IN THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

GRAHAM, LAWTON,	§	
Plaintiffs,	§	
	§	
V.	§	
	§	
LAPPIN,	§	Case No
Defendant,	§	
	§	
and	§	
	§	
CARTER,	§	
Necessary Party	§	

APPELLANTS' MOTION TO STAY EXECUTION

Motion

Appellants' move that the court stay the execution of Timothy McVeigh.

Discussion

As asserted in the pleadings in the trial court, Plaintiffs have claims for which the testimony and other evidence available from and by McVeigh is vital and indispensable. To execute McVeigh is to destroy that evidence.

A. Proof of Plaintiffs' Case in Chief.

Under seal in the transferee trial court in Colorado is a 17-page document based on information offered by McVeigh. This evidence has never been offered before. As delicately reported, based on public statements by Defense Counsel Nigh and Burr, McVeigh has named at least two additional people who participated in the conspiracy to destroy the Murrah Federal Building.

It's precisely this type of information Plaintiffs seek, and need, in order to be able to sue out the civil claims (in Oklahoma) against all those who are liable for the physical, etc., injuries incurred by these two Plaintiffs, as just tow among the several victims/survivors.

Plaintiffs have a stake in the outcome of this litigation (standing), because we have direct and personal need for McVeigh's testimony, and any other discoverable evidence to which McVeigh can lead us.

B. Additional Basis to Preserve Evidence.

There is no better reason to preserve the evidence than recognition of the fact that there's no authority to destroy it.

- 1. No criminal Case can be tried outside the State in which it occurred. U.S. CONST. art. III, § 2, art. IV., § 2, and amend. 6.
 - a. The crimes committed against the citizens of Oklahoma City occurred within the State of Oklahoma.
 - b. Oklahoma is a State.
 - c. Trial did not take place anywhere in Oklahoma, but rather in Denver, Colorado.

This transfer turns extradition on its ear. The result is that the trial court lacked subject matter jurisdiction to try any Case against McVeigh. Therefore, there is no judicial authority supporting either the convictions or the death penalty sentence. Therefore, the execution must be stopped, and thus the evidence preserved.

This is discussed in detail in Plaintiffs' Brief of 11 May 2001, as Claim 1, and in Plaintiffs' Brief of 30 May 2001, in the Transfer and Waiver section.

2. No United States trial court has the authority to try a "murder" case.

This is detailed in the discussion of Claim 2 in Plaintiffs' Brief of 11 May 2001, and in the identified section of the Brief of 30 May 2001.

- a. Congress has no "legislative Power" to define or punish "murder" as admissible evidence of "Law of the United States."
- b. Congress does have "exclusive legislative Authority" to define and punish "murder" as admissible evidence of "Law of the District of Columbia" ("Law of the District") and for matters occurring on United States Government property.
- c. No crime charged to McVeigh occurred in the District.
- d. No crime charged to McVeigh occurred on United States Government property.
 - No transfer of title to United States Government of the property on which stood the Murrah Federal Building.
 - 2. No "Consent" by the Oklahoma Legislature to any such transfer of title. *See* U.S. CONST. art. I, § 8, cl. 17.

The indictment language is not "Law of the United States," and therefore does not belong in the United States trial court. If the indictment language were applicable (i.e., if this did occur on U.S. Government property), it's still the case that Article III does not extend the judicial Power to Cases that "arise under" the "Law of the District." Such cases must be tried in the State judicial process, not the United States judicial process.

Therefore, the "murder" convictions, and death penalty sentence, are null and void. Therefore, any "execution" is without judicial authority (no "justification"). The execution must be stopped, and the evidence must be preserved.

Prayer for Relief

For these reasons, Appellants request that this court stay the execution of Timothy McVeigh.

Respectfully submitted,

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Certificate of Service

On this the 9th day of June, I certify that I've served the parties identified in the trial proceeding by certified mail, return receipt requested.

Harmon L. Taylor