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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JESSE C. TRENTADUE, Plaintiff, vs. FEDERAL BUREAU OF INVESTIGATION, *et al.* Defendants.	**PLAINTIFF'S MOTION TO REOPEN CASE FOR SUBMISSION OF ADDITIONAL EVIDENCE and RELATED RELIEF** Case No.: 2:08cv788 CW Judge Clark Waddoups Magistrate Dustin B. Pead **Oral Argument Requested**

Terry Nichols was convicted and sentenced to life in prison for his role in the Oklahoma City Bombing. Plaintiff obtained from Nichols the FBI case file that the Department of Justice gave to Nichols' defense team. Plaintiff provided Richard Booth, a recognized expert on the Oklahoma City Bombing, with fifteen DVD-ROM computer discs containing Nichols' case file. Those discs held more than 1.5 million pages of heretofore never publically disclosed FBI records related to the Oklahoma City Bombing. Plaintiff retained Booth to search those records for evidence of the surveillance camera videotapes and documents that are the subject of this *FOIA* litigation.[1]

Booth did a text based search of those FBI records and discovered therein four documents proving that the Bureau is in possession of videotapes from security cameras at the Regency Towers Apartments ("RTA") that show the destruction of the Murrah Federal Building, and Timothy McVeigh actually arming the truck bomb at approximately 8:57 am on the morning of August 19, 1995, when the Ryder Truck that was carrying the bomb was parked in front of the RTA. More importantly, these same RTA videotapes would show John Doe 2, the accomplice that 24-witnesses have said was in the truck with McVeigh that morning, but who the FBI insists never existed.[2]

PLAINTIFF'S FOIA REQUEST

Plaintiff submitted a *FOIA Request* to the FBI asking for, among other things, copies of (a) all surveillance or security videos taken on the morning of April 19, 1995, by cameras located

[1] *Trentadue Declaration*, ¶¶ 42-24, a copy of which is filed herewith.

[2] *Booth Declaration*, ¶¶ 8-23, a copy of which is filed herewith.

at the RTA; (b) any other "security videotape" showing "McVeigh" or "the Ryder truck pulling up to the Federal Building and then pausing (7-10 seconds) before resuming into a slot in the front of the building" and "the truck detonation 3 minutes and 6 seconds after the suspects exited the truck;"[3] and (c) all reports describing or referencing the FBI taking possession of those videotapes ("*related documents*").[4]

MOTION and RELIEF REQUESTED

Plaintiff hereby moves the Court to reopen this case and to receive into evidence the four documents discovered by Richard Booth. Plaintiff also moves the Court for an order requiring the FBI to produce to Plaintiff unedited copies of all RTA security camera videotapes taken on the morning of April 19, 1995, plus un-redacted copies of all *related documents*.[5] By requesting the Court to order the FBI to produce the RTA videotapes and *related documents*, Plaintiff is not waiving his right to receive the videotapes and *related documents* from security cameras on the other buildings identified in his *FOIA Request*.

STANDARD OF REVIEW

The court has broad discretion to reopen a case to accept additional evidence and that decision will not be overturned on appeal absent an abuse of that discretion.[6] In deciding

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[3] Trial Exhibit 203.

[4] Trial Exhibit 200.

[5] The videotapes from other security cameras produced by the FBI had been edited to remove images of McVeigh's Ryder truck as it drove by the camera location. *See* https://www.cbsnews.com/news/lawyer-oklahoma-city-bomb-videos-edited/

[6] *Zenith Radio Corp. v. Hazeltine Research, Inc.,* 401 U.S. 321,331(1971); *Morsey v. Chevron, USA, Inc.,* 94 F.3d 1470,1477 (10th Cir.1996).

whether to reopen, "[t]he court should consider the time the motion [if any] is made, the character of additional testimony and the potential prejudicial effect in granting or denying the motion."[7] Ultimately,"fairness is the key criterion" in determining whether to reopen.[8]

RTA SURVEILLANCE/SECURITY CAMERAS

This is a photograph of downtown Oklahoma City taken shortly after the bombing.

The Murrah Building is in the foreground and the white building in the background is the RTA. The view shows N.W. 5th Street down which McVeigh drove the bomb-truck, with an unknown accomplice, on the morning of April 19, 1995. At 8:57 am, McVeigh stopped the truck in front of the RTA and armed the bomb all of which was captured by a RTA security camera, and the FBI has the tape from that camera.[9] Plaintiff was not given a copy of this videotape or any related documents.

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[7] *Joseph v. Terminix Int'l Co.,* 17 F.3d 1282, 1285 (10th Cir.1994).

[8] *Blinzler v. Marriott Int'l, Inc.,* 81 F.3d 1148, 1160 (1st Cir.1996).

[9] *Booth Declaration* ¶¶ 8-23.

