

OKLAHOMA CITY UNIVERSITY LAW REVIEW

VOLUME 50

FALL 2025

NUMBER 1

ESSAY

THE OKLAHOMA MURDER TRIAL OF TERRY NICHOLS*

*Bob Burke***

The bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, resulted in the deaths of 168 men, women, and children. But the law allowed federal murder charges to be filed only for the deaths of eight federal agents.¹

* This Essay contains portions that were originally published in *Oklahoma Justice: The State Murder Trial of Terry Nichols*. BOB BURKE & NOLAN CLAY, OKLAHOMA JUSTICE: THE STATE MURDER TRIAL OF TERRY NICHOLS (Gini Moore Campbell & Mary Ann Eckstein, eds., 2025). It is reprinted with the permission of the Oklahoma City National Memorial & Museum. The text has been summarized for this publication by the original author, Bob Burke.

** J.D., Oklahoma City University School of Law; B.A., Journalism, University of Oklahoma; Honorary Doctorate of Humane Letters, Oklahoma City University; Vice Chair, Oklahoma Supreme Court Committee on Judicial Elections; member, Oklahoma Hall of Fame, Oklahoma Journalism Hall of Fame, and Oklahoma Historians Hall of Fame; he has written more historical nonfiction books than anyone in history; his 172 books have won many awards, including three Pulitzer Prize nominations. All conclusions are those of the author.

1. See JON HERSHEY, LARRY TONGATE, & BOB BURKE, SIMPLE TRUTHS: THE REAL STORY OF THE OKLAHOMA CITY BOMBING INVESTIGATION 7 (Gini Moore Campbell & Eric Dabney, eds., 2004) for more information regarding the bombing. Co-authors Hersley and Tongate were the lead agents, in Oklahoma and Kansas, respectively, of the FBI

After Timothy McVeigh and Terry Nichols were found guilty in federal court in Denver, Colorado, for those agents' deaths, McVeigh was executed, and Nichols was sentenced to life in prison without the possibility of parole. Still, many Oklahomans called for Nichols to be prosecuted in state court for the remaining 160 deaths plus the death of an unborn child.²

Oklahoma County District Attorney Bob Macy and his successor, Wes Lane, struggled with the controversial decision to prosecute Nichols because a state trial was projected to cost taxpayers several million dollars. On September 5, 2001, Lane announced that the prosecution of Nichols on state murder charges would continue. Lane's decision came after an emotional meeting with the families of those killed in the bombing.³

Preliminary matters delayed the trial for several years. There were battles over state funding of Nichols's defense and numerous hearings. Nichols was moved from a federal prison in Florence, Colorado, to the Oklahoma County Detention Center so he could appear. Several state district judges presided over the case in the early stages. Pittsburg County District Judge Steven W. Taylor was assigned to preside over Nichols's trial if the case reached that point. Making the appointment was Oklahoma Supreme Court Chief Justice Hardy Summers.

Six months before Nichols's state trial began in McAlester, Oklahoma, Judge Taylor wrote in his diary, "wake up some mornings around 4 a.m. and cannot go back to sleep." Taylor, later appointed as a

justice of the Oklahoma Supreme Court, was determined to give Nichols a fair trial.

Nichols's trial began as springtime arrived in Oklahoma. A jury of

investigation of the Oklahoma City Bombing, the largest criminal investigation in history. Burke was given access to the thousands of documents used by government prosecutors in the federal trials of McVeigh and Nichols.

2. BOB BURKE & NOLAN CLAY, OKLAHOMA JUSTICE: THE STATE MURDER TRIAL OF TERRY NICHOLS 15 (Gini Moore Campbell & Mary Ann Eckstein, eds., 2025). The Oklahoma City National Memorial & Museum commissioned Burke and Clay to provide details of Nichols's state murder trial for the thirtieth annual remembrance of the bombing. The book was released on April 19, 2025, as former President Bill Clinton appeared for the memorial events. The authors were given access to Judge Steven W. Taylor's personal diary and bench notes to provide a detailed account of the largest murder trial, in the number of victims, in American history. In addition, the book contains numerous sketches drawn by courtroom artist Pat Lopez that were donated to the Oklahoma City National Memorial & Museum.

