

Thursday, August 14, 1997 (morning): Sentencing Hearing

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TIMOTHY JAMES McVEIGH,

Defendant.

REPORTER'S TRANSCRIPT
(Sentencing Hearing)

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 10:01 a.m., on the 14th day of August,
1997, in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
Produced via Computer by Paul Zuckerman, 1929 Stout Street,
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APPEARANCES

PATRICK M. RYAN, United States Attorney for the
Western District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma City, Oklahoma, 73102, appearing for the plaintiff.

JOSEPH H. HARTZLER, SEAN CONNELLY, LARRY A. MACKEY,
BETH WILKINSON, JAMIE ORENSTEIN, and AITAN GOELMAN, Special
Attorneys to the U.S. Attorney General, 1961 Stout Street,
Suite 1200, Denver, Colorado, 80294, appearing for the
plaintiff.

STEPHEN JONES, ROBERT NIGH, JR., ROBERT WYATT,
RICHARD
BURR, STEVEN ENGLAND, MICHELLE MEARS, LORRAINE DERBES, and
HOLLY HILLERMAN Attorneys at Law, Jones, Wyatt & Roberts, 999
18th Street, Suite 2460, Denver, Colorado, 80202; JERALYN
MERRITT, 303 East 17th Avenue, Suite 400, Denver, Colorado,
80203; MANDY WELCH, Attorney at Law, 412 Main, Suite 1150,
Houston, Texas, 77002; CHERYL A. RAMSEY, Attorney at Law,
Szlichta and Ramsey, 8 Main Place, Post Office Box 1206,
Stillwater, Oklahoma, 74076, and CHRISTOPHER L. TRITICO,
Attorney at Law, Essmyer, Tritico & Clary, 4300 Scotland,
Houston, Texas, 77007, appearing for Defendant McVeigh.

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PROCEEDINGS

(In open court at 10:01 a.m.)

THE COURT: Be seated, please.

This is Criminal Case 96-CR-68, United States vs.

Timothy James McVeigh. The matter comes on for the imposition of sentence pursuant to the jury verdict finding the defendant guilty on all 11 counts of the indictment and the jury's special findings and recommendation that the defendant be sentenced to death.

Appearing for the Government? Mr. Hartzler?

MR. HARTZLER: With me this morning is Mr. Mackey, Mr. Ryan, Ms. Wilkinson; behind me is Mr. Connelly, Mr. Orenstein, and Mr. Goelman.

And for defendant, Timothy McVeigh?

MR. JONES: Stephen Jones is here with the defendant, your Honor; and also seated here as counsel, Mr. Tritico, Ms. Ramsey, Mr. Nigh, Mr. Burr, Ms. Merritt, Ms. Welch, Ms. Hillerman, Mr. Wyatt, Mr. England, Ms. Derbes, and Ms. Mears.

THE COURT: All right. And Mr. McVeigh is present, of course.

My view is that Rule 32(c) is applicable, even though under the statute the Court is required to follow the recommendation of the jury with respect to the sentence to be imposed. But under Rule 32, there is provision for the Court to hear statements from counsel for the defendant, from the defendant, and also counsel for the Government. And I intend to follow that rule. Accordingly, I'll call for any statement from counsel for the defendant.

MR. JONES: Your Honor, I have no statement to make at this time, but it's my understanding that Mr. McVeigh has a statement to make.

THE COURT: All right. Mr. McVeigh, you have the right to make any statement you wish to make. Do you wish to make a statement?

THE DEFENDANT: Yes, your Honor, briefly.

THE COURT: Would you please come to the lectern to make that statement.

You may speak, Mr. McVeigh.

THE DEFENDANT: If the Court please, I wish to use the words of Justice Brandeis dissenting in *Olmstead* to speak for me. He wrote, "Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."

That's all I have.

THE COURT: All right.

The rule also provides for counsel for the Government to have an opportunity to speak. Mr. Hartzler, do you have any statement to make?

MR. HARTZLER: Thank you, your Honor. We do not.

THE COURT: Then I'm prepared for the imposition of sentence. Mr. McVeigh, will you please come forward with counsel to the lectern.

Timothy James McVeigh, pursuant to the jury verdict returned on June 2, 1997, finding you guilty on all 11 counts of the indictment, the defendant is adjudged guilty of each of the following offenses: A conspiracy to use a weapon of mass destruction as charged in Count One, the use of a weapon of mass destruction as charged in Count Two, destruction by explosive as charged in Count Three, and first degree murder as charged in Counts Four through Eleven.

Pursuant to the Federal Death Penalty Act of 1994, appearing in 18 United States Code Sections 3591 to 3596 and the special findings of the jury returned on June 13, 1997, and the jury's unanimous vote recommending that the defendant shall be sentenced to death, it is the judgment of the Court that the defendant, Timothy James McVeigh, is sentenced to death on each of the 11 counts of the indictment.

Pursuant to the provisions of 18 United States Code Section 3596, it is ordered that the defendant is committed to the custody of the Attorney General of the United States until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release defendant to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State of Colorado.

As required by 18 United States Code Section 3013, it is ordered the defendant shall pay a special assessment of \$550, which shall be due immediately.

Mr. McVeigh, you have the right to appeal the judgment of conviction and for a review of the sentence. To exercise that right, you must file a notice of appeal with the clerk of this court within ten days from this day. If you fail to file a notice of appeal within that ten-day period, you would lose your right of appeal.

You have had several counsel appointed to represent you in this case and throughout the trial. The counsel have the duty to proceed, if you wish to file a notice of appeal, on your behalf, and to undertake the procedures necessary to perfect the appeal.

Do you understand your right of appeal?

THE DEFENDANT: Yes, sir, I do.

THE COURT: And do you have any question with respect to the procedure to be followed?

THE DEFENDANT: Not with this court, your Honor.

THE COURT: Very well. The -- you wrote to me at one

time Mr. McVeigh you will recall with respect to counsel to

time, Mr. McVeigh, you will recall, with respect to counsel to represent you on appeal.

THE DEFENDANT: Yes, sir.

THE COURT: I responded to your letter with a letter of mine. I have been informed through the clerk of this court that the media, or some persons in the media, have asked for copies of your letter to me and my letter to you. And of course, copies went to Mr. Jones of both letters. Do you have any objection to my releasing your letter to me and my letter to you?

THE DEFENDANT: I have no objection to that, your Honor.

THE COURT: And Mr. Jones?

MR. JONES: I have no objection, your Honor.

THE COURT: Then those letters will be released to -

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copies of those letters released to the media, of course to counsel for the Government.

All right. The defendant is remanded to the custody of the Attorney General through the Marshal's Service as ordered.

Court is in recess.

(Recess at 10:09 a.m.)

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REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 14th day of August, 1997.

Paul A. Zuckerman