

Ban Lifted on Bombing Files' Release - McVeigh Says Chances For Fair Retrial in Danger if Reports are Turned Over

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An appeals court on Tuesday lifted a temporary order banning federal prosecutors from turning over investigative files in the Oklahoma City bombing case to Oklahoma authorities.

Earlier, the 10th U.S. Circuit Court of Appeals had granted an emergency request to Timothy McVeigh's attorneys that barred federal prosecutors from releasing some 25,000 FBI investigative reports.

In its ruling, the court said Mr. McVeigh's attorneys failed to file an appeal of the order releasing the documents.

Chris Watney, spokeswoman for the prosecution, said the government plans to turn over evidence and investigative files the week of July 6 unless the courts intervene.

Mr. McVeigh said his chances for a fair retrial will be irreparably harmed if the files are turned over.

Oklahoma County District Attorney Bob Macy plans to charge Mr. McVeigh and co-defendant Terry Nichols with 160 counts each of murder. Mr. Macy said he will seek the death penalty in the April 19, 1995, bombing that killed 168 people.

Lawyers for Mr. McVeigh and Mr. Nichols said state trials threaten appeals of their federal trials and constitute double jeopardy. They said the federal information should not be released until appeals are exhausted.

But state prosecutors want federal agents to be able to clear up questions before the state grand jury about whether the government had prior knowledge of the bombing and failed to prevent it.

"Federal government cooperation with the state grand jury is necessary to lay to rest these unfounded claims," prosecutors said.

Mr. McVeigh turned to the appeals court after U.S. District Judge Richard Matsch, the federal judge who tried him, said prosecutors could turn over the files to Mr. Macy and the grand jury. The judge's ban had been in place to ensure fairness at Mr. McVeigh's trial.

Mr. McVeigh was convicted in federal court of the bombing and eight counts of murder and sentenced to death. Mr. Nichols was convicted of conspiracy and involuntary manslaughter and sentenced to life.

Mr. Macy said he was pleased with the court's decision, even though it was only on procedural grounds.

"As of right now, Judge Matsch's order is back in effect," he said. "It opens it up so we can go ahead and get started on the prosecution. We'll start working on it right away."

Caption:

PHOTO(S): Timothy McVeigh . . . was sentenced to death in the Oklahoma City bombing case.

Memo: A shorter version of this story appeared on page 24A. in the Home Final edition.