

SUMMARIZED TESTIMONY OF OFFICER ELLIOTT HARDING

Officer Elliott Harding appeared at the hearing via video teleconference, was sworn, and testified substantially as follows:

On 11 Aug 10, I completed a police report, CR#10-264773, regarding the incident in question and I intend to adopt that report as a part of my testimony here today.

I am a police officer with the Rapid City Police Department in the Patrol Division. I have been a police officer for two years and three months. In August of 2010 I had been a police officer for less than two years.

I remember that on 10 Aug 10, dispatch sent me to Skyline Drive to investigate a report of a stolen vehicle where the reporting person was also the alleged victim of the theft. Skyline Drive runs north to south, with entrances on both sides. I believe there are three to four side roads that enter skyline drive from Rapid City. I was travelling southbound to the scene when I discovered the reporting party at the side of the vehicle. The reporting party was identified as a Ms. Wendy No Moccasin.

The vehicle was facing northbound and had struck a guide wire, which was designed to keep the vehicles from going off the curb. The guide wire was pushed up against driver's side door. It would have been impossible for an adult to get out of the car on the driver's side. Whoever was driving would likely have exited through either a window or another door. When I arrived on scene, no doors on the vehicle were open.

Ms. No Moccasin reported that she met two men at a local Rapid City bar, called Teddy's. She reported that she had hung out with them for the night. Ms. No Moccasin said they went to the "Oasis", another local bar, and then went to Skyline Drive. They stopped at an area overlooking the city and one of the men, "Pat" started to act strange. "Pat" accused her of being a CIA agent and tried to talk the other male, "Bob", into this idea. Ms. No Moccasin and "Bob" were able to calm "Pat" down and they left Skyline Drive travelling northbound toward Ellsworth AFB. "Bob" was in the front passenger seat when all of a sudden "Pat" began to strangle "Bob" from the back seat of the vehicle. Ms. No Moccasin attempted to intervene from her position in the driver's seat, but "Pat" turned his aggression toward her. "Bob" then jumped out of the vehicle and ran away. Ms. No Moccasin reported that she grabbed her keys and jumped out of the vehicle. "Pat" pushed her down, kneeled on her chest, and fought her for the keys. After a struggle, "Pat" retrieved the keys from Ms. No Moccasin, got into the driver seat of her car, and drove away, travelling northbound. I did not ask Ms. No Moccasin why "Pat" took the car, and Ms. No Moccasin never said. I am unable to confirm or deny if Ms. No Moccasin was the driver throughout the entire night. I can only confirm that she was driving just prior to "Pat" assaulting her and "Bob" due to Ms. No Moccasin stating this to me. I do not remember asking Ms. No Moccasin if she had been driving all night and I do not remember her telling me if she had or had not.

I took pictures of Ms. No Moccasin at the site of the incident. I took approximately 10 pictures focusing on the areas where she said she was injured. I remember seeing and photographing a mark on her

SUMMARIZED TESTIMONY OF OFFICER ELLIOTT HARDING

Officer Elliott Harding appeared at the hearing via video teleconference, was sworn, and testified substantially as follows:

On 11 Aug 10, I completed a police report, CR#10-264773, regarding the incident in question and I intend to adopt that report as a part of my testimony here today.

I am a police officer with the Rapid City Police Department in the Patrol Division. I have been a police officer for two years and three months. In August of 2010 I had been a police officer for less than two years.

I remember that on 10 Aug 10, dispatch sent me to Skyline Drive to investigate a report of a stolen vehicle where the reporting person was also the alleged victim of the theft. Skyline Drive runs north to south, with entrances on both sides. I believe there are three to four side roads that enter skyline drive from Rapid City. I was travelling southbound to the scene when I discovered the reporting party at the side of the vehicle. The reporting party was identified as a Ms. Wendy No Moccasin.

The vehicle was facing northbound and had struck a guide wire, which was designed to keep the vehicles from going off the curb. The guide wire was pushed up against driver's side door. It would have been impossible for an adult to get out of the car on the driver's side. Whoever was driving would likely have exited through either a window or another door. When I arrived on scene, no doors on the vehicle were open.

