

[The Article 32 hearing held with witnesses at Camp Doha, Kuwait reconvened at 0800 hours, 01 September 2003.]

(b)(6)-4; (7)(C)-4

**DIRECT EXAMINATION**

[REDACTED] U.S. Army, was called as a witness for the government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:  
You are [REDACTED] is that correct? (b)(6)-4; (7)(C)-4

Witness:  
Yes sir.

Counsel:  
You're currently assigned to the 320<sup>TH</sup> MP Battalion?

Witness:  
Yes sir.

Counsel:  
And where is the 320<sup>TH</sup> stationed right now?

Witness:  
In Baghdad.

Counsel:  
Do you recall the night of twelfth May of this year?

Witness:  
Yes.

Counsel:  
On that evening, you remember a conversation that your husband had with Sergeant [REDACTED] in your presence? (b)(6)-5; (7)(C)-5

Witness:  
We didn't have it with her, but she was in there talking about it.

Counsel:  
Did you hear what Sergeant [REDACTED] had to say? (b)(6)-5; (7)(C)-5

Witness:  
Yes.

**012696**

Counsel:

Could you tell the investigating officer what she had to say?

Witness:

She was talking about their mission and how they had escorted some prisoners. When they got them off the bus, Sergeant McKenzie had to--he flipped a prisoner. Specialist (b)(6)-5; (7)(C)-5 had to put a prisoner on the ground forcefully because the prisoners had twisted his wrist. And she was talking about the three females, they had the prisoners who raped (b)(6)-3; (7)(C)-3, and the prisoners didn't like what they were doing to them.

Counsel:

When you talk about the three females, who are the three females you are referring to?

Witness:

She never gave names, but the only three females we knew that were on the mission were Sergeant (b)(6)-5; (7)(C)-5, Sergeant (b)(6)-4; (7)(C)-4 and Sergeant (b)(6)-4; (7)(C)-4

Counsel:

When you said the EPWs didn't like what happened to them, what happened to the EPWs?

Witness:

All she said is they were kicking them. She didn't specify where.

Counsel:

After that incident, did Master Sergeant (b)(6)-5; (7)(C)-5 ever approach you or your husband in your presence?

Witness:

She did. When we were sitting outside the ALOC she approached us. She advised my husband to get an attorney. CID wanted to question him again. She said to get an attorney because they were going to do a lie detector.

Counsel:

Did she ever ask your husband questions about that night?

Witness:

She asked him what he saw. He said nothing. She winked and said that's right.

Counsel:

Specialist (b)(6)-4; (7)(C)-4, that's all I have for you right now, but answer any questions the defense counsel might have for you.

012697

**CROSS-EXAMINATION**

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4

Specialist [REDACTED], you said she was bragging about what happened on the night of the twelfth, correct?

Witness:

I don't know if it was bragging, sir. She was smiling and just started talking about it.

Counsel:

Later on you said that your husband told you that he had bragged that he had kneed or kicked one of the prisoners in the leg or the testicles, on the bus, correct?

Witness:

He told me that after he made a statement. I didn't know about that until...we were in Arifjan when he told me about that.

Counsel:

He told you the reason he said that is because he didn't want to seem like a wimp, correct?

Witness:

Yes sir.

Counsel:

And you said that when Sergeant [REDACTED] came in, she said that the females did something to the guy that raped [REDACTED]? (b)(6)-5, (7)(C)-5 (b)(6)-3; (7)(C)-3

Witness:

Yes sir.

Counsel:

And that he didn't like what they were doing to them.

Witness:

The prisoner didn't like what they were doing to him.

Counsel:

And you said that she did not mention the names of the females, correct?

Witness:

No she did not.

**012698**

Counsel:

You just assumed that she meant the three females from the 320<sup>TH</sup>?

Witness:

Yes sir. We didn't find out that there was another female on the mission so, like a week afterwards, we knew that there was another female on the mission.

Counsel:

She never clarified exactly who she was talking about, correct?

Witness:

No sir.

Counsel:

And you made a sworn statement in front of Major (b)(6)-2, (7)(C)-2 on thirteen June, is that right?

Witness:

Somewhere in there, sir. I'm not sure what day it was.

Counsel:

Okay. In that statement you said that Sergeant (b)(6)-5 (7)(C)-5, Sergeant (b)(6)-5, (7)(C)-5 and Sergeant (b)(6)-3, (7)(C)-3 had to take the EPW that had raped (b)(6)-3, (7)(C)-3 and the EPW did not like what they were doing to him.

Witness:

Yes sir.

Counsel:

But that's not exactly what was said, correct?

Witness:

No sir. I said that and then I told Major (b)(6)-1, (7)(C)-1 that I assumed that she meant the three females, and then I said the three females names.

Counsel:

And what was told to you was three females, correct?

Witness:

Yes sir.

Counsel:

And were you present the entire time that Sergeant (b)(6)-5, (7)(C)-5 was speaking in the tent?

Witness:

Yes sir.

012699

Counsel:

And you said that they were kicking him, but she did not say where he was being kicked?

Witness:

Correct.

Counsel:

I don't have any other questions for you. Some of the other defense counsel may have questions.

Questions by the defense counsel: MAJ [REDACTED] (b)(6)2-(7)(C)-2

Counsel:

Specialist [REDACTED] (b)(6)-4;(7)(C)-4 you said you saw your husband right after he finished his detail, right?

Witness:

Yes ma'am.

Counsel:

And he didn't look upset, did he?

Witness:

Not really ma'am.

Counsel:

He was tired?

Witness:

Yes ma'am.

Counsel:

He told you some other things that happened on that trip, didn't he, such as the EPWs on the bus were looking out the window even though they were told not to?

Witness:

Yes ma'am.

Counsel:

And he also told you that they were disobeying orders not to look up and they were actually looking at Sergeant [REDACTED] correct?

Witness:

Yes ma'am.

Counsel: And that Sergeant [REDACTED] was the NCOIC on the bus?

(b)(6)-4;(7)(C)-4

012700

Witness:  
Yes ma'am.

Counsel:  
And she had to yell at them to make them comply with the rules of the bus?

Witness:  
Yes ma'am.

Counsel: (b)(6)-4; (7)(C)-4  
And did she tell you that the prisoner that Specialist [redacted] and Specialist [redacted] had to put on the ground...she did say that they had to do it because he twisted [redacted]'s wrist?

Witness:  
Yes ma'am.

(b)(6)-5; (7)(C)-5

Counsel:  
And did she also tell you that he was six feet tall, weighing over two hundred seventy pounds?

Witness:  
No ma'am she did not.

Counsel:  
Did she tell you that that prisoner broke his hand restraints while they were escorting him?

Witness:  
No ma'am.

Counsel:  
Did she tell you that [redacted] pushed the prisoners head down to try to gain control of him before they put him on the ground?

Witness:  
No ma'am.

(b)(6)-4; (7)(C)-4

Counsel:  
She tell you that the EPW pushed his head back up and kicked [redacted] ankle?

Witness:  
No ma'am.

Counsel: (b)(6)-5; (7)(C)-5  
And then that's when [redacted] had to go assist [redacted]. (b)(6)-4; (7)(C)-4

012701

Witness:  
No ma'am.

Counsel:  
Thank you I have no more questions.

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(c)-2

Counsel: [REDACTED] (b)(6)-4; (7)(c)-4  
Your husband, Specialist [REDACTED], was sent down to Arifjan, right?

Witness:  
Yes ma'am.

Counsel:  
You remember when he was sent down to Camp Arifjan?

Witness:  
I think it was the beginning of June, I'm not sure exactly when it was.

