

Nichols Defense Rests its Case

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This story incorrectly identified the federal police agency where Kevin Waters once worked. Waters, a witness in the Terry Nichols murder trial, is a former agent with the federal Drug Enforcement Administration.

Attorneys keep the focus on McVeigh; closing arguments could begin Monday.

McALESTER -- The defense for Oklahoma City bombing suspect Terry Nichols ended Thursday by doing what it has done most of the past two weeks -- keeping the focus on Nichols' late friend Timothy McVeigh.

Defense attorneys rested their case by calling more witnesses who say they saw McVeigh and someone else lurking around downtown Oklahoma City before and after the April 19, 1995, explosion that killed 168 people.

Prosecutors responded Thursday by calling six rebuttal witnesses who were intended to cast doubt on previous defense testimony alleging unknown bombing accomplices other than Nichols. The state will finish its rebuttal Friday.

The seven-women, five-man jury could receive jury instructions and hear closing arguments beginning Monday. Jury selection began March 1.

Since testimony began March 22, jurors heard 151 state witnesses and 96 defense witnesses.

Nichols is charged with 161 state murder counts alleging he helped McVeigh fund and plan the bombing of the Alfred P. Murrah Federal Building. He could receive the death penalty if convicted.

Prosecutors have alleged that the former Army buddies planned to destroy the federal building in retaliation for the government's deadly siege of the Branch Davidian compound near Waco, Texas, two years earlier.

During the state phase, witnesses testified about finding purported bomb-making materials and stolen guns at Nichols' home. The weapons were taken in a robbery that helped finance the bombing, they say.

Nichols' defenders say their client may have shared McVeigh's anti-government views, but not his bloodthirst. They allege that McVeigh carried the bombing out with other helpers and set up Nichols to take the fall.

A former federal Bureau of Alcohol, Tobacco and Firearms agent testified Thursday that he came out of the Murrah building where the ATF office was located and saw McVeigh and another man in a car on the evening of April 18.

Nichols was at his Herington, Kan., home when the bomb exploded the next day. McVeigh was arrested north of Oklahoma City about 90 minutes after the blast.

Kevin Waters was driving his car out of the Murrah parking garage when his headlights shined on a large, "junky" vehicle he later identified as looking like McVeigh's 1977 Mercury Marquis. He said McVeigh was not alone.

"What I saw was two white guys, very clean-cut," Waters testified. "They stared at me constantly."

Waters said he was concerned about their presence and even drove back by the Murrah that evening to see if they were still there, which they were. He copied the car's license plate number and then went home.

On cross-examination, Waters said he regretted that he did not tell FBI investigators about his alleged encounter until months after the bombing, although several fellow ATF employees were killed in the blast. He also admitted he never called the police nor got any details about the license plate on April 18.

"Who did you call to say 'My gosh, I saw Mr. McVeigh outside the federal building?' " lead prosecutor Sandra Elliott asked.

"Nobody," Waters said.

A Stigler woman, Susan Lively, testified about a highway encounter she had in the minutes after the bombing. She was driving onto I-35 from I-40 when she was nearly struck by a yellow, older-model car moving north quite fast with a pickup truck following close behind, Lively told the court.

She later recognized it as looking like McVeigh's Mercury Marquis when she saw it on television. Lively also claimed to have seen the dark-haired, muscular man in the pickup truck later that day on I-40 west of Shawnee.

He looked "like a Colombian drug lord, only meaner," she testified.

Two Kansas women who talked to Nichols on the day of the bombing described him as quiet and composed.

The state's rebuttal witnesses focused solely on countering previous alleged sightings of McVeigh with unknown suspects. One of those was even a recent defense witness, Joan Rairden, who admitted she had viewed security tapes and did not see McVeigh with others at a Junction City, Kan., McDonald's around April 14 or 15, as she had testified earlier.

Rairden did not exactly recant her May 7 testimony, either. "I couldn't say I didn't see them, but I couldn't find them, either," she said.

One witness, Bill Holdson, testified that he was driving a Ryder truck around downtown Oklahoma City on April 18 and 19. Holdson was working for a local bank delivering signage and other items. Numerous defense witnesses have said they saw someone other than McVeigh or Nichols in a Ryder truck around those times.

Two former FBI agents, John Hippard and Mark Bouton, recounted their interviews nine years ago with defense witnesses who now say they saw McVeigh with other men. Hippard and Bouton said their reports show no such certainty among those witnesses at the time.

Lead defense attorney Brian Hermanson challenged the former agents' note-taking consistency and noted that they never tape-recorded those interviews to prove who was telling the truth.

Osage County, Kan., sheriff's deputy Foy McElfresh brought jail records into the court indicating that Morris Wilson was in the county lockup there from April 17-19, 1995. Her records appeared to contradict the May 11 defense testimony of Kansas resident Charles W. Farley.

Farley told the court he saw McVeigh and other men, including Wilson, with a Ryder truck at Geary Lake on April 18, 1995. He also recalled seeing a farm truck with fertilizer bags on it.

Prosecutors allege that McVeigh and Nichols mixed the fertilizer and fuel oil bomb at the lake on April 18. McVeigh then drove the 4,000-pound explosive in the Ryder truck and delivered it in front of the federal building.

Nichols was convicted on lesser federal charges the same year and sentenced to life in prison. McVeigh was convicted on federal murder counts in 1997 and executed four years later.

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