From the RTA, McVeigh drove approximately 100 yards to the Murrah Building, parked the truck, and left the scene with another person all of which was seen by 24 witnesses. The bomb exploded at 9:02 am. Evidence adduced at trial conclusively proved that the FBI possesses videotapes from RTA security cameras, of which there were many,[10] that show McVeigh's accomplice, delivery of the bomb and subsequent explosion, such as the testimony of Jon Hersley who had been the primary investigative case agents on the Oklahoma City Bombing case.[11] On April 27, 1995, Hersley testified at the *Preliminary Hearing* for McVeigh's criminal prosecution. At the trial of the instant case, Plaintiff introduced into evidence the following testimony about a RTA videotape given by Hersley at McVeigh's *Preliminary Hearing.*

In 1995, Hersley described in detail photographs that had been prepared from a videotape taken on the morning of April 19, 1995 from one of the RTA exterior surveillance cameras. Hersley testified that this camera had captured the Ryder Truck proceeding towards the Murrah Building, as well as what may have been McVeigh's get-a-way car, a "yellow Mercury" speeding away.[12] According to Hersley, the camera from which the photographs were prepared scanned the entire area in front of the RTA, including a parking lot across the street from the Murrah Building.[13] Hersley testified in 1995 that the still photographs produced from the tape showed the Ryder Truck moving in an "easterly direction" on Fifth Street towards the

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[10] *Id.* ¶¶ 22-23.

[11] *Id.* at p. 697.

[12] *Id.* at pp. 717-717 and 720-721.

[13] *Id.* at pp. 722-723.

Murrah Building at approximately 9:00 am on April 19, 1995.[14] The FBI never produced that tape to Plaintiff or any *related documents*. Moreover at the 2014 trial, while being questioned by the FBI's attorneys, Hersley suddenly remembered that he had been mistaken and that there was NO such videotape.[15]

The FBI compiled a time-line of events leading up to the bombing that clearly states the Bureau had "security videotapes" of "the [Ryder] truck pulling up to the Federal Building and then pausing (7-10 seconds) before resuming into a slot in the front of the building," and "the truck detonation 3 minutes and 6 seconds after the suspects exited the truck."[16] The FBI never produced those tapes to Plaintiff or any *related documents*.

The evidence at trial revealed that several FBI agents tried to sell a videotape (that obviously came from one of the RTA cameras) depicting the delivery of the bomb to the Murrah Building on the morning of April 19, 1995. NBC Dateline was prepared to buy that tape for $1million, but the plot was discovered and the sale did not occur. FBI records say, however, that this tape showed "the Ryder truck parking in front of the Murray Federal Building [sic], TIMOTHY McVEIGH getting out and the bomb exploding."[17] Again, the FBI never produced that tape to Plaintiff or any *related documents*.[18]

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[14] *Id.*

[15] *Id.* at pp. 726-727.

[16] Trial Exhibit 203; *Transcript* at pp. 75-76.

[17] Trial Exhibit 251.(emphasis in original).

[18] The FBI also did not produce to Plaintiff Trial Exhibit 69; a report about video footage from the RTA in which the Ryder Truck driven by McVeigh could be seen.

THE SEARCH THAT WAS NOT DONE

The FBI has staff specifically dedicated to responding to FOIA requests. They undergo extensive training on how to process FOIA requests. They are likewise trained and personally supervised until they are certified as qualified to respond to FOIA requests, which takes between three and a half to four years.[19] As part of the certification process, the FBI's FOIA staff must also take and pass several examinations demonstrating their proficiency.[20] But, instead of assigning the responsibility for the record search to a trained and experienced person, the FBI selected Linda Vernon to process Plaintiff's *FOIA Request*.

Vernon was a "forensic accountant" in the Oklahoma City Field Office.[21] She had no FOIA training. Neither was she FOIA certified.[22] Vernon testified that doing FOIA searches was not within her job category.[23] She was specifically asked whether "searches of OKBOMB records for FOIA [were] a regular part of [her] job responsibilities?"[24] To which Vernon responded "No."[25] Her only experience with FBI records had been years ago when she had been

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[19] *Transcript* at pp. 534-535 and 550-551.

[20] *Id.*

[21] *Id.* at p.148.

[22] *Id.* at p. 550.

[23] *Id.* at p. 167

[24] "OKBOMB" was the name the FBI assigned to the Oklahoma City Bombing case.

[25] *Transcript* at p. 151.

assigned to the "discovery team" involved in the prosecutions of McVeigh and Nichols where she acted as the FBI's "discovery coordinator."[26]

As such, her job responsibilities included assembling the prosecution's "evidence" and providing it to defense counsel.[27] It was reasonable to expect, therefore, that in conducting a search for records responsive to Plaintiff's *FOIA Request* Vernon would confine her search to the material that had been provided to the McVeigh and Nichols defense counsel, and not look beyond that very narrow universe of FBI records, which is exactly how she conducted her search for the videotapes and *related documents* that Plaintiff had requested. Vernon also confined her search to the personal database that she had compiled to deal with discovery in OKBOMB, which was not an official FBI database for Bureau records.[28]

This database was only on her computer.[29] It was her "tool."[30] Vernon said that she used her personal database because: "**I'm lazy and it was the easier one for me to use**."[31] Vernon admitted, too, that her database was not part of the official FBI record system,[32] and that she further limited her search to videotapes that had actually been "logged in" as evidence in the

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[26] *Id.* at pp. 149-150

[27] *Id.* at pp. 156-157.