Counsel:  
Before he went down to Arifjan, you talked about the escort mission and what happened on the bus, right?

Witness:  
Briefly. We never got into it.

Counsel:  
He told you that he didn't assault anybody?

Witness:  
Right.

Counsel:  
He didn't do anything and he didn't see anything.

Witness:  
Yes ma'am.

Counsel:  
Then he was sent down to Arifjan, right?

Witness:  
Yes ma'am.

012702

Counsel:  
After he left, you went and talked to CID, right?

Witness:  
Yes ma'am.

Counsel:  
When you went to talk to CID, CID told you that your husband was lying?

Witness:  
They told me that everybody was lying.

Counsel:  
So everyone involved in the escort mission was lying.

Witness:  
Yes ma'am.

Counsel:  
And they told you that your husband was involved in what happened?

Witness:  
Yes ma'am.

Counsel:  
Or your husband had seen what happened?

Witness:  
Yes ma'am.

Counsel:  
And that he had lied to them about it?

Witness:  
Yes ma'am.

Counsel:  
And that they were going to make sure that everybody that was involved in the escort mission was going to go to jail, right?

Witness:  
Yes ma'am.

Counsel:  
You were pretty concerned about your husband at that point, right?

012703



Witness:  
Yes ma'am.

Counsel:  
You called him on the phone to find out what was going on, right?

Witness:  
Yes ma'am.

Counsel:  
You were upset because you thought he wasn't truthful with you?

Witness:  
Yes ma'am.

Counsel:  
So the two of you argued a little bit about what CID told you versus what your husband had originally told you, right?

Witness:  
Yes ma'am.

Counsel:  
And you told your husband we need to go back and think about what you remember from that night, right?

Witness:  
Yes ma'am.

Counsel:  
We need to go back and try and think about the details of what happened?

Witness:  
Yes ma'am.

Counsel:  
About a week or two later, you talked to Major [REDACTED] <sup>(b)(6)-2; (7)(C)-2</sup> one of the prosecutors in this case, right?

Witness:  
Yes ma'am.

Counsel:  
He came to see you in Camp Bucca?

Witness: Yes ma'am.

012704

Counsel:

And he told you that he reviewed your husband's statement, right?

Witness:

Yes ma'am.

Counsel:

And then you gave him a sworn statement, correct?

Witness:

Yes ma'am.

Counsel:

After you gave him that sworn statement, your husband came back up to Camp Bucca, right?

Witness:

It was about two or three weeks later that he came back up, ma'am.

Counsel:

Thank you Specialist [REDACTED] (b)(6)-4; (7)(C)-4

**Questions by the defense counsel:** CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

Specialist [REDACTED] b6-4, b7(C)4 I want to talk to you a little bit about the conversation that your husband and yourself had with Master Sergeant [REDACTED] You said that you were at the ALOC and she approached you in the truck? (b)(6)-5; (7)(C)-5

Witness:

Yes ma'am.

Counsel:

And she said to your husband that CID wanted to interview him again?

Witness:

Yes ma'am. She said that CID wanted to interview all of them again, ma'am.

Counsel:

All of them again?

Witness:

Yes ma'am.

Counsel: And she told your husband that he ought to get an attorney, correct?

012705

Witness:  
Yes ma'am.

Counsel:  
This is not the first person that told you he needed to get an attorney.

Witness:  
No it was not, ma'am.

Counsel:  
The Sergeant Major of your unit was telling him to get an attorney?

Witness: (b)(6)-4; (b)(7)(C)-4  
Sergeant Major, Major [REDACTED] mostly the corrections officers and the police officers, and some of the lawyers were the ones that were saying to get an attorney before they talk to CID again.

Counsel:  
Okay, so this was nothing out of the ordinary? This is what everybody else had been saying, that he should get an attorney.

Witness:  
Yes ma'am.

Counsel:  
As a matter of fact, all of his leadership was advising all of these individuals to get an attorney, correct?

Witness:  
Yes ma'am.

Counsel:  
So your husband was not at all concerned, or you, about this comment?

Witness:  
No ma'am.

Counsel:  
Now, after she said that, then she asked him what he saw that night, correct?

Witness:  
Yes ma'am.

Counsel:  
And he said he had seen nothing, correct?

012706

Witness:  
Yes ma'am.

Counsel:  
That is what he had told you all along, correct?

Witness:  
Yes ma'am.

Counsel:  
And that is actually what he'd put in his statement to CID, that he saw nothing, correct?

Witness:  
Yes ma'am.

Counsel:  
That was the end of the conversation, correct?

Witness:  
Yes ma'am.

Counsel:  
Weren't concerned at all about this conversation.

Witness:  
Not at all.

Counsel:  
It was a non-event to you.

Witness:  
Yes ma'am.

Counsel:  
Neither you or your husband ever felt that there was any sort of pressure being put on you to say anything different.

Witness:  
No ma'am.

Counsel:  
Thank you.

I/O:  
Re-direct?

**012707**

**REDIRECT EXAMINATION**

**Questions by the trial counsel:** MAJ ██████████ (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4

Specialist ██████████, back on that conversation that occurred near the ALOC...about the other folks that advised your husband to get lawyers, did they ever come up to your husband and say you've seen nothing right?

Witness:  
No not at all.

Counsel:  
When they told him to get a lawyer and say that you've seen nothing right, did they wink at him?

Witness:  
No sir.

Counsel:  
Okay. You were not on the bus coming back from Tallil to Camp Bucca?

Witness:  
I was not on the mission.

Counsel: (b)(6)-5; (7)(C)-5  
When Sergeant ██████████ came in to talk to your husband on the night of the mission, what was her mood when she described what happened on the mission?

Witness:  
She was just smiling. She didn't really have a mood.

Counsel:  
That's all I have sir.

I/O:  
Anyone on the defense?

Defense counsel:  
No, sir.

**Questions by the Investigating Officer:** LTC ██████████ (b)(6)-2; (7)(C)-2

I/O: (b)(6)-4; (7)(C)-4 (b)(6)-5; (7)(C)-5  
Specialist ██████████ Master Sergeant ██████████ came up to your husband and advised him to get an attorney, at a later time after the mission?

012708

Witness:  
Yes sir.

I/O:

(b)(6)-5; (7)(C)-5  
And then it was Master Sergeant [REDACTED] that asked your husband if he had seen anything; he said no; she said that's right and winked at him, according to your story?

Witness:  
Yes sir.

I/O:

Okay. Your husband said at some point that he had kneed and kicked an EPW on the bus, is that correct?

Witness:  
Afterwards, yes sir. He said that.

I/O:

And he said that...?

Witness:

(b)(6)-5; (7)(C)-5  
He said it to Sergeant [REDACTED] wanting her to think that he wasn't a wimp.

I/O:

When did that exchange take place?

Witness:

I'm not sure when that happened, sir. I wasn't there.

I/O:

When did you find out about that?

Witness:

I found out when he was in Camp Arifjan.

I/O:

Some time later?

Witness:

Yes sir.

I/O:

(b)(6)-5; (7)(C)-5  
I understand that Specialist [REDACTED] prisoner...there seemed to be some justification for his action, is that correct?

012709

Witness:  
Sergeant [REDACTED] said that Specialist [REDACTED] had his wrist twisted. That's why they had to force the prisoner on the ground.

I/O:  
And then there were some other circumstances as well?

(b)(6)5 ; (7)(C) - 5

Witness:  
I didn't know about them sir.

I/O:  
Okay. Did you ever talk to Sergeant [REDACTED] or Sergeant [REDACTED] besides the conversation that you indicated here?

