



## Just the Beginning

“Guilty.” Eleven times the packed courtroom heard U.S. Judge Richard Matsch read the verdict, once after reading each of the 11 counts in *United States of America v. Timothy James McVeigh*. Conspiracy, use of a weapon of mass destruction and destruction by explosive: Guilty. Eight counts of murder of federal law enforcement officers: Guilty.

The federal jury of seven men and five women deliberated for 23 hours over the course of four days before returning its decision on the afternoon of Monday, June 2nd. Before reading the verdict, Judge Matsch had sternly warned the emotionally charged courtroom, filled with survivors and family members of victims of the Oklahoma City bombing, that the same strict rules of conduct would apply as had been in force in his court during the trial and that no outbursts would be tolerated.

The victims stoically complied, suppressing the pent-up passions that had strained their endurance during the five-week trial and the two years of investigation since the fateful day of April 19, 1995, when their lives were shattered. However, the stifled sobs, tears, and jubilant exultations burst forth unrestrained as they left Denver’s federal courthouse.

## Pain of the Victims

Thus ended the first phase of the trial of Timothy McVeigh. The sentencing phase, to determine whether he would receive the death penalty or life in prison without parole, began on Wednesday, June 4th, and contained even more heartrending testimony from survivors and rescuers than the first stage of the trial. Story after story of suffering, loss, and horror left the courtroom spectators, press gallery, court officers, and jury weeping. Judge Matsch himself was visibly moved by much of the testimony and had difficulty finding his voice after some of the more devastatingly painful accounts of rescue personnel and family members of victims.

The only one who appeared completely untouched by the terrible tragedies was the accused perpetrator — Timothy McVeigh. Throughout the gripping sentencing-phase testimony he remained as impassive and stony faced as he had been during the evidentiary stage of the trial. And although some in the press gallery claimed to detect a more somber note in McVeigh’s demeanor during the latter days of the trial, it was too subtle for this writer’s powers of observation, if it was there at all. Tim McVeigh seemed as casual and relaxed at the end as he had been at the start. Day after day, he strolled into the courtroom with his hands in his pockets and a grin on his face, nonchalantly greeting and joking with members of his defense team.

This unseemly behavior was especially bitter gall for the family members and survivors who attended the trial. “I never saw him even once show a sign of remorse or indication of sympathy for those he killed, or for those of us who had suffered losing our loved ones,” Jannie Coverdale told *The New American* as she left the courthouse at the end of the trial and the jury began its deliberation. Like a small cluster of other victims from Oklahoma City who had encamped in Denver for the duration, Mrs. Coverdale arose long before dawn each day in order to get in line at the courthouse by 5:00 or 5:30 a.m. On some days volunteers from churches stood in line to save places for them. But for Jannie Coverdale, who lost her two young grandsons, Aaron and Elijah, in the Murrah Building daycare center, McVeigh’s callous disregard for the pain of her loss and his cavalier attitude, when added to the physical and emotional toll of the wearying court schedule, was almost too much to endure. Charles Tomlin expressed almost identical feelings. “It’s really hard to sit here day after day and see him laughing and



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smiling when so many are dead or maimed and scarred for life,” he said. Tomlin’s son Rick, who worked for the U.S. Department of Transportation, was killed by the blast, leaving behind a wife and two sons.

On Friday, June 13th, after 11 hours of deliberation, the jury returned its unanimous verdict in the penalty phase: Death. While defense attorneys begin preparing appeals, prosecutors in Oklahoma are readying the state trial for the 160 murder victims whose deaths were not covered in the federal trial.

## “Slam-Dunk” Prosecution

Throughout virtually all of the trial, the media mavens and anointed legal experts sang hosannas to the prosecution, asserting that U.S. Attorney Joseph Hartzler and team had put together a slam-dunk case that had been meticulously researched, overwhelmingly corroborated, and flawlessly presented. Nothing could have been further from the truth. Although the return of a guilty verdict on all 11 counts may appear to vindicate the rosy view of the government’s presentation, it doesn’t change the fact that the prosecution took an enormous gamble by staking its case on some of the shakiest circumstantial evidence and weakest witnesses available to them.

