

## **Motion to dismiss Nichols case denied - Trial on 160 counts of murder to go on**

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A judge denied a motion Wednesday to dismiss 160 counts of first-degree murder against Terry Nichols for the Oklahoma City bombing.

State District Judge Ray Dean Linder rejected arguments by defense attorneys who said it is unconstitutional to try Mr. Nichols in state court following his federal bombing trial.

"There has not been a conviction, there has not been an acquittal that touches those 160 counts of first-degree murder," Judge Linder ruled.

Defense attorneys claimed the state prosecution violated Mr. Nichols' constitutional right against double jeopardy, or being tried for the same crime twice.

Mr. Nichols, 45, was acquitted of federal murder charges but convicted of conspiracy and eight counts of involuntary manslaughter at his federal trial in Denver.

Judge Linder said the state charges against Mr. Nichols involve the same crime that Mr. Nichols was prosecuted for at his federal trial.

"But it is a different part and parcel of that same criminal activity," Judge Linder said. "Right now, 160 deaths are alleged to have occurred."

Mr. Nichols was convicted in federal court for the deaths of eight federal law enforcement officers. The state charges are for the 160 other people who died in the bombing of the Alfred P. Murrah Federal Building on April 19, 1995.

Mr. Nichols was sentenced to life in prison on his federal conviction. State prosecutors are seeking the death penalty.

Mr. Nichols' co-defendant, Timothy McVeigh, was convicted of federal murder charges and sentenced to death.

Assistant District Attorney Lou Keel urged Judge Linder to reject defense arguments that state and federal prosecutors worked closely together to prepare the federal case for trial.

"It didn't happen. It didn't go on," said Mr. Keel.

Judge Linder's ruling came in the second day of a pre-trial hearing for Mr. Nichols in which defense attorneys also said that prosecutors have ignored evidence favorable to Mr. Nichols. But Judge Linder ruled that testimony on the issue was "nebulous at best."

Defense attorney Barbara Bergman had argued that investigators did not write reports containing evidence favorable to him, or that copies of such reports were not provided to the defense team.

At the hearing, Judge Linder also quashed subpoenas for Oklahoma County District Attorney Bob Macy and Assistant District Attorney Sandra Howell-Elliott that were requested by the defense.