

Case No. _____
UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

UNITED STATES OF AMERICA,)	
)	
Respondent/Appellee.)	
)	<u>DEATH PENALTY CASE</u>
v.)	<i>Execution Date Set For</i>
)	<i>June 11, 2001, 7:00 a.m.</i>
TIMOTHY JAMES McVEIGH,)	
)	
Movant/Appellant.)	

EMERGENCY APPLICATION FOR STAY OF EXECUTION

Pursuant to Fed. R. App. P. Rule 8 and Tenth Circuit Rule 8.1, Mr. McVeigh, through undersigned counsel, moves this Court to grant a stay of the pending execution date set presently for June 11, 2001, at 7:00 a.m. In support of this motion, Mr. McVeigh asserts the following:

1. On May 31, 2001, Mr. McVeigh moved in the district court for a stay of execution and the same was denied on June 6, 2001.
2. The district court based its denial on the conclusion that withheld *Brady* evidence concerning participation by others could not have affected the juries' death penalty determination.
3. The reasons for granting a stay and the supporting facts are included in the brief filed on behalf of Mr. McVeigh with this Court on June 6, 2001.
4. A copy of the district court's order denying the stay request is attached hereto as Exhibit "A".
5. Mr. McVeigh asserts the issue presented in the brief appealing the district court's denial of the stay request has a high likelihood of success on appeal due to the authority and facts presented in the brief. Moreover, Mr. McVeigh asserts that if given a reasonable opportunity to

utilize withheld *Brady* material, he could establish a fraud upon the Court. Consequently, if given a stay, Mr. McVeigh will be able to present a motion to reopen his motion pursuant to 28 U.S.C. § 2255 and Rule 33 and do so with a high likelihood of success.

6. Irreparable harm will result if the stay is not granted because Mr. McVeigh will be executed on June 11, 2001 at 7:00 a.m.

7. The United States will not be harmed if a stay is granted.

8. There is no risk of harm to the public interest. Granting a stay of execution so that a full and fair examination of issues at hand can be conducted will instead serve the public interest.

Respectfully submitted,

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By: _____

ATTORNEYS FOR TIMOTHY McVEIGH

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing instrument, EMERGENCY APPLICATION FOR STAY OF EXECUTION, was hand delivered on the _____ day of June, 2001, to the following:

Sean Connelly
Special Attorney to the
U.S. Attorney General
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Denver, CO 80202

Robert Nigh, Jr.