It also can’t hide another obvious fact: The prosecution rejected some of its most powerful evidence and credible witnesses in a transparent effort to prevent revelations that clearly would be damaging to high government officials and federal law enforcement agencies.

Considering that this was the largest and most expensive criminal investigation and prosecution in American history, involving an unprecedented outlay of personnel and technological resources over more than two years, the government’s case was a travesty. Long before this trial commenced, *The New American* was convinced from its own investigation, as well as by the research of other journalists and independent investigators, that Timothy McVeigh was guilty of participation in the bombing of the Murrah Building. A mountain of circumstantial evidence and expert analysis, together with the solid testimony of multiple eyewitnesses placing McVeigh with the Ryder truck at the Murrah Building, compellingly pointed to his culpability. But that same circumstantial and direct evidence also pointed just as compellingly to additional accomplices, to the still at-large “John Doe No. 2” and the “others unknown” mentioned in the federal indictment of McVeigh and his accused co-conspirator, Terry Nichols.

For whatever reasons, the federal prosecutors and the FBI, within the first weeks of the bombing investigation, began reversing course, and, in the face of massive evidence to the contrary, started floating a theory that posited McVeigh as a “lone bomber.” Because this was so implausible and drew such a sharply negative reaction from the public, the early tack chosen by the feds was to assure everyone that all available resources were being deployed to track down every available lead *just in case there might be* additional accomplices. But by a carefully orchestrated series of deceptive statements, weasel-worded releases, and disinformation ploys, the prosecution set about debunking evidence of other John Does, even as it was promising survivors that federal agents were doing everything possible to find the other co-conspirators.

As the jury went into deliberation on May 30th, several survivors and family members told *The New American* that they would be greatly perturbed if the government convicted McVeigh and Nichols and then considered the case closed. “We know there are at least three or four others who were directly involved,” said Jannie Coverdale, “and we know the government has some very strong evidence about them.” Charles Tomlin seconded her opinion. “Common sense, together with the circumstantial evidence and witnesses, tells you that McVeigh didn’t do this by himself,” Tomlin noted, “and Nichols



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wasn't with him on April 19th in Oklahoma City, so who was?"

"The evidence is overwhelming that there were other perpetrators, and that's the main concern of a lot of us — that the government will not pursue it beyond McVeigh once they get a guilty verdict," said V.Z. Lawton, another federal employee who survived the blast.

One woman who lost a child in the bombing and who asked not to be identified told *The New American* that she had just been told by a prosecution team member that every effort was being made to track down anyone associated with the terrorist act. I told her I hoped that indeed was the case, but that a long chain of statements and actions by the prosecution, culminating in its filing of papers in federal court on April 25th to dismiss the warrants against John Doe No. 2, appeared to belie that promise. In quietly dismissing that warrant, the government stated there was "no credible evidence" of any perpetrators of the bombing other than McVeigh and Nichols.

## Conspicuous Absence

Throughout the entire trial, the government scrupulously excluded any witnesses or evidence which would have challenged its "lone bomber" thesis, thereby jeopardizing its case against McVeigh. In this respect it had much help from the court, with Judge Matsch repeatedly refusing to allow McVeigh's counsel, Stephen Jones, to present witnesses and evidence supporting the existence of a larger conspiracy. Thus, the jury heard no testimony from Carol Howe, the federal informant for the ATF who claims to have provided specific warning to her superiors about the planned bombing months before it occurred. Neither did it hear from other witnesses, who, like Miss Howe, finger German national Andreas Strassmeir, along with other habitues of the Aryan Republican Army hideout known as Elohim City, as prime suspects in the terrorist blast.