Ms. No Moccasin reported that she met two men at a local Rapid City bar, called Teddy's. She reported that she had hung out with them for the night. Ms. No Moccasin said they went to the "Oasis", another local bar, and then went to Skyline Drive. They stopped at an area overlooking the city and one of the men, "Pat" started to act strange. "Pat" accused her of being a CIA agent and tried to talk the other male, "Bob", into this idea. Ms. No Moccasin and "Bob" were able to calm "Pat" down and they left Skyline Drive travelling northbound toward Ellsworth AFB. "Bob" was in the front passenger seat when all of a sudden "Pat" began to strangle "Bob" from the back seat of the vehicle. Ms. No Moccasin attempted to intervene from her position in the driver's seat, but "Pat" turned his aggression toward her. "Bob" then jumped out of the vehicle and ran away. Ms. No Moccasin reported that she grabbed her keys and jumped out of the vehicle. "Pat" pushed her down, kneeled on her chest, and fought her for the keys. After a struggle, "Pat" retrieved the keys from Ms. No Moccasin, got into the driver seat of her car, and drove away, travelling northbound. I did not ask Ms. No Moccasin why "Pat" took the car, and Ms. No Moccasin never said. I am unable to confirm or deny if Ms. No Moccasin was the driver throughout the entire night. I can only confirm that she was driving just prior to "Pat" assaulting her and "Bob" due to Ms. No Moccasin stating this to me. I do not remember asking Ms. No Moccasin if she had been driving all night and I do not remember her telling me if she had or had not.

I took pictures of Ms. No Moccasin at the site of the incident. I took approximately 10 pictures focusing on the areas where she said she was injured. I remember seeing and photographing a mark on her

chest, but I do not remember exactly where. Another officer on the scene, Officer Youni, took pictures of the inside of the vehicle, the damage to the outside of the vehicle, and the road.

She was upset and crying, but she did appear credible. I believed her account because she gave me no reason to disbelieve her. She remained upset for the entire time we were on scene, but her level of distress dissipated over time.

Ms. No Moccasin did not appear intoxicated. By that I mean I did not notice slurred speech, or swaying, or stumbling while walking. I also do not recall smelling alcohol. I do not recall if I administered the PBT test or if Officer Younie did so, but I was present when the test results came back. Ms. No Moccasin blew a presumptive .14 BAC.

My practice is to offer a breathalyzer anytime I am at a scene and alcohol is involved. In this case, I asked Ms. No Moccasin for consent and she agreed. I do not recall if I asked how much alcohol she consumed or if she answered. If I was investigating a DUI, I would conduct a field sobriety test, but since I was there investigating at theft, I did not arrest her for DUI despite her admissions that she was driving and that she blew a presumptive BAC of .14. It is possible that Ms. No moccasin phoned in a false report to cover up a drunken crash. I cannot rule that out by the evidence.

I have investigated traffic accidents in the past. In my experience, I have never encountered a driver who gave a report about an accident only to later discover that report to be completely untrue. It never entered my mind that Ms. No Moccasin was the person driving the vehicle.

I was in charge of the on scene investigation and I am aware of all investigative steps. I found no DNA or other forensic evidence that "Pat" was driving the car. I believe Officer Youni may have lifted fingerprints, but I do not know the result. This investigation did not include accident reconstruction because it was not the type of accident for which an accident reconstruction team is dispatched. The Sergeant on scene typically makes the call about whether an accident investigation team is warranted.

I asked what might have become of the person that stole her car, but Ms. No Moccasin said she didn't know. I did not initiate a search for "Pat", the alleged thief. I do not have an answer as to why I did not initiate a search. Stealing a car is considered a felony in South Dakota, but it did not occur to me to initiate a search for the alleged thief. I do not know why. It is a part of department policies and procedures to pursue fleeing felons. Any officer would be able to make the call to canvass for a felon, depending on the situation the Sergeant may or may not get involved. I never found "Pat" or any other person in the immediate vicinity to corroborate Ms. No Moccasin's account. As I was travelling southbound to approach the scene, I did not actively look for any individual while en route. Officer Youni travelled southbound to the scene as well. He arrived at the scene after I did.