3. Nolan Clay, *Nichols' State Case to Proceed*, DAILY OKLAHOMAN, Sep. 6, 2001, at A1, A8.

twelve and six alternates was seated. The judge admonished the jury not to discuss the case with anyone and to avoid news coverage of the trial, which began with opening statements on March 22, 2004.⁴

The trial was a “media event.” The courtroom was filled with reporters from the nation’s major newspapers and television networks. Over the next two and a half months, as many as 100 spectators were in the gallery each day to listen to the testimony.⁵ There were reporters, survivors, McAlester residents, and members of the victims’ families.

Prosecutor Lou Keel gave the opening statement for the state. He called Nichols “a partner in terror” with McVeigh. Keel laid out a circumstantial case that tied Nichols to the purchase of the fertilizer and racing fuel to make the bomb and to stashing the getaway car for McVeigh near the Murrah Federal Building.

Opening for the defense, lead counsel Brian Hermanson blamed McVeigh for “setting up” Nichols to take the spotlight away from others who might have been involved in the plan. Hermanson said, “This is a case about friendship, manipulation, and betrayal.” He predicted that evidence would prove that others were involved, both in Oklahoma and in Kansas.

The first evidence admitted was the receipt for the purchase of the initial ton of fertilizer used to make the bomb. The receipt was found by the FBI in a kitchen drawer in Nichols’s home in Herington, Kansas. The receipt, signed by Nichols as “Mike Havens,” was identified by FBI Agent Mary Jasnowski, the supervisor of the search of Nichols’s home after the bombing.

Jurors worked late on the third day of the trial to hear testimony from two dozen witnesses about phone records. Phone company officials from several states testified about the calls made from a pre-paid calling card that Nichols and McVeigh used under the fake name of “Daryl Bridges.”

The card was bought from *The Spotlight*, a defunct anti-government newspaper. Prosecutors showed that McVeigh and Nichols used the card to purchase supplies to build the bomb. Jon Hersley, the lead FBI agent in the investigation of the bombing, said, “They thought they were hiding their calls, but in fact they were making a record of their every act.” The calling card became an indispensable part of the prosecution’s case against Nichols.

Several witnesses were called by the prosecution to testify about

4. Nolan Clay, *Nichols’ State Trial: First Piece of Evidence Introduced 2 Jurors, Alternate Removed*, OKLAHOMAN, Mar. 23, 2004, at 1A-2A.

5. Nolan Clay, *Testimony Continues in Nichols Trial*, OKLAHOMAN, Mar. 24, 2004, at 4A.

McVeigh buying a used car and renting the Ryder truck to carry the fertilizer bomb. McVeigh purchased a yellow 1977 Mercury Marquis from the Firestone store in Junction City, Kansas, where he had brought his cars for repairs when he was stationed nearby at Fort Riley.

While the car was being serviced, McVeigh left for twenty minutes. The timing was critical to the prosecution's case. Phone records indicated that McVeigh used a payphone at a bus station a block away to call Nichols and then, at 9:54 a.m., called Elliott's Body Shop to reserve the Ryder truck.

McVeigh, using the name "Bob Kling," said he wanted to rent a truck to carry about 5,000 pounds for a one-way trip to Omaha, Nebraska. A clerk at the body shop said McVeigh should come to the shop on Saturday to sign a contract to ensure that the truck would be available on Monday.

Body shop owner Eldon Elliott was the eightieth witness for the prosecution. He said a person he identified as McVeigh came into his business on Saturday and rented a twenty-foot truck to pick up on Monday. McVeigh signed the rental agreement "Robert D. Kling."

The manager of the McDonald's restaurant in Junction City identified images from the restaurant's security system. McVeigh was shown leaving the restaurant at 3:57 p.m. The manager testified that Elliott's Body Shop was about a half mile away, a walk that might take fifteen to twenty minutes. That estimate put McVeigh at Elliott's at 4:16 p.m. The rental agreement completed by the office manager reflected that McVeigh picked up the truck at 4:19 p.m. on Monday, April 17, 1995.

Nichols later admitted during his initial interview with FBI agents that he met McVeigh in Oklahoma City on the evening of Easter Sunday. Nichols said he drove around the Murrah Building several times looking for McVeigh, who had parked the yellow Mercury nearby.

