

SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

[REDACTED] said he was directed by [REDACTED] to fire the AK-47 while the rest of the squad shot at V/AWAD. At this time, RA stopped [REDACTED] and advised him of his Article 31(b) warnings. After being advised of his rights, [REDACTED] initialed by each of his rights to acknowledge that he understood his rights as they were explained to him and provided a verbal acknowledgment of waiving his legal rights as well as a written waiver of same. Enclosure (A) pertains. [REDACTED] then went on to state that while he fired the AK-47 [REDACTED] caught the shell casings and placed them into his pocket. Simultaneously, [REDACTED], and [REDACTED] shot at V/AWAD. [REDACTED] related that the AK-47 shell casings were to be used to make it appear that V/AWAD had been shooting at the members of 1st Squad.

9. After the squad had shot and killed V/AWAD, [REDACTED] planted the shell casings around V/AWAD to make it appear that V/AWAD had fired the AK-47 at 1st Squad. According to [REDACTED] then directed him to shoot V/AWAD in the face with his 9mm pistol but he [REDACTED] refused. [REDACTED] stated that he had a conscience and could not go through with shooting V/AWAD. [REDACTED] stated that [REDACTED] told him that he should shoot V/AWAD in the face to obscure V/AWAD'S identity thus preventing identification. [REDACTED] drew a sketch (not to scale) of the scene upon RA's request. The sketch depicts the firing line in relationship to V/AWAD'S location when he was shot. Enclosure (B) provides details. [REDACTED] related that the Squad was approximately 75-80 meters from V/AWAD when he was shot.

10. [REDACTED] further related that subsequent to the shooting he told [REDACTED] that he thought V/AWAD had been murdered and that he would tell him what happened in ten years. [REDACTED] further related that he told [REDACTED] that we [REDACTED] and [REDACTED] are not like those people [REDACTED] and [REDACTED] and that we [REDACTED] and [REDACTED] are better than they are. [REDACTED] explained that U. S. Navy [REDACTED] are not like Marine grunts who go around killing people without justification. [REDACTED] expressed remorse for not coming forth but explained that he feared for his safety and was concerned about losing the respect of the platoon.

11. At or about 2200 hours the interview with [REDACTED] was terminated as when Command decided to transport 1st Squad from Abu Ghurayb, Iraq to Camp Fallujah. The interview was recorded using a Sony Digital recorder, (model#ICD-B100) with internal memory only. Reporting Agent subsequently utilized a Sony IC Recorder with a memory stick to make a copy of the recording. The Sony memory stick with [REDACTED] recorded interview was entered into the NCIS Middle East Field Office Evidence Custody System under log 168-06 on 24May06.

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ENCLOSURE (S)

- (A) [REDACTED] Military Suspect's Acknowledgement and Waiver of Rights Form/10May06
- (B) Crime Scene Sketch Drawn by [REDACTED] 10May06

REPORTED BY: [REDACTED] SPECIAL AGENT

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WARNING

1431

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 AUTHORIZATION FROM THE NAVAL CRIMINAL INVESTIGATIVE SERVICE.

18785

SUBJ: [REDACTED]

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

OFFICE: NCIS CAMP FALLUJAH

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LAST

[REDACTED] V2 LNY

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18786

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

Place: FORS ABN GHRAEB
Date: 10 MAY 06

I, [REDACTED], have been
advised by [REDACTED] MO SIA [REDACTED] that I am
suspected of MURDER, ASSAULT AND BATTERY

I have also been advised that:

- (1) I have the right to remain silent and make no statement at all;
- (2) Any statement I make can be used against me in a trial by court-martial or other judicial or administrative proceeding;
- (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- (4) I have the right to have my retained lawyer and/or appointed military lawyer present during this interview, and
- (5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature : [REDACTED]

Date & Time: 10 MAY 06 1433

Witnessed: [REDACTED]

brc

At this time, I, [REDACTED], desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