I never interviewed Mr. Adams, Mr. Ferguson, or Mr. Dykas. I never identified, made contact with, or spoke to any Mexican gang members.

I attached relevant statutes about potential crimes to the police report that I created and then forwarded them up for further review. I do not make decisions about charging.

I DECLARE, ON THIS 24TH DAY OF APRIL 2011, UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS A TRUE AND ACCURATE SUMMARY OF THE TESTIMONY I GAVE AT THE ARTICLE 32 INVESTIGATION HEARING HELD AT DYESS AFB ON 11 APR 11.



Officer Elliott Harding
Rapid City, South Dakota, Police Department
Testifying Witness

1073
WJW

SUMMARIZED TESTIMONY OF DETECTIVE WARREN POCHE

Detective Warren Poches appeared at the hearing via video teleconference, was sworn, and testified substantially as follows:

On 19 Oct 10, I completed a police report, CR#10-264773, regarding the incident in question and I intend to adopt that report as a part of my testimony here today.

I work as a Detective for the Rapid City Police Department and have worked there for approximately 12 years. As a Detective, I am responsible for receiving police reports and conducting follow up investigation to determine if there is merit for potential prosecution.

I work Monday through Friday, so any reports regarding an incident that occurred on weekend may not show up on my desk until Tuesday. A week lag time would be extreme.

On 12 Aug 10, I received CR#10-264773, regarding the alleged assault and theft of a vehicle belonging to Ms. Wendy No Moccasin in the early morning hours of 10 Aug 10. Once I reviewed this report, I followed up on several different leads. Specifically, I followed up to see if there was any surveillance footage from the bars that Ms. No Moccasin alleged she and the two men she met had visited. There was video surveillance from Teddy's and Oasis and it was of decent quality. I reviewed the footage and Ms. No Moccasin and the two men exited both Teddy's and Oasis together.

I also personally interviewed Ms. No Moccasin a few days after the report was filed. During her interview, Ms. No Moccasin said that she went to Teddy's, where she met up with two men at bar. The three stayed there for about 15 minutes before she offered to give them a ride to Oasis. They stayed at Oasis until close to closing time. Once they left Oasis, she drove them to a gas station where one of the men purchased beer, which they then took over to her cousin's house. Ms. No Moccasin's cousin was not there, so they headed to Skyline Drive which overlooks Rapid City, South Dakota.

I am familiar with Skyline Drive and on a late Monday night into early Tuesday morning, I would not expect the area to busy.

While the three were at Skyline Drive, another car pulled up with several people in it and there was small talk between the two men and the newly arrived group. The conversation became tense between the two groups, so Ms. No Moccasin and the two men got into her vehicle and she drove them to another location at Skyline Drive. At some point during the drive, one of the men, Ms. No Moccasin identified as "Pat" started accusing Ms. No Moccasin of being a CIA agent and otherwise being a spy. Ms. No Moccasin stopped the vehicle and all three people got out of the vehicle. While they were outside of the vehicle, "Pat" tried to put the arm of the other male, "Bob", behind his back, as if he was arresting him.

Shortly after Ms. No Moccasin observed this behavior, they all returned to the vehicle so that she could take them back to Ellsworth AFB. A few moments after being back in the car, "Pat" reached around

2033
DJ

from the back seat and put "Bob" in choke hold. Ms No Moccasin stopped the car and tried to pull "Pat's" arm away but was struck several times in the head in the process. Ms. No Moccasin was able to stop the vehicle at which point "Bob" jumped out of the car and ran away. Ms. No Moccasin grabbed her keys and exited the vehicle almost immediately afterward. "Pat" exited the vehicle and walked behind her while making some threats, such as, "Give me your fucking keys or I am going to kill you." "Pat" ultimately tripped Ms. No Moccasin from behind, got on top of her, struck her, took her keys, got into the vehicle, and drove away. Ms. No Moccasin then dialed 911 and told "Pat" that she was calling the police. She gave chase on foot as much as she could, and ultimately found her car crashed about one half mile from the incident.

