

# Man held since bombing freed

DETROIT (AP) — James Nichols, whose brother and a friend are charged in the Oklahoma bombing, was ordered released without bail Monday despite a prosecutor's suggestion that he was involved in the deadly attack.

"There is not an iota of evidence that he is a danger to others," U.S. District Judge Paul Borman ruled. Nichols has been held since two days after the bombing on charges of making small explosives at his Michigan farm.

During the hearing, Assistant U.S. Attorney Robert Cares suggested Nichols may have played a role in the Oklahoma City bombing along with his brother, Terry, and Timothy McVeigh, but he wasn't specific.

"James Nichols himself engaged in rhetoric of violence," Cares said. "If it was just rhetoric, we wouldn't be here today. But he and Terry Nichols and Timothy McVeigh turned those words into action. Terry Nichols and McVeigh are charged with taking the final step."

The prosecutor offered no immediate evidence for his assertion, and Nichols' lawyer, Robert Elsey, objected to the statement.

The judge sustained the objection, agreeing there was no evidence offered directly linking James Nichols to the bombing.

Terry Nichols and McVeigh are the only two suspects charged so far in the April 19 bombing of the federal building.

Earlier in the hearing, FBI agent Patrick Wease testified that Nichols told a neighbor that he and a group called "the Patriots" would take over the government as soon as there were enough members and kill "cops, judges and lawyers."

In ordering Nichols freed, Borman acknowledged that James Nichols had relationships with his brother and McVeigh. "But more important, the court notes that this defendant, James Nichols, is not charged in Oklahoma with that crime," the judge said.

He also noted that James Nichols had shown a measure of respect for government by submitting to interviews and cooperating with agents searching his farm.

Borman ordered Nichols freed on Tuesday into the custody of a couple who live near his home in Decker, about 75 miles north of Detroit.

The judge ordered Nichols to limit his travel to certain counties between Detroit and Decker and wear an electronic monitoring device at certain times. Nichols was also barred from getting a passport.

"It's a great day for James Nichols," Elsey said after the hearing. "It's a great day for the American Constitution. And it's a great day for the concept of limited federal power."

In Oklahoma City, meanwhile, authorities said a man whose whereabouts can't be accounted for may be missing in the rubble. That would bring the death toll to 168.

Also, demolition crews placed the explosives that will bring down the bombed-out building Tuesday. The building is scheduled to be demolished between 7 and 7:15 a.m. with more than 100 pounds of dynamite in strategic locations.

The nine-story structure should come down in

eight seconds, after which crews hope to retrieve the remains of two women whose bodies were never recovered — and possibly those of 54-year-old Alvin Justus, who lived a few blocks from the building and has been missing since the day before the blast.

James Nichols has been held for a month on charges that he conspired with his brother and McVeigh to make and detonate illegal explosives on his farm in past years. The charges are not directly related to the Oklahoma bombing.

McVeigh and Terry Nichols could get the death penalty if convicted. They are being held at a federal prison in El Reno, Okla.

At Nichols' bail hearing in Detroit, Cares unsuccessfully argued against letting Nichols go free, saying he is likely to flee and is a danger to the community.

The FBI's Wease also testified about a letter he believed McVeigh wrote to James Nichols months ago.

In the letter, signed "Tim," the writer says he has met with Terry Nichols and is planning a camping outing. The letter appears to be McVeigh's handwriting, the agent testified, and says in part, "Please keep me posted on any 'trouble.'"

Elsey tried to show that the large amounts of fuel and brake fluid, of the type used in explosives, found on Nichols' farm weren't unusual for a farmer to keep.

In other developments:

- A senior federal official in Washington said that McVeigh confided in his Army friend Michael Fortier that he was going to blow up the building.

Fortier, who lives in Kingman, Ariz., told investigators last week that he drove McVeigh from Arizona to the federal building sometime before the blast, the senior official said.

Fortier, who has been subpoenaed to testify before the grand jury investigating the bombing and whose trailer and storage shed were searched by FBI agents earlier this month, made the statements in an attempt to open negotiations with the government, the official said.

Fortier met McVeigh in the Army in 1988, helped him get a job at the Kingman hardware store where he worked, and asked McVeigh to serve as his best man in his 1994 wedding. McVeigh gave Fortier's address when he applied for a private mail box in Kingman.

- Investigators are aware that McVeigh made a telephone call to a white supremacist compound in Elohim City, Okla., but have no other information linking the compound or its residents to the case.

"McVeigh was into this counterculture information network, and people from the compound might be among those brought before the grand jury to learn more about McVeigh," the senior federal official said.

- The Justice Department announced that Joseph H. Hartzler, an assistant U.S. attorney in Springfield, Ill., will take over as lead prosecutor in the Oklahoma bombing. He will replace Merrick Garland, the principal associate deputy attorney general.

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