

Nichols Charged in Oklahoma - Prosecutor in Bombing to Seek Death Penalty

Dallas Morning News, The (TX)

March 30, 1999 | Arnold Hamilton | Page: 15A | Section: NEWS

Already serving a life sentence in federal prison, Terry Nichols on Monday became the first Oklahoma City bombing conspirator to be slapped with state charges - 160 first-degree murder counts filed by the chief local prosecutor.

District Attorney Bob Macy said he will seek the death penalty against Mr. Nichols, 43.

Legal experts said it is highly unusual, if not unprecedented, for state charges to follow a successful federal prosecution.

Mr. Nichols' state-appointed attorney, Brian Hermanson of Ponca City, declined to comment.

The state case was filed 15 months after Mr. Nichols was convicted by a federal jury in Denver of conspiracy to use a weapon of mass destruction and involuntary manslaughter in the deaths of eight federal law officers who died in the bombing.

No charges were filed Monday against Mr. Nichols' former Army buddy, Timothy McVeigh, who was convicted of conspiracy and murder by a federal jury in June 1997 and sentenced to death for the truck bombing, which killed 168 people and injured more than 500.

Mr. Macy said he decided to prosecute the two men separately, charging Mr. Nichols first in part because he avoided the death penalty after federal jurors deadlocked on punishment.

The state prosecutor said he will decide later whether to charge Mr. McVeigh, pending the outcome of his federal appeals.

Besides the murder counts, Mr. Macy charged Mr. Nichols on Monday with conspiracy to commit murder, aiding and counseling in the placing of a substance or bomb against or near a public building, and first-degree manslaughter for the death of an unborn child whose mother was killed in the April 19, 1995, blast.

The decision to pursue state charges has ignited considerable debate in Oklahoma, not only because of its cost to taxpayers - state lawmakers approved about \$1.8 million for the case - but also because of the emotional toll of a third Oklahoma City bombing trial.

"There's just no point," said Bud Welch, whose daughter, Julie, 23, died in the blast. "No one can tell me - including Bob Macy - what the gain is to have it."

Public support

A statewide poll commissioned by the Tulsa World after Mr. Nichols' federal conviction found that two-thirds of Oklahomans thought he should be tried by the state as well. A county grand jury that reviewed the case urged Mr. Macy to file state charges. And several victims' families publicly added support, portraying a state trial as a safeguard should Mr. Nichols' federal sentence be overturned.

Mimi Wesson, a University of Colorado law professor who attended the McVeigh and Nichols trials in Denver, said it is more typical that a federal prosecution follows "the termination of a state criminal case, usually because there's been an acquittal that is somehow felt to be unjust."

The classic example, she said, was the beating of motorist Rodney King by Los Angeles police. A state jury acquitted the officers of misconduct, prompting federal civil-rights charges to be pressed.

According to testimony in the federal bombing trials, Mr. Nichols was at home in Herington, Kan., at the time Mr. McVeigh drove a Ryder rental truck packed with a 4,800-pound fertilizer and fuel bomb to the doorstep of the Alfred P. Murrah Federal Building.

Testimony revealed that Mr. Nichols and Mr. McVeigh worked in tandem over seven months to carry out the attack, avenging what they viewed as the federal government's criminal mishandling of the 1993 Branch Davidian standoff near Waco.

Mr. Macy said the charges he filed Monday do not involve the eight federal law officers whose deaths were included in the federal indictments against Mr. Nichols and Mr. McVeigh. Instead, Mr. Macy said, the murder counts specifically name the other 160 people who died in the bombing.

The longtime district attorney also said the first-degree manslaughter charge involves the death of the unborn daughter of Robbin Huff, a 37-year-old loan officer with the Federal Employees Credit Union who died in the blast. Mrs. Huff was expected to give birth to her first child in June 1995, two months after the bombing.

Mr. Macy said he does not expect a trial to begin before next year. He said he would prefer that the trial remain in Oklahoma County, at the courthouse just a few blocks south of where the nine-story federal office tower once stood.

Jury concerns

He said questions about seating a fair and impartial jury could be resolved by selecting jurors from elsewhere in Oklahoma, then busing them to Oklahoma City for trial.

Andrew Cohen, a Denver lawyer and CBS Radio legal analyst who covered the McVeigh and Nichols trials, said the fact the Mr. Macy is seeking the death penalty - even though Mr. Nichols was sentenced to life in federal prison - suggests that "passions haven't cooled."

"Obviously, it's going to be very difficult for Terry Nichols to have a trial with a jury of people who are not emotionally involved in a horrible crime," Mr. Cohen said. "That's why [U.S. District Judge Richard] Matsch moved the case two years ago, and that's why I think Judge Matsch would move the case if it were brought to him today."

Caption: PHOTO(S): Terry Nichols