Witness:  
We talked a lot. We never talked about the case. Just talked as friends, and as an NCO.

I/O:  
Ever spoken with any of the other accused or any other members of your Battalion with regard to this incident?

Witness:  
No sir.

I/O:  
No one's come to you with information, besides what you've indicated here?

Witness:  
No sir.

I/O:  
Anyone else have further questions?

Questions by the trial counsel: MAJ [REDACTED] (b)(6) - 2 ; (7)(C) - 2

Counsel: (b)(6) - 5 ; (7)(C) - 5  
Do you remember Sergeant [REDACTED] anything about Sergeant McKenzie?

Witness:  
Just that he had flipped a prisoner.

Counsel:  
That's all I have.

(b)(6) - 4 ; (7)(C) - 4

I/O: Anyone else? Specialist [REDACTED] thank you.

012710

[The witness was duly warned, dismissed and withdrew from the room.]

**DIRECT EXAMINATION**

(b)(6)(4);(7)(C)-4  
SPC [REDACTED] U.S. Army Reserve, was called as a witness for the government, was sworn and testified as follows:

Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

You are Specialist [REDACTED] (b)(6)-4; (7)(C)-4

Witness:

Yes sir.

Counsel:

Currently assigned to the 320<sup>TH</sup> MP Battalion?

Witness:

Yes sir.

Counsel:

Where is the 320<sup>TH</sup> stationed right now?

Witness:

Abu Garab prison, twenty miles southwest of Baghdad.

Counsel:

Do you recall the mission to pick up prisoners on the twelfth of May?

Witness:

Yes sir.

Counsel:

On that mission, on the return trip from Talil, where were you?

Witness:

I was the unloader on the bus, the loader/unloader position.

Counsel:

How did the EPWs behave on the bus ride back?

Witness:

We had some minor incidents such as talking, looking out the window. We had one guy who wanted to stretch out his legs. We had one person look at Sergeant [REDACTED] (b)(6)-5; (7)(C)-5  
That was corrected by Sergeant [REDACTED] Sergeant [REDACTED]

(b)(6)-4; (7)(C)-4

012711



Counsel:  
There was no fighting on the bus?

Witness:  
No.

Counsel:  
I'm sorry, could you speak up.

Witness:  
I apologize. We had some minor incidents such as talking, looking out the window. We had one guy who wanted to stretch out his legs. We had one person look at Sergeant [REDACTED] That was corrected by Sergeant [REDACTED] and Sergeant [REDACTED]

b)(6)-5, (7)(E)-5

(b)(6)-4, (7)(C)-4

Counsel:  
When they were corrected, how did they respond to the corrections?

Witness:  
The only one that kept repeating his problem was the one that kept stretching his legs across the line. Everyone else seemed to have fallen in line.

Counsel:  
I'll take you now to the unloading of the bus at Camp Bucca. Could you describe that process for us?

Witness:  
The bus pulled up to the in-processing area. Everyone got off the bus except for me. My job was to unload the prisoners from where they were seated and hand them off to Sergeant [REDACTED] who was waiting at the bottom of the stairs.

(b)(6)-4 - (7)(C)-4

Counsel:  
You performed this task for the entire unloading of the bus?

Witness:  
Yes sir. My whole job was on the bus.

Counsel:  
As you are doing this job, could you see outside?

Witness:  
No sir. The windows were closed. The only time I peeked out was when I stuck my head out the door.

Counsel:  
Could you hear anything?

012712

Witness:

You can hear screams and I did hear a stop resisting one time.

Counsel:

Can you tell me what type of screams did you hear?

Witness:

Male voices screaming is the best I can give you sir.

Counsel:

After you were done unloading the bus, what did you do?

Witness:

After the bus was completely unloaded, I searched the bus for anything they may have left behind. Sergeant [REDACTED] came on the bus and said that was it. We got off the bus and I went back to sleep. (b)(6)-4; (7)(C)-4

Counsel:

After the mission, did you speak with anyone else about what happened on the bus?

Witness:

After unloading our vehicles, I ran into Sergeant [REDACTED] and she made a statement to me. (b)(6)-5; (7)(C)-5

Counsel:

What did she tell you?

Witness:

She had said she had kicked and kneed someone in the balls...the three females that escorted one of the rapists. And, that she saw Sergeant McKenzie flip somebody.

Counsel:

When she said she kicked somebody in the balls, who did she say she kicked in the balls?

Witness:

The comment was directed towards one of the rapists. She said that the three females had escorted one of the rapists, and that she had kicked him in the leg or ball region.

Counsel:

And the rapist wasn't part of your unit?

Witness:

No he was one of the prisoners.

012713

Counsel:

And what else did she tell you? I'm sorry, you mentioned a couple things after you talked about Sergeant [REDACTED] (b)(6)-5; (7)(C)-5

Witness:

She had mentioned the flipping of...she said she saw Sergeant McKenzie flip somebody, and that she had kicked somebody in the balls.

Counsel:

And then what did you do after that conversation?

Witness:

After that conversation, I found my wife. I talked to her a little bit and then I went to bed.

Counsel:

Did you...have you subsequent conversations with Master Sergeant [REDACTED] (b)(6)-5; (7)(C)-5

Witness:

Excuse me sir?

Counsel:

Did you have conversations with Master Sergeant [REDACTED] (b)(6)-5; (7)(C)-5 after that, after the mission?

Witness:

No sir.

Counsel:

You didn't see her in a white pickup, when you were in a white pickup with your wife?

Witness:

That wasn't after the mission sir. That was a couple weeks later, there after. After we'd been questioned by CID.

Counsel:

Okay. You want to tell me about that conversation?

Witness:

(b)(6)-5;  
(7)(C)-5  
What had happened was my wife and I were in a white pickup at the ALOC. Sergeant [REDACTED] topped by, as many others have, advised me to seek out a lawyer for question purposes. We got into a conversation, basically the words were something to the effect of, the way I phrase it was, you didn't see anything right. And I said yes that's right; I didn't see anything. She winked at me. I didn't think it of anything. I thought it was just her looking at me. That's it.

012714

Counsel:

Okay. And after that, or the day before the CID interview, did you encounter Master Sergeant [REDACTED] again? (b)(6)-5; (7)(C)-5

Witness:

Yes sir. I heard a rumor the night before we were supposed to go to CID. And I went over to their tent area. What had happened was I talked to a few people prior to this.

And what it boiled down to is that Sergeant [REDACTED] and I walked over toward the tent. Sergeant [REDACTED] broke off and went towards RU. I spoke to Sergeant [REDACTED] (b)(6)-4; 7(c)-4

who was on the back patio about my family and other things. And we went up...it was getting late so I went around the front of the tent. There was five people inside the tent

plus one other. There was Sergeant McKenzie, Specialist [REDACTED] Specialist [REDACTED] (b)(6)-5; (7)(C)-5

(b)(6)-4; (7)(C)-4 Sergeant [REDACTED] and Sergeant [REDACTED]. They were all sitting inside the tent. And there was one other, I assumed it was Specialist [REDACTED]. It's a female I saw sitting on the floor. I went in and I told them the rumor that I heard, that CID had names of Sergeant McKenzie flipping somebody and somebody assaulting a male by kicking him in the balls. (b)(6)-5; (7)(C)-5 (b)(6)-4; (7)(C)-4

Counsel:

Could you describe the layout of that tent where this meeting was occurring?