The prosecutors' goal was for jurors to draw one conclusion from the large amount of circumstantial evidence—McVeigh parked the Mercury Marquis near the Murrah Building to be used as a getaway car.

About seventy-eight minutes after the truck bomb destroyed the Murrah Building, McVeigh was stopped by Oklahoma Highway Patrol Trooper Charles "Charlie" Hanger at 10:20 a.m. Hanger told the jury he stopped McVeigh for failure to display a license plate. Hanger and McVeigh met at the back of the car. As the trooper asked for McVeigh's driver's license, he noticed a bulge beneath his jacket. McVeigh said, "I have a gun." Hanger instructed McVeigh to turn around with his hands in the air. Hanger drew his weapon and put it to the back of McVeigh's head. McVeigh said his gun was loaded. Hanger responded, "Mine is, too!"

Hanger testified he arrested McVeigh for carrying a concealed weapon without a permit. He transported McVeigh to the county jail in Perry and offered to have McVeigh's car towed to Perry. McVeigh refused, and the vehicle was left on the side of the highway.

Jurors were allowed to see the T-shirt McVeigh wore at the time of his arrest. On the T-shirt is a quote from Thomas Jefferson, "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants."

Crucial to the State's case was the testimony of an Arkansas gun collector and dealer, Roger Moore. Moore described the robbery of his home on November 5, 1994, when he faced a shotgun-wielding intruder wearing a ski mask. Moore said he lost seventy guns, \$8,700 in cash, gold and silver coins, jade, precious stones, silver bars, and cameras in the robbery.

Karen Anderson, Roger Moore's longtime girlfriend, was the State's ninety-second witness and implicated Nichols in the robbery. She testified that thirty to thirty-five of the guns found in Nichols's home came from the robbery. From photographs, she identified specific guns, ammunition, and the comforter taken from her own bed that the robber used to carry the stolen weapons. The comforter was later found on Nichols's bed. The prosecution's theory was that the robbery financed the purchase of the fertilizer and racing fuel to mix the bomb in the rented Ryder truck.⁶

An Army sergeant stationed at Fort Riley testified that he and his son went fishing at Geary State Fishing Lake near Junction City on April 18, 1995. The sergeant spotted a Ryder truck next to a 1980s pickup with a white camper shell like the one that the jury had been told that Nichols owned. That circumstantial evidence helped to prove the State's theory

that McVeigh and Nichols mixed the bomb at Geary Lake the day before the bombing.

A maintenance worker at Regency Tower Apartments near the Murrah Building testified that his wife parked their Ford Festiva in front of the apartments shortly before 9:00 a.m. on April 19 to pick up her husband for a doctor's appointment. As they exited the building, they heard an explosion and a whirring noise. It was the rear axle of the Ryder truck that landed on top of their car. Information from that axle allowed the FBI to quickly identify which Ryder employee rented out the truck used in the

6. Nolan Clay, *Witness in Nichols' Trial Talks of Robbery*, OKLAHOMAN, Apr. 14, 2004, at 3A.

bombing.

The Regency Tower Apartments played an additional evidentiary role. John Hurley, an employee of Burns Security, was assigned to the apartment building. He identified still photos from the video surveillance system from several days of tapes. Jurors saw photos of the image of a pickup that drove by the front of the apartments two times on the evening of Easter Sunday. FBI experts determined that the image of the pickup was the same size and dimensions as Nichols's pickup. That conclusion was consistent with Nichols's admission about driving around the Murrah Building on Easter night looking for McVeigh.

Hurley also identified video from the security camera at Regency Tower that showed a Ryder truck headed in the direction of the Murrah Building just five minutes before the bombing. The photograph was time-stamped: "04-19-95 WED, 08:57:15."

Michael Fortier testified that he could have stopped the tragedy had he notified the authorities before the bombing. At the time of the trial in McAlester, he was serving a twelve-year federal sentence for failing to warn authorities and helping McVeigh move and sell stolen guns to finance the purchase of materials for the bomb.

Fortier met McVeigh and Nichols in 1988 when they all joined the U.S. Army and served at Fort Riley. McVeigh stayed with Fortier and his wife, Lori, in their trailer home in Kingman, Arizona, several times in 1993 and 1994.