I met with Ms. No Moccasin at least five times. I reduced her interview to writing, but I did not have her sign the statement. During the first of our meetings, I took pictures of visible injuries, which included scrape marks on the side of her thigh, bruising on her left arm & scrape marks to the chest. Pictures of the victim's scalp had previously been taken by officers who initially responded to the crime scene. Ms. No Moccasin pointed out the bruises as I was photographing them. The bruises seemed consistent with her narrative the events. There was some bruising on her left side, however, I do not remember a concentration of bruising on her left side.

Ms. No Moccasin admitted that all parties involved had been drinking during the night in question. However she did not provide many details about how much alcohol was consumed.

While the district attorney typically does not prosecute DUIs based on admissions only, I believe Ms. No Moccasin is still subject to being prosecuted for drunk driving and for violating the open container law. I do not make the decisions about what goes to trial, the district attorney's office makes that determination.

The officers who responded to the scene dusted for fingerprints but those initial results did not result in identifying any suspects. I am unaware of the existence of any DNA evidence from the inside of the car.

I listened to the 911 audio recording several times both with speakers and earbuds. It was hard to understand Ms. No Moccasin on the tape; and I cannot be sure if she was walking or running. It was difficult to tell because of how hysterical she was. However, I could hear a car engine revving and then growing faint. I attributed the sounds to Ms. No Moccasin's vehicle, but I did no forensic analysis to determine that her engine made the sound on the tape. It is possible that he revving sounds could have been from another vehicle.

I have no way to verify Ms. No Moccasin's exact location when she made the 911 call. I am not sure how long the call lasted. There is no transcript of the call. The 911 recording is difficult to understand and the beginning of the recording is unintelligible. I do believe that it is relevant to her truthfulness as to where she was when the call was placed. If I knew she was calling from the crash site it would make her story less credible.

373
W

Other than what was already in the case file, I do not have any other forensic or physical evidence corroborating Ms. No Moccasin's story.

A drunk driver who crashed his car could be upset and could sound the same as someone who was upset because his car had been stolen. It is possible that someone could crash her own car and then make up a story about someone else crashing the car. The possibility of Ms. No Moccasin crashing her own car cannot be ruled out.

I used credit card receipts from Teddy's and Oasis to attempt to identify "Pat". I initially identified Matthew Hosman as a potential suspect and included his photo in a photo lineup that I presented to Ms. No Moccasin. She was unable to identify Mr. Hosman as "Pat" however further contact with Mr. Hosman produced a picture of himself at Oasis which happened to include an image of the person that Ms. No Moccasin would later identify as "Pat" in the background. From that lead, I was able to secure a Texas driver's license photo of Patrick Burke and included it in a photo lineup which Ms. No Moccasin later identified as "Pat". From there, I was able to track Patrick Burke to Dyess AFB.

I have not been involved in any discussions with Ms. No Moccasin about restitution or charges being dropped.

I DECLARE THIS 20th DAY OF APRIL, 2011, UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS A TRUE AND ACCURATE SUMMARY OF THE TESTIMONY I GAVE AT THE ARTICLE 32 INVESTIGATION HEARING HELD AT DYESS AFB ON 12 APR 11.



Detective Warren Poches
Rapid City Police Department
Testifying Witness

SUMMARIZED TESTIMONY OF WENDY NO MOCASSIN

Wendy May No Moccasin appeared in person at the investigation, was sworn, and testified substantially as follows:

I am 24 years old. I have never been on active duty in the military and I live in Pine Ridge, South Dakota. Pine Ridge is approximately 96 miles from Ellsworth AFB and is approximately the same distance from Rapid City, South Dakota.

