

DEPARTMENT OF THE NAVY
SPECIAL COURT-MARTIAL
NAVY AND MARINE CORPS TRIAL JUDICIARY
CENTRAL JUDICIAL CIRCUIT

U N I T E D S T A T E S

v.

MATTHEW V. MCCABE
SO2 USN

9 MARCH 2010


GOVERNMENT SUPPLEMENTAL
DISCOVERY

1. Pursuant to R.C.M. 701, the government provides the following supplemental discovery to the defense:

a. Additional NCIS agent notes. [Bates P293-302] The government is unaware of any other NCIS or Army CID agent notes at this time.

b. Photographs taken of some items seized from the detainee at the time of capture. [Bates P303] Photographs of other seized items are classified Secret and are available for review upon request by defense.

2. If the government becomes aware of any additional responsive, discoverable information, it will produce such in a timely manner. If the defense does not agree and finds this response insufficient, it should notify the government within the next three (3) days. Otherwise, the government will proceed with the understanding all discovery obligations have been met.




N. J. KADLEC
LT, JAGC, USN
Trial Counsel

Dated: 9 March 2010

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of this discovery to be served on the detailed and civilian defense counsel in the above-captioned case on 9 March 2010.



N. J. KADLEC
LT, JAGC, USN
Trial Counsel

//23B/24C/IZ//

REPORT OF INVESTIGATION (OPEN)

06SEP09

SPECIAL INQUIRY-DETAINEE ABUSE (II) CONTROL: 05SEP09-24IZ-0148-7XNA

I/NAVAL SPECIAL WARFARE TEAM 10, CAMP SCHWEDLER, BAHARIA, IRAQ/
ALLEGATION OF DETAINEE ABUSE

COMMAND/NAVAL SPECIAL WARFARE TEAM 10, NORFOLK, VA/39592

MADE AT/24IZ/RAMADI IRAQ/JOHN R. STAMP, SPECIAL AGENT

NARRATIVE

1. This reactive investigation was initiated pursuant to a suspected violation of the Geneva Convention, Law of Armed Conflict (LOAC), and Article 128 (Assault) of the Uniform Code of Military Justice.
2. On 05SEP09, Reporting Agent (RA) was notified by CPT Jarrod LYNN, ARMY, Staff Judge Advocate (SJA), Special Operation Task Force West of an alleged incident of detainee abuse committed by a member of Seal Team Ten while in Camp Schweidler, Baharia, Iraq. LYNN provided several witness statement regarding the alleged abuse of Ahmad Hashim Abd AL-ISAWI (V/AL-ISAWI) on 01SEP09. RA interviewed MA3 Kevin DEMARTINO, USN, who originally reported the abuse to command. DEMARTINO advised that he observed SO2 Matthew Vernon MCCABE, USN, a member of Seal Team Ten, strike V/AL-ISAWI with a closed right fist causing V/AL-ISAWI to fall to the ground onto his right side and bring his legs up into a fetal position. DEMARTINO also observed blood on V/AL-ISAWI'S lip and around his mouth.
3. On 06SEP09, CPT Jerrod LYNN, SOTF-W SJA, and CDR Gary RICHARD, Commanding Officer, Seal Team Seven, Camp Ramadi, Iraq were briefed as to the status of this investigation. Investigation continues.

DISTRIBUTION

NCISHQ: 023B

INFO: 024C/24IZ

STATEMENT

Place : NCISRA Iraq, Camp Ramadi, Iraq

Date : September 5, 2009

I, Patrick L. Weatherman, make the following free and voluntary statement to Special Agent John Stamp 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 alleged abuse of detainee Ahmad Hashim Abd.

For identification purposes, I am 39 years old and was born on 30JUN1970 in Waverly, IA. My social security number is 552-83-1825 and my race and sex are white male. I am approximately 6'03" and weigh approximately 230lb. I have blue eyes and brown hair. I currently reside at SOTF West, Shark Base, Camp Ramadi, Iraq. I am a member of the United States Navy currently assigned to Seal Team 10, and my rank is HM1. I have a Secret security clearance.

This statement is given as a supplemental to the statement I provided to command on 04SEP09.

