

Nichols' Lawyers Say Evidence Was Ignored - Judge Does Not Rule At Pre-Trial Hearing

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Defense attorneys argued Tuesday that prosecutors have ignored evidence favorable to Terry Nichols because they would be legally obligated to share it with him.

Attorneys questioned a parade of witnesses, many behind closed doors, during a pre-trial hearing. Mr. Nichols' attorneys say evidence from the witnesses was improperly ignored or Mr. Nichols' defense team never received copies of reports about the original interviews with the witnesses to help him prepare for his state bombing trial.

"It certainly raises questions," defense attorney Barbara Bergman said.

State District Judge Ray Dean Linder did not rule on the matter. Testimony is scheduled to resume Wednesday.

Mr. Nichols, 45, is charged with 160 counts of first-degree murder for the April 19, 1995, bombing of the Alfred P. Murrah Federal Building. State prosecutors are seeking the death penalty.

Mr. Nichols is already serving a federal life prison sentence for his conviction on eight involuntary manslaughter counts and conspiracy in connection with the bombing.

Judge Linder heard secret testimony from at least six witnesses who attorneys said were questioned about their bombing-related grand jury testimony or about the bombing investigation.

Among them was Jayna Davis, a former reporter for KFOR-TV in Oklahoma City who prepared a series of investigative reports about the bombing and testified before an Oklahoma County grand jury that investigated allegations of a wider bombing conspiracy.

Attorney Tim McCoy, who said he represented Ms. Davis in a defamation lawsuit, testified in open court that Ms. Davis tried to drop off boxes of evidence to the FBI out of concern that she might be accused of obstruction of justice if she didn't surrender them.

But Mr. McCoy said federal agents refused the boxes. He said he discussed their refusal with Assistant U.S. Attorney Sean Connelley, part of a team of prosecutors at Mr. Nichols' federal trial.

"He said something about he did not want to have more documents available for discovery," Mr. McCoy said. Mr. Connelley also testified in secret during the hearing.

Another witness, Debra K. Kelley, testified she was interviewed by FBI agents within hours of the bombing about a brown truck she saw speeding away from the site, but the agents never followed up the interview.

Meanwhile, in Denver on Tuesday a retired deputy U.S. marshal was accused of making false statements about an alleged relationship with an alternate juror in the trial of bombing mastermind Timothy McVeigh after his trial was over.

Benny Bailey appeared before a U.S. magistrate on charges of making false and fictitious statements to Department of Justice investigators who were looking into allegations that the relationship with the alternate juror started during the trial.

Justice Department investigators found Mr. Bailey and the alternate juror, who did not participate in the deliberations, began a sexual relationship after the trial was over, prosecutors said in court documents unsealed Tuesday.

Judge Richard Matsch, who presided over Mr. McVeigh's trial, ruled that the alleged relationship did not taint the jury's deliberations. Mr. McVeigh, convicted of murder and conspiracy in the bombing, is scheduled to be executed in May.