

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
 Plaintiff,)
)
vs.) Case No. CF-99-1845
)
TERRY LYNN NICHOLS,)
 Defendant.)

AFFIDAVIT OF RICARDO OJEDA

I, Ricardo Ojeda, of lawful age do upon my oath, state as follows:

1. I was employed by the Federal Bureau of Investigation as a special agent from November 5, 1989 until approximately November 8, 1999. I was assigned to Durant, Oklahoma.
2. My attorney has accepted service of a subpoena to attend a hearing on May 23, 2001, in Oklahoma City in this matter, but I have a trial commitment on that date in Texas and am not able to attend. I am submitting this affidavit in lieu of providing testimony at that hearing.
3. In the course of my duties as a Special Agent for the FBI, I was trained to investigate crimes and interview witnesses. When interviewing a witness, we would not tape record the interview but would take notes. It was standard FBI procedure to use the notes to prepare a report -- either a "302" or an "insert." When preparing a 302, we were trained to be careful in what we put into the report since it was likely to be turned over to the defense in discovery. Indeed, the 302s were prepared in anticipation that they might used as evidence in the course of a legal proceeding. The second kind of report, which we would prepare was called an "insert." Inserts were similar to 302s except that they were usually prepared when the agent did not expect the witness or information to be used at trial. Whenever an agent interviewed a potential witness, a report concerning the interview was to be dictated within either five (5) or seven (7) working days so that the interview was still fresh in the agent's memory when the report was prepared. In every interview, an agent was required to prepare a report to document the substance of the interview.

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4. In my position as a Special Agent I assisted in the investigation of the bombing of the Alfred P. Murrah Building in Oklahoma City. I was first assigned to follow up leads in Oklahoma City on the day of the bombing, April 19, 1995.
5. During the next several weeks, I was given lead sheets which required me to contact and then interview persons with information regarding the Oklahoma City bombing. After following up on a lead, we would write a synopsis of the information we had obtained on the bottom half of the lead sheet. The lead supervisors would review our report and then determine the need for any follow-up investigation.
6. Pursuant to standard FBI policy, it was the investigating agent's responsibility to do a 302 or an insert based upon his or her investigation. An agent was to generate a 302 or insert on completion of any lead, whether the lead was helpful or not. The lead sheet would then be placed in the logbooks and were used to track the 302s. Information that was not going to be helpful in court would often be summarized in an insert, which we knew was generally not discoverable in court.
7. After completing our 302s or inserts, we would submit that report as well as our notes to the OKBOMB Command Center. The notes were included in a 1A envelope. In several instances, I was asked to resubmit 302s because the Command Center could not locate my original report. I would then have to try to recreate from memory what had been in my original report. I am aware that a number of other agents who worked on the OKBOMB case also encountered problems with missing or lost 302s.
8. I have been shown a list of ten 302s that have been provided to the defense in the state prosecution of Terry Lynn Nichols for which I was listed as the agent preparing the report. I have also been shown two other reports which have been redacted. I am confident that I was the author of one of those two 302s and I believe that I was the author of the second 302, although it has been redacted so much that I cannot be completely sure that it is my report. I know that I completed other 302s that are not on that list or that I have been shown.
9. The FBI also kept "zero files," which were reports containing information that the FBI would not generally want disclosed to the defense and which were kept separate from a specific case file. These files were kept internally within the Bureau and typically were not turned over to the prosecution or the defense. Files would be assigned numbers based on the type of offense or investigation involved, for example, a bank robbery would be assigned a particular number. A letter A after that number would mean highest importance. A zero after that number would mean that the report should go into the "zero" file.
10. Despite being nominated for Federal Law Enforcement Officer of the Year in 1998, I was unjustly terminated by the FBI in 1999 because of my work as an

EEO counselor and my support for agents who filed EEO complaints. Although there are many very good FBI agents, there are also FBI agents, including some who worked on the Oklahoma City bombing case, who are willing to subvert the truth in order to protect fellow agents.

R-1-71

Ricardo Ojeda

Subscribed and sworn to before me this 21st day of May, 2001.

Sandra Torres
Notary Public