I was living in Rapid City, South Dakota in August of 2010, but I moved back to Pine Ridge about three months ago.

On 9 Aug 10, I got off work at the Hampton Inn and decided to go to a local bar in Rapid City called Teddy's. I arrived there around nine or ten o'clock and there were not many people in the bar. I met two of the guys that were there after I had been there for a few minutes. They introduced themselves as Pat and Bob. I talked primarily with Bob.

Bob told me that his friend Pat was recently married. Bob also said that Pat needed to loosen up and learn that it was okay to have fun. Bob told me that they had each just purchased the clothes they were wearing. At that time, neither Bob nor Pat mentioned that they were in the military.

Bob and Pat were drinking. I saw shot glasses and beer bottles in front of them, but I am not sure how many. I had a Budweiser while we were talking. Bob and I had a drinking contest to see who could finish his drink first. He won.

Bob said that if I wanted to drink more, he would pay for it. He asked if I knew any good local bars and I mentioned a place called Oasis, which was approximately one block away. We all agreed to go to Oasis and I drove us there in my car. Bob sat in front and Pat sat in the back seat.

Oasis had a lot more people than Teddy's. Bob ordered me a Budweiser and then told Pat it was his turn to buy drinks. We all played pool. I played pool with Bob first—we split the games. I played the last two games of pool with Pat. Pat won both times. I had a total of two Budweisers at Oasis. Bob had a mixed drink but I am not sure what Pat had to drink.

We were at Oasis for about an hour to an hour and a half. I believe we left close to closing time. Before we left, Bob asked if there were any house parties where we could go and drink. The only place I knew that we could go was my cousin's house. I got the impression that Bob was just dragging his friend along. But, Pat never said, "Take me home," or "I don't want to be here."

Before we went to my cousin's house, we stopped by a convenience store about five to six blocks away and Bob bought a 12 pack of beer. Bob also bought a pack of "Jooses" which is an alcoholic energy drink. He kept one for himself and gave the rest away to a man who was standing outside.

When we got to my cousin's house, I went inside to ask if she wanted to come out and have some beer. She said no and went to bed. The three of us sat outside talking and drinking some of the Budweisers

Bob had just purchased. We talked about what there was to do in Rapid City. We discussed that Wednesday night is Ladies Night in a lot of bars downtown.

After a little time had passed, Bob asked if I knew somewhere we could all relax and drink the beer he bought. I suggested going to Skyline Drive.

I have been advised of my right to remain silent and to not make statements that may tend to incriminate me. I am waiving those rights and agree to answer questions about the rest of the events that occurred in the early morning hours on 10 Aug 10.

While we were on the way to Skyline Drive, I had a can of Budweiser sitting in my lap. I was sipping it while we drove up to Skyline Drive. During the drive, both Bob and Pat were speaking really loudly to each other and otherwise having a boisterous conversation.

When we got to Skyline Drive we found a brick wall that overlooked the west side of Rapid City. The brick wall area is typically for tourists to take pictures. While there, we continued to drink and talk about the city, where we were from, and that they had to catch a flight. Pat said he flew planes. Bob pulled out his phone and played a country music song. Pat offered to show me a country line dancing two step. I had difficulty with the steps because I did not know the dance, but Pat performed the moves well.

About 30 minutes later a white vehicle showed up and about four to five men and one woman exited the vehicle. The group started to approach us and Pat approached them and offered them a beer. Initially the conversation was friendly, but one of the bigger guys immediately tried to "punk" Pat out. By that I mean, one of the bigger guys was trying to intimidate Pat by talking about his involvement in a local gang. I believe the bigger guy was doing this because he was Native American and Pat was white.

Pat was calling them, "Homey" and "Bro" and the conversation started getting intense. I could tell by the body language things were getting out of control. Everyone was speaking English the entire time.

Bob asked if I knew someplace else we could go and chill. I suggested that we go to another location on Skyline Drive. Bob had to convince Pat to come to the car so we could leave. Bob kept saying, "Falcon, let's go." I noticed that when Pat was walking toward the car, he was staggering a little.