Fortier had specific knowledge about Nichols's involvement in the bombing. Fortier said that McVeigh told him Nichols bought the ammonium nitrate fertilizer and robbed Roger Moore in Arkansas to finance the plan. Fortier said McVeigh drove him by the Murrah Building on December 16, 1994, on a trip from Arizona to Kansas to pick up stolen guns from Nichols. Fortier testified that McVeigh pointed to the building and said that was the building they were planning on blowing up. Fortier said that McVeigh also told him Nichols would help him hide a getaway car. After he completed his prison term, Michael Fortier and his wife disappeared into the federal witness protection program.

Time after time, Judge Taylor refused to dismiss the case against Nichols and shut down much of his defense. The judge specifically barred the defense lawyers from presenting evidence blaming the bombing on a gang of Midwestern bank robbers. Judge Taylor said, "This is a dry hole. There is nothing at all to link the bank robbers to the crime being tried before this court."

Judge Taylor read from a twenty-page-handwritten order after the jury

had been dismissed from the courtroom. He denied the defense's motion to call witnesses that might blame the bombing on residents of Elohim City or survivalist Steven Colbern. Judge Taylor minced no words denying the effort to prove Nichols was set up by McVeigh: "[The complaint] is laced with melodrama and hyperbole, but no substance. It is woven with innuendo, speculation and guesswork. There is nothing new here, just more suggestions of a government conspiracy to cover up evidence in this case. There is no proof of that."⁷

Observers believed Judge Taylor's strong language should convince the public that only McVeigh and Nichols planned and carried out the bombing of the Murrah Building. Judge Taylor's reputation—for "going the extra mile" to make certain a criminal defendant was given a fair trial—was well known. Oklahoma Supreme Court Justice Marian Opala said, "When I read that Steve said there was absolutely no evidence of 'others' involved in the tragedy, I put to rest in my mind any question about the culpability of McVeigh and Nichols."

Oklahoma State Medical Examiner Dr. Fred Jordan presented evidence on how most of the 160 victims died. "This is not easy," he told the jury, as he described autopsy results. Earlier, the judge ordered that only diagrams of where the victims were located could be shown to the jury. He believed photographs of the mangled bodies and severed body parts would be too prejudicial.

Dr. Jordan was required to give his opinion about the cause and manner of death of each of the victims. In what he described as the toughest testimony of his professional career, he gave brief but graphic

descriptions of the cause of death as jurors looked at monitors showing the outline of each body.

Dr. Jordan's descriptions included crushed skulls, broken necks, severed limbs, decapitation, shredded legs, broken ribs, respiratory distress, and traumatic shock. He said most victims died instantly or within sixty seconds of the blast. Family members wept in the gallery. Nichols showed no emotion.

Three survivors of the bombing testified. Among them was former U.S. Marine Corps Captain Michael Norfleet who was blinded in his right eye by flying glass. He was visiting the Marine Corps recruiting office on the sixth floor when the bomb went off.

7. Nolan Clay, *Nichols' Strategy Blocked*, *Oklahoman*, Apr. 22, 2004, at 1A (internal quotation omitted).

On Friday, April 30, 2004, the State rested its case after calling 151 witnesses and introducing more than 1,000 pieces of evidence.⁸

After a few days of rest, the jurors returned to the Pittsburg County Courthouse for Nichols's defense presentation. More than a dozen witnesses for the defense testified that McVeigh was seen with other people before the bombing and on the morning of the explosion. The prosecution's theory was that the witnesses were either mistaken or fabricating their stories.

Judge Taylor allowed the admission of letters that McVeigh wrote to his childhood friend, Steven Hodge of Amherst, New York. Hodge told jurors that McVeigh was always talking about conspiracy theories. In one letter, McVeigh said, "Blood will flow in the streets in a clash of good and evil." McVeigh wrote, "Pray it is not your blood, my friend."

Rodney Johnson of Noble, Oklahoma, told jurors that he saw McVeigh and another man walk in front of his catering truck on Northwest Fifth Street two or three minutes before the explosion. Mike Moroz, a mechanic at Johnny's Tire Company near downtown, said that he gave directions to McVeigh twenty to thirty minutes before the bombing. He said McVeigh was driving a Ryder truck. Moroz also said there was another man in the truck with McVeigh.

