

## **Nichols' defense attorneys must counter hard-hitting testimony**

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Now that prosecutors have wrapped up the state case against bombing conspirator Terry Nichols, defense attorneys face the daunting task of countering 29 days of gruesome descriptions, tearful testimony and more than 1,000 pieces of evidence.

Nichols' attorneys are scheduled to begin questioning about 200 defense witnesses Thursday. They will try to make the case that if Nichols was involved in the plot to destroy the Oklahoma City federal building, it was only marginally, according to lawyers familiar with the case.

The jury has already heard testimony that Nichols was trying to withdraw from the conspiracy, said Michael McGuire, who represents the prosecution's star witness, Michael Fortier.

During his three days of testimony, Fortier said that bomber Timothy McVeigh, who was executed after being convicted of federal murder charges, tried to recruit him because "Terry was backing out."

"There's a question whether or not his (Nichols') intent was the same as McVeigh," McGuire said. Fortier was sentenced to 12 years in prison after pleading guilty to knowing about the bomb plot and not telling authorities.

Nichols was sentenced to life after being convicted of federal charges. Now Oklahoma prosecutors are trying to convict him on state murder charges that could bring him the death penalty.

Presiding Judge Steven Taylor limited the defense's ability to explore evidence of alternative suspects, saying that there was no substance to allegations that McVeigh had links to a gang of white-supremacist bank robbers and residents of Elohim City, a separatist enclave in eastern Oklahoma.

Attorney Stephen Jones, who defended McVeigh at his federal bombing trial, said that Taylor's ruling might have helped the defense attorneys refine their case.

"It may have persuaded them to rethink the defense and come up with another alternative explanation," Jones said.

Jurors may still hear suggestions of another conspirator through witness accounts of the so-called John Doe No. 2, who many people have said they saw with McVeigh before the bombing.

The panelists may also hear grisly testimony about the discovery of a dismembered leg in the federal building's rubble that Nichols' defense attorneys may suggest are the remains of an unknown co-conspirator.

Whatever the defense case, it has to be believable, Jones said.

"The risk for the defense is to put on a case that is not credible. It has to be a plausible alternative explanation," he said.

Nichols, 49, was convicted of federal involuntary manslaughter and conspiracy charges in the deaths of eight law-enforcement agents in the April 19, 1995, bombing.

In Oklahoma, Nichols is charged with 161 counts of first-degree murder for the deaths of the other 160 victims and one victim's fetus. Prosecutors are asking for the death penalty.

Prosecutors alleged that McVeigh and Nichols, who became friends in the Army, plotted the bombing to avenge the deaths of 81 people in the federal raid on the Branch Davidian compound near Waco, Texas, on April 19, 1993 - exactly two years before the Oklahoma City bombing.

They say that the two began acquiring the key ingredients for the bomb - 4,000 pounds of ammonium nitrate fertilizer, nitromethane racing fuel and explosives - seven months before the explosion, then met at a park near Junction City, Kan., to pack the bomb inside a Ryder rental truck on April 18, 1995.

But when McVeigh detonated the bomb the next day, Nichols was at home with his family in Herington, Kan.

There are no witnesses who can identify Nichols as the man who bought fertilizer, stole explosives or robbed a gun collector to finance the bomb plot.

But FBI investigators said that when Nichols' home was searched three days after the bombing, they found a Sept. 30, 1994, receipt for the purchase of 2,000 pounds of fertilizer as well as weapons and explosives similar to those used in the bombing.

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