

Man at Park Wasn't Man in Trial Picture Ex-Militia Leader Could Not Have Made Bomb When Witness Said

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A former Kansas militia leader who was identified at Oklahoma City bombing suspect Terry Nichols' trial as one of several men seen at the lake where the bomb allegedly was built could not have been there, records show.

A key defense witness testified that he saw a man who looked like Morris Wilson, former commander of the Kansas Unorganized Citizens Militia, at Geary State Fishing Lake in Kansas on April 18, 1995.

Wilson, however, was in jail that day.

Defense attorneys still showed a photo of Wilson - but didn't identify him - in crucial testimony in the final days of Nichols' trial. Jurors said in interviews that testimony raised questions in their minds about the government's case.

The photo is significant because Nichols' defense used it to create doubt in jurors' minds as to his role in the bombing.

The witness, who identified Wilson in the photo, also testified that Wilson was at the lake when Nichols had an alibi and could not have been there.

The only person identified as being at the lake was Wilson, and prosecutors never produced a witness placing Nichols there.

Nichols' attorney, Michael Tigar, declined to comment on the tactic of showing the photo.

Legal experts said it raised ethical questions about the way evidence was presented. And it has angered some jurors, who said they might have been led astray by Nichols' defense attorneys.

``It is frustrating to hear these things," said Chris Seib of Morrison, Colo., who advocated sentencing Nichols to death. ``I feel we were misled. They wanted to put doubt there any way they could. I think that's obviously what they ended up doing.

``Some of this stuff could have made a difference. Who knows? " 'Was it proper?' Jurors found Nichols guilty Dec. 23 of conspiring with former Army buddy Timothy McVeigh to bomb the Murrah Federal Building. They also convicted Nichols of involuntary manslaughter. McVeigh in June was found guilty of murder and sentenced to death.

But jurors acquitted Nichols of murder and of actually bombing the building. Then the jury deadlocked on a sentence, leaving the decision to U.S. District Judge Richard Matsch. By law, Matsch can sentence Nichols to life in prison but not death.

Andrew Cohen, a Denver lawyer and trial analyst, said the defense tactic of showing Wilson's picture in court when he couldn't have been at the lake ``seems cheesy. " ``There's a definite question here, and that is, was it proper for the defense to do that? " said Cohen, who attended the trial. ``I don't think it's right. It's not something I would do, but that doesn't mean that it's not something somebody can do. " What's more, the sheriff in the town where Wilson was jailed said that he told Nichols' defense investigators that Wilson could not have been at the lake when the bomb was built but that they used the photo in court anyway.

The photo had appeared in a Topeka newspaper in August 1995 along with an article about militias. The defense showed the photo in court but did not disclose Wilson's name.

``The defense called me several times around the first of December," Osage County Sheriff Ken Lippert told The Kansas City Star. ``They told me they wanted all the reports on Morris Wilson - when he was arrested and when he was released.

``This bothers me ... a lot. They knew he couldn't have been there. They shouldn't have shown that picture, knowing he wasn't there. I'm not comfortable with what they did. " Wilson, 59, didn't know that his photo had been shown in court until a reporter told him last week.

``There's something screwy here," he said from his home in Loveland, Colo., where he recently relocated. ``It couldn't have been me. " Wilson and two other members of his militia were arrested on a road in Osage County on April 17, 1995, with a cache of loaded assault weapons. They said they were helping a fellow militia member who was being terrorized by prowlers.

Sheriff's officers found the three men about nine miles southeast of Lyndon, in eastern Kansas. Lippert said they were wearing camouflage fatigues and had painted their faces black. All three were arrested on weapons charges and booked into jail late on April 17.

Records show that Wilson was released at 10:27 a.m. April 19, little more than an hour after the Oklahoma City explosion. The charges against him and the others later were dismissed.

Vehicles, men at lake Wilson's unidentified picture was shown at Nichols' trial Dec. 10 in the testimony of Charles W. Farley, a key defense witness.

Farley, a mechanic, testified that he was at Geary State Fishing Lake, south of Junction City, Kan., around 6 p.m. on April 18, 1995.