The first time I saw detainee Abd was when I went to the screening facility aboard Camp Schwedler, Baharia, Iraq. I don't remember the exact time, but when I arrived at the facility I met PO Demartino, who had custody of Abd. We could not find the necessary medical forms to complete the screening so Demartino returned to his room to find them while I watched Abd. When Demartino returned we still did not have the right forms so I went and got them from our medical facility. While I did this Demartino had custody of Abd. I returned with the right forms and we completed the medical screening for Abd. The medical screening consisted of a visual inspection of the detainee in which I did not notice any health issues or injury to Abd. I also did not notice any injuries or deformities around his lips or mouth. When I was done with the screening I left the paperwork with Demartino and returned to the medical facility. I returned approximately five minutes later to check and see if Demartino needed anything since he was the only MA on duty. Demartino was not at the facility and Ltjg Freeh and SO2 Higbie were standing outside the screening facility and told me Demartino would be right back. A moment later Demartino returned and Freeh and Higbie left. I left just after Higbie and Freeh and Demartino was again in custody of Abd.

Freeh and Higbie were the only Seal team members I observed near the screening facility, and they were outside the building. I did not see any other team members near the screening facility to include SO2 McCabe, SO2 Keefe, and SO1 Huerta. At no time did I see anyone inside the screening facility with Abd.

The next time I saw Abd was when we picked him up from the Iraqi Police Station in Fallujah, Iraq. At that time I did not observe any obvious injuries to Abd, nor did he complain of any.

I have been assigned to Seal Team Ten for approximately two years and during that time I have not witnessed any acts of detainee abuse or any other misconduct.

Continuation of voluntary sworn statement of
Patrick L. Weatherman
on September 5, 2009

This statement, consisting of this page and 1 page(s) was typed for me by Special Agent John Stamp 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: _____

Sworn to and subscribed before me this _____ day of _____ in the year _____ at

_____.

Witnessed: _____

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

STATEMENT

Place : NCISRA Ramadi, Iraq

Date : September 6, 2009

I, Julio Antonio Huertas, make the following free and voluntary statement to Special Agent John Stamp 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 alleged abuse of detainee Ahmad Hashim Abd Al-Isawi.

For identification purposes I am 28 years old and was born on 09APR1981 in Chicago, IL. My social security number is 331-72-8310 and my race and sex are Hispanic male. I am approximately 5'6" and weigh approximately 175lb. I have brown eyes and black hair. I currently reside at SOTF West, Shark Base, Camp Ramadi, Iraq. I am a member of the United States Navy currently assigned to Seal Team Ten, my rank is E-6. I have a Top Secret security clearance.

This statement is given as a supplemental to the statement I provided to command on 04SEP09.

During the time of the alleged detainee abuse of Al-Isawi, SO2 Mccabe, SO2 Keefe, MA3 Demartino, and I were in the screening facility aboard Camp Schwedler, Baharia, Iraq. I had gone to the screening facility after learning we were still in custody of Al-Isawi. I wanted to check on Demartino and make sure he didn't need anything since he was the only MA and was pulling watch on short notice. Keefe and Mccabe were with me because I rode with them on the four wheeler they were driving. They were on their way to the dining facility which is close to the screening facility and accompanied me into the screening facility. When I entered the screening facility Demartino was there at the desk just inside the door. Adjacent to the desk is a barrier. I stepped behind the barrier and observed Al-Isawi sitting on a chair. He was still bound in flex cuffs and had a mask on his face. I asked him if he was alright and if he needed anything but he did not respond. I then made sure Demartino was alright and that he did not need anything. Myself, Mccabe, and Keefe then left the screening facility and went to the galley. At the galley I saw Higbie, Freeh, Mitchell, Crawford, other members of my team who were already eating. I did not see HM1 Weatherman at the screening facility.

The next time I saw the detainee was in the morning when Lt. Oneill knocked on my door and advised me that the detainee was injured. I went to the screening facility with Oneill and observed the detainee had an approximately 2cm cut on his lip and there was some blood on his dishdasha. Lt. Oneill and I cleaned Al-Isawi up and provided him with a new dishdasha. We then turned Al-Isawi over to the Iraqi Police. During the time leading up to when we met the Iraqi Police, Al-Isawi seemed fine and did not appear to be in pain or complaining of injury. When we came in proximity of the Iraqi Police however, he started to double over and moaned as if in pain.

During the time my team had custody of Al-Isawi I did not see anyone display aggressive behavior towards Al-Isawi. I did not see anyone abuse the detainee in any way.