Witness:

It was towards the front of the tent, which was Sergeant [REDACTED] and Sergeant [REDACTED] (b)(6)-5; (7)(C)-5 (b)(6)-4; (7)(C)-4

layout or living space. It was cordoned off by ponchos, like a poncho wall. And it was just her... Sergeant [REDACTED] arrived on...when you walked in it was on the left, Sergeant [REDACTED] (b)(6)-4; 7(c)-4

[REDACTED] was on the right and they were in a, kind of like a semi-circle around the area, in the front of this tent. (b)(6)-5; (7)(C)-5

Counsel:

How large was the tent?

Witness:

It's a GP large.

Counsel:

Okay. And then how large is the area where you saw the meeting?

Witness:

I couldn't, enough for a cot and a walkway between each of the beds. I couldn't even begin to guess for you.

Counsel:

Was there anyone else in the tent on the other side?

Witness:

No they were all out in the back enjoying a good time.

012715

Counsel:

I apologize. Let me take you back to the bus again. You said that you poked your head outside at one point?

Witness:

(b)(6)-4, (7)(C)-4  
Yes sir. When I heard the stop resisting and then a scream, I was in between transitioning for a prisoner for Sergeant [REDACTED] popped my head out to look out towards the... I looked towards the rear of the bus and I saw what appeared to be two male soldiers with a male EPW on the ground.

Counsel:

(b)(6)-5, (7)(C)-5  
During a conversation with Sergeant [REDACTED] did you ever tell her that you had kicked one of the prisoners?

Witness:

Yes sir.

Counsel:

Why did you do that?

Witness:

It was just to bolster my image. I was lying.

Counsel:

You were lying to Sergeant [REDACTED] (b)(6)-5, (7)(C)-5

Witness:

Yes sir.

Counsel:

Are you telling the truth today?

Witness:

Yes sir.

Counsel:

Okay. Sir that's all I have for right now.

I/O:

Defense?

012716

CROSS-EXAMINATION

Questions by the defense counsel: CPT [REDACTED] (b)(6) -2; (7)(C) -2

Counsel: (b)(6) -4; (7)(C) -4  
One moment. Specialist [REDACTED] you are in First Platoon, right?

Witness:  
Yes ma'am.

Counsel: (b)(6) -4; (7)(C) -4  
Sergeant First Class [REDACTED] your Platoon Sergeant?

Witness:  
Yes ma'am.

Counsel:  
Do you remember who detailed you to go on this mission?

Witness: (b)(6) -4; (7)(C) -4  
As I stated to you earlier today, to my best recollection, it was either Sergeant [REDACTED] or  
Sergeant [REDACTED]. As of to when, I do not know.  
(b)(6) -4; (7)(C) -4

Counsel:  
Okay, but it came from your platoon, right?

Witness:  
Yes ma'am.

Counsel: (b)(6) -4; (7)(C) -4  
When you got to Talil, Sergeant [REDACTED] gave you a briefing about the EPWs you were  
going to be transporting, correct?

Witness:  
Yes ma'am.

Counsel:  
What did he tell you about the EPWs who was going to be on the bus?

Witness:  
He told me...he pointed out to me, by using gestures instead of, so not to alert the EPWs  
who was a high priority; who was a low priority. Such as what...and their background as  
to the high priorities.

Counsel: Okay. Who were the high priorities?

012717

Witness:

We had a General, a Major that trained the Fedahyeen soldiers. We had two FIFs, previous soldiers. Eight people that supposedly sprung their buddies out of a jail. A Major and a Captain from the police force. And two car dealers, or something to that effect, had a large sum of money on them.

Counsel:

Can you remember what he told you about the interpreter?

Witness:

My apologies. Yes there was an interpreter. He was there during, supposedly there, during the interpretation of the 507<sup>TH</sup> Maintenance Company.

Counsel:

During the interrogation?

Witness:

The interrogation of the 507<sup>TH</sup> Maintenance Company.

Counsel:

It was going to be your responsibility to load the bus, right?

Witness:

Yes ma'am.

Counsel:

And when you're loading the bus, you're the only person on the bus, right?

Witness:

Yes ma'am.

Counsel:

You'd never loaded a bus before, right?

Witness:

Not prior to this day, no ma'am.

Counsel:

Because it was your first escort mission, right?

Witness:

Yes ma'am.

Counsel:

And the guidance was low priority in the back, right?

012718

Witness:  
Yes ma'am.

Counsel:  
And high priority in the front.

Witness:  
Yes ma'am.

Counsel: (b)(6)-4 (7)(C)-4  
And Sergeant [REDACTED] also told you to pack'em in there pretty tight, right?

Witness:  
Yes ma'am, to leave a reactionary gap.

Counsel:  
Okay. So you left a large buffer so that you guys could react?

Witness:  
Yes ma'am. So we don't get overrun.

Counsel: (b)(6)-4 (7)(C)-4  
Sergeant [REDACTED] was the one that was determining who, in what order the prisoners got on the bus, right?

Witness:  
That was prior to me. He was at the base of the door handing me the prisoners ma'am.

Counsel:  
So your job was just to put them in their seats after he gave them to you?

Witness:  
Yes ma'am.

Counsel:  
You said that the Iraqi police Captain and Major were high priority, right?

Witness:  
Yes ma'am.

Counsel:  
And the Major who trained the Fedahyeen, he was high priority as well, right?

Witness:  
Yes ma'am.

012719



Counsel:

And actually, the Major that trained the Fedahyeen was on crutches, correct?

Witness:

Yes ma'am.

Counsel:

He was the last one that you sat down on the bus?

Witness:

Yes ma'am. Yes ma'am, he was in the aisle-way ma'am.

Counsel:

So he was in the aisle-way and the Iraqi police Captain and Major were behind him in the aisle-way, correct?

Witness:

Yes ma'am. They were in line in the aisle-way ma'am.

Counsel:

And when you loaded them onto the bus, they didn't want to have to sit three to a seat, right?

Witness:

Yes ma'am.

Counsel:

So you had to tell them and move them to get them to sit, right?

Witness:

Yes ma'am.

Counsel:

So your first step is tell them to sit, right?

Witness:

Yes ma'am.

Counsel:

And then you actually had to move some of the prisoners to get them to sit where you wanted them to sit?

Witness:

Yes ma'am.

Counsel: And they didn't want to be quiet either, right?

012720

Witness:

Not during loading process ma'am. They were talking amongst each other ma'am.

Counsel:

Okay. Now you said you had some problems during the ride, right?

Witness:

Yes ma'am. They were small problems such as talking, people looking out the window, and as I said before, the Fedahyeen kept stretching his legs past our imaginary line that we had drawn.

Counsel:

Okay. So the guy on the crutches, that was sitting in the aisle...

Witness:

Yes ma'am.

Counsel:

Kept moving his legs over the line where you told him...

Witness:

Not to, yes ma'am.

Counsel:

You told him quit doing that many times during the trip, right?

Witness:

Not me personally, but a bunch of us ma'am, yes.

Counsel:

Okay. He just kept kicking his feet out.

Witness:

He kept stretching out and, yes ma'am.

Counsel:

Okay. The bus stopped at some point, right?

Witness:

Yes ma'am.

Counsel:

And, as far as you know, you weren't able to get in touch with that lead 223 vehicle, correct?

012721

Witness:  
That is above my rank ma'am.

Counsel:  
The signal for problems on the bus is putting on the hazards and pulling over, right?

Witness:  
Yes ma'am.

Counsel:  
And that signal applies if there's a mechanical problem, right?

Witness:  
Yes ma'am.

Counsel:  
And it also applies if there's a problem on the bus with controlling EPWs?

Witness:  
To the best of my knowledge, yes ma'am.

Counsel:  
Okay. So same signal for both...

Witness:  
Universal ma'am.

