kling, who had rented the Ryder truck that would contain the bomb.

Two defense witnesses testified that they saw a large Ryder truck at the Kansas motel where, by the prosecution's account, Mr. McVeigh spent the weekend before the bombing. But their sighting of the truck, the witnesses said, occurred on the day before a Robert Kling rented the one that would be used in the attack.

In addition, the defense called Jeff Davis, who delivered Chinese food to Mr. McVeigh's motel room that weekend, on a Saturday night four days before the bombing. The man who had placed the order for that food called himself Mr. Kling. But, Mr. Davis testified today, the man who accepted it and paid for it was not Mr. McVeigh.

So went the first day of the defense effort to break as many links as possible in the careful chain of Government evidence intended to convince the jury that it was Mr. McVeigh who bombed the Oklahoma City Federal Building on April 19, 1995, killing 168 people.

Stephen Jones, Mr. McVeigh's lead lawyer, began the defense case by calling Frederick Jordan, Oklahoma's medical examiner. He asked Dr. Jordan about a severed left leg found in the rubble of the Federal Building four days after it was imploded by dynamite because further rescues were deemed impossible.

DNA evidence and a print taken from the foot on that leg, Dr. Jordan testified, led investigators from his office and the Federal Bureau of Investigation to a bombing victim who by then had been buried in New Orleans. That victim, whom Dr. Jordan did not identify in court, was Lakesha Levy, who was serving in the Air Force when she was killed, the severing of her left leg among her injuries.

Her body was exhumed, Dr. Jordan testified, and the leg now identified as hers was placed in her coffin. A left leg earlier, and wrongly, identified as hers was removed from the coffin and sent to the F.B.I. laboratory for re-identification.

But because that leg had been embalmed, Dr. Jordan said, investigators were unable to obtain a DNA sample, and further identification was impossible.

"We have one left leg that we do not know where it belongs," Dr. Jordan told the jury.

He also said that although rescue workers had found eight left legs, only seven bodies had been missing their left legs.

In cross-examination, United States Attorney Patrick M. Ryan noted that one woman killed in the explosion had been buried without a leg and that the total number of severed legs, left and right, matched the total number of empty hip

sockets among the dead.

But that woman, subsequent questions by Mr. Jones revealed, was missing her right leg, not her left.

The defense then called Dr. T. K. Marshall, former chief medical examiner in Northern Ireland, who said he had autopsied 200 bombing victims during his tenure in that job.

Dr. Marshall told the jury that he had studied Dr. Jordan's findings at length and believed that the remaining leg was evidence of a 169th victim who had been blown to bits, the body so thoroughly demolished that no other whole parts of it were ever found.

"This is an extra left leg," he testified. "Until shown otherwise, this must be a 169th victim."

He went on to say that "to be disintegrated so completely, you have to be near the bomb."

Is it possible, Mr. Jones asked, "for the body to be completely destroyed?"

"It certainly is," Dr. Marshall answered.

He cited one case from Northern Ireland in which a bomb exploded "as a terrorist carried it into a shed." Eight people were killed, he said, and others were injured.

As he was conducting the eighth autopsy, he said, his attention was drawn to another finding, a bag containing "a little bit of muscle and skin." At the end of the autopsy, he said, he looked inside the bag and found a penis as well. None of the dead and none of the injured were missing a penis, he said.

"The ninth victim must have been carrying the bomb as it went off," he said, "to have been so badly injured."

On cross-examination, Mr. Ryan told Dr. Marshall of testimony from another witness, Michael Norfleet, who said he had walked past the Ryder truck minutes before the explosion and noticed some people sitting on the front steps, outside the Social Security office.

Is it possible, Mr. Ryan asked, that one of those people could have been blown to bits, with the leg shielded by one of the planters in front of the building?

"Yes," Dr. Marshall answered, "if the truck were near the front."

Nonetheless, Dr. Marshall told Mr. Jones on re-direct examination, with unidentified victims "our experience is that somebody misses them."

"When nobody misses them," he added, "it reinforces the suggestion that the deceased was involved in the bombing."

The first witness whose testimony raised the possibility that one Ryder truck was being confused with another was Herta King, a longtime friend of Lea McGown, owner and manager of the Dreamland Motel in Junction City, Kan. Prosecutors say Mr. McVeigh checked into Room 25 of that motel on Friday, April 14, which was Good Friday.

Mrs. King said that her son, David, was then living at the motel and that she took an Easter basket to him there that Sunday. That was one day before the truck that would carry the bomb was rented by the man who called himself Robert Kling. When she arrived at the motel about 12:45 P.M. on that Easter Sunday, she said, she noticed a large Ryder truck in the parking lot.

And another witness, Renda Truong, a high school student who went to Easter dinner with the McGown family, told the jury that she also noticed a Ryder truck in the parking lot that day, and asked Mrs. McGown whether someone was moving.

Both Mrs. King and Miss Truong testified that they saw no one near the truck on Sunday. But Mrs. McGown has said in interviews that she saw Mr. McVeigh bring a truck to the motel that day.

So the testimony elicited by Mr. Jones today may be the start of an effort to establish that Mr. McVeigh had a truck for some innocent purpose, one day before someone else rented the truck that would carry the bomb.

The jury has already heard testimony from Charles Hanger, the Oklahoma highway patrolman who arrested Mr. McVeigh on an Interstate highway little more than an hour after the bombing, on April 19. Mr. Hanger testified that when Mr. McVeigh was stopped, he told of having just finished moving some of his belongings to Arkansas and said he was headed back to Kansas to get more.

The last witness today was Vicki Beemer, who handled the paperwork for the Ryder truck rental at Elliott's Body Shop in Junction City on the afternoon of Monday, April 17. She told the jury that two men came in to pick up the truck that day but that she could not remember what either looked like.

"Are you able to tell us that Mr. McVeigh is Robert Kling?" Mr. Jones asked her.

"No, I can't," she answered.

On cross-examination, Scott Mendeloff, a member of the prosecution team, asked her, "Can you say Mr. McVeigh is not Mr. Kling?"

She replied, "No, I can't."

Photo: Stephen Jones, the lead defense lawyer, at Federal court yesterday. (Reuters)(pg. A19)