Continuation of voluntary sworn statement of
Julio Antonio Huertas
on September 6, 2009

This statement, consisting of this page and 1 other page(s) was typed for me by Special Agent John Stamp 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: _____

Sworn to and subscribed before me this _____ day of _____ in the year _____ at

Witnessed: _____

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

STATEMENT

Place : NCISRA Camp Ramadi, Iraq

Date : September 5, 2009

I, Kevin Dario Demartino, make the following free and voluntary statement to Special Agent John Stamp 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 abuse of detainee Ahmad Hashim Abd.

For identification purposes, I am 22 years old and was born on 02April1987, in San Jose, CA. My social security number is 564-95-4302 and my race and sex are white male. I am approximately 6'02" and I weigh approximately 200lb. I have blue eyes and brown hair. I currently reside at Special Operations Task Force, Shark Base, Camp Ramadi, Iraq. I am a member of the United States Navy currently assigned to Special Operations Task Force West, and my rank is E-4. I have a secret security clearance.

This statement is being given as a supplement to a previous statement I provided to Lt. Commander Wing on 04Sep09 regarding alleged detainee abuse of Ahmad Hashim Abd.

At approximately 0330 on 01Sep09, I assisted members of Seal Team 10 with the custody and processing of Abd. During that time Abd was secured by me in the screening facility aboard Camp Schwedler, Baharia, Iraq. During that time I left my post on two occasions while assisting HM1 Weatherman with the medical screening of detainee bd.

When I returned to the screening facility for the final time I observed HM1 Weatherman outside the screening facility completing medical forms for Abd. I also observed SO1 Huertas, SO2 Mccabe, and SO2 Keefe inside the screening facility with Abd. I entered the screening facility and was standing next to Mccabe when he struck detainee Abd in the left side of his abdomen with a closed right fist. The detainee fell to the floor onto his right side and brought his legs up into the fetal position. I was shocked and scared at seeing this happen and Mccabe, Huertas, and Keefe noticed my surprise. Keefe said to me, "Don't feel bad for this guy." And uertas said to me, "This guy killed a lot of Americans and two team guys." When Huertas said "team guys" I believed he meant two Seal Team members. The three men then left the screening facility.

I picked up detainee Abd from the floor and set him in a chair. He was still bound with his hands behind his back and he was wearing a mask covering his eyes and nose. Abd's mouth was visible and I observed blood coming from his lip. I kept custody of Abd until approximately 0800 when Lt. James Oneil, Seal Team Ten, came to escort him to the Iraqi Police. When Lt. Oneil entered the screening facility he immediately noticed blood on Abd's gown and asked me what happened. I told Lt. Oneil that I had left a couple of times and that some team guys had been in here, meaning the screening facility with the detainee. t. Oneil then went and woke SO1 Huertas, the Seal Lead Petty Officer to advise him of what happened. Lt. Oneil and Huertas gave Abd a new gown and cleaned up his face before we escorted him to the Iraqi Police.

Continuation of voluntary sworn statement of
Kevin Dario Demartino
on September 5, 2009

When we turned Abd over to the Iraqi Police I noticed him spit blood out of his mouth in a way that made me believe he was trying to show the Iraqis he was hurt.

After we turned Abd over to the Iraqi Police Lt. Oneil called a meeting with myself, Huertas, Mccabe, Keefe, SO1 Mitchell, SO1 Crawford, Ltjg Freeh, and Weatherman. Oneil was really upset about the injury to Abd and said he was disappointed in the team. The team members then told him they did not do anything and that the detainee had probably self inflicted the injury to his lip.

On 04Sep09 I decided to tell Lt. Oneil I saw Mccabe strike the detainee. After that I was brought to Ramadi.

I have been assigned TAD with Seal Team Ten since March, 2009. Since that time I have known Mccable, Keefe, and Huertas, to be good guys and very professional. They have always treated myself and the other techs as professional as they treat each other. That is why I was so shocked when I saw Mccabe strike the detainee.

This statement, consisting of this page and 1 other page(s) was typed for me by Special Agent John Stamp 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: _____

Sworn to and subscribed before me this ____ day of _____ in the year ____ at

Witnessed: _____

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

STATEMENT

Place : NCISRA Ramadi, Iraq

Date : September 6, 2009

I, Jonathon Elliot Keefe, make the following free and voluntary statement to Special Agent John Stamp 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 allegation of detainee abuse of Ahmad Hashim Abd Al-Isawi.