Counsel:  
Okay. The bus stopped and you and [REDACTED] got off the bus to pull security, correct?

b(6)-4: (FO) 4

Witness:  
The bus stopped. Sergeant [REDACTED] Specialist [REDACTED] came up to the vehicle and knocked on the door. Somebody yelled out and told them that it was just an air hose break. That was the last I saw them and that's where [REDACTED] and I hopped off the bus and pulled side security.

Counsel:  
Okay. You didn't see [REDACTED] and [REDACTED] get on the bus, right?

Witness:  
No ma'am.

Counsel:  
And you guys actually got off the bus and pulled security outside the bus, right?

012722

Witness:  
Yes ma'am.

Counsel: (b)(6)-4; (7)(C)-4  
As you were...they said...I'm sorry, Sergeant [REDACTED] said everything's okay; let's go?

Witness:  
When we got further along, yes ma'am. He had said the driver fixed it; everything's good, let's go. We collapsed towards the door. At that time there was a bunch of people speaking, just talking. Sergeant [REDACTED] and Sergeant McKenzie being one of them, just talking right by the door. We hopped on the bus. We got ready to leave.

Counsel: (b)(6)-5, (7)(C)-5  
So you talked to Sergeant McKenzie while the bus was stopped, right?

Witness:  
Yes. We just had chit-chat over basic stuff.

Counsel:  
He appeared to be calm?

Witness:  
Yes ma'am.

Counsel:  
Wasn't upset about anything?

Witness:  
No ma'am.

Counsel:  
Basically, he asked you what's the setup like in there, right?

Witness:  
He had asked that...he had actually come on the bus for a couple...like a minute or two. He wanted to see the setup and asked how it was setup, that kind of thing. If there were any problems. I gave him the breakdown of what was going on and then he hopped off the bus.

Counsel:  
He also asked you how things were had been going on the bus, right?

Witness:  
Yes ma'am.

Counsel: And you told him that some of the EPWs weren't listening to you guys.

012723

Witness:

Yes ma'am. I told him that some were talking; some were looking around and then we had the Fedahyeen who would stretch his legs, and the Captain looking at Sergeant [REDACTED] that was corrected by somebody; either Sergeant [REDACTED] or Sergeant [REDACTED]

(b)(6)-4; (7)(C)-4

Counsel:

And you talked to Master Sergeant [REDACTED] at that time?

(b)(6)-5; (7)(C)-5

Witness:

I talked to Master Sergeant [REDACTED] before I got on the bus ma'am.

(b)(6)-5-(7)(C)-5

Counsel:

Okay. So she never got on the bus?

Witness:

As far as my recollection, no ma'am.

Counsel:

How did she appear?

Witness:

Normal, collected, happy, no problems ma'am.

Counsel:

She upset?

Witness:

No ma'am.

Counsel:

Now your job when the bus stopped at Camp Bucca was then to unload, right?

Witness:

Yes ma'am.

Counsel:

And again, when you're unloading, you're the only soldier on the bus?

Witness:

Yes ma'am.

Counsel:

The first person that left the bus was that Major that was sitting in the front with the crutches, right?

012724

Witness:  
Yes ma'am.

Counsel:  
The one that wasn't listening prior?

Witness:  
Yes ma'am.

Counsel:  
You told him to get up?

Witness:  
Yes ma'am.

Counsel:  
And he wouldn't get up, would he?

Witness:  
No ma'am.

Counsel:  
Then you gave him a hand signal to get up?

Witness:  
Yes ma'am.

Counsel:  
Lifted your arms up and said get up?

Witness:  
Yes ma'am.

Counsel:  
And he still wouldn't move, right?

Witness:  
No ma'am.

Counsel:  
So you actually had to physically pick him up, correct?

Witness:  
Yes ma'am.

012725

Counsel:

And he wasn't cooperating with you as you were picking him up, was he?

Witness:

No ma'am.

Counsel:

Basically refused to move, even as you were trying to carry him, correct?

Witness:

Yes ma'am.

Counsel:

And you had to carry him all the way down the aisle, right?

Witness:

To the front of the door, yes ma'am.

Counsel:

Did you have to pull any other EPW up?

Witness:

As I said before, with you guys, I think if any, there was one, if any.

Counsel:

Did you push any EPW down the aisle of the bus?

Witness:

No ma'am. I did not forcibly push anybody down that aisle, ma'am.

Counsel:

Did you run with any of the EPWs down the aisle of the bus?

Witness:

No ma'am. No ma'am. I stomped my feet to make it...I don't know the proper wording...but I stomped my feet to intimidate them, ma'am.

Counsel:

Okay. But you didn't push them from behind to get them to move?

Witness:

I had my hand on one of...two of them on their back and I did not forcibly push, but I had my hands so that they would not come back towards me ma'am.

Counsel:

Now as you're unloading, the curtains on the bus are closed, correct?

012726

Witness:  
Yes ma'am.

Counsel:  
And you had two responsibilities at that time, correct?

Witness:  
Yes ma'am.

Counsel:  
You had to unload the EPWs...?

Witness:  
Yes ma'am.

Counsel:  
And then you had to make sure that the bus was still secure in the back, correct?

Witness:  
Yes ma'am.

Counsel:  
Because you were the only soldier left on the bus?

Witness:  
Yes ma'am.

Counsel:  
You were focused on the bus, and what you needed to do on the bus, right?

Witness:  
Yes ma'am.

Counsel:  
And you said you stuck your head out the front door once, right?

Witness:  
Yes ma'am.

Counsel:  
And you couldn't see what was going on?

012727



Witness:

I saw, as I said, I looked towards the rear of the bus...I saw what appeared to be two U.S. male soldiers on the ground with one male EPW, but there was a light set that blinded my vision, also. I could make out the bodies of the soldiers because of the uniform, and the other was a prisoner because of the clothing he was wearing. But as for who, what, when and where, they were so far towards the rear of the bus...how far I was already extended out of the bus, I could not see anymore.

Counsel:

Okay. So you couldn't tell who it was?

Witness:

No ma'am.

Counsel:

And you couldn't tell what they were doing?

Witness:

No ma'am.

Counsel:

And you looked out that same door that Sergeant (b)(6)-4;(7)(C)-4 was standing at, right?

Witness:

Yes ma'am. Instead of peering out of the bus like I did, he was right below my view.

Counsel:

Now once all the EPWs were unloaded, you went back and searched the bus, correct?

Witness:

Yes ma'am. From front to rear.

Counsel:

And you found some medical tape, correct?

Witness:

Yes ma'am. I found what appeared to be one long enough roll to...medical tape is what we use to secure the prisoners. Or I should say the 744<sup>TH</sup>, they didn't have flexi-cuffs. I found a long enough piece that should have been on one EPW, ma'am.

Counsel:

So you found a broken restraint on the bus?

Witness:

Yes ma'am.

012728

Counsel:

Now, afterwards, you said you spoke to Sergeant <sup>(b)(6)§-(7)(E)-5</sup> [REDACTED], right?

Witness:

This was after the whole thing. We were back in our living area, yes ma'am.

Counsel:

That night?

Witness:

Yes ma'am.

Counsel:

You spoke with Sergeant <sup>(b)(6)§-(7)(E)-5</sup> [REDACTED] and you stated that she said that she kicked someone in the balls, rights?

Witness:

Yes ma'am.

Counsel:

And your response to her was, hey I kneed somebody too, correct?

Witness:

Yes ma'am.

Counsel:

You told her a lie.

Witness:

Yes ma'am.

Counsel:

To make yourself look tough, right?

Counsel:

And you thought that she was telling you a lie?

