

Recovered McVeigh File Contradicts FBI Assertions Witness saw man like 'John Doe No. 2'

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A document belatedly turned over to defense lawyers in the Oklahoma City bombing cases could have lent credibility to a witness.

The man was chastised on the stand for not telling the FBI soon after the bombing that he had seen an unidentified man with someone who looked like Timothy McVeigh near the doomed federal building.

The man's testimony was discredited in part because lawyers never saw the document, known as a lead sheet, before the trials of Mr. McVeigh and bombing co-conspirator Terry Nichols. The lead sheet turned up in recent weeks after the FBI sought to close its case in preparation for Mr. McVeigh's execution.

The tip sheet said Morris John Kuper Jr. called the FBI on April 21, 1995, two days after the bombing left 168 people dead, to suggest that the bureau investigate activities he observed in a parking lot a block away from the Alfred P. Murrah Federal Building an hour before the blast.

When cross-examined during the trial several years ago of Mr. Nichols, Patrick Ryan, then the U.S. attorney in Oklahoma City, emphasized that the date of the first FBI interview report with Mr. Kuper was Oct. 24. He repeatedly challenged Mr. Kuper's credibility, saying that he had made no attempt to reach the bureau until then.

Mr. Ryan said Friday that he had no idea the document existed.

"I certainly would never intentionally tell the jury someone had not come forward for six months if I knew they had come forward a couple of days after the bombing," said Mr. Ryan, now a lawyer in private practice.

On Friday, Chris Watney, a spokeswoman for the Department of Justice, said she could not comment on the matter.

Mr. McVeigh's execution was delayed from May 16 until June 11 after Justice Department officials acknowledged the existence of all the documents and said they should have been provided to the lawyers before trial.

At Mr. Nichols' trial, Mr. Kuper testified that he saw a man resembling Mr. McVeigh walking with another man near the federal building at 8:02 a.m. on the day of the bombing. He said he saw the two men getting into a car similar to the one in which Mr. McVeigh was later arrested.

Mr. Kuper described the other man as being muscular and dark-haired, a description similar to that of a number of witnesses who have described an unidentified suspect who came to be known as "John Doe No. 2."

Mr. Kuper testified that he called the FBI on April 21 to suggest that they check cameras at the Public Library and Southwestern Bell that might have caught something in that area, "but they took my name and phone number and never contacted me again."

In fall 1995, Mr. Kuper responded to an e-mail request for information about any activity in the parking lots from his employer, the Kerr-McGee Corp.

At Mr. Nichols' trial, Mr. Ryan drew attention to discrepancies between Mr. Kuper's testimony in court and what he had told the FBI two years earlier, that the passenger was not as muscular as the driver.

Mr. McVeigh's lawyers are still examining the documents and have not yet decided whether to seek a stay of execution. Attorneys for Mr. Nichols have told the Supreme Court that they've found at least two instances in which prosecutors tried to impeach the credibility of defense witnesses with assertions contradicted by the newly disclosed FBI files.

Mr. Kuper was among a number of witnesses called by the defense at Mr. Nichols' trial to show that someone other than Mr. Nichols helped Mr. McVeigh.

"It was my feeling they were fairly unreliable," Mr. Ryan said.

Beth Wilkinson, another prosecutor, likened such accounts to "Elvis sightings," and Mr. McVeigh has subsequently been quoted as saying that John Doe No. 2 does not exist.

Caption: PHOTO(S): Terry Nichols ... witness testified in Mr. Nichols' trial of seeing two men near the bomb site.