Nor did the jury hear from FBI Special Agent Henry C. Gibbons, whose sworn affidavit of April 20, 1995 attests to a witness who saw two males "of possible Middle Eastern descent, approximately 6 feet tall, with athletic builds," in blue jogging suits, running from "the area of the Federal Building toward a brown Chevrolet truck prior to the explosion." That testimony is buttressed by the independent testimony of other eyewitnesses who described men of similar appearance associated with a vehicle of the same description. It is also bolstered by compelling evidence supplied by another federal informant, Cary Gagan, who *specifically* warned federal officials of a plot in which he had become unintentionally involved to blow up federal buildings in several cities in the western and midwestern United States. Gagan has convincing documentation to back up his claims that he repeatedly warned authorities — months in advance, and then in a final desperate effort on April 6th, two weeks before the blast — of the impending terrorist attack, which involved both Middle Eastern and American elements.

The jury did not hear from others such as Gary Lewis, Mike Moroz, Kyle Hunt, Debbie Nakanashi, and a dozen or so other witnesses who described seeing McVeigh with one or more individuals in, or around the vicinity of, the Murrah Building. It did not hear from the dozen or more witnesses who placed John Does with the Ryder truck and/or Tim McVeigh in Junction City and Herington, Kansas. It did not hear from Dan Adomitis, Harvey Weathers, Rene Cooper, Claude Criss, and others who saw bomb squad vehicles, personnel, and sniffer dogs around the Murrah Building, obviously looking for bombs, more than an hour before the explosion — providing *prima facie* evidence of prior warning of the bomb attack. The jury did not hear from General Benton K. Partin (ret.), Dr. Samuel Cohen, or any of the many other explosives experts, scientists, and engineers who have authoritatively debunked the government's theory that the Ryder truck bomb alone caused the massive destruction and death in



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Oklahoma City. If these experts are correct — as the evidence strongly indicates — that additional demolition charges were used inside the building, then the case is cinched that additional accomplices were involved. It would have been simply impossible for one bomber to prepare and plant both the truck bomb and internal charges.

## “Star” Witnesses

Just what did the jury see and hear? A concatenation of highly suspect and dubiously connected circumstantial evidence and equally suspect witnesses, to be sure. Which is not to say that all, or even most, of the government’s evidence and witnesses are to be disbelieved, but a significant number were sufficiently impugned or impeached as to provide a very wide breach for reasonable doubt.

Some of the most serious problems for the government’s case came from its “star” witnesses, Michael and Lori Fortier. Timothy McVeigh and Michael Fortier had been Army buddies and Tim had served as best man at Michael and Lori’s wedding.

Although the prosecution attempted to play down the importance of the Fortiers’ testimony, it was manifestly clear that they were *the* critical linchpin to the government’s case. Since the government had rejected out of hand all of the quality eyewitnesses who had seen McVeigh in Oklahoma City on the day of the bombing, they had a huge gap in their evidence chain and had to rely on Michael Fortier — an habitual drug abuser, self-indicted liar, and probable co-conspirator — to fill in the blanks.

Defense attorney Stephen Jones scored a direct hit in his closing argument when he noted that “what we basically have here with the Fortiers is the prosecutorial equivalent of Eliza Doolittle being made over by the Henry Higgins of the FBI, and ‘My Fair Lady’ has become ‘My Fair Witness.’” Jones homed in on the “200 hours or thereabouts” invested by the prosecution to prepare the Fortiers, the “countless and endless meetings,” the “complete transformation of their personality,” and, most importantly, the incredibly sweet deal they struck with the government in the plea agreement for Michael. “Surely one of the most extravagant agreements ever made,” Fortier’s deal with the feds has him facing 23 years or less in prison (instead of the death penalty), with complete immunity for Lori. Jones effectively pointed out that not only had Michael’s straggly, disheveled image been buffed into a manicured, preppy shine, but his entire demeanor and even manner of speech had been transformed.