Witness:

Yes ma'am.

Counsel:

For the same reason, right?

Witness:

Yes ma'am.

012729

Counsel:  
Kind of make herself look tough?

Witness:  
Yes ma'am.

Counsel: (b)(6)-5, (7)(C)-5  
You knew Sergeant [REDACTED] before the twelfth of May, correct?

Witness:  
Yes ma'am.

Counsel:  
And kicking someone in the balls didn't seem like something she would be capable of doing, did it?

Witness:  
No ma'am.

Counsel:  
Cause she's quiet?

Witness:  
Yes ma'am.

Counsel:  
Kind of timid?

Witness:  
Yes ma'am.

Counsel: (b)(6)-5, (7)(C)-5  
And that was the end of your conversation with Sergeant [REDACTED]

Witness:  
Yes ma'am.

Counsel:  
That was it? Then you left to go find your wife?

Witness:  
Yes ma'am.

Counsel:  
Now a couple days after this, you talked to CID, right?

012730

Witness:  
Yes ma'am.

Counsel:  
You gave them a statement?

Witness:  
Yes ma'am.

Counsel:  
And then they moved you, the Command moved you down to Camp Arifjan, correct?

Witness:  
Yes ma'am. I don't know the time frame, but it was pretty much a little while after that ma'am.

Counsel:  
So you gave your statement and then you were moved down to Arifjan?

Witness:  
Yes ma'am. We were still at Bucca for a little while and then they started moving us.

Counsel:  
Can you remember about how long you up at Bucca in between?

Witness:  
I would say a month, doing details and other things.

Counsel:  
All right, and then after that they moved you down to Arifjan?

Witness:  
To the best of my recollection, yes ma'am.

Counsel:  
And your wife stayed up at Camp Bucca?

Witness:  
Yes ma'am.

Counsel:  
Now she called you from Camp Bucca, right?

Witness:  
Yes ma'am. We talked on a cell phone which cost a lot.

**012731**

Counsel:

She called you cause she had gone to talk to CID, right?

Witness:

I had asked her actually, while I was at Arifjan, I had asked her to go and...I wanted to add to my statement. She went to see CID and she had called me up. Pretty much a few times, but one day in particular, yes ma'am.

Counsel:

Okay. Before you left Arifjan, you told your wife, I didn't see anything and I didn't do anything wrong, right?

Witness:

Before I left Arifjan, I told her that I didn't see anything and I didn't do anything wrong. That's right ma'am.

Counsel:

Okay. And after she talked to CID, she called you and said, hey they're telling me that you were involved.

Witness:

Yes ma'am.

Counsel:

She was pretty upset, wasn't she?

Witness:

Yes ma'am.

Counsel:

It's something that you guys discussed and argued about on the phone, right?

Witness:

Yes ma'am.

Counsel:

And she told you, what you need to do now is go back and think about all the details of what happened.

Witness:

She asked to go over in my mind the incident the day of, and there after, and anything I can come up with I should think about it.

Counsel: To see if there were any new details that you remember?

**012732**

Witness:  
Yes ma'am.

Counsel:  
Then after that, you talked to Major [REDACTED] right?

Witness:  
Yes ma'am.

Counsel:  
Major [REDACTED] and Colonel [REDACTED] sat in as well?

Witness:  
Yes ma'am.

Counsel:  
And then that's when you did that second sworn statement, right?

Witness:  
Yes ma'am.

Counsel:  
Now it's your understanding that you have immunity from prosecution, right?

Witness:  
Yes ma'am.

Counsel:  
And it's your understanding that you can't be prosecuted for anything that you might have done on the bus, right?

Witness:  
I didn't do anything on the bus, but yes ma'am.

Counsel:  
Okay. Or if you told CID something that was incomplete or untruthful, you can't be prosecuted for that either, right?

Witness:  
At both times when I made a statement, at that point when I made a statement, I was truthful to the whole point and extent, but yes ma'am.

Counsel:  
Okay, except that you left out some of the details the first time?

012733

Witness:

Ma'am I was flustered and I was getting...I was completely truthful with what I can remember at the time. Yes ma'am.

Counsel:

Okay. That's my question. You went back, and later, there were new details.

Witness:

Yes ma'am.

Counsel:

Thank you Specialist [REDACTED] (b)5-4;(7)(C)-4

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2;(7)(C)-2

Counsel: (b)(6)-4;(7)(C)-4

Specialist [REDACTED] want to talk to you a little bit about this conversation that you say you had with Master Sergeant [REDACTED] You said you were sitting in the truck when she approached you?

(b)(6)-5;(7)(C)-5

Witness:

Yes ma'am.

Counsel:

And you said that she advised you that you ought to get an attorney?

Witness:

As many others, yes ma'am.

Counsel:

Okay. You said many others had already told you ought to get an attorney?..

Witness:

Yes ma'am.

Counsel:

That was other members of your Command?

Witness:

Yes ma'am.

Counsel:

And you took that as her taking care of you?

Witness: Yes ma'am.

012734

Counsel:

You didn't see that as any sort of coercion or anything, just that she was telling you that you ought to get an attorney?

Witness:

Yes ma'am.

Counsel:

And then, you said that you discussed whether or not you had seen anything, correct?

Witness:

Yes ma'am.

Counsel:

And you told her you had not seen anything, correct?

Witness:

That's right ma'am.

Counsel:

And that's what you had already told CID, correct?

Witness:

Yes ma'am.

Counsel:

And that's what you had already told your wife, correct?

Witness:

Yes ma'am.

Counsel:

And that was end of the conversation, correct?

Witness:

That's right ma'am.

Counsel:

And throughout that entire conversation, you just thought of this as just a normal, everyday conversation you would have with Master Sergeant [REDACTED] (b)(6)-5; (7)(C)-5

Witness:

Yes ma'am.

Counsel: Didn't take it as any sort of event, didn't feel coerced in any manner, correct?

012735



Witness:  
No ma'am.

Counsel:  
Didn't say anything different as a result of this conversation?

Witness:  
No ma'am.

Counsel:  
Now you said she winked at you?

Witness:  
Yes ma'am.

Counsel:  
You said that you thought that was part of her personality, correct?

Witness:  
Yes ma'am.

Counsel:  
Normal thing you would see Master Sergeant [REDACTED] do? (b)(6)-5, (7)(C)-5

Witness:  
Yes ma'am.

Counsel:  
Didn't take it as any sort of coercion on her part?

Witness:  
No ma'am.

Counsel:  
Thank you Specialist [REDACTED] (b)(6)-4; (7)(C)-4

Questions by the defense counsel: M [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: (b)(6)-4; (7)(C)-4  
Specialist [REDACTED] when you went to the tent to ask... you thought you had some information people might like to know and you saw Specialist [REDACTED] correct?

Witness:  
Yes ma'am.

(b)(6)-4; (7)(C)-4

012736

Counsel:

And you told them you had some information about CID and what they were doing with the investigation?

Witness:

It was a rumor ma'am.

Counsel:

A rumor, okay. And you said to us that you like rumors and you passed them along to other people.

Witness:

Yes ma'am.

Counsel:

I have no further questions.

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel: [REDACTED] (b)(6)-4; (7)(C)-4  
Specialist [REDACTED] you testified about the Fedahyeen Major who...when he was on the bus and you were getting ready to unload him, he refused to get up?

Witness:

Yes ma'am, or yes sir, I mean. My apologies sir.

Counsel:

And then you said that you hoped there was at least one other EPW that you kind of had to push along, or you kind of had to forcefully had to move along through the aisle because he wouldn't move.

Witness:

Yes sir. There was a few that night that just didn't want to move, sir.