When we got back into the car and headed up the hill, Pat began to accuse me of being a terrorist and being a part of a terrorist cell. Pat's voice was firm, but I could not believe he was serious. Bob told Pat that he was being ridiculous. Bob tried to calm Pat down, but we still had to stop the car and get out. Bob was able to calm Pat down again and we found another location on Skyline Drive to chill, drink, and talk.

While we were talking I was asking questions about the fact that he flew planes and where he did training. I was just making small talk, but it is possible that may have made him suspicious.

Pat continued to talk about me being a terrorist and being in the CIA. I felt uncomfortable and started walking back to the car. Pat told me to, "Stay right there." He said this in firm, rather mean way. Bob

tried to calm him down and then Pat attempted to "arrest" Bob by twisting Bob's arm behind his back. Pat was saying that Bob betrayed him. Bob said, "You are just drunk."

Around this time, we all got back in the car to return to Ellsworth AFB. Bob was in the front passenger seat and Pat was in the back. While I was turning the car around, Pat came up from the back seat and started choking Bob and punching him in the head. Bob's face was turning red. What was happening between Bob and Pat looked very serious. Pat was choking Bob with left arm and then hitting with his right hand. I put the car in park and tried to assist Bob. Pat released the choke hold and began to hit me.

Bob did get free and jumped out of the car and ran away. I grabbed my keys and jumped out of my car too. I left my car in the middle of the road. When I turned around, I saw Pat start moving toward me. Pat said, "Give me your keys...give me your fucking keys or I am going to kill you". He approached me from behind and tripped me up. He then got on top of me and fought me for my keys. He hit me several times, broke my glasses, and then got my keys away from me. He got back into my car and drove away. My car is an automatic and I heard the tires squealing on the road.

I yelled for Pat to stop and not take my car. I yelled that I was going to call the police. While I was dialing 911, I was following my car on foot. I made it clear that he did not have permission to take my car. I lost the car for 10-11 seconds but then found it about a half mile from where the incident happened. I actually could see my car after walking for about a quarter mile. I saw the headlights in the distance. The front passenger side door was open. That was the last time I saw Pat before today.

I refused medical attention because I do not like hospitals and I do not have medical insurance.

I could not see anyone in the car. But I did see that my car was damaged. The front left part of my hood was all bashed in. I was afraid, shaky, and crying. I had an opportunity to review IO Exhibit 4, and these are pictures of me taken the night of the incident. The mark on my chest came from Pat fighting me for my keys. All of the bruising in the photos came from the incident with Pat. IO Exhibit 6 is a group of pictures taken a few days after the incident when I went to speak with Detective Poches.

I had one beer at Teddy's and one or two at Oasis. I had at least one beer at my cousin's house that I tucked between my legs on the drive up to skyline drive. I had at least 4 beers while we were up on Skyline Drive.

I have an arrest record which includes the offenses of driving with no driver's license and insurance, fighting, and reckless driving. The arrest for driving with no license or insurance and the arrest for fighting occurred when I was 19 years old. The arrest for reckless driving occurred in Feb 10 and it involved pulling into traffic without having my headlights on. I have never been arrested for drunk driving.

I have been advised of my right to remain silent and to not make statements that may tend to incriminate me. I am waiving those rights and agree to answer questions about the rest of the events that occurred in the early morning hours on 10 Aug 10.

I purchased the car from Ronald Strongheart, but it was not registered in my name because I did not have a valid driver's license at the time I purchased the vehicle or at the time of this incident in August of 2010. My car was used to transport me to nursing school and also to take my three year old daughter to daycare. The car was damaged to the point where it could not be driven, so it was towed away. It was a difficult time.

I have retained an attorney to try and get some compensation from Pat for the damage to my car, and the things of value that were inside like my school books and items of clothing for my daughter. I was able to get the car out of impound the first time, but I couldn't afford to get it fixed, so it was towed to impound again. I was not able to retrieve my things of value out of the car before it was towed the second time. I bought my car for 1500 dollars from Ron Strongheart. The estimate to repair the damages came to about two thousand dollars.

