

McVeigh Abandons Appeals - Bomber Wants Execution Set Within 120 Days

Dallas Morning News, The (TX)

December 13, 2000 | Arnold Hamilton | Page: 1A | Section: NEWS

Over the objections of his lawyers, convicted Oklahoma City bomber Timothy McVeigh has abandoned his final round of appeals and urged that his execution be set within 120 days.

In a two-page court filing made public Tuesday, he offered no explanation for his decision but did leave himself one final option: He reserved the right to seek presidential clemency.

"I think I am fully competent to make this decision," Mr. McVeigh said. "If the court thinks that a psychological evaluation is necessary to make certain that I am competent, I will submit to such an evaluation.

"I will not justify or explain my decision to any psychologist but will answer questions reasonably related to my competency," the decorated Persian Gulf War veteran said.

Mr. McVeigh's decision to waive his appeals, legal analysts said, fits a pattern of anti-establishment, prisoner-of-war-type behavior that he has exhibited since his arrest after the April 1995 truck bombing of the Alfred P. Murrah Federal Building.

So, they said, does his vow not to justify his reasons to a court-appointed psychologist.

"This is classic Tim McVeigh: 'Name, rank and serial number. I'll tell you that, but forget the rest,'" said Mimi Wesson, a University of Colorado law professor who covered Mr. McVeigh's 1997 trial for National Public Radio.

Prosecutors contended that Mr. McVeigh masterminded and carried out the daring workday attack in retaliation for what he perceived as the government's mishandling of the deadly siege at the Branch Davidian compound near Waco in 1993.

The Oklahoma City bombing - America's worst act of domestic terrorism - left 168 dead and more than 500 injured.

One survivor of the blast, retired Veterans Administration psychologist Paul Heath, said he believed that Mr. McVeigh's decision to waive his appeals was nothing more than a publicity stunt.

"He wants to be a martyr," Dr. Heath said, "and he won't be able to do that unless he can keep his name in the press and before the public. ... It's purely manipulative."

Lawyer backs decision

Mr. McVeigh's trial lawyer, Stephen Jones of Enid, Okla., said he believes his former client's wishes "should be respected."

"Mr. McVeigh ... is an intelligent and well-educated man with a good grasp of his legal rights and alternatives," Mr. Jones said in a statement. "I have little doubt he has reached this decision after careful thought and reflection and advice from his lawyers."

"It appears that now he seeks to be judged not by our justice but by God's mercy," he said.

In a separate filing in Denver federal court, however, Mr. McVeigh's appellate lawyers said they disagreed with his decision to end appeals.

"Despite counsel's strongly held beliefs regarding the propriety of an appeal, the Rules of Professional Conduct give to the client the ultimate authority to make decisions regarding whether to take an appeal," said a statement signed by lead counsel Dennis Hartley of Colorado Springs.

The Justice Department offered no comment on Mr. McVeigh's request to waive further legal review.

What happens next

A Justice Department official said Mr. McVeigh's request wouldn't immediately trigger the setting of an execution date. The trial judge will first have to rule on the merits and determine whether Mr. McVeigh is competent to make the request. Mr. McVeigh's notice that he is abandoning his appeals was filed in U.S. District Court in Denver, where the case was moved from Oklahoma because of extensive pretrial publicity.

U.S. District Judge Richard Matsch, who presided over Mr. McVeigh's trial and later rejected two of his appeals, now must decide whether to allow the former soldier to abandon his appeals and grant his request for an early execution date, legal analysts said.

A spokesman for the federal Bureau of Prisons said the setting of an execution date will depend largely on the sentencing order from Judge Matsch.

"We have to wait and see what the court action is," said bureau spokesman Dan Dunne.

The provisions under which Mr. McVeigh was sentenced to death call for the director of the Bureau of Prisons to set the date, time and place of execution unless the court does so.

Mr. McVeigh, confined to the federal death row unit near Terre Haute, Ind., is one of three former Army buddies implicated in the truck bombing of the nine-story downtown federal building.

Terry Nichols, 45, was convicted in a separate federal trial of conspiracy and manslaughter and sentenced to life in federal prison without parole. He is being held in the Oklahoma County Jail awaiting state trial on 160 murder charges in the deaths of nonlaw officers who died in the blast.

Michael Fortier pleaded guilty to several crimes, including failure to alert authorities to the plot. He was sentenced to 12 years in federal prison, but he is appealing.

Previous appeals

Mr. McVeigh's first bid to reverse his conviction and death sentence were rejected by Judge Matsch and the 10th U.S. Circuit Court of Appeals in Denver in 1998. The U.S. Supreme Court refused to consider the matter last year.

Last spring, Mr. McVeigh filed his second round of appeals, arguing he deserved a new trial because his lawyers bungled the case. But Judge Matsch rejected that appeal in October, leaving the bomber with only two remaining options - appeal again to the 10th Circuit or the U.S. Supreme Court.

Mr. McVeigh instead decided to waive all appeals.

"I'm not very surprised," said Denver attorney Andrew Cohen, who covered the bombing trials for CBS Radio. "None of his appeals were successful or likely to be. If you believe the idea that he did this as a declaration of war against America, then it's not unreasonable to think that he would be willing to give up the fight for his life to send that same message.

"I get the sense that he has a military bearing. He may perceive this as an honorable way out, the honorable way to conclude his crusade."

Staff writer Michelle Mittelstadt in Washington contributed to this report.

Caption:

PHOTO(S): Timothy McVeigh ... the Oklahoma City bomber says he would be willing to undergo psychological testing to prove his competence to end appeals.