Counsel:

Okay. So there was a number, actually a number of EPWs, before they even got off the bus, they were kind of like dead weight?

Witness:

Yes sir.

Counsel:

Okay. Thank you Specialist.

012737

**REDIRECT EXAMINATION**

**Questions by the trial counsel: MAJ [REDACTED] (b)(6)-2; (7)(C)-2**

**Counsel: (b)(6)-4; (7)(C)-4**

Specialist [REDACTED], the first prisoner that, you say, didn't want to move, was he on crutches?

Witness:

Yes sir. He had crutches.

Counsel:

Okay. Did you know why he was on crutches?

Witness:

No sir. I don't know the extent of why he had the crutches.

Counsel:

At the end of the mission, you said you searched the bus?

Witness:

Yes sir.

Counsel:

Okay, and found some medical tape. Did you search the bus prior to letting the prisoners board?

Witness:

Yes sir. It was searched prior to, and the only thing we found was a lot of water bottles and leftover MREs.

Counsel:

Okay. A lot of trash on the ground?

Witness:

Yes sir.

Counsel:

Okay. Did you clean up all the trash?

Witness:

No sir. We didn't have trash bags available.

Counsel: Okay. So you just left all this trash?

**012738**

Witness:  
Yes sir.

Counsel:  
That's all I have sir.

I/O:  
Anything else?

Defense counsel:  
No, sir.

Questions by the Investigating Officer: LTC [REDACTED] (b)(6)-2; (7)(C)-2

I/O:  
Specialist [REDACTED] when the bus pulled off to the side of the road, midway back to Camp Bucca, you said that Sergeant [REDACTED] and Specialist [REDACTED] came up to the bus, is that correct?  
(b)(6)-4; (7)(C)-4

Witness:  
Yes sir.

I/O:  
And you said that they asked what was happening?

Witness:  
Yes sir. They were the rear security vehicle at the time, sir.

I/O:  
Okay. And then who responded back to them?

Witness:  
I don't know, it was a male voice over the top of my head so I would assume it was either Sergeant [REDACTED] or Sergeant [REDACTED] sir.  
(b)(6)-4; (7)(C)-4

I/O:  
And then that voice said that everything is okay?

Witness:  
It's just an air hose that broke.

I/O:  
And then at that point, they left?

012739

Witness:

We were in the transition of doing a bunch of things at the time, so I didn't see them from that point on.

I/O:

Where were you exactly on the bus?

Witness:

I was in the front of the bus and I was then asked to pull side security. So they asked me to hop off with my M-16 and pull security on the side of the bus.

I/O:

You were in the front of the bus doing what?

Witness:

I was just, I was a passenger at the time when this air hose broke. Sergeant [REDACTED] and Sergeant [REDACTED] were security at the time, with their shotgun.

(S)(6)-4; 7(C)-4

I/O:

They were behind you, I guess?

Witness:

Yes sir.

I/O:

Okay. And then you went out and pulled security at that point?

Witness:

Yes sir.

I/O:

And where were you on the outside of the bus when you pulled security?

Witness:

I was between the front tire and the first cargo compartment.

I/O:

So if anybody had come on the bus after that point, you would have seen them or no?

Witness:

No sir. My vision was towards the desert in case anything would pop up, sir.

I/O:

So your not really sure if anybody came on the bus after that point or not?

012740

Witness:

No sir. I couldn't tell you if anybody came on between that point in time, no sir.

I/O:

How long was that?

Witness:

Ten minutes sir.

I/O:

Okay. Who called you back in?

Witness: (b)(6)-4;(7)(C)-4

Sergeant [REDACTED] had screamed out, he had voiced out through the door that everything was all right, time to board up to go.

I/O:

Anybody say anything to you when you came back on the bus?

Witness:

I'm not understanding sir.

I/O:

Did anybody, did any of the other MPs say anything to you when you came back on the bus?

Witness:

No sir. There was two comments made during the trip, but not when we got back on the bus sir.

I/O:

So you just got back on the bus and took off and continued the mission?

Witness:

Yes sir.

I/O:

Okay. Since the twelfth of May, have you had any conversations or discussions with anybody from the 223<sup>RD</sup> MP Company?

Witness:

No sir.

I/O:

Did you aware...were you aware that they were even on the ground that night?

012741

Witness:

Yes sir. Two of them were on the bus and then the lead vehicle was theirs.

I/O:

And you knew them to be members of the 223<sup>RD</sup>?

Witness:

There was an E-6, female E-4 gunner, an E-4 driver and then two Sergeants on the bus, as far as my recollection sir.

I/O:

(b)(6)-2; (7)(C)-2  
When CPT ██████ asked you about this conversation, or this brief conversation, I guess you had with Master Sergeant ██████ was it typical for her to come up to you and advise you to get an attorney? (b)(6)-5; (7)(C)-5

Witness:

No sir. There had not been any incidents requiring such a talk.

I/O:

Is it part of her personality to wink at you?

Witness:

Yes sir. She's the kind of... kind of her personality. She always winks at the end of some of her conversations towards me. It's just her personality. Her persona. It's part of her.

I/O:

Witness:

So she came up to you and advised you to get an attorney and then winked at you?

Witness:

Yes sir. Basically, essentially part of it, yes sir. The end of her conversation she just winked at us and that was the end of the conversation. I didn't take it as anything other than that.

I/O:

Anybody have any further questions?

**Questions by the trial counsel:** MAJ ██████ (b)(6)-2; (7)(C)-2

Counsel:

(b)(6)-5; (7)(C)-5  
That conversation with Master Sergeant ██████, didn't she also say you didn't see anything, right?

Witness:

Yes sir. I said that prior to...

012742

Counsel:

I just wanted to clear that up. Thank you Specialist.

I/O:

Any further questions? Specialist <sup>(b)(6)-4, (7)(c)-4</sup> thank you for your testimony

**[The witness was duly warned, dismissed and withdrew from the room.]**

I/O:

Is that the end of the live witnesses we have?

Counsel:

The live ones, yes.

I/O:

Okay.

Counsel:

Then we have a CID agent who...I thought Ohio...are you sure it's eight hours?

I/O:

Special Agent <sup>(b)(6)-1; (7)(c)-1</sup> hello can you hear me?

Witness:

Yes, yes.

I/O:

Special Agent <sup>(b)(6)-2; (7)(c)-2</sup> this is Lieutenant Colonel <sup>(b)(6)-2; (7)(c)-2</sup>. I'm calling from Camp Doha Kuwait. We're in the middle of the Article 32 hearing that I believe you were contacted about previously. We have the Government and Defense counsel here. If you're prepared, we'd like to go ahead and interview you and conduct that part of the hearing?

Witness:

I'm ready sir.

I/O:

Okay.

<sup>(b)(6)-2; (7)(c)-2</sup>  
Who we have here is Major <sup>(b)(6)-2; (7)(c)-2</sup> who's the counsel for the Government. Then we have Captain <sup>(b)(6)-2; (7)(c)-2</sup> Major <sup>(b)(6)-2; (7)(c)-2</sup> Captain <sup>(b)(6)-2; (7)(c)-2</sup> and Captain <sup>(b)(6)-2; (7)(c)-2</sup> here as the counsel for the accused. And I believe what we'll do is start with the Government counsel who will swear you in over the connection here, and then we'll begin the questioning here, okay?

Witness:

All right sir.

012743



**DIRECT EXAMINATION**

Special Agent <sup>(b)(6)-2; (7)(C)-1</sup> [REDACTED], U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: MAJ <sup>(b)(6)-2; (7)(C)-2</sup> [REDACTED]

Counsel:  
Agent [REDACTED], could you give your full name for the record, please?