For identification purposes, I am 25 years old and was born on 10May1984 in Newport News, VA. My social security number is 224-33-1893 and my race and sex are white male. I am approximately 6'03" and weigh approximately 220lb. I have blue eyes and brown hair. I currently reside at SOTF West, Shark Base, Camp Ramadi, Iraq. I am a member of the United States Navy currently assigned to Seal Team Ten, and my rank is E-5. I have a Secret security clearance.

This statement is given as a supplemental to the statements I provided command on 04SEP09 and 05SEP09. I would like it to be noted that the date was wrong on my original statement. Originally I wrote that my statement accounted for the night of 03SEP09 when in fact it was the ight of 01SEP09.

On 02SEP09, at approximately 0530, SO2 Matt McCabe and I were going from the tactical operations center to the galley on a four wheeler when we saw SO1 Tony Huertas. Huertas waved us down and told us to give him a ride, he wa going to check on MA3 Demartino at the screening facility. We gave Huertas a ride to the screening facility and when we arrived I observed HM1 Pat Weatherman on an golf cart approximately 30 feet away. McCabe and I then accompanied Huertas into the screening facility. He was going in to check on MA 3 Demartino, who had been assigned to watch detainee Al-Isawi on short notice. Huerta asked Demartino if he was good and Demartino replied he was. Out of curiosity McCabe and I looked around the barrier to get eyes on the detainee. Al-Isawi was sitting with his hands behind his back, with a mask on his face on the other side of a barrier in the screening facility. uertas did not speak to the detainee while we were in the facility. At no time did I see anyone abuse or mistreatment the detainee, and the detainee appeared to be in good health when I saw him. The detainee never spoke while I was in the screening facility. We left the screening facility after briefly checking on Demartino and then went to the galley to eat. I never saw the detainee after that.

The next morning when the detachment commander, Lt. Oneill asked us if anyone mistreated or abused the detainee, was the first I'd heard of anything like this happening. I was surprised by this and could not believe anyone from the unit would abuse a detainee. I do not believe anyone from my team or those deployed with us abused Al-Isawi, or would abuse a detainee.

I was aware before capturing the Al-Isawi that he was believed to be responsible for the Blackwater bridge incident where two former Seal Team Members were killed, however I did not see anyone react to that information unprofessionally.

Continuation of voluntary sworn statement of
Jonathon Elliot Keefe
on September 6, 2009

This statement, consisting of this page and 1 other page(s) was typed for me by Special Agent John Stamp 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: _____

Sworn to and subscribed before me this _____ day of _____ in the year _____ at

Witnessed: _____

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

Subject:

[REDACTED]

Co-Subjects:

[REDACTED]

Victims:

[REDACTED]

Incident:

I/NAVAL SPECIAL WARFARE TEAM 10/CAMP SCHWEDLER, BAHARIA,
IRAQ/ALLEGATION OF DETAINEE ABUSE

NARRATIVE

1. This reactive investigation was initiated pursuant to a suspected violation of the Law of Armed Conflict (LOAC), and Article 128 (Assault) of the Uniform Code of Military Justice.
2. On 05SEP09, Reporting Agent (RA) was notified by CPT Jarrod LYNN, ARMY, Staff Judge Advocate (SJA), Special Operation Task Force West of an alleged incident of detainee abuse committed by a member of Seal Team Ten while in Camp Schweidler, Baharia, Iraq. LYNN provided several witness statement regarding the alleged abuse of Ahmad Hashim Abd AL-ISAWI (V/AL-ISAWI) on 01SEP09. RA interviewed MA3 Kevin DEMARTINO, USN, who originally reported the abuse to command. DEMARTINO advised that he observed SO2 Matthew Vernon MCCABE, USN, a member of Seal Team Ten, strike V/AL-ISAWI with a closed right fist causing V/AL-ISAWI to fall to the ground onto his right side and bring his legs up into a fetal position. DEMARTINO also observed blood on V/AL-ISAWI'S lip and around his mouth.
3. On 06SEP09, CPT LYNN and Camp Ramadi, Iraq was briefed as to the status of this investigation. Investigation continues.

DISTRIBUTION

NCISHQ: 023B

INFO: 024C/24IZ

