

## Scholarly Tigar Brings Focus to Nichols' Defense

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By Penny Owen

Staff Writer

DENVER -- The dilemma woke U.S. District Judge David Russell from a dead sleep.

Who, if not an Oklahoma lawyer, should he appoint to represent bombing defendant Terry Nichols?

The Oklahoma City judge's memory then rattled loose a decade-old image of a towering Texas attorney who, in a mock trial for the Smithsonian Folk Life Festival, implored jurors to save the life of a man accused of killing an elderly woman.

"I'm going to sit at the dinner table, and my daughter's going to say, 'Daddy, what'd you do today?' " Michael Tigar had argued. "And I'm going to say, 'Well, I tried to save the life of one of God's creatures.' "

"And members of the jury, what will you say when you go home?"

The next day, Russell began checking Tigar out.

"I wanted to make sure that he was not only qualified but ethical," Russell recalled. "And I got glowing recommendations."

Before accepting the judge's offer, Tigar discussed it with his daughter, Elizabeth, then 11. She had one condition: He needed to talk to her social studies class about why he was defending such an unpopular person. Her father complied.

Tigar, 56, took a leave of absence from teaching at the University of Texas School of Law in Austin and began forming his five-lawyer defense team -- a team that is one-third the size of convicted bomber Timothy McVeigh's.

Yet, as one colleague put it, quantity isn't necessarily quality. Tigar scored big by hiring Houston attorney Ron Woods, a former FBI agent, district attorney and U.S. attorney.

And, of course, there is Tigar himself.

"One Tigar is equal to 10 of any other lawyers," said Houston defense attorney Dick DeGuerin, who worked with Tigar when they successfully defended Texas U.S. Sen. Kay Bailey Hutchison on corruption charges.

DeGuerin, who once represented Branch Davidian leader David Koresh, also understands Tigar's penchant for defending demonized clients.

"You pay a personal price of unpopularity, of hang-up phone calls in the middle of the night and being seen as less than ethical," DeGuerin said. "At the same time, I think it's one of the highest ethical callings of a lawyer to vigorously, and with every lawful means, represent a person in a criminal case."

But Tigar said he has never received a death threat, despite a career that has taken him from the thick of apartheid in South Africa to the military unrest of Chile to the classrooms of France, where he teaches

French law students in the summer -- in their native language.

### Scoring Points

In his 30-year career, Tigar has crossed swords for the likes of John Demjanjuk, a Cleveland auto worker who was on death row in Israel after being convicted of being the Holocaust camp guard "Ivan the Terrible."

Tigar said he got Demjanjuk acquitted after discovering a secret government memo implicating another man, Ivan Marchenko.

Thus began one of Tigar's favorite tirades: That prosecutors, rather than seek the truth, too often seek evidence that fits only the suspect.

Tigar then added a touching illustration of how truth can override emotion.

He said his bags were being searched by an Israeli airport guard when the guard began thumbing through his Demjanjuk files.

"Are you his lawyer?" she asked. Tigar said he was, then braced himself.

"I thought, 'Well, there it is, in Israel, John Demjanjuk, we're going to have something now,' " Tigar recalled.

"And she looked at me, and she said, 'You're going to clear his name, aren't you?' And I said, 'Well, I hope so,' and she said, 'Good.' She respected the process. "

Though many Oklahomans understand the need for a defense, even for someone accused of killing 168 of their friends and neighbors in a single blast, some of them wonder how Tigar can sleep at night.

"I sleep very well," he answered.

Representing Nichols is an invitation to trumpet his constitutional beliefs more loudly than ever.

"I am sorry that people have trouble sometimes grasping how important the process is. But I understand that," Tigar said. "We all, sometimes, every one of us cares so much about a particular decision being made that we're willing to forget our most cherished convictions."

His convictions are important enough for Tigar to take a steep pay cut, accepting the court fee of \$125 per hour rather than the usual \$500 an hour he collects from corporate clients.

But it was Tigar's liberal convictions that lost him a coveted clerkship with U.S. Supreme Court Justice William Brennan, who rescinded his offer under pressure from conservatives.

Tigar, a California native, had graduated at the top of his class from the University of California at Berkeley but was known for sympathizing with draft evaders and civil rights activists.

"I was able to find employment pretty quickly in Washington, and then in later years the justice and I became friends," Tigar said.

At age 28, Tigar won his first U.S. Supreme Court case, when he argued that anti-Vietnam War activists

were unfairly being moved to the top of draft lists.

Tigar also defended Angela Davis, a philosophy professor and member of the Chicago Seven, who was acquitted of masterminding a shoot-out that led to the death of a San Francisco judge.

Last year, he went before a military panel to defend U.S. Air Force Maj. Debra Meeks, whose lesbian lover accused her of sodomy. Not only did Tigar win, he did it without a fee.

Her lawyers "had said that it was a hopeless case," Tigar said.

In the Meeks case, Tigar quoted the Bible in his opening statement, then mentioned his Southern Baptist preacher and his brief service in the Navy.

The lawyer, wearing half-moon spectacles, rattles off quotes from the great minds of history and law, both known and obscure.