**DEPARTMENT OF THE NAVY
INVESTIGATIVE NOTES**

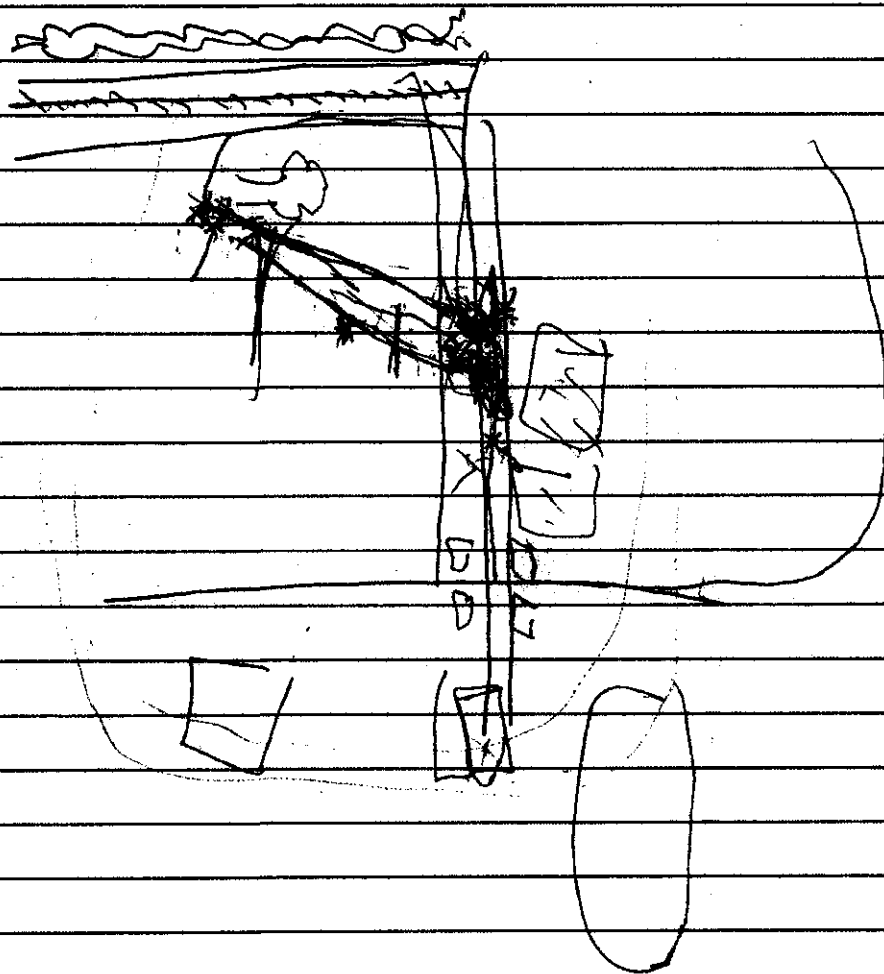
1. CASE TITLE

2. CASE CONTROL NUMBER (CCN)

3. MADE BY

4. MADE AT

5. FILE NUMBER



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10MAY09 2025
Sketch of Murder Scene

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

Place: CAMP FALLUJAH

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] have been advised by Special Agent(s) [REDACTED]

that I am suspected of MURDER, CONSPIRACY TO COMMIT MURDER, KIDNAPING AND ASSAULT AND BATTERY.

I have also been advised that:

- 1) I have the right to remain silent and make no statement at all.
- 2) Any statement I do make can be used against me in a trial by court-martial or other judicial or administrative proceeding.
- 3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both.
- 4) I have the right to have my retained civilian lawyer and/or appointed military lawyer present during this interview; and
- 5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: [REDACTED]

Date & Time: 11 MAY 06 1046

Witnessed: [REDACTED] 1046

Date & Time: 11 May 06 1046

At this time, I, [REDACTED] desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth above. It is made with no threats or promises having been extended to me.

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EXHIBIT (43)

1435

STATEMENT

Place : Camp Fallujah
Date : May 11, 2006

[redacted] make the following free and voluntary statement to Special Agent [redacted] whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of conspiracy to commit murder, murder and kidnaping. [redacted]

For Identification purposes, I am an [redacted] male, [redacted], born on [redacted] in [redacted] I am approximately [redacted] in height, weigh approximately [redacted] pounds, have [redacted] hair and [redacted] eyes, and my social security number is [redacted] I am currently detached to 3/5, 1st Marine Div., Camp Pendleton, CA where I am assigned to 2nd Platoon, First Squad as a [redacted] My home address is [redacted]

On 25Jul04, I reported to 3/5, 1st Marine Division, Camp Pendleton, CA. I was assigned to the aforementioned Company as a [redacted]. On my squad are [redacted]

[redacted] is the [redacted] and there was also an interpreter assigned to our platoon, I believe his name to be [redacted] aka "[redacted]". As [redacted] of the squad my mission is [redacted] I also go out with the marines on missions. I stand watch, go out on patrols and do pretty much everything a marine does with the exception of tactical authority [redacted]

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On or about, 25Apr06 at 2000 hours, my squad was tasked to conduct [redacted] in an Iraqi town about five miles from patrol base. This is an area that the squad had targeted before due to insurgent activity. There was a well known High Valued Target (HVT) that the squad had detained from this area before but did not have enough evidence to hold him. Consequently, he was let go but recently enough intelligence/evidence had been obtained so we were told that we could arrest him. [redacted]

On arrival, 1st Squad set into a palm grove and provided [redacted] until around 2000 when night set in. After sunset, 1st squad moved into a different position to [redacted] The site was approximately seventy-five meters away from the road "Penguin". First squad set in under a tree where [redacted] revealed his plan to kill [redacted] ordered that [redacted] and I find a shovel and AK-47 and find [redacted] and discreetly take him out of his house. He wanted to bring [redacted] to a previously dug Improvised Explosive Device (IED) hole in the road and stage an IED digging on [redacted] so first Squad could kill him. [redacted] portrayed his plan as "Picture perfect" and insured us that we'd get away with it. [redacted]

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The reason I went was to provide [redacted] support in the event something went wrong. [redacted] and [redacted] told us that someone was going to get killed tonight even if we didn't get [redacted] told us that if compromised at [redacted] house, that we were instructed to go to another one. [redacted]

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and [redacted] were happy about killing a man. They thought that Iraqis, innocent or not, deserved to die and they expressed no care or mercy on Iraqis [redacted]

At 0130, [redacted], and I left to go out to conduct the order. [redacted] then directed [redacted] and [redacted] to go inside the HVI relatives' house. If we were compromised, I took this to mean if someone saw us we were to go to a different house and retain a man whoever he may be. Me, [redacted] and [redacted] stepped off to retrieve the AK-47 and the shovel by a near by house. We played it off as a normal cordon and search but took the AK47 and the shovel. We stashed the AK47 and shovel at the local market place at the intersection of Penguin and Hurricane. We then set out to [redacted] house. When entering the house, we were compromised by a woman and we just left. We then went to a house next door where [redacted] and [redacted] went into the house to come back outside with a man. At the time of entering, [redacted] and I sat outside for security. The two, [redacted] and [redacted] forced an Arab male out of the house and into the street. I recall the man saying only "Mr". He apparently could speak very little English. The male was then [redacted] and was forced down Penguin. I do not recall who [redacted] the man, it had to be either [redacted] or [redacted]

Then we walked down Penguin, helicopters flew overhead and we proceeded to hide under a nearby market stand. After, we went to the site where we had stashed the AK47 and the shovel. [redacted] and [redacted] told me to hold the AK47 while they took care of the man and [redacted] held the shovel. As I walked down the dirt road beside Penguin, I heard a [redacted] overhead. As we reach the IED hole [redacted] and [redacted] proceeded to stage the digging and [redacted] attempted to gag the man with a triangular bandage but could not because the man was trying to bite him [redacted]