Defense attorneys presented the testimony about sightings; even though it became clear that many of, if not all, the witnesses were mistaken. Different witnesses claimed to have seen McVeigh at the same time but at different locations.

McVeigh's younger sister, Jennifer McVeigh, a seventh-grade schoolteacher, testified that her brother had friends across the country, but he rarely mentioned Nichols in letters to her. She had never heard Nichols's last name until after he was arrested.

Jennifer was on the stand while jurors were shown several of her brother's writings. On a trip to visit her in New York, he used her word processor to write a note to federal agents:

All you tyrannical motherfuckers will swing in the wind one day, for your treasonous actions against the Constitution and the United States. . . . Die, you spineless, cowardice bastards!

The utility worker who found a letter that had been blown away and

8. Nolan Clay, *Nichols Prosecution Rests*, OKLAHOMAN, May 1, 2004, at 1A.

was stuck to an electric tower in the California desert was the ninety-seventh and final witness for the defense. The letter, from McVeigh to survivalist Steven Colburn, was the last of 270 defense exhibits. McVeigh, in trying to recruit Colburn to his cause, wrote:

If you are sincere, then you could be a valued asset. A man with nothing left to lose is a very dangerous man, and his energies/anger can be focused towards a common/righteous goal. What I am asking you to do, then, is sit back and be honest with yourself. Do you have kids/wife? Would you back out at the last minute to care for the family. In short, I'm not looking for talkers, I'm looking for FIGHTERS.

Closing arguments were made on May 24 and 25, 2004. Prosecutors summarized their witnesses' voluminous testimony. Brian Hermanson, Nichols's lead defense attorney and an experienced trial lawyer, attempted to inject reasonable doubt. He asked the jury, "Has anyone shown you, clearly beyond a reasonable doubt, where the materials to make a bomb were stored? The witnesses are all over the place. Can Fortier be believed because of all the reasons he had to testify?"⁹

Assistant District Attorney Sandra Elliott was the last lawyer to address the jury. "For you to believe Mr. Nichols was not involved in this conspiracy, you would have to believe there are so many coincidences falling down around him," she said. She listed more than a dozen times that evidence or testimony tied Nichols to the plan and execution of the bombing. She said no one can reasonably claim that these connections were mere coincidences.

Elliott pointed to the rings found in the storage unit rented by Nichols. Elliott argued:

So is it just a coincidence that rings were left on the floor of Unit #2 of the Herington storage unit? How many does it have? Three. How many barrels of nitromethane were bought? Three.¹⁰

9. See Nolan Clay, *Jury to Decide Fate of Nichols*, OKLAHOMAN, May 26, 2004, at 4A.

10. The Author's book contains photographs of receipts for the purchase of fertilizer and rings made on the concrete floor of a storage unit rented by Nichols in central Kansas. FBI experts also testified that ruts made outside the storage unit in the days before the

On day fifty-three of the trial, May 26, 2004, the jury began deliberating at 9:10 a.m. Shortly after 2:00 p.m., the jury notified the judge that unanimous verdicts had been reached. Judge Taylor brought the jurors into the courtroom. At 2:33 p.m., the judge asked Nichols and his counsel to stand. The jury had been out less than four hours.¹¹

The courtroom grew quiet as Judge Taylor read verdicts of guilty on 161 counts of first-degree murder, the 160 victims and an unborn child. Nichols had no reaction.

The jury began the penalty phase of the trial on June 1, 2004. Jurors had to decide if Nichols should die for his crimes or spend the rest of his life in prison, a penalty that had already been given by the federal jury in Denver. In Oklahoma, jurors can assess a death sentence only if they find one or more “aggravating circumstances.”¹²

Assistant District Attorney Suzanne Lister made the opening statement for the prosecution. Lister recalled the testimony of bombing survivor Calvin Moser, a member of an Oklahoma City barbershop quartet. Lister said:

He had no idea that as he woke up and sang, “Oh What a Beautiful Morning,” that April 19th of 1995 would be one of the darkest and ugliest days in American history. Terry Nichols knew but Calvin and the hundreds of other individuals that headed to downtown Oklahoma City had no idea. . . . Not a single one of the 161 people you will see in our exhibit book realized that that morning would be the last time they got up, got in their cars, and drove to work.¹³

Lister said that Nichols made a conscious decision to bomb the Murrah Federal Building. Over objections of the defense, she was allowed to say: “161 men, women, and children paid for Terry Nichols’[s] political statement, which he could have easily expressed at a ballot box or in a

bombing were identical to the tire and truck measurements of the Ryder truck. During the investigation, the federal government procured a reproduction of the Ryder truck used in and destroyed in the bombing.