Even Judge Matsch was obliged to inform the jury that the testimony of a witness who has been granted immunity “should be examined by you with greater care than the testimony of an ordinary witness.” He reminded them that Michael Fortier “pleaded guilty to certain charges after entering into a plea agreement with the government to testify,” and that there “is evidence that the government agreed not to prosecute this witness on other charges in exchange for the witness’ agreement to plead guilty and testify at this trial against the defendant.” “You should bear in mind,” said Judge Matsch, “that a witness who has entered into such an agreement has an interest in this case different from any ordinary witness. A witness who realizes that he may be able to obtain his own freedom or receive a lighter sentence by giving testimony favorable to the prosecution has a motive to ... testify falsely. Therefore, you must examine his testimony with caution and weigh it with great care.”

## Celebrity Status

Moreover, the judge reminded the jury, the Fortiers had “admitted under oath to drug and alcohol abuse,” which also should be considered in judging their credibility, or lack thereof. All of these judicial caveats highlighted what Mr. Jones had taken great pains to emphasize: The government’s primary



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witnesses were thoroughly disreputable, completely mercenary reprobates. He pointed out that even in their admissions of drug abuse they had lied to the court, claiming only occasional drug usage; but friends of the Fortiers testified that the couple abused methamphetamines on a daily basis. He demonstrated that they had perjured themselves on numerous occasions. Jones played for the jury audio tapes of federally wiretapped telephone conversations between Michael and his friends, which were non-stop profanity and drug-induced gibberish of a caliber such as would make Beavis and Butthead appear erudite and dignified by comparison.

Jurors no doubt remembered Michael's excited comments in April and May 1995 as he basked in the glory of his newfound celebrity and talked about making a "cool million" off the bombing on the talk show circuit and from television and movie rights: "Oh dude, I found my career. I can tell a fable. I can tell stories all day"; "I'm going to keep quiet until this is over with and tell my story"; "There will be book and movie rights"; and, "Let's sell the photograph [of Tim and Michael], Mother, for \$50,000, we'll split it."

Not only were the Fortiers willing to sell out their "friend" Tim, they were ready and willing to sell out each other too. In August 1995, when Michael decided to change his testimony and cut a deal with the government, he tried to push his wife into the lion's den first. "Greater love hath no man than he lay down his wife for his life," chided Jones. Which is precisely what Michael was trying to do when he prodded Lori to take the lead in running the FBI gauntlet. But she, being no dummy, insisted that he change his statement first.

Finally, the defense pointed out that the terms of Michael Fortier's plea agreement provided that any leniency would be contingent upon his performance in court. "So why are they still holding the Sword of Damocles over his head?" Stephen Jones asked. "Maybe because they don't trust him; and maybe you shouldn't trust him, either," Jones said. "See, they're not willing to believe him until after he has completed his testimony. So why should you believe him? If they don't want to give him the benefit of the bargain yet, why should you?"

## Self-Inflicted Handicap

Important questions. Even more important are questions which have to do with why the government would hang the weight of its case on such pathetic, incredible witnesses. Did Lori Fortier, in an attempt to save herself from lethal injection or life in prison, invent the stories about helping make a fake driver's license for Tim under the false name of Robert Kling? For like reason did she concoct the tale of McVeigh demonstrating how he would construct the truck bomb by using soup cans as miniature models of the barrels of ammonium nitrate and fuel oil (ANFO)? Was Michael merely spinning another of his confessed "fables" when he told of McVeigh's alleged reference to federal employees being guilty in the same way as the imperial storm troopers of the Evil Empire in *Star Wars*, and thus, worthy of death? Or when he allegedly spoke of driving a truck bomb into the Murrah Building on a possible suicide run? Or his dozens of other statements with which the prosecution sought to plug the many holes in their case?

For all its celebrated "brilliance," the prosecution was faced with an enormous self-inflicted handicap, including:

- **No bomb-making site.** After stating for two years that the truck bomb had been built at Geary Lake State Park near Junction City, Kansas, the prosecution dropped the story and offered no alternative theory.



