

Witnesses Testify They Saw McVeigh but Not Nichols

California and the West

Trial: Defense hopes testimony raises the possibility of other collaborators and casts doubt on defendant's alleged role in Oklahoma City blast.

December 04, 1997 | RICHARD A. SERRANO | TIMES STAFF WRITER

DENVER — Defense attorneys for Terry L. Nichols moved quickly Wednesday to attack the linchpin in the government's case, seeking to cast doubts about whether Nichols helped Timothy J. McVeigh mix an ammonium nitrate and fuel oil bomb before the 1995 Oklahoma City federal building bombing.

Testifying for the defense were several central Kansas residents who recalled seeing McVeigh with a number of shadowy characters other than Nichols, raising the possibility that Nichols may not have been a key collaborator in the blast.

The testimony is critical if the defense team hopes to persuade the jurors here not to follow the lead of another jury earlier this year, which convicted McVeigh and sentenced him to death.

Unlike the case against McVeigh, the government has never contended that Nichols delivered the bomb to the Alfred P. Murrah Federal Building on April 19, 1995, or that Nichols even told anyone that he and McVeigh were planning acts of violence against the government.

Instead, the government's evidence against Nichols is largely circumstantial. Even its suggested proof that he helped McVeigh build the bomb at a Kansas fishing lake the morning before the blast does not place Nichols at the lake.

The government presented two fishermen as witnesses, who recalled seeing a Ryder truck and a pickup similar to the one owned by Nichols at the lake. Neither witness testified that he saw anyone near the two vehicles.

The government does not believe Nichols' contention that he was attending a military surplus auction at Ft. Riley, Kan., that morning because a roster sheet at the auction showed that he signed in shortly before 1 p.m.

To bolster Nichols' position, the defense brought Darrel McCaleb of Junction City, Kan., to the stand. He testified that there was no one manning the sign-in desk at the auction and that anyone could have been there for some time before giving his name.

A second witness, Robert O'Connell of Jewell, Kan., said that military items for sale were displayed inside and outside the auction area and that it would have been possible for a bidder to go unnoticed.

The defense lawyers also presented witnesses whose testimony suggested that someone other than Nichols had a large role in the bombing.

That someone is the so-called John Doe No. 2, a dark-eyed young man wearing a ball cap. Two witnesses testified that the man was with McVeigh when he rented a Ryder truck in the late afternoon of April 17, 1995—two days before the bombing killed 168 people and injured more than 500.

"I just took a glance at him and the hat he had on," testified Eldon Elliott, owner of the Ryder rental shop in Junction City. "I can't really tell you what he looked like."

After Elliott came a stream of defense witnesses who said they saw McVeigh with the shadowy Doe No. 2 character or with other unidentified men. None recalled seeing Nichols with McVeigh.

Some remembered seeing McVeigh in a Ryder truck before he rented the one used in the bombing--raising the suggestion that he used more than one truck.

Mary Martinez, a nurse from Junction City, said that on the morning of April 17, she saw McVeigh in a Ryder truck on a local street. "A big, big Ryder truck," she said. "The sunlight was right on him."

As she passed him, she said, "Mr. McVeigh was looking at me with his beady eyes and it scared me. Nobody scared me like that before. I went home and told my husband and he told me not to be so nosy."

She also recalled a passenger in the truck who was wearing blue jeans and a black leather motorcycle jacket.

"I got a real good look at him," she said. "I thought he was Hispanic."

Nancy Kindle of Junction City, a waitress at the local Denny's, said McVeigh and two men visited the restaurant on April 16. She said she easily recalled McVeigh. "I remember him by his eyes and the way he spelled his name," she said.

She said the second man had "scraggly hair and he was way out of sorts." She added: "I just remembered he looked rough and kind of dirty." She recalled nothing of the third man.

Under cross-examination by government prosecutors, Kindle complained that FBI agents harassed her after she testified in the McVeigh trial, trying to get her to change her story. They bothered her at home and at a hotel, she said.

Because of that, she refused to be interviewed by prosecutors before her testimony in Nichols' trial.

Estelle Weigel, a health care worker from Salina, Kan., said that when she drove to work on April 18, she spotted a Ryder truck being followed by a 1970s-era Mercury similar to the car that McVeigh drove out of Oklahoma City after the bombing.

She said two men were in the truck, neither of whom she could identify. But she said she managed to get a good look at the driver of the Mercury.

And Rosemary Zinn, a grocer in Lincolnton, Kan., said that on April 17, two men came to her store and bought cigarettes and sodas. One man was white with blond hair, the other had a dark complexion.

"The dark-colored guy looked mean," she said. "This may sound silly, but I thought, uh oh, I'm going to be robbed."

When they left, she peered out the window and saw their vehicle--a large yellow Ryder truck, she said.