I originally asked, through my attorney, for five thousand dollars to settle out of court. I believe Pat's attorney called me on my cell phone and asked me about my car, where it was, what damages I had suffered, and if I had any receipts. The attorney on the phone then offered three thousand. My attorney is now demanding ten thousand dollars. I have been billed for letters that the attorney sent to me and to Pat.

I am not employed now and my father is helping to support me and my daughter. I offered to drop civilian criminal charges because I didn't want to destroy his career. I just wanted him to pay for my car. If it were up to me, I would drop all the charges if he would just pay for my damages. I do not know the status of the civil suit against Pat.

I have not had an opportunity to listen to the 911 call. No one has given me a copy of the recording. I have not reviewed any statements prior to coming to testify here today. This event happened almost nine months ago.

I had about eight beers during the evening. I saw Pat drink at least one beer at Teddy's, at least one beer and some shots at Oasis, and about 3-4 cans of the beer from the convenience store. Pat seemed pretty drunk. I say that because while we were at Oasis, Bob offered to buy more beer and Pat said, "I cannot drink anymore." But, Pat did drink more after that. Also, I noticed that Pat was slurring his words a little and his eyes looked a little drowsy. I never saw him get sick. He looked like he handled his liquor pretty well.

I DECLARE, ON THIS _____ DAY OF APRIL 2011 UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS A TRUE AND ACCURATE SUMMARY OF THE TESTIMONY I GAVE AT THE ARTICLE 32 INVESTIGATION HEARING HELD AT DYESS AFB ON 11 APR 11.

Wendy M. No Moccasin
Testifying Witness

Page 4 of 5

I DECLARE, ON THIS 25th DAY OF APRIL 2011 UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS A TRUE AND ACCURATE SUMMARY OF THE TESTIMONY GIVEN BY ABOVE WITNESS AT THE ARTICLE 32 INVESTIGATION HEARING HELD AT DYESS AFB ON 11 APR 11.

A handwritten signature in blue ink, appearing to read 'Lambright', with a large, sweeping flourish at the end.

TEAH L. F. LAMBRIGHT, Capt, USAF
Investigating Officer

SUMMARIZED TESTIMONY OF JOHN LEE BURKE JR.

John Lee Burke Jr. appeared at the investigation, was sworn, and testified substantially as follows:

I work as a pilot for Delta airlines as a 737 Captain and line check airman. I was in the United States Air Force for 13 years after graduating from the United States Air Force Academy in 1977. In my work as a pilot and line check airman, I have developed an ear for listening such that I can understand air traffic controllers from all different countries.

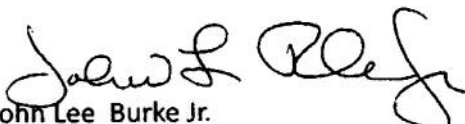
I have listened to the 911 recording in question at least 100 times with noise cancelling earphones and I created a writing which purports to capture what was said. I did not get every word that was spoken and I did my best to only write down what I believed I heard for sure.

The document I created has two different colors of typeface. The black typing is my best estimation as to what is happening on the audio recording. The red typing is my personal commentary and thoughts about what I believe I heard on the audio recording.

Patrick Burke is my only son. I have no formal training in deciphering audio recordings for the purpose of creating transcripts. I have no formal training in creating transcripts for legal purposes or otherwise.

I have spoken with my son and his lawyers on numerous occasions regarding the incident which is being investigated here today. He maintains his innocence to me and I believe him.

I DECLARE, ON THIS 22 DAY OF APRIL, 2011 UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS A TRUE AND ACCURATE SUMMARY OF THE TESTIMONY I GAVE AT THE ARTICLE 32 INVESTIGATION HEARING HELD AT DYESS AFB ON 11 APR 11.


John Lee Burke Jr.
Testifying Witness