As an employee of Outdoor Recreation Center at Fort Riley, he said, customers had asked him to check fishing conditions.

Farley said that while driving around the lake he came across a Ryder truck, a brown car, a rusty green-and-white pickup and a green 2-ton flatbed farm truck. The flatbed, Farley said, was weighed down with white bags that he identified as ammonium nitrate.

Farley said he saw five men standing near the vehicles. He was about to ask whether they needed help, but one of the men gave him a dirty look, so he drove away. He described the man as having gray hair and a beard.

After the bombing, Farley said, he saw news reports that the bomb may have been mixed at the lake, and "I started putting 2 and 2 together immediately." That same day, Farley said, he was watching television and saw the man who had glared at him at the lake. He said that he called the FBI to report what he had seen and that an agent later questioned him about it.

When a defense attorney showed Farley a photo of Wilson in the courtroom at Nichols' trial, Farley said it was the same man he had seen at the lake.

Farley's testimony came on the final and strongest day of the defense's case. Afterward, jurors told reporters that Farley was one of the most credible defense witnesses and one of the few who claimed to have seen a Ryder truck at the lake.

Now, jurors interviewed said that they weren't sure what to think. Even though Farley couldn't have seen Wilson at the lake, some still think that his account about seeing the vehicles and men standing around them was accurate.

Other jurors agreed that Farley's testimony was critical but that it wasn't the deciding factor.

"There were a whole bunch of people who had seen Ryder trucks at that lake in the days before the bombing," said one juror, who asked not to be identified, because she had received threats. She added, however, that "his testimony was probably the most credible." Yet jurors wonder why federal prosecutors didn't try to rebut Farley's testimony - especially if they knew that Wilson couldn't have been at the lake that day.

"During deliberations, we were going, 'Who is this man in the picture, and what is the connection?'" Seib said. "It would have been nice for someone to fill in the gap here. If the government would have let us know that, you don't know where this would have gone." Prosecutors 'blindsided' Prosecutors have little to say at this point.

``We've gathered information, and it is a public record that this person (Wilson) was in jail on the day that this witness (Farley) said he was mixing the bomb," said Chris Watney, a prosecution spokeswoman. ``As we've said before, we've followed thousands of leads and would continue to follow credible leads, but this was not one of them. " A sheriff's investigator in Topeka said he thought prosecutors didn't follow up on the photo because they might not have known the identity of the ``mystery man. " ``The prosecution was blindsided," said Sgt. J.D. Mauck, a criminal intelligence officer with the Shawnee County Sheriff's Department. ``They hadn't seen the picture. They had no idea that the picture was even going to be shown that day. " Mauck said he was subpoenaed by the defense to testify immediately after Farley. His role, he said, was to identify the man in the photo and provide details about who he was.

Mauck said he arrived at the federal courthouse in Denver at 8 a.m. Dec. 10 with two photos of Wilson. Defense investigators took them, Mauck said, and then showed them to Farley shortly before he testified.

``They said they had to cut the name off the picture they used in order to get it introduced," Mauck said. ``But after Farley identified him in court, they didn't call on me. And I think that's because they had found out that it couldn't have been him (Wilson).

``It seems pretty questionable to me. " Lippert agreed, adding that he'd received several calls last week asking about Wilson's jail record. Lippert said the callers included someone from the FBI bombing task force and the prosecution's public affairs office.

``The FBI called ... and said, ``We're cleaning up some loose ends,' " Lippert said. ``Which seems kind of strange to me. I called the U.S. attorney's office in Topeka with all of this information at the start of the trial. I told them that the defense was going to use Morris Wilson and that it couldn't be him. What they did with the information, I don't know. " Farley, who lives near Junction City, said last week that he was ``not interested" in discussing his testimony.

Wilson, meanwhile, said no one from Nichols' defense ever contacted him about the case. If anyone had, Wilson said, he could have saved them some trouble.

``It's just the darndest thing. "

Caption:

Photo (color)CAPTION: A witness at Terry Nichols' trial said that on April 18, 1995, he saw the man in this photo at a Kansas park. But the man, Morris Wilson, now of Loveland, Colo., was in jail on that date.

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