

## **Defense Tries to Discredit Testimony About Stolen Gun Witnesses Seem to Hurt Defendant More Than Help Him, Analysts Say**

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DENVER - The hunting rifle prosecutors brought to court Thursday wasn't loaded; they didn't point it at anyone; but to Terry Nichols, it was far from harmless.

Mr. Nichols' lawyers were counting on the gun's original owner, Larry Hethcox, to help them discredit one of the government's key witnesses, gun collector Roger Moore.

The government says Mr. Nichols robbed Mr. Moore of dozens of guns, using the proceeds to finance the Oklahoma City bombing. Mr. Nichols' defense says there was no robbery, that Mr. Moore faked it to get the insurance money.

Mr. Hethcox testified that soon after he sold the gun to Mr. Moore, Mr. Moore called to say it had been stolen. Prompted by defense counsel, he testified that Mr. Moore's account to him varied slightly from the one Mr. Moore gave police earlier.

"It is the same number," Mr. Hethcox said.

What jurors know but Mr. Hethcox presumably doesn't, is that the rifle was found at Mr. Nichols' home after the bombing - along with several other of the 77 guns that were stolen.

"Did you ever give or sell that gun to Mr. Terry Nichols?" the prosecutor asked.

"No, I didn't," the witness replied.

Analysts said the testimony seemed to hurt Mr. Nichols more than it helped him. And it was the same with other defense witnesses.

Although defense lawyer Michael Tigar tried hard to discredit Mr. Moore, the gun collector came off Thursday as someone who - although peculiar and perhaps paranoid - told a fundamentally consistent story about the theft.

An Arkansas sheriff's deputy testified that Mr. Moore called authorities and reported the Nov. 5, 1994, robbery; Mr. Moore's next-door neighbors said he walked to their house that morning, told them he'd been robbed and asked to use their phone; and his insurance agent said Mr. Moore was aware that the guns weren't covered and did not argue about receiving less than \$6,000 for his \$60,000 loss.

"Now, it's not part of your business to pay out claims that you think are fraudulent?" Mr. Orenstein asked an insurance investigator, Richard Spivey.

"No, sir," Mr. Spivey said.

"You paid out this claim, didn't you?" Mr. Orenstein asked.

"Yes, we did," he said.


The witnesses did characterize Mr. Moore somewhat unfavorably.

His insurance agent, Jan Dies said he was belligerent. His neighbor, Lance Powell, said Mr. Moore told him he thought federal agents were behind the robbery "because they do things like that to keep people in check." Nonetheless, "the defense witnesses support the government's theory on the robbery," said Andrew Cohen, a Denver attorney who is covering the bombing trials for CBS radio and Fox news. "Tigar promised in his opening statement that he was going to destroy Roger Moore's credibility. I don't think he did that." The defense also continued its attack on the government's timeline of the case. According to witnesses and records, Mr. Nichols' codefendant, Timothy McVeigh, rented a Ryder truck in Junction City, Kan., two days before the blast. Prosecutors say he and Mr. Nichols spent the next morning building a bomb inside the truck's cargo box at a Kansas fishing lake.

Mr. McVeigh was convicted by a different jury this summer and sentenced to die. Mr. Nichols faces identical murder and conspiracy charges, although the government concedes that he was at his home in Kansas when the bomb exploded on April 19, 1995.

Thursday, the defense produced a string of witnesses who said they saw a Ryder truck at the lake as long as a week before Mr. McVeigh rented his.

Some said the truck was parked on the lake shore for several days. Others saw it only once. Some said the cargo box extended out over the truck's cab. Some said it didn't. Some saw pickup trucks of various descriptions near the Ryder. Others didn't. A few even saw people near the truck, although they were not close enough to describe them.

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One woman said she saw a Ryder truck a week before the bombing as she drove by the lake, then saw it drive past her house that same afternoon. She said Mr. McVeigh, who was in the passenger seat, turned to stare at her balefully as the truck passed.

According to other evidence, Mr. McVeigh did not arrive in Kansas until two days after the woman believes she saw him.

Mr. Cohen said the defense's aim in calling such witnesses may be to show that no one who saw a truck at the lake is to be believed - including the people called by the government to say the Ryder was there the morning before the bombing.

The message to jurors, he said, is: "Hey, we can bring people who saw a Ryder at the lake any day of that week." The tactic could be effective, he said, but it is rather subtle.

"The jury could just as well have thought that this afternoon was a waste," he said.

Outside the federal courthouse, Marsha Kight, whose daughter, Frankie Merrell, was among the 168 people killed in the blast, lobbied for Mr. Nichols to speak in his own defense.

"I wish to demand that Terry Nichols take the stand and testify," Ms. Kight said in a one-page printed statement. "It is Nichols and Nichols alone who can prove to the jury that he was not part of McVeigh's sickness." Mr. Tigar responded that his client has no obligation under the Constitution to testify. Defendants, he said, are presumed innocent until proved otherwise.

"I don't want to get into a public dispute with people who have lost so much in this tragedy," the defense lawyer said. "I just want to make sure that the American justice system isn't the next victim." He said no decision has been made about whether Mr. Nichols will take the stand.

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## NOTES

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### **RYDER TRUCK SEEN AT GEARY LAKE & DREAMLAND MOTEL**

This report says that some Ryder truck witnesses testified that they saw the truck parked at Geary Lake for several days and that others testified they only saw it once—the two details implying some kind of inconsistency or conflict.

However, it's important to note that the people who only saw the truck one time were people incidentally passing by Geary Lake while driving somewhere else—it wasn't a regular trip for that motorist. However, for individuals who saw the truck parked at Geary Lake every day it was because that witness had a reason to be in the area every day, for example, a regular M-F work commute that passes the lake.

Real estate agent Georgia Rucker drove route 77 past Geary Lake state fishing park during her daily commute with her two sons. The three of them spotted the Ryder truck parked at the lake on the 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup>. Meanwhile, witness James Sargent spent his first week of retirement fishing at Geary Lake in the morning on Monday April 10<sup>th</sup>. Sargent saw the Ryder truck parked at the lake from his vantage point on the shore four consecutive days, the 10<sup>th</sup> through Thursday, the 13<sup>th</sup>.

Still other witnesses at the Dreamland Motel, including owner Lea McGown, reported seeing a large Ryder truck parked in the motel's parking lot on Easter Sunday. The same truck was spotted with a trailer that had a tarp pulled over it on Friday April 14<sup>th</sup>.

Yet, the “bomb truck” wasn't rented by Timothy McVeigh until Monday April 17<sup>th</sup>.

What all this means is that it's highly probable that there was a second Ryder truck used in the bombing operation in some way—perhaps as a decoy? What we do know is that the conspirators were first spotted w/ a Ryder truck at Lady Godiva's in Tulsa on Saturday April 8<sup>th</sup>. Next up, the truck was parked at Geary Lake from through the 13<sup>th</sup> and at the Dreamland Motel and Santa Fe Trail diner's parking lots overnight the 14<sup>th</sup> through 16<sup>th</sup>. Thereafter McVeigh was seen at the motel and in downtown Oklahoma City with the “second truck,” the one rented Monday April 17<sup>th</sup>.