[redacted] was still on the dirt road with the AK47 listening to the "Dragon-eye" to see if it was [redacted]. After two or three circle, I let the squad know that I thought we were being watched and that this was a bad idea. I said we should let him go but then [redacted] said, "quit being a pussy!" I then shut my mouth because I thought it was too late. These Marines were set out to do this because they wanted to. [redacted]

The man was then left on the road near the IED holes while the squad, [redacted] and [redacted] was then directed by [redacted] to move into position under the tree which is located approximately seventy-five meters northwest of Penguin. Special Agent [redacted] asked me if the man attempted to run. I related to Agent [redacted] that the man could not flee because he had [redacted]. When we reached the position, [redacted] had the radio and was calling in the command center of 2nd PLT patrol base that he sees a man digging an IED and wanted permission to shoot him. Before the permission was granted, he ordered me to fire the AK47 upon his firing of his M16A4. He initiated the first shot and I fired the AK47 behind the squad while [redacted] caught the ejected casings with an assault bag. First squad then commenced to firing on the man and after a cease fire, they ran up to the man. [redacted] never received permission to engage the man on the road. [redacted]

[redacted] took the empty casings and the AK47 and proceeded toward the man. As I came up to the man, I remember hearing a lot of rounds going off near the man. I observed [redacted] shoot the man in the head at least three times and watching his head explode. [redacted] ordered the Marines to [redacted] actually observed [redacted] use a knife to [redacted] this time, [redacted] task was to plant the casings and the AK47 on the man to make it appear like the man had actually fired the AK47 rifle. We then took security to wait for Quick Reaction Force (QRF) and I remember [redacted] say, "We just got away with murder gents." [redacted]

[redacted] then was ordered to go back to the ambush site, which were about seventy-five meters from where the IED holes were located and the man the squad had just killed. I was ordered to watch the squads gear by myself. As I stood there, I had knots in my stomach and I felt sick about what I had

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just become a part of. I thought that we were going to get caught and I wished to leave the Platoon or just leave the company period. I was suppose to be leaving the platoon which gave me mixed feelings but that was then stopped because of the decision of First Sergeant to keep me with 2nd PLT. [REDACTED]

[REDACTED] QRF arrived while I was still at the position by myself. I was then called to go back to the road where I came across [REDACTED]. He asked me what happened and I was short and brief. I told him that we just saw a guy digging and we shot him. Later on I went to him and said, "Remember [REDACTED] we are not like these people (Marines). We are different and don't forget it." I also told [REDACTED] that I would tell him what really happened in ten years. They put the man in a body bag and I remember [REDACTED] making jokes and messing with the dead body like it was a cool thing to do. His happiness and perkiness made me sick and since this incident, [REDACTED] and [REDACTED] showed no regret, no mercy and talked about it like they had done something high and mighty. [REDACTED]

[REDACTED]: Were there any prior discussions in regards to [REDACTED] by [REDACTED] [REDACTED] Yes, he always talked about [REDACTED] Specifically, [REDACTED] stated that he wanted to go to [REDACTED] house and cut his throat. [REDACTED] related that he would blame the killing on the mujuadem. In fact, [REDACTED] intended on killing [REDACTED] on the night the other Arab male was killed but we were compromised a woman in [REDACTED]'S house. Consequently, the squad killed someone else. [REDACTED]

[REDACTED]: Did you know the man that was killed?

[REDACTED] No. The squad had not previous dealings with him. Shortly thereafter the squad found out that the man the squad killed was [REDACTED] cousin. [REDACTED]

[REDACTED]: Did anyone on [REDACTED]'s squad protest the shooting?

[REDACTED] No. [REDACTED]

[REDACTED]: Did you protest the shooting?

[REDACTED] Well, I told [REDACTED] and the rest of the squad to let him go but they wouldn't. [REDACTED]

[REDACTED]: Why didn't you report this incident to your chain of command?

[REDACTED] Because I felt I couldn't trust anyone. I was also in fear for my safety. [REDACTED]

[REDACTED]: Is there anything you would like to add that I did not ask you?

[REDACTED] Yes, after the squad killed this man, [REDACTED] and [REDACTED] the rest of the squad talked about how they wanted to put themselves in for awards and that they were going to be heroes. Mainly the leaders wanted awards. [REDACTED]

This statement, consisting of this page and 2 other page(s) was typed for me by Special Agent [REDACTED] as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief.

Signature: [REDACTED]

Sworn to and subscribed before me this 11 day of MAY in the year 06 at

Camp Fallujah 1647

Witnessed: [REDACTED]

C-10

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

Place: NCISRA Camp Falujah, Iraq

Date : May 18, 2006

I, [REDACTED] have been advised by Special Agent [REDACTED] that I am suspected of Murder, Conspiracy to committ murder, Kidnapping, and Assault

I have also been advised that:

- (1) I have the right to remain silent and make no statement at all;
- (2) Any statement I make can be used against me in a trial by court-martial or other judicial or administrative proceeding;
- (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- (4) I have the right to have my retained lawyer and/or appointed military lawyer present during this interview; and
- (5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature [REDACTED]

Date & Time: 18MAY06 1014

Witnessed: [REDACTED]

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STATEMENT

At this time, I, [redacted] desire to make the following voluntary statement. This statement is made with an understanding of my rights as set forth in the Suspect's Acknowledgement and Waiver of Rights form of May 18, 2006, 10:14 AM. It is made with no threats or promises having been extended to me. [redacted]

For purpose of identification, I am an [redacted], born on [redacted] in [redacted]. I am approximately [redacted] in height, weigh approximately [redacted] pounds, have [redacted] hair and [redacted] eyes, and my social security number is [redacted]. I am currently attached to 3/5, 1st marine Div, Camp Pendleton, CA where I am assigned to 2nd Platoon, First Squad as a [redacted]. My home address is [redacted].