Witness: <sup>(b)(6)-1; (7)(C)-1</sup> [REDACTED]

Counsel:  
And your unit of assignment?

Witness:  
44<sup>TH</sup> MP Detachment, CID.

Counsel:  
And where is that unit currently stationed?

Witness:  
I'm stationed with the forward element of that unit in Camp Bucca, which is located in Umm Qasr, Iraq.

Counsel:  
Okay. Thank you Special Agent. I've no questions for you, if you please answer any questions that defense counsel pose.

**CROSS-EXAMINATION**

Questions by the defense counsel: CPT [REDACTED]

Counsel: <sup>(b)(6)-1; (7)(C)-1</sup>  
Special Agent [REDACTED] this is Captain [REDACTED]

<sup>(b)(6)-2; (7)(C)-2</sup>

I/O:  
Can you hear him?

Witness:  
I heard this is Captain [REDACTED] I heard the introduction.

I/O:  
Okay.

012744

Counsel: (b)(6)-1; (7)(C)-1 (b)(6)-4; (7)(C)-4  
Special Agent [REDACTED] you had previously interviewed Specialist [REDACTED] before you interviewed him in this case, is that correct?

Witness:  
That is correct.

Counsel:  
And that was involving another allegation by an EPW that he'd been abused, correct?

Witness:  
That is correct.

Counsel:  
And the EPW was a minor?

Witness:  
That is correct.

Counsel:  
And it turned out that that EPW had actually been injuring himself, correct?

Witness:  
Yes that is correct.

Counsel: (b)(6)-4; (7)(C)-4  
But what he actually claimed is that Specialist [REDACTED] had twisted his already injured arm, correct?

Witness:  
That is correct.

Counsel:  
And then you helped conduct the investigation in this case, correct?

Witness:  
That is correct.

Counsel:  
And you did an interview, again, with Specialist [REDACTED] (b)(6)-4, (7)(C)-4

Witness:  
That is correct.

012745

Counsel:

And since the time of that first investigation, there have been several EPWs who have alleged abuse by Specialist [REDACTED], correct?

(b)(6)-4; (7)(C)-4

Witness:

No, I cannot say with a high percent of certainty.

Counsel:

I'm sorry, can you repeat that answer?

Witness:

I was not aware of any other EPWs which alleged abuse against Specialist [REDACTED] (b)(6)-4; (7)(C)-4

Counsel:

Okay. So you don't remember...do you remember having a conversation with myself and Captain [REDACTED] few weeks back?

(b)(6)-2; (7)(C)-2

Witness:

Yes I do.

Counsel:

Okay. Do you remember at that time saying that EPWs, they sort of got a hold of Specialist [REDACTED] name and sort of past it around, and everyone said they got abused by Specialist [REDACTED]

(b)(6)-4;  
(7)(C)-4

Witness:

I remember saying that they alleged abuse against a soldier by the name of [REDACTED] Whether or not they were directed towards, against Specialist [REDACTED] forget his full name, I cannot say. I do not know if they were directed...if there were any allegations directed, specifically towards Specialist [REDACTED] or towards a soldier name [REDACTED]

Counsel:

Okay. But it is the case that EPWs were claiming that they were abused by a soldier named [REDACTED] correct?

Witness:

I've been told that have been alleging anything and everything against a soldier named [REDACTED]

Counsel:

Okay. Thank you Agent [REDACTED]. Agent [REDACTED] don't have anymore questions for you.

(b)(6)-1; (7)(C)-1

I/O:

Major [REDACTED] is going to ask now.

(b)(6)-2; (7)(C)-2

012746

Counsel: CPT [REDACTED] (b)(6) - 2; (7)(c) - 2  
I'm sorry. I did forget to ask you one other question. Special Agent [REDACTED] (b)(6) - 1; (7)(c) - 1  
All of those allegations against some soldier named [REDACTED] all those allegations were ultimately unfounded, correct?  
(b)(6) - 4; (7)(c) - 4

Witness:  
Yes. The allegations with the minor were unfounded, that is correct.

Counsel:  
Okay. And then all of the subsequent allegations by all the EPWs claiming that some soldier named [REDACTED] abused them, all of those allegations were also unfounded, correct?  
(b)(6) - 4; (7)(c) - 4

Witness:  
To my knowledge, yes sir that's correct.

Counsel:  
Okay. I don't have any more questions for you.

Questions by the defense counsel: MAJ [REDACTED]

Counsel: (b)(6) - 1; (7)(c) - 1 (b)(6) - 2; (7)(c) - 2  
Special Agent [REDACTED] this is Major [REDACTED] Can you hear me?

Witness:  
Yes I can ma'am.

Counsel:  
Okay. Sticking with the line of questioning on [REDACTED] you did interview a Specialist [REDACTED] in this particular case, correct?  
(b)(6) - 4; (7)(c) - 4

Witness:  
That is correct.

Counsel:  
And you took a sworn statement from him on May sixteenth, according to your IARR?

Witness:  
That is correct.

Counsel: (b)(6) - 4; (7)(c) - 4  
And you were the person who did the questioning of [REDACTED] Specialist [REDACTED] and did the Q and A on the question on his statement?

Witness: That is correct.

012747

(b)(6)-1; (7)(C)-2  
Counsel:

At this time I would like to have this admitted into evidence. Just a moment Special Agent [REDACTED] I'm moving to admit [REDACTED]'s sworn statement into evidence.

(b)(6)-4; (7)(C)-4  
[The sworn statement was marked as Exhibit 12 without objection.]

Counsel:

Without objection.

Counsel:

Okay, without objection. It's marked as exhibit twelve and I'm going to leave it with the IO. I have no further questions, but another defense may. Please hold on.

Questions by the defense counsel: CPT [REDACTED] (b)(6)-2; (7)(C)-2

Counsel:

(b)(6)-1; (7)(C)-1 (b)(6)-2; (7)(C)-2  
Special Agent [REDACTED] this is Captain [REDACTED] one of the defense counsels in the case. Can you hear me okay?

Witness:

Yes I can.

Counsel: (b)(6)-1; (7)(C)-1

Agent [REDACTED] on the sixteenth of May, did you do an interview with a Lieutenant Colonel [REDACTED] (b)(6)-4; (7)(C)-4

Witness:

Yes. That is correct.

Counsel:

And he told you that he was present during the off-loading of the EPWs on the bus on the twelfth of May, correct?

Witness:

That is correct.

Counsel:

And he related to you that he did see any soldiers striking EPWs, correct?

Witness:

That is correct.

Counsel:

And he told you that the soldiers were complaining to him that the EPWs were being combative and resisting, correct?

012748

Witness:

If it is in my AAR, the details are in there.

Counsel:

Thank you Agent [REDACTED] (b)(6)-1 ; (7)(C)-1

I/O:

Captain [REDACTED] (b)(6)-2 ; (7)(C)-2

Defense counsel: CPT [REDACTED]

No, sir.

Major [REDACTED]

No, sir

I/O:

I don't have any questions. Agent [REDACTED] appreciate your time very much. I hope this wasn't too much of an inconvenience for you; I hope everything's okay back home. And please don't, if you have an opportunity, don't discuss your testimony with any other witnesses or potential witnesses. And if we need anything, we will try and get back a hold of you.

Witness:

Thank you sir. I can be reached at this number.

I/O:

All right. Thank you very much. Goodbye.

[The witness was duly warned, dismissed and ended his telephonic interview.]

[The Article 32 hearing recessed at 1705 hours 01 September 2003.]

012749