U.S. Air Force Capt. Vance Spath was a prosecutor who opposed Tigar in the Meeks case.

"It was kind of a pleasure to try a case with him. He's very professional. And well prepared," Spath recalled.

But, Spath added, "If you went toe to toe with him, if you fought back and got him off his script, you can throw him off guard.

"You can actually score a few points."

### **A Shark in Water**

Only Spath came close to criticizing Tigar, who is considered a giant among legal professionals.

His style is gentlemanly, even homespun at times, yet his presentations are laced with dramatic gestures and surprises.

"I would say he's a lot like Mark Twain," said Peter Held, who worked with Tigar in defending Meeks. "I'm glad I'm not a prosecutor going up against him."

Tigar is a chameleon in court, changing his tone and mannerisms to fit the jury. Unlike McVeigh's former lead attorney, Stephen Jones, Tigar has little to do with the media covering the bombing trials, but that doesn't mean he's media shy.

"If I have 10 scrapbooks (of media clippings), Mike has a thousand," Jones said. "Mike isn't media shy any more than Elizabeth Taylor is. But just as sometimes she can play the nun, he can be the news nun. "

DeGuerin credits Tigar's appeal with jurors to his teaching ability.

"I've never seen Tigar stumped," DeGuerin said. "He can cite cases off the top of his head, book, chapter and verse, and I just can't say enough good about him. I don't think he has any flaws."

But Tigar named one.

"I get angry quicker than I should," Tigar said. "But if I'm with a member of my family that sees me getting

hot under the collar, maybe they'll reach out and put a hand on my shoulder and remind me that it's not all that serious."

Tigar's wife, Jane, a journalist turned lawyer, even found value in his quick temper, calling it "handy" when working in criminal law.

Jane Tigar, 42, was a Columbia University law student when they met through a job inquiry on the Internet. After the bombing, Jane asked to do a work-study project in his Oklahoma City office, since she had family there. Tigar agreed. His wife is now part of Nichols' defense team.

The two share a passion for gourmet cooking -- Jane Tigar wrote a cookbook on Russian cuisine. The couple often hold hands when leaving the courthouse.

A Colorado judge married Michael and Jane Tigar in their Denver office in August 1996. Tigar's divorce from Amanda, his wife of 16 years, was final in Texas the same month.

Tigar has three children: Jon, 34, a San Francisco lawyer; Katherine, 31, a doctor in residency at Baylor University; and Elizabeth, 13.

"I just think he's a doll," Jane Tigar said. "He's a nice man. "

Nice or not, some observers warn his courtroom adversaries to watch out. Others say Tigar and Nichols' lead prosecutor, Larry Mackey, are well matched.

"I would say Larry is like a crocodile in water, and Mike is like a shark in water," Jones said. "Both can kill you. One looks sleepy and friendly. The other you don't even see until it's too late."

Tigar's strategy always includes a story -- an easy-to-follow explanation as to why his client should be freed.

In Nichols' case, the story begins with the fact that his client wasn't in Oklahoma City when the bomb went off. But the story doesn't end there.

"I think any person that looks at this evidence will see there's a lot of room here to doubt and that there are a lot of facts that point away from Terry Nichols' involvement," Tigar said.

"So here you have a real question: You have a man with a wife and three children, two at the time of the explosion, who has never uttered a violent word, sentiment, toward another human being in his life, so far as the evidence shows."

If Tigar is ever kept up at night, it is probably from fingering tens of thousands of witness statements and pieces of evidence gathered by FBI agents nationwide. He said he has never handled a more detailed case.

For instance, agents tracked down and interviewed the friend of Josh Nichols, Terry Nichols' young son, after discovering a call Josh had made to him in 1994. Tigar said there are hundreds of interviews like that.

To prepare, Tigar takes a cue from movie director Alfred Hitchcock, who, Tigar said, would write every scene in his movie three times, from three different angles.

"The person that knows the facts of the case the best stands the best chance of winning," Held said.

Nichols' trial will begin with jury selection Sept. 29. Observers say it will be more legally complicated than McVeigh's trial, and Tigar agrees. Nichols, 42, faces the death penalty or life in prison if convicted.

If nothing else, Tigar wants Oklahomans to keep an open mind.

"Watch the evidence as it comes in. There's a lot of things about this case that are not yet known, and the process of finding them out is going on in several places all at once," Tigar said.

"I've never known a situation where it's more important to keep an open mind."

### **No Book Deals**

There is one thing Tigar guarantees won't happen when the trial is over.

"I'm absolutely not going to write a book," Tigar said. "In my opinion, it is improper for a lawyer to write a book about a case in which he or she has been involved, from the standpoint of, 'Now I'm going to tell you the inside story.'

"If the story belongs to anybody, it's the story of Terry Nichols and the Nichols family."

When Nichols' trial ends, Tigar said he has another murder case to handle in Travis County, Texas. He also has some writing projects unrelated to the Nichols case.

Then, he said, he'll do what he was doing when the call came from Russell.

"I'll go teach more. That's my job," Tigar said. "This isn't my day job."

**Staff writer Nolan Clay contributed to this report.**