I have agreed today to answer additional questions for Special Agent [redacted], and Special Agent [redacted] regarding my first statement. Agent [redacted] and Agent [redacted] have related to me that after reviewing the first statement that I provided, there were additional questions that needed to be asked. These questions and my answers are written below. [redacted]

Q: Special Agent [redacted] Did you see anyone drinking soda during the incident? Or did you know of anyone drinking soda while you guys were out in the field
A: [redacted] No, No one was drinking any soda during the incident and I did not see anyone drinking soda over the body, or throw a soda can in the IED hole. The only people that I know that drink soda are [redacted] and [redacted] but I don't remember seeing them drinking soda that night [redacted]

Q: Special Agent [redacted] Did you hold the Iraqi man down while [redacted]
A: No [redacted]

Q: Special Agent [redacted] why did the [redacted] direct the squad to go after this particular Arab male?
A: Because [redacted] and [redacted] just wanted to kill someone. Because [redacted] and [redacted] thought they could get away with murdering the Iraqi man. [redacted] and [redacted] participated with the plan because they were afraid of [redacted]

Q: Special Agent [redacted] Do you know why they thought they could get away with the murder.
A: [redacted] thought that the conspiracy they had thought out was the Perfect plan. [redacted]

Q: Special Agent [redacted] Who is [redacted]
A: He is a High Valued Individual and wanted for terrorist activity. [redacted]

Q: Special Agent [redacted] Was the intention to kill [redacted] or to kill someone else.
A: the intention was to kill [redacted], but [redacted] said if we can't get [redacted] to get somebody. [redacted]

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Continuation of voluntary sworn statement of
[REDACTED]
on May 18, 2006

Q: Special Agent [REDACTED] Why did [REDACTED] want to kill [REDACTED]

A: Because he was a High valued Individual and wanted for terrorist activity.

Q: Special Agent [REDACTED] Who got on line to fire at the Iraq male in the IED hole?

A: [REDACTED] and [REDACTED]

Q: Special Agent [REDACTED] Where were you and [REDACTED]

A: We were behind the squad firing the AK, [REDACTED] was catching the spent shell casings with the assault pack while I fired the AK-47.

Q: Special Agent [REDACTED] how many times did you fire the AK-47?

A: Approximately ten to fifteen rounds.

Q: Special Agent [REDACTED] How did you choose the house to get the AK-47 from?

A: I, [REDACTED] and [REDACTED] chose a random house.

Q: Special Agent [REDACTED] Is [REDACTED] Fluent in Arabic?

A: He knows quite a bit and he would often talk to the Arabic speaking people.

Q: Special Agent [REDACTED] How many rounds were fired by the Squad at Seventy five meters

A: Seventy Five to One Hundred rounds were fired by the squad

Q: Special Agent [REDACTED] Were any rounds fired as [REDACTED]

[REDACTED] engaged the Iraqi male on the road.

A: No they fired from seventy five meters, and then [REDACTED] ordered a cease fire. Then [REDACTED] ran up to him and [REDACTED] and [REDACTED] fired at the man lying on the ground. [REDACTED] fired seven rounds into the man and [REDACTED] fired three rounds into the Iraqi mans head.

Q: Special Agent [REDACTED] Who [REDACTED]

A: [REDACTED]

Q: Special Agent [REDACTED]: Are you sure that [REDACTED] because we have received other information indicating someone else [REDACTED]

A: I am sure that [REDACTED] by himself.

Q: Special Agent [REDACTED] Did you see the Iraqi male attempt to walk away from the IED hole at any point?

A: No I did not see him get up and move, but I did not have my Night Vision Goggles. When we re-approached though the Iraq was not in the same spot that we had left him and he had moved away from the IED hole.

Q: Special Agent [REDACTED] How was visibility the night of the shooting?

A: It was very dark and without NVG's you could not see the road. Visibility was approximately ten to fifteen feet.

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Continuation of voluntary sworn statement of

on May 18, 2006

Q: Special Agent [REDACTED] At seventy five meters, would you have needed your NVG's to see the Iraqi Male by the IED hole?

A: Yes

Q: Special Agent [REDACTED] Does everyone on the squad have NVG's?

A: Yes

Q: Special Agent [REDACTED] Did [REDACTED] talk about killing someone before this night.

A: [REDACTED] had talked about wanting to kill [REDACTED], approximately a week before the shooting, by sneaking into [REDACTED]'s house, cutting [REDACTED]'s throat and then staging the scene to make it look like the Mujahidden had killed [REDACTED]

Q: Special Agent [REDACTED] Do you know who was present when [REDACTED] talked about wanting to cut [REDACTED]'s throat?

A: he ran the idea past some people, but I don't remember who.

Q: Special Agent [REDACTED] Did [REDACTED] disclose his plan to kill [REDACTED] to [REDACTED] b2

A: Yes after the murder of the Iraqi male [REDACTED] told [REDACTED] that we could go to [REDACTED]'s house and stage the scene. [REDACTED] said that he did not want to murder a guy and he had a conscience. [REDACTED] tried to convince [REDACTED] for several hours that the squad could get away with hurting or killing [REDACTED]

Q: Special Agent [REDACTED] Did anyone take photos before or after the shooting?

A: Yes [REDACTED] took pictures before the Quick Reaction Force arrived at our location and the Quick Reaction Force took pictures also when they arrived, but I don't remember who on the Quick Reaction Force took the pictures. [REDACTED] did have pictures of the dead Iraqi man, but someone else in Kilo Co whose name I don't remember, but I think it was the seven ton driver, asked [REDACTED] about the pictures and [REDACTED] said he deleted the pictures from his camera.