[28] *Id*. at pp.158-59 and 191.

[29] *Id.* at p. 158.

[30] *Id.* at p. 59.

[31] *Id.* at p. 158.(emphasis added).

[32] *Id.* at p. 161.

bombing prosecutions along with supporting documentation showing that the tapes had been logged in as evidence,[33] which explains why the four RTA camera documents discovered by Booth were not produced: the tapes were never logged into evidence because they would have implicated the FBI because it had undercover operatives embedded in the bombing plot.[34]

The FBI should have searched its Central Records System or "CRS," which contains the universe of records that the Bureau has acquired over the course of its day-to-day law enforcement responsibilities.[35] It is the FBI's "primary records" system,[36] but the CRS was not searched. There is also the Automated Case Support database or "ACS" that is specifically designed and maintained to identify and locate FBI records,[37] which should have been searched, but was not. There is an Electronic Case File or "ECF" containing, with one exception, all of the documents contained in the CRS.[38] The exception being "restricted documents" which, for various and unknown reasons, are not uploaded into the ECF.[39] With respect to restricted documents or records not uploaded into the ECF, these are identified on an index and are located and retrieved by a manual search of that index.[40] The ECF should have been searched, but was

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[33] *Id.*

[34] *Trentadue Declaration*,¶¶ 3-11. *See also Langan Declaration,* Exhibit 1 hereto.

[35] *Transcript* at p. 13.

[36] *Id.*

[37] *Id.* at pp. 434-435.

[38] *Transcript,* pp. 59-61.

[39] *Id.* at pp. 59-60.

[40] *Id.* at pp. 60-61.

not. The FBI has an Electronic Surveillance database or "ELSUR,"[41] which contains records of its surveillance activities, including video surveillance.[42] It specifically documents the electronic surveillance evidence obtained during an investigation.[43] The FBI did not search its ELSUR database either. The FBI has a case management system called "Sentinel" that is specifically designed to conceal documents, information and/or evidence that the Bureau does not want to disclose.[44] For obvious reasons, the FBI did not search the Sentinel database.

Instead, the FBI created a situation of tactical ignorance whereby Vernon could be expected to fail in terms of producing videotapes and *related documents* responsive to Plaintiff's *FOIA Request*. More importantly, under this intentionally manufactured cloud of ignorance the FBI could represent to the Court that a proper search had been conducted and that all responsive materials located as a result of that search had been produced, which is exactly what the Bureau did when David M. Hardy, Chief of the FBI's FOIA Section, told the Court that:

> While it is always a possibility that responsive documents might have been misfiled and thus could be located somewhere other than in the OKBOMB file (**though it would be impossible to know where**). I am not aware that this is the case, and a reasonable search did not and would not locate any such documents (if they exist) because they would not be in **a location likely to contain** responsive documents.[45]

But that was obviously not true.

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[41] *Id.* at p. 66.

[42] *Id.* at p. 227.

[43] Trial Exhibit 34, p. 87; *Transcript*, p. 395.

[44] https://thefederalist.com/2025/06/04/the-fbis-ability-to-disappear-evidence-calls-for-transparency-stat/

[45] *Id.* at p. 479.

The FBI's databases are text searchable, and the ACS is specifically designed and maintained to identify and locate FBI records.[46] Also not true was Hardy's testimony about Vernon's skills and the quality of her search. Without any basis for doing so, Hardy told the Court that Vernon was a "very effective searcher;"[47] that the search that was done by Vernon was "highly reliable;"and that Vernon "did a whiz-bang job."[48]

ARGUMENT: THE COURT SHOULD REOPEN THE CASE AND GRANT THE RELIEF REQUESTED BY PLAINTIFF

Plaintiff's *Motion* is timely, the Court has not decided this case. There is no prejudice to the FBI in the Court doing so because this newly discovered evidence consists of the Bureau's own records that were deliberately withheld from both the Court and Plaintiff. This evidence is also very important because it shows that the FBI did not conduct a good faith reasonable search for responsive records and, in all fairness, the Court should receive and consider this evidence especially given the FBI's attempts to mislead the Court about the "search" that was actually done in response to Plaintiff's *FOIA Request* and the results of that search.

DATED this 6th day of June, 2025.

/s/ jesse c. trentadue
Jesse C. Trentadue
Pro Se Plaintiff

[46] *Id.* at pp. 434-435.

[47] *Id.* at p. 451.

[48] *Id.* at p. 457.

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2025, this **Motion,** the **Booth Declaration** and the **Trentadue Declaration** were served by electronic process upon:

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