

## Nichols' defense starts with focus on John Doe 2 Testimony similar to that used in trial of McVeigh

Dallas Morning News, The (TX)

December 3, 1997 | Victoria Loe, Bruce Tomaso | Page: 1A

DENVER - Terry Nichols' lawyers put John Doe 2 on trial Tuesday, saying the elusive figure was Timothy McVeigh's true accomplice in the Oklahoma City bombing.

But to do so, the defense had to pound home the guilt of Mr. McVeigh, the close friend with whom Mr. Nichols crossed paths at so many crucial junctures before the bombing on April 19, 1995.

Much of the testimony on the first day of the defense's case was a blow-by-blow replay of the prosecution's case against Mr. McVeigh. Defense witnesses described how the former Army sergeant checked into a motel near Mr. Nichols' home in Kansas, rented the Ryder truck that exploded in Oklahoma City and vanished the day before the blast.

Mr. Nichols' chief attorney, Michael Tigar, told jurors from the outset that Mr. McVeigh is guilty. But the defense lawyer said the convicted bomber was aided not by Mr. Nichols but by John Doe 2, a man some witnesses have reported seeing with Mr. McVeigh in the days before the bombing.

The FBI mounted a nationwide search for the stocky, swarthy man, distributing sketches of him in the media, before concluding that the original witnesses were mistaken in linking him to Mr. McVeigh.

Among the people called Tuesday by the defense was one of those witnesses: **Vicki Beemer**, the secretary at Elliott's Body Shop in Junction City, Kan., who handled the paperwork when Mr. McVeigh rented the bomb truck.

She testified that a second person accompanied him when he picked it up two days before the bombing, but she said she can't remember the second man's looks.

"He just blended in," she told defense lawyer Ronald Woods. "He wasn't seven feet tall, and he wasn't two feet tall. He just blended in." Prosecutor Geoffrey Mearns reminded Ms. Beemer that in her first interview with the FBI on the afternoon of the bombing, she didn't even specify that the second person was a man. He handed her a copy of the agent's written summary of that interview.

"It says I had no recollection of this individual," Ms. Beemer said after reading the document.

Prosecutors now contend that the man pictured in the sketch of John Doe 2 was a soldier from nearby Fort Riley who was in Elliott's the day after the bombing truck was rented. He happened to be in the company of a soldier who looked a lot like Mr. McVeigh, prosecutors say.

According to the government, the employees at Elliott's simply confused the two transactions. There is, prosecutors say, no evidence that Mr. McVeigh was accompanied by anyone when he rented the truck.

On that point, however, Ms. Beemer was unshakable Tuesday.

"Is there any question in your mind whether two individuals were in there?" Mr. Woods asked her.

"No, there is not," she said.

Some witnesses Tuesday introduced elements that do not jibe with the prosecution's timeline, saying they saw a Ryder truck at the motel before Mr. McVeigh rented the truck that exploded. However, there was nothing in the testimony - regarding John Doe 2 or otherwise - that directly contradicted the government's evidence linking Mr. Nichols to the plot.

The testimony left some analysts wondering why the defense is working so hard to implicate John Doe 2, and why the government is trying to discredit anyone who suggests that he might have existed.

"What's at stake here?" said Mimi Wesson, a former federal prosecutor who teaches criminal law at the University of Colorado.

"There was another guy or there wasn't. It baffles me that both the government and the defense are acting like that's a defense - and it's not. " It's also questionable how much the defense gains by harping on Mr. McVeigh's guilt, in view of the two Army buddies' longstanding philosophical, professional and personal alliance.

At the very least, prosecutors showed, Mr. McVeigh stayed at Mr. Nichols' home, shared a phone card with him, exchanged dozens of phone calls and at least one seemingly incriminating letter with him and induced him to travel to Oklahoma City in the course of carrying out the plot. Both men expressed deep distrust of the federal government, especially after the 1993 Branch Davidian tragedy near Waco.

Some witnesses called by the defense sullied Mr. McVeigh without even conjuring up the specter of John Doe 2. Lea McGown, the owner of the Dreamland Motel in Junction City, Kan., where Mr. McVeigh stayed in the days before the bombing, testified that he was the man in an FBI artist's sketch of the suspect who rented the Ryder truck.

However, shown the sketch of John Doe 2, she said he had never seen him.

Asked when she first saw Mr. McVeigh with a Ryder truck, she said it was either "Sunday or Monday," though she had earlier told investigators it was Sunday. The difference is crucial because Mr. McVeigh rented the bomb truck on the afternoon of Monday, April 17.

Mr. Nichols' lawyers did call four witnesses who swore they saw a Ryder truck at the Dreamland before Monday afternoon. At least two said they were positive of the date because of the Easter holiday.

Renda Truong, who was in high school at the time of the bombing, recalled seeing a Ryder truck outside the Dreamland after Ms. McGown invited her along for an Easter brunch. She said it couldn't have been Monday because that was a school day.

Similarly, Herta King said she saw a Ryder truck outside the Dreamland when she dropped off an Easter basket that Sunday for her son, David, who was living at the motel.

A maid, Hilda Sostre, said a Ryder truck was there when she showed up for work on that Monday morning. And a guest, Shane Boyd, said he saw a truck more than a week before the bombing.

Prosecutors, on cross-examination, tried to poke holes in those accounts. For example, they got the defense witnesses to acknowledge that there was road construction going on near the motel, that some construction workers stayed at the Dreamland and that some of them drove trucks.

Yet, as defense attorney Reid Neureiter asked Ms. King, "Construction trucks don't have Ryder on the side, do they?" None of the four witnesses said they saw anyone resembling Mr. Nichols at the Dreamland. Two saw Mr. McVeigh at the motel, but none saw anyone, including Mr. McVeigh, get into or out of the Ryder truck.

Ms. Sostre and Mr. Boyd described seeing a man around the motel who could have been John Doe 2. Before the defense began its case, the government called its 98th and final witness, Marine Capt. Matthew Cooper.

Capt. Cooper said he was meeting with a staff sergeant at a recruiting station on the sixth floor of the Murrah building just after 9 a.m. on the day of the bombing when "suddenly, we just heard a huge explosion and an earth-shattering noise." The bald-shaven Marine officer, wearing his dress uniform and sitting ramrod-stiff in the witness box, described his efforts to aid the injured on his staff. The sergeant with whom he'd been talking when the bomb went off had his "upper lip severed almost entirely from his face," he said.

Two Marines were killed in the explosion: Capt. Randy Guzman and Sgt. Ben Davis. As Capt. Cooper identified photos of the two, the brother of Randy Guzman, Rudy Guzman, wept uncontrollably in the spectators' section of the courtroom.