

HEARING SET IN OKLAHOMA BLAST GOVERNMENT SAYS FORTIER SOLD ARMS TO FUND BOMBING

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The government can't justify a tougher prison sentence for Michael Fortier by claiming he sold stolen weapons to help fund the Oklahoma City bombing, his attorney argues.

And prosecutors may be short of evidence to contradict him Tuesday when Fortier appears in federal court in Oklahoma City for a pre-sentencing hearing.

Fortier, an Army friend of convicted bomber Timothy McVeigh, pleaded guilty to transporting stolen weapons, concealing evidence, lying to the FBI and failing to warn authorities ahead of time that he knew of McVeigh's plans to blow up the Alfred P. Murrah Federal Building.

The April 19, 1995, bombing killed 168 people and injured more than 500 others.

A third man, Terry Nichols, was convicted of conspiring with McVeigh, but a Denver jury found him innocent of participating in the actual bombing.

The government claimed that Nichols stole 60 weapons from an Arkansas gun dealer in November 1994 to defray expenses of the bombing, and that McVeigh gave

Fortier nearly half of those weapons in December 1994 to sell.

A pre-sentence report on Fortier recommends a stiffer sentence because he should have known the money he turned over to McVeigh - \$2,000 - was to defray bombing expenses.

But Michael McGuire, Fortier's attorney, argues that there is no evidence the money ever went for that purpose. The government's own evidence at the trials showed that when McVeigh gave Fortier 25 of the guns, McVeigh never asked for any money.

He simply told Fortier he could earn \$10,000 for himself by selling them at gun shows.

Fortier hadn't made any move to sell them before February 1995, when McVeigh came to see him in Arizona. On Feb. 10, McVeigh took Fortier to a show in Reno, Nev., to show him how to sell.

It was at that show that McVeigh first told Fortier that he wanted some of the money. According to Fortier, McVeigh said Nichols was upset and wanted a \$2,000 cut.

McGuire pointed out that by Feb. 10, all the ingredients for the 5,600-pound ammonium nitrate-nitromethane bomb already had been purchased or stolen, and in storage for nearly four months.

But Nichols closed on the purchase of a home in Herington, Kan., on Feb. 20 - 10 days after McVeigh said Nichols needed cash. At the closing, according to real estate broker Georgia Rucker, Nichols made the \$3,000 down payment in cash.

The implication is that the cash went to defray the home purchase, although Nichols also had access to about \$17,000 in cash a month earlier.

The only significant expense related to the bombing that came after Fortier turned over the money was the \$280 rental of the Ryder truck that carried the bomb. McVeigh, not Nichols, paid for that.

McVeigh also had to shell out \$250 five days before the bombing to buy a used car after his vehicle broke down on a trip to Kansas.

Fortier will be sentenced May 25. His attorney is pressing for his release for time served - 33 months since his arrest. Prosecutors are seeking a term of between 11 and 14 years.