11. Nichols was also found guilty of first-degree arson and conspiracy to commit arson.

12. OKLA. STAT. tit. 21, § 701.10(c) (1992).

13. See generally Nolan Clay, *26 Testify at Nichols’ Sentencing*, OKLAHOMAN, June 2, 2004, at 4A (discussing the testimony of other bombing victims and their families).

letter to the editor.”

Lister continued:

To sentence him to anything short of death would allow him to laugh, to learn, to love, to read, and do any of the mundane and sublime things he forever denied to the 161 individuals he chose to murder.

To support the request for the death penalty, the State called sixty-five witnesses over three days. One of the last witnesses was Jim Texter, Jr., whose wife, Victoria, died in the bombing. “I prayed to God to let me take her place.” Susan Chavez-Pate testified about the death of her three-year-old grandson, Zackary Chavez, who was in the day care center. She said the child was so badly burned that his mother was not allowed to see his body. “Parents aren’t supposed to bury their children.”

Nichols frequently wiped away tears as his sister, brother, two ex-wives, and friends testified on his behalf. His sister, Suzanne McDonnell of Michigan, said, “He’s grown. We’ve all grown. I know that there is more that he can offer.” She said Nichols became a Christian four years ago after their mother began chemotherapy for cancer.

The jury struggled with the life-and-death decision for nearly twenty hours over a three-day period. In the end, they informed Judge Taylor that they were hopelessly deadlocked, sparing Nichols from death. The judge declared a mistrial and set August 9, 2004, as the date for sentencing.

Before the formal sentencing, Nichols sat in the witness chair and read from an eight-page statement. He asked for forgiveness, “I pray that all who hold any hatred, bitterness, and unforgiveness toward me, they will find in their hearts to forgive me.”

District Attorney Wes Lane sat next to former District Attorney Bob Macy. When Nichols was describing his conversion to Christianity, Macy whispered to Lane, “That phony S.O.B.”¹⁴

Judge Taylor said he found no fault in the decision to prosecute the case despite great public disagreement. He also stated that the cost of the prosecution should not be a factor. “The pursuit of justice should not be done with a calculator in hand.”

The judge talked about death, especially his inability to describe the deaths of nineteen children in the bombing. To all survivors and victims’

14. Nolan Clay, *Defense Witnesses Tell of Nichols’ Religious Beliefs*, OKLAHOMAN, June 9, 2004, at 7A.

families, the judge said that he hoped the trial would lead to some closure, peace, and healing.

The judge looked at Nichols and asked him to remember that he had been promised a fair trial at his arraignment. "I believe I have delivered on that promise to you, Mr. Nichols." Then, in an unforgettable statement, the judge said:

It is truly ironic that the very government and the Constitution and the form of government and the government of this country, the very government that you professed to hate, is the government that assured you a fair trial and protected your rights. A government and a Constitution that is big enough and strong enough to guarantee the rights of everybody, including Terry Lynn Nichols. . . .

. . . .

. . . No American citizen has ever caused this much death and destruction and devastation against fellow Americans than you have. You are . . . the number one mass murderer in all of U.S. history.

Judge Taylor called Nichols a terrorist. He said:

Some terrorists live in the mountains of Afghanistan and Pakistan, but you hid on the plains of Kansas. Some terrorists store their explosives in caves. You hid yours in neighborhoods in America in rental storage units and planned to use those weapons of mass destruction in Oklahoma City.

Nichols was ordered to serve consecutive life sentences without the possibility of parole on the 161 murder counts. Nichols's lawyers announced there would be no appeal. On August 25, 2004, Nichols left with U.S. marshals from the McAlester airport for his final destination at the supermax prison facility in Florence, Colorado. He turned seventy years old in 2025.