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- **No ammonium nitrate prills or crystals.** After claiming for two years that the Ryder truck bomb had been composed of 4,000 pounds of ANFO and then being unable to produce any evidence of ANFO at the Murrah Building bomb site or the McVeigh/Nichols storage sheds, the government went through a mad cavalcade of constantly changing bomb ingredients (none of which were ever proved) late in the investigation.
- **Missing Q507 crystals.** The only supposed evidence of ANFO was an alleged tiny sample of ammonium nitrate crystals glazed on a small piece of the Ryder truck. But the evidence disappeared before independent experts for either the prosecution or defense could confirm its existence.
- **No fingerprints.** McVeigh's fingerprints were not found on the Ryder truck rental agreement, on any of the parts of the Ryder truck, anywhere inside the Ryder agency, in any of the storage sheds, or on any other evidence, save on a receipt for ammonium nitrate fertilizer.
- **Suspect bomb residue.** The reported traces of PETN explosive residue on McVeigh's pants and shirt were called into question by the fact that they were not properly protected against many opportunities for contamination and by well-documented problems with the FBI crime lab and personnel responsible for testing for these substances.
- **No "Bob Kling."** "Bob Kling," the name on the driver's license of the person who rented the Ryder truck used in the Oklahoma City bombing, was originally described by the owner of the Ryder rental agency as significantly different from McVeigh, and other employees insist there was a second man with him. All of these witnesses have to one degree or another impeached their testimony by significantly changing it over time.

## Conviction Despite Evidence

These and a litany of additional problems could have sunk the prosecution's ship. Bombing survivor Dan DeMoss, after hearing the defense team's closing arguments, told the *Tulsa World*, "Right now, it's a toss-up." "I think a lot of people got a horrible feeling about laying the groundwork for reasonable doubt, trying to reach that one juror that may be wavering," DeMoss said. The federal prosecutors had assembled a massive avalanche of evidence, but "it is all circumstantial," he noted. "I can see a juror thinking, 'Well, you know really we have nobody that can place him in Oklahoma City with a Ryder truck.'" "I am worried," DeMoss stated. "I wasn't worried until this afternoon.... I really can see the jury coming back and saying, 'We just were not shown beyond a reasonable doubt that he is linked to all of this.'"

DeMoss was not alone in those worries. Other victims expressed the same concerns to *The New American*. Likewise, Ted Koppel, in an ABC *Nightline* review of the troubled government evidence, saw plenty of room for reasonable doubt.

If the jury did indeed grapple with reasonable doubts because of mishandling and cover-up by the prosecution, they surmounted those problems nonetheless. Now comes the even more difficult part — to see that this case is not closed until *all* those responsible are brought to justice.

Glenn and Cathy Wilburn, whose grandsons Chase and Colton were killed in the Murrah Building daycare center, are among the many who have not found "closure" with the conviction and sentencing of McVeigh. "We were pleased that Timothy McVeigh was found guilty," Mrs. Wilburn told *The New American*, "but we didn't jump for joy because we know there are at least several more accomplices out there who also should be tried and convicted. And from everything we've seen over the past two years,



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it looks like the federal authorities are more interested in covering up than pursuing it.”

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## **Petition Calls for OKC Probe**

Monday, June 2nd, was the deadline for Oklahoma State Representative Charles Key to turn in petitions for his campaign to convene a county grand jury to investigate the Oklahoma City bombing, as well as possible official misconduct and cover-up in the case. It was also the day the federal jury in Denver returned its verdict of guilty for Timothy McVeigh on all eleven counts with which he was charged. Key was required to submit 5,000 signatures of registered voters from Oklahoma County; he turned in more than 13,000. By Wednesday the County Clerk had certified more than 10,000 signatures as valid. “It’s been a long, hard struggle over these many months,” said Key, “but I think that in overcoming the many obstacles and the political opposition of some very powerful interests we’ve already proven that many people in Oklahoma are aware that there are real problems with the bombing investigation and they want truthful answers. And that’s what we hope to arrive at through this grand jury. We’re anxious to get started so that the witnesses who were never heard from in the federal grand jury or the trial in Denver can have their testimony and documents entered into the record.”



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