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McVeigh is scheduled to be executed on Wednesday

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1 DENVER, Colorado (CNN) -- An FBI admission that it failed to give certain documents to convicted Oklahoma City bomber Timothy McVeigh's defense attorneys has them considering whether to seek a stay of next week's scheduled execution.

2 "Mr. McVeigh is considering all his options," attorney Nathan Chambers said after the documents, used in a separate trial involving McVeigh's co-defendant Terry Nichols, were delivered to his office in Denver.

3 Chambers also said he had talked to McVeigh but refused to say what was discussed.

4 McVeigh case prosecutor Patrick Ryan called the failure to turn over the documents "embarrassing" and "totally unacceptable."

5 "I think the government ought to go along with it," he said, referring to the granting of more

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it," he said, referring to the granting of more time for the defense to review the documents. He said he thought the government should be the one to ask for a stay.

Oklahoma Gov. Frank Keating said reaction in Oklahoma City to the latest development in the McVeigh case was one of "stunned disbelief."

"Obviously, until we know why they weren't turned over, there is a big question mark over this whole proceeding," Keating said.

McVeigh, 33, is scheduled to be executed Wednesday at the U.S. Penitentiary in Terre Haute, Indiana.

Conspiracy theory raised again

Richard Burr, a death penalty specialist who helped defend the decorated Gulf War veteran and is now acting as a consultant for the legal team, told CNN the lawyers do not have approval from McVeigh to seek a stay.

Asked on what grounds a stay could be justified after McVeigh admitted he planted and detonated the bomb that destroyed the Murrah Federal Building in 1995, Burr said, "What if Stephen Jones is right and he is protecting others?"

The reference was to McVeigh's lead trial attorney, later fired, who contended his client was part of a larger conspiracy.

Jones said Thursday that he feels "vindicated" by the government's admission. "I said from the beginning they were withholding evidence, and they were."

He also said that that he's been told the documents contain over 200 interviews and he suspects they are about what witnesses said about a second suspect the FBI called John Doe #2.

"If this should turn out to be about John Doe #2, I think it is far from clear that the Oklahoma City bombing case has reached a conclusion in federal court," Jones said.

The FBI later concluded McVeigh acted largely alone, because of a hot apple pie he bought at a McDonald's in Junction City, Kansas, minutes before renting the bomb truck. A security camera caught McVeigh on film arriving alone, eating by himself and then leaving alone.

McVeigh did not take the stand in his own defense during his trial. Jones suggested then that the real bomber was killed in the blast, and suggested the

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Oklahoma Governor Frank Keating tells CNN's Greta Van Susteren he's 'puzzled and concerned' about the withheld McVeigh evidence (May 10)



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CNN's Major Garrett reports on a U.S. Department of Justice statement on the withheld McVeigh evidence (May 10)



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CNN's Susan Candiotti reports on the type of evidence that might have been withheld in the McVeigh trial (May 10)



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evidence was contaminated in the much-maligned FBI crime lab.

1 However, in a book published last month, "American Terrorist: Timothy McVeigh & The Oklahoma City Bombing," McVeigh claimed sole responsibility for the bombing of the Alfred R. Murrah Federal Building.

2 "My decision to take human life at the Murrah Building -- I did not do it for personal gain. ... I did it for the larger good," he told the book's authors.

Attorney: 3,000 documents

3 A source close to the case told CNN Correspondent Susan Candiotti that an FBI archivist discovered the withheld documents as all the materials related to the case were compiled.

4 The U.S. attorney in Denver informed his defense team and the federal court in Denver on Wednesday of what the FBI has called an oversight. It had only just discovered the day before - that investigatory documents, including reports on FBI interviews, photographs, letters and tapes, were withheld from McVeigh's defense.

5 A source said there was "nothing of major significance" withheld from the defense, Candiotti reported. The documents included some of the original notes of FBI investigators who had earlier turned over summaries of their findings.

6 Burr said the materials included 3,000 pages of documents, but the Justice Department declined to quantify it.

7 Another source told CNN that the discovery was made on Tuesday.

8 "Once the government was made aware of the documents, they were turned over to the defense. They are not material to the case and have no bearing on the outcome of the conviction," a Justice Department official said "If the defense disagrees, they will contact us."

Prison official: Execution still scheduled

9 McVeigh was convicted in a Denver trial of the 1995 bombing of the federal building in Oklahoma City that killed 168 people. He was sentenced to death by lethal injection. He later dropped appeals in the case, opting to die rather than spend life in prison. His death would be the first federal execution since 1963.

10 Dan Dunne, a spokesman for the penitentiary where McVeigh would be executed, told CNN that prison officials have not been notified of any change of plans.

11 "There's been no change at this point," he said. "It's still scheduled."

CNN correspondents Gina London and Susan Candiotti contributed to this report.

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