Q: Special Agent [REDACTED] What happened to the [REDACTED] and bandage?

A: [REDACTED] ordered [REDACTED] and [REDACTED] to pick up the [REDACTED] and bandage, and burn the [REDACTED] and bandage in the trash pit back at the patrol base.

Q: Special Agent [REDACTED] How many times had the Iraqi man been shot before [REDACTED] and [REDACTED] b2

A: I don't know.

Q: Special Agent [REDACTED] Do you have an e-mail account?

A: Yes it is [REDACTED]@hotmail.com

Q: Special Agent [REDACTED] did you e-mail or send in pictures of the dead Iraqi male over the internet to anyone?

A: No

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on May 18, 2006

Q: Special Agent [redacted] did you know if anyone from first squad e-mailed any pictures of the dead Iraqi in the IED hole to anyone?

A: No [redacted]

This statement, consisting of this page and 3 other page(s) was typed for me by [redacted] as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief [redacted]

Signature: [redacted]

Sworn to and subscribed before me this 18 day of MAY in the year 2006 at

Camp Fallyjah, Iraq 1237hrs

Witnessed: [redacted]

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

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NAVAL CRIMINAL INVESTIGATIVE SERVICE

DELETED PAGE INFORMATION SHEET

Page(s) 1444 - 1449, Exh (45) to
16 June 06 RO1 (Interview)

withheld entirely at this location. One or more of the following explain this decision:

Deleted under exemption(s) b7c

Documents originated with other government agency(ies).
Referred for review and direct response to you.

Pages contain information furnished by other government
agency(ies). We will advise you of releasability of information
following consultation with agency(ies).

Comments: _____

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

10JUN06

CONTROL: 08MAY06-MEBJ-0357-7HMA

[REDACTED] (ET AL)

RESULTS OF INTERVIEW OF [REDACTED] /11MAY06

1. On 11May06, [REDACTED] was transported from 3rd Battalion, 5th Marines(3/5), Compound, located on board Camp Fallujah, Iraq by Reporting Agent and [REDACTED] CID USMC to the NCIS office aboard base. At 1045, Reporting Agent (RA) advised [REDACTED] his of his Military Article 31(b) Rights. Enclosure (A) pertains. At 1046, [REDACTED] waived his rights and signed the rights form. Also present during the interview was [REDACTED]. Reporting Agent asked [REDACTED] to provide the details concerning 1st Squad's activities/actions on the night of 25/25Apr06.

2. [REDACTED] stated that 1st Squad (which on 25/26Apr06 included [REDACTED], himself), left the Patrol Base "Bushido," Hamdania, Iraq around 1100 hour on 25Apr06 and were convoyed to routes Northstars and Penguins in Hamdania. Once they were off loaded the aforementioned Marines then pushed to route Hurricanes, Hamdania. After getting to route Hurricanes, they moved to the [REDACTED] and set up in a [REDACTED] watch. [REDACTED] told the squad [REDACTED] wanted them in a new position other than the [REDACTED].

According to [REDACTED], they sat in the [REDACTED] all day until dark. [REDACTED] advised after dark they moved to route Penguins pushing to a canal. Once they arrived at the canal, they turned left and followed the canal until [REDACTED] saw a [REDACTED]. Just prior to getting to the [REDACTED] and [REDACTED] told [REDACTED] that it would not be a good location because they would not be able to see the road. According to [REDACTED]

[REDACTED] requested the leaders conduct a recon of the area to find a good observation spot. [REDACTED] advised [REDACTED] and himself headed north into the open field where they saw a big tree. [REDACTED] said the three of them the "reconned" the immediate area around the tree. [REDACTED] advised [REDACTED] stated they did not have good cover however, they had good concealment. The three rejoined the rest of the squad and then proceed back to the tree. [REDACTED] advised once 1st Squad arrived at the tree, [REDACTED] had him, [REDACTED] and [REDACTED] move 50m-60m north of the tree where they would be able to observe the road and intersection. [REDACTED] was asked by Reporting Agent what time was it when they arrived at the tree and his guess was around 2200-2300 hours. [REDACTED] related he [REDACTED] and [REDACTED] were in [REDACTED] and they had good vision of route Hurricanes to the intersection. [REDACTED] advised that once they got into position he went to sleep for a couple of hours.

3. [REDACTED] continued to provide the same story 1st Squad members had previously provided command about the shooting.

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Page 1

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EXHIBIT (46)

1450

SUBJ: [REDACTED]

([REDACTED]) (AL)

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

[REDACTED] advised 1st Squad observed a person walking down the road with a shovel and that 1st Squad opened fire on the individual who fired his AK-47 at them. [REDACTED] stated they advanced on the Iraqi male and once it was determined he was dead he [REDACTED] used his personal camera and took photographs. When asked where the camera was [REDACTED] said it was with his personal belongings. [REDACTED] related once the Quick Reaction Force (QRF) arrived members of 1st Squad picked up the AK-47 brass. [REDACTED] stated it was either [REDACTED] or [REDACTED] who told [REDACTED] to make sure the dead mans fingerprints were on the AK-47 and shovel. [REDACTED] stated [REDACTED] then told [REDACTED] to put the dead man's fingerprints on the shovel and AK-47 as a result of the shovel and AK-47 being handled by 1st Squad members.

4. [REDACTED] was asked how many rounds he fired from his M16A4 that night. [REDACTED] stated he shot less then 10 rounds at the Iraqi male. [REDACTED] related that [REDACTED] told him he shot 10 rounds; [REDACTED] said he shot approximately 20 rounds from the squad automatic weapon (SAW) and [REDACTED] was not sure how many rounds he had shot.

5. When [REDACTED] was told that several members of 1st Squad had told the truth on what happened on the night of 25/26APR06, and that he needed to tell the truth, [REDACTED] exercised his right to obtain legal representation. The interview was terminated at 1124 on 11May06.

