

BOMB TRIAL FOCUS ON JOHN DOE NO. 2

By JO THOMAS | New York Times | December 9th, 1997

DENVER, Dec. 9— Morris John Kuper Jr. was late for work. Mary Martinez was stopped at a red light. Shane Boyd had just bought a soda. Darvin Bates had just hired a dishwasher at his waffle shop.

It was at these moments, days and miles apart, that each person would later testify that he or she saw a man resembling John Doe No. 2, the Oklahoma City bombing figure who has never been identified and may not even exist.

But John Doe No. 2 has always been in the background of the case. Now lawyers for Terry L. Nichols, charged with murder and conspiracy in the April 19, 1995, bombing that killed 168 people, have brought John Doe No. 2, and the people who say they saw him, to center stage.

Some stories seem contradictory; others seem impossible. But Mr. Nichols's lawyers appear to hope that convincing jurors of the existence of John Doe No. 2 will cast enough doubt on the Government's circumstantial case to acquit their client.

Timothy J. McVeigh who was convicted on charges identical to those against Mr. Nichols and sentenced to death, was helped by John Doe No. 2, and possibly others, defense lawyers say, but not by Mr. Nichols.

The Government handed Mr. Nichols's lawyers this defense, when, in the weeks after the bombing, they circulated a wanted poster the Government identified as John Doe No. 2.

The first description of John Doe No. 2, along with an accurate description of Mr. McVeigh, came from a mechanic who worked at the Junction City, Kan., shop where on April 17 Mr. McVeigh rented the truck that carried the bomb.

John Doe No. 2, thick-necked, square-jawed and dark became one of the most recognized faces in America. Federal agents and police officers questioned dozens of lookalikes and received more than 10,000 tips. By June 1995, however, Federal investigators realized they were mistaken. The description matched a soldier with no connection to the bombing, Pvt. Todd Bunting of the Army, who had come into the truck rental shop the day after Mr. McVeigh.

Prosecutors conceded that others might have been involved, but said there was no John Doe No. 2.

Those who said they saw him, prosecutors have said, might have seen other soldiers from nearby Fort Riley, Kan., with other Ryder trucks or were influenced by having seen the wanted poster.

Lawyers for Mr. Nichols contend that, once they had arrested Mr. McVeigh and Mr. Nichols, Federal investigators lost interest in other suspects and turned a deaf ear to witnesses with other information. So they have called them instead.

Darvin Ray Bates, who was once the mayor of Waurika, Okla., told the jury today that about a month after the bombing, he hired a drifter to work as a dishwasher at his Old South Waffle Shop, in Duncan, Okla., about 75 miles southwest of Oklahoma City.

The drifter was short, about 25, with dark hair and an olive complexion, Mr. Bates said. "I could never pronounce his name," Mr. Bates said, "and he said, 'Just call me John.' "

Mr. Bates said the man had arrived on a bicycle and said he was from Kingman, Ariz., where Mr. McVeigh had

once lived. After three days, Mr. Bates asked the new dishwasher if he realized that he looked exactly like John Doe No. 2. The man never came back to work.

Mr. Bates said he called the Federal Bureau of Investigation office in Oklahoma City and was referred to the F.B.I. office in Lawton, where an agent "stated they had the two arrested that they needed in the case, and if they needed additional information they could call me." They never did, he said.

Mr. Kuper, said he called the F.B.I. on April 21, two days after the bombing, to describe two men he saw getting into a old car across the street from his parking lot at the Kerr-McGee Corporation, an hour before the bombing at 8:02 A.M.

Mr. Kuper, a computer specialist, said one man looked like Mr. McVeigh. The other, a muscular man whose arms filled up the sleeves of his T-shirt, could have been John Doe No. 2. It was months, he said, before he was interviewed by the F.B.I.

Mrs. Martinez, an obstetrical nurse, said she was stopped at a red light in Junction City on the morning of April 17, two days before the bombing, and noticed a large Ryder truck waiting to turn left on the other side of the intersection.

The driver, she said, looked like Mr. McVeigh, although she originally described him as having light red hair. She said the passenger appeared to be Mexican. As she passed them, she said, "Mr. McVeigh was looking at me all the way past his shoulder with his beady eyes, and it scared me.""

In cross-examination, prosecutors observed that Mrs. Martinez's sighting took place hours before Mr. McVeigh rented a Ryder truck. They also reminded her that she had said the passenger had stood up in the truck cab, which would have made him very short.

Hilda Sostre, a maid at the Dreamland Motel, where Mr. McVeigh stayed for four days before the bombing, said she saw a man who resembled John Doe No. 2 that morning when she came to work.

She passed him, she said, as she was walking to a laundry room. He was walking toward a large Ryder truck parked at the motel, but that, too, was hours before Mr. McVeigh rented the truck.

Shane M. Boyd, a guest at that motel, said he saw a man resembling John Doe No. 2 at the motel on Saturday, April 15. Mr. Boyd, a helicopter mechanic, said he passed the man as he walked back after buying a Coke at a machine near the motel office.

Rose Mary Zinn, a grandmother from Lost Springs, Kan., told the jury that at lunchtime on Monday, April 17, she was tending store alone in Lincolnville, Kan., 12 miles south of Herington, where Mr. Nichols was living.

She said she took note when two strangers came in. "One was blond and white, and the other one was a dark-complected guy," she said.

"The dark-colored guy looked mean," she said. "So I know this might sound silly, but I thought, uh-oh, I'm going to be robbed." The men bought cigarettes and soda, she said. She followed them to the front door and watched as they got into a large Ryder truck.

She could not recall the men's faces, however, and she said that the blond man was shorter than his companion. Other witnesses have said he was taller.

Raymond Siek, 69, told the jury that he was returning from a funeral at about 4 P.M. that Monday and noticed a Ryder truck at Geary State Fishing Lake, the place where prosecutors say the bomb was built the following day.

Mr. Siek said he saw two men and turned to his son Kevin and said, "I wonder what those idiots are doing down there in the rain."

Kevin Siek, 42, told the jury that he had seen three men there that day. One was shorter and could have been an adolescent.

It was shortly after 4 P.M., however, the same day that Mr. McVeigh went to the Ryder truck rental shop in Junction City to pick up the truck that carried the bomb. Eldon Elliott, the owner of the shop, and Vicki Beemer, his office manager, both testified that they saw a second man with Mr. McVeigh, but neither could describe him.

Estella Weigel, a health care worker, told the jury she saw a man who looked like John Doe No. 2 driving an old Mercury similar in year and color to one owned by Mr. McVeigh sometime between 7 and 8 A.M. on April 17.

She was driving south on Interstate 135 near McPherson, Kan., she testified, and had to slow down for the car, which was followed closely by a large Ryder truck. Two men were in the seat of the truck, she said, but she could describe neither.