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*Pro Se Plaintiff*

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

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JESSE C. TRENTADUE,

Plaintiff,

vs.

FEDERAL BUREAU OF  
INVESTIGATION and FEDERAL  
BUREAU OF INVESTIGATION'S  
OKLAHOMA CITY FIELD OFFICE ,

Defendants.

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**MEMORANDUM IN SUPPORT OF  
MOTION TO CONDUCT  
DISCOVERY**

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Case No.: 2:04 CV 00772 DAK

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Judge Dale A. Kimball  
Magistrate David Nuffer

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Plaintiff hereby submits this *Memorandum* in support of his *Motion to Conduct*

*Discovery*, Doc. No. 97.

## ANALYSIS OF FBI DEFENDANTS' RESPONSE

Plaintiff has previously submitted a *Memorandum* detailing FBI Defendants' bad faith in responding to the Court's *Order* of May 5, 2005. (Doc. No. 59.) But part of that response bears repeating in conjunction with the Court's consideration of this pending *Motion* to depose Terry Lynn Nichols and David Paul Hammer and to videotape those depositions. Specifically, Plaintiff wishes to again call to the Court's attention FBI teletypes dated April 25, 1995 and August 16, 1995, attached hereto as, respectively, **Exhibits 1 and 2.**

Exhibit 1 is an April 25, 1995 teletype from the FBI Little Rock, Arkansas field office to Director Louie Freeh. The subject of this teletype is an undercover FBI operative who had infiltrated various militia movements, including the Michigan Militia, "Constitution Rangers" and the "Arizona Patriots." This undercover operative is alleged to be knowledgeable about the identities of various members of these groups associated with "Timothy Jack McVeigh."

This teletype is dated within a week following the Murrah Building bombing. It is the oldest document FBI Defendants produced to Plaintiff. In other words, even though there was an undercover operative involved with McVeigh and members of various

militia groups who aided and supported McVeigh, the FBI failed to produce any records older than this teletype!

FBI Defendants would have the Court believe that there are no earlier records, but that in and of itself is incredible since no one would believe that this undercover investigation did not predate the bombing. Furthermore, according to this document the undercover operative, an individual whose name has been redacted, is discussing someone who bears “a close resemblance to unknown suspect no. 2 [John Doe 2].” Equally incredible is that an FBI agent is ordered to interview this informant, including a “detailed debriefing to be conducted by FBI at Montgomery, Alabama”<sup>1</sup> yet, among all the documents produced, there is not one FD-302 report of an interview with this or any other informant.

Exhibit 2 is an August 16, 1995, teletype from the FBI’s Albuquerque field office to Director Louie Freeh concerning an informant who is reporting that an individual whose name has been redacted “may have assisted McVeigh in the Oklahoma bombing.” This document likewise refers to the fact that this person apparently frequents Elohim

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<sup>1</sup> Montgomery, Alabama is also the location of the Southern Poverty Law Center’s headquarters.

City and is very knowledgeable with respect to explosives, but as is typical for FBI Defendants, there is no FD-302 produced of any interview with this informant.

These Exhibits clearly document that FBI Defendants had infiltrated, through a number of informants, the bombing conspiracy. That there were others involved in this conspiracy besides McVeigh and Nichols is clearly set forth in the *Declarations of Terry Lynn Nichols*, and *David Paul Hammer*. Nichols identifies in his *Declaration* individuals who he now suspects were FBI operatives involved in this failed sting operation. It is Plaintiff's belief that if deposed, Nichols and Hammer could provide valuable information related not only to the Oklahoma City bombing but, more importantly, to FBI Defendants' bad faith response to Plaintiff's *FOIA* requests and this Court's *Order* of May 5, 2005.

**THIS IS AN APPROPRIATE CASE FOR DISCOVERY**

Admittedly, discovery is not a common litigation tool employed in a *FOIA* suit. Nevertheless, discovery is appropriate in a *FOIA* case when there is reason to believe, as in this case, that the agency is either withholding records or did not conduct an adequate search for the materials. *See Information Acquisition Corp. v. Dept. of Justice*, 444 F.Supp. 458 (D.C. 1978). *See also Murphy v. Fed Bureau of Investigation*, 490 F.Supp. 1134 (D.C. 1980); *Giza v. Sec'y of Health, Education and Welfare*, 628 F.2d 748, 751 (1st

Cir. 1980); *Niren v. INS*, 103 F.R.D. 10 (D. Or. 1984); *Reisberg v. Dept. of Justice*, 543 F.2d 308 (D.C. Cir. 1976). Given FBI Defendants' obvious failure to comply in good faith with their obligations under *FOIA* and this Court's *Order*, Plaintiff respectfully submits that he should be allowed to take the depositions of Terry Nichols and David Paul Hammer, and to videotape those depositions.

DATED this 16<sup>th</sup> day of February, 2007.

/s/ Jesse C. Trentadue  
Jesse C. Trentadue  
*Pro Se Plaintiff* \_\_\_\_\_

**CERTIFICATE OF SERVICE**

\_\_\_\_\_ I HEREBY CERTIFY that on the 16<sup>th</sup> day of February, 2007, I caused a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF MOTION TO CONDUCT DISCOVERY** to be served via electronic process upon the following:

Carlie Christensen  
Assistant United States Attorney  
185 South State Street, Suite 400  
Salt Lake City, UT. 84111

/s/ Jesse C. Trentadue

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