ENCLOSURE

(A) Military Suspect's Acknowledgement and Waiver or Rights/11May06

BIOGRAPHICAL DATA

EMPLOYMENT: [REDACTED]

SSN: [REDACTED]

DOB: [REDACTED]

POB: [REDACTED]

REPORTED BY: [REDACTED] SPECIAL AGENT

OFFICE: NCIS CAMP FALLUJAH, IRAQ

b7c

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1451

MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

Place: NCIS Camp Fallujah, Iraq

Date : May 11, 2006

I, [REDACTED], have been advised by [REDACTED] that I am suspected of Murder, Conspiracy, Kidnapping and Assault

I have also been advised that:

- (1) I have the right to remain silent and make no statement at all;
- (2) Any statement I make can be used against me in a trial by court-martial or other judicial or administrative proceeding;
- (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- (4) I have the right to have my retained lawyer and/or appointed military lawyer present during this interview; and
- (5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: [REDACTED]

Date & Time: May 11, 2006 10:46

Witnessed: [REDACTED]

b7c

NAVAL CRIMINAL INVESTIGATIVE SERVICE

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to 16 June 801 (Interim)

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MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

Place: NCIS Office, Camp Fallujah, Iraq

Date : May 11, 2006

I [redacted] have been advised by [redacted] that I am suspected of Conspiracy, Assault, Kidnapping, and Murder

I have also been advised that:

- (1) I have the right to remain silent and make no statement at all;
- (2) Any statement I make can be used against me in a trial by court-martial or other judicial or administrative proceeding;
- (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- (4) I have the right to have my retained lawyer and/or appointed military lawyer present during this interview; and
- (5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature [redacted]

Date & Time: 5-11-2006 10:46

Witnessed [redacted]

11 May 06

11 May 06

b7c

STATEMENT

Place : NCIS Office, Camp Fallujah, Iraq

Date : May 11, 2006

[redacted], make the following free and voluntary statement to [redacted] whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of the events of 25APR06.

For identification purposes I am a [redacted] year old [redacted] male, [redacted] inches tall, [redacted] eyes, with [redacted] hair and [redacted] eyes. I am currently with 3/5, Kilo Company, 2nd Platoon, out of Camp Pendleton, CA. My date of birth is [redacted] and my SSN is [redacted]

On the night of 25APR06, eight Marines from my squad left our house a couple of hours before dark and were dropped off at the palm grove by HMMWVs. We set up in the [redacted] I sat outward security while we waited [redacted]. It was during this time I saw [redacted] and [redacted] talking while I, [redacted] and [redacted] at security. I could not hear what they were discussing.

b2

We waited until dark and moved to the tree across from Route Penguins. The five who had been meeting in the [redacted] started talking about going to get a guy and shooting him. They were saying we weren't going to get caught because other units were busy and nobody was supposed to be through there. It was about 12:30 or 1 and [redacted] and [redacted] went to the man's home to get him.

They were gone for a half an hour or forty minutes and then returned with the man, a shovel, and a rifle. They did not say where they got the shovel and AK-47. They walked down the road with the man and put him by the IED hole. I was still near the tree when this was happening. I did not see the man [redacted] gagged, and I did not see the shovel or rifle being placed, but I knew they were placing the rifle and the shovel. They left the man standing by the IED hole and they walked back towards the firing position.

[redacted] called in over the radio that the squad saw a guy come up to the road with a shovel and start digging in the previous IED hole. I'm guessing we were authorized to shoot because [redacted] then gave the order for us to shoot. It's one of our [redacted] that we can [redacted] Everyone fired their weapons at the man in the road. I do not know exactly where [redacted] and [redacted] were, but I knew that they were firing the AK-47 and collecting the shells. I fired about 30 rounds toward the man, but I don't know if any of them hit. Both [redacted] and I have SAWs, but neither of us have laser sights, so I really don't have any way of knowing where I am aiming at night. We advanced towards the man as we were shooting. Everyone was approaching the body and the people who were closer [redacted] and I got there last because we were both moving with SAWs and 500 rounds, so neither of us did the [redacted]

b2

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52

1459

Continuation of voluntary sworn statement of

on May 11, 2006

b2

By the time I got there, I did not see [redacted] or a gag, just the AK-47. The shovel had been left in the hole. I think the shells had already been dumped around it, but it was dark and I could not see them. I did not see anyone plant the shells around the body. I didn't spend much time around the body because they had me, [redacted], and [redacted] immediately go to do security. The QRF got there a few minutes later. They probably started coming out to our position as soon as [redacted] called in the shooting. All I heard while I was standing security was [redacted] on the radio saying the area was secure, everyone on the squad was ok, and there one enemy KIA. [redacted] arrived with the QRF and put the body in a body bag and placed it in the back of the HMMWV along with the AK and shovel. They asked for someone to grab the shovel, so I picked it up and put it in the back of the HMMWV. We then drove it to the Iraqi Police station. [redacted]

SUSPECT

I don't remember anyone hiding in the market while the helo and UAV were up. It may have been while they were walking and I didn't see it. I remember hearing the UAV, but I don't remember anyone telling us to make sure it was out of the area before doing anything. [redacted]

We tried not to talk about the incident too much, even after we found out it was being investigated. [redacted] and I talked about why the rounds at the site couldn't be found when it was searched, but we had left all the rounds there, so they should have been there. There were no other instructions to stick with the story because it didn't really need to be said. We were all going to stay with the story. [redacted]

A month and a half ago, there was an incident where a man was beat up inside his home. I was not in the house because I had to stay with the turret gun in the lead HMMWV. [redacted] was in the HMMWV with me. The guys left to go to the sheik's house and returned about 40 minutes later. I guess they went to the other house after the sheik's house because they came up from behind me when it was time to leave. When we got back to the house, we all talked about what had happened. I do not remember who said they beat the man up or the exact words they used. We didn't really talk about it after that. Since I wasn't in the house when it happened, I was probably excluded in any conversations they had about it afterwards. [redacted]

I wish I had been a better person and told the guys, "No, we shouldn't do this." I don't know why I didn't. It means a lot to me to be a Marine. I've wanted to be a Marine since I was little. [redacted]

This statement, consisting of this page and 2 other page(s) was typed for me by [redacted] as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief.

Signature [redacted]

Sworn to and subscribed before me this 11 day of MAY in the year 2006 at

NCIS CAMP FALLUJAH

b2c / b7E
1460

Continuation of voluntary sworn statement of

on May 11, 2006

Witnessed:

11 MAY 06

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

b7c

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

12MAY06

CONTROL: 08MAY06-MEJ-0357-7HMA



SKETCH OF SCENE DRAWN BY [REDACTED] /11MAY06

1. On 11May06, [REDACTED] was advised of his Article 31(b) rights, waived them and was interrogated by Reporting Agent (RA) and Marine CID Investigator [REDACTED]. During the interrogation of [REDACTED] on 11May06, [REDACTED] was asked to provide a sketch of the events that occurred during the early morning hours of 26Apr06. The sketch provided depicts the palm grove, routes Penguins and Hurricanes, the market, the IED holes, and the site where 1st Squad set up for their ambush. Enclosure (A) pertains.

ENCLOSURE(S)

(A) Sketch drawn by [REDACTED] 11May06

REPORTED BY: [REDACTED]
OFFICE: NCIS CAMP FALLUJAH

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EXHIBIT (50)

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LAST

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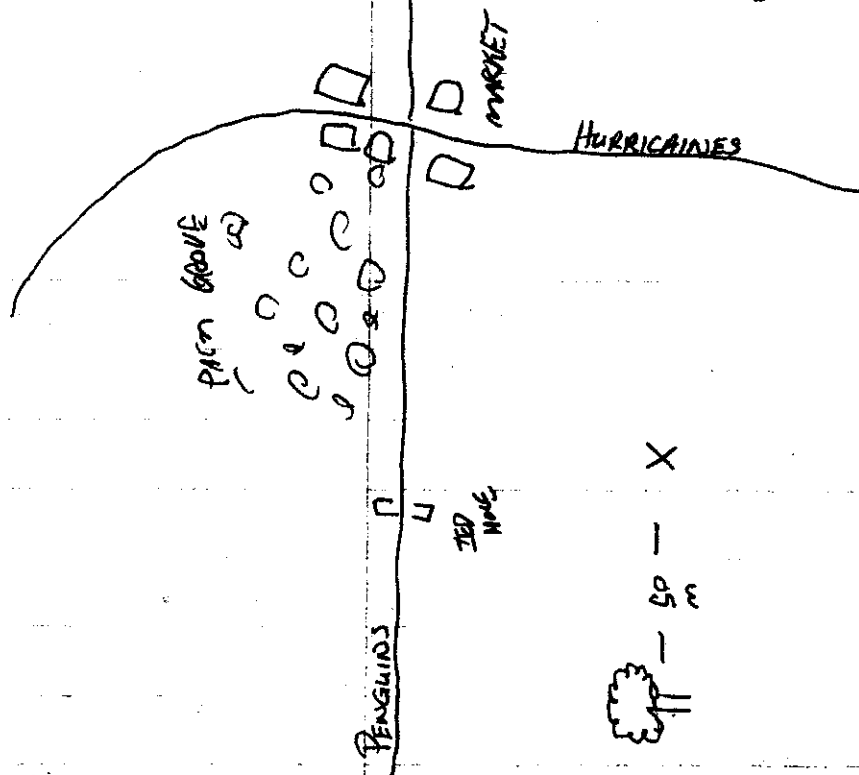
11 May 66

OSMAY 06-MEBS-0557-7HNA

S [REDACTED]

INTERROGATION OF [REDACTED]

219



1463

my family is highly cretan and
when I go to heaven I want
to be there with out sham
and see that I am part of a family
that cares

1464

NAVAL CRIMINAL INVESTIGATIVE SERVICE

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MILITARY SUSPECT'S ACKNOWLEDGEMENT AND WAIVER OF RIGHTS

Place: NCIS Camp Fallujah, Iraq

Date : May 18, 2006

I, [REDACTED], have been advised by [REDACTED] that I am suspected of UCMJ Article 118 (Murder), Article 128 (Assault), Article 81 (Conspiracy), and Article 134 (Kidnapping).

I have also been advised that:

- (1) I have the right to remain silent and make no statement at all;
- (2) Any statement I make can be used against me in a trial by court-martial or other judicial or administrative proceeding;
- (3) I have this right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- (4) I have the right to have my retained lawyer and/or appointed military lawyer present during this interview; and
- (5) I may terminate this interview at any time, for any reason.

I understand my rights as related to me and as set forth above. With that understanding, I have decided that I do not desire to remain silent, consult with a retained or appointed lawyer, or have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: [REDACTED]

Date & Time: 5-18-2006 16:58

Witnessed: [REDACTED]

b7c

1474

STATEMENT

Place : NCIS Camp Fallujah, Iraq

Date : May 18, 2006

I, [REDACTED], make the following free and voluntary statement to SA [REDACTED] whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of the events on 25APR06.

I spoke with SA [REDACTED] on 11MAY06 and gave a statement. I am back to give another statement today to answer more questions.

[REDACTED] told us we're not going to get caught because there aren't any other units in the area. He knew this because he was monitoring the radio on both the platoon and company channels. If anyone from our platoon or company was coming through the area, he might be able to hear it on the radio. When [REDACTED] said we were not going to get caught this pertained the plan he [REDACTED] had put together. This was kidnapping and killing an Iraqi.

The planning took place in the [REDACTED] and [REDACTED] were talking and that had to have been when they planned it because there was no other time they could have. [REDACTED] and I were on outside perimeter security about 20-30 meters away from [REDACTED], and [REDACTED]. I wasn't really paying attention to what they were doing and I could not hear anything that was going on. I'm guessing it was about an hour and a half [REDACTED], and [REDACTED] and planned on how the squad was going to kidnap and kill an Iraqi that night. (25Apr06)

I do not know why [REDACTED] and [REDACTED] planned the kidnapping and killing. I did not know what to think of it. Nobody ever explained to [REDACTED] and I the reason for the kidnapping and killing. I do not know why they picked the man they kidnapped. To my knowledge, nobody in my squad had run into him before. Later on, we found out he was a cousin of [REDACTED], but I do not know if [REDACTED] and [REDACTED] knew that at the time. [REDACTED] and [REDACTED] carried out the kidnapping.

The only event similar to this is when some members of the squad went and beat a man up a month and a half or two months ago. I had to stay in the turret of the HMMWV, so I do not know who went into the house or what happened in there. Once back at the house, somebody told me about them beating a guy up, but I do not remember who said anything about it.

I don't know that everyone shot at the man in the IED hole. [REDACTED] was catching the AK-47 rounds instead of shooting his M16A4. I don't remember if [REDACTED] or [REDACTED] shot because they were messing with the radio. I saw [REDACTED] and [REDACTED] shooting [REDACTED] and [REDACTED].

1475

on May 18, 2006

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I don't think anyone else did. I do not know how many rounds each of them fired. They were both right up on the man when they I do not remember if [redacted] shot first when [redacted]

I do not think any of my rounds hit the man. My SAW had tracer bullets in it and I saw them going into the sky over the man's head. They were going over the top of the palm grove. Later that night, someone at our patrol base told me they saw tracer rounds going high in the air. I do not remember who told me that. I was not trying to hit him because I figured everyone else was shooting and there was no need for me to shoot him. I did not want to shoot him. Aside from the rounds fired by [redacted] and [redacted] for the [redacted], I do not know who else's rounds hit the man. I saw the rounds fired by [redacted] and [redacted] hit the man when they [redacted] I was thinking the team should stop and the whole incident should not have happened. I should have tried to do something to prevent it. I do not remember yelling to anyone that we should stop or hearing anyone else yell anything, however, some people were firing so it was too loud to hear anything else [redacted]

The plan for all squad members to tell the same story started when we were at the tree, after the palm grove. It was brief and the squad didn't sit and talk about it forever. [redacted] and [redacted] were the ones who actually described the plan to everyone. I don't remember being asked if I was "in" the plan or not and I don't remember anyone trying to stop it. All squad members needed to have the same story because [redacted] would have to write a report about it and if any member of the squad was asked about it later, all squad members needed to have stories that matched [redacted]

I do not know if anyone was in fear of telling a story different from the one [redacted] and [redacted] told us to tell. I can't speak for anyone else, but I do not remember feeling that anyone would do physical harm to me if I told. I was not afraid to tell NCIS because by then we were all separated from each other and did not have contact. I did not feel that any physical harm would come to me if I had told [redacted] what happened, however [redacted] is kind of a hothead and I don't know exactly how he would react. Nobody ever made threats to me [redacted]

[redacted] did not know about what occurred. I never told anyone about the real story of the shooting. I do not know if anyone else in the squad told the truth to anyone about the shooting [redacted]

The soda cans in the IED hole were there already when the squad arrived. I do not know how they got there, but I'm guessing they had been there a long time. Iraqi villager trash is common everywhere. I have a digital camera, but I did not bring it with me that night. I never bring it anywhere at night because I can't have the flash going off when the squad is operating [redacted]

While [redacted] and I were waiting for [redacted] and [redacted] to come back with whoever they kidnaped [redacted] was trying to sleep, but he had to monitor the radios [redacted] and I were talking for the majority of the time about history and the book, *The DaVinci Code*, but he may have fallen asleep at some point. He may have been in and out of sleep because [redacted] and I were not talking the whole time straight. He was about ten meters from me leaning back against his gear. [redacted]

b7c

[redacted]

1476

on May 18, 2006

It had to have been around 0130 and 0200 when either [redacted] or [redacted] said, "They're there," meaning [redacted], and [redacted] were at the IED hole with the man. [redacted] may have been in radio contact with either [redacted] or [redacted] because they had PRRs and I don't think [redacted] or [redacted] did. [redacted] told us to be on the lookout for [redacted], and [redacted] on the road with the man. I remember looking through my Night Vision Goggles (NVGs) and seeing a man standing by the IED hole. [redacted] and [redacted] were running back toward the ambush site/tree. I did not see anyone struggle with the man in the IED hole.

I think [redacted] fired his weapon at the man first. He was a couple people down from me on my right and that is the general area where I heard the first shot. [redacted] and [redacted] were also off to that side, but I could not see them. I knew [redacted] and [redacted] were off to that side because they were not off to my left side.

The tree/ambush site was about 75 meters from the man on the road. The people who shot their weapons actually started shooting about 50 meters away from the man. I fired a couple bursts from my SAW at about 50 meters. I probably fired 20 rounds total. Each burst was about 8-10 rounds and again I do not think I hit the man in the IED hole with my SAW rounds.

This statement, consisting of this page and 2 other page(s) was typed for me by [redacted] as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief.

Signature

1900 103

Sworn to and subscribed before me this 18TH day of MAY in the year 2006 at

NCIS CAMP FALLUJAH

Witnessed

Representative, Naval Criminal Investigative Service
AUTH: DERIVED FROM ARTICLE 136,
UCMJ (10 U.S.C. 936) AND 5 U.S.C. 303

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1477