

STATEMENT

Place : MWMM, BLDG 7208 MCAS MIRAMAR, CA

Date : January 6, 2009

nc I, Nicole Colleen CUSACK, make the following free and voluntary statement to Special Agent John R. Burge 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 events that occurred between myself and Doug Wacker. *nc*

nc For identification purposes I am a white female, 5'6", 120 pounds, blonde hair, and green eyes. My date of birth is November 18, 1980, my place of birth is Anchorage, AK, and my social security number is 539-11-1027. My home address is 755 San Luis Rey Place, San Diego, CA 92109. I currently attend the University of San Diego, School of Law. *nc*

nc I met Douglas Wacker (hereinafter, Wacker) after our first semester of law school at the University of San Diego. I was picking up my friend, Jessie Baxter, from a post-Finals/holiday BBQ at Wacker's apartment in Pacific Beach. I went inside to briefly chat with friends and grab some food. Upon discovering that we were both from Seattle and would both be at our parents' homes in Seattle over the holiday break, Wacker and I exchanged phone numbers so that we could meet up. Still new to law school and San Diego, I was looking forward to making a new connection, especially someone from my hometown. I was not, in any way, interested in him beyond the context of a new law school friend. I did not consider giving him my phone number anything more. *nc*

nc Wacker was driving up from San Diego to Seattle, and I remember him calling me the day he arrived in town. I felt this was a little eager, but I noted that people who are just becoming friends don't play games so I decided to interpret it as appropriate. I was unable to make plans with him for a while, but I eventually invited him to meet up with several of my friends and me for happy hour at Joey's on Lake Union. He showed up with a friend of his and ended up following a few of us to the Duchess near University Village for a few more drinks. I remember him buying my sister and me drinks and trying to hang out longer, but we left for her house without them. I recall being surprised at how outgoing and eager he was to be friends. *nc*

nc The second time that I hung out with Wacker, we were both bored at our parents' houses and decided to find an activity to get out of the house. He eventually picked an improv show at Jet City Improv on University Way (The Ave). We met up for the play in the University District. I remember him continually asking me if I wanted a beer, but I did not want one. I remember feeling like he kept pushing it on me despite the fact that I had already, several times turned down the offer. After the play, we decided to walk down the Ave. I am a graduate of the University of Washington and thought it would be fun to check out my old turf. We ended up at Finn McCool's. Wacker said that he was friends with some of the bartenders, so we sat at the bar. I had a mixed drink, probably vodka and seven-up because that's a drink I would usually order. I remember taking a couple of shots that Wacker ordered for me. At this point, my memory gets spotty. I know that I went to the bathroom at some point because I remember talking to a friend on the phone or leaving a voicemail where the topic was how random it was that I was at a bar in Seattle with Doug Wacker. I remember a brief

Continuation of voluntary sworn statement of
Nicole Colleen CUSACK
on January 6, 2009

period where I felt moderately drunk, about 10 minutes. During this time, Wacker and I spoke with a couple of our mutual friends on the phone. My memory becomes extremely spotty after this. *nc*

nc I do not remember leaving the bar or any of the car ride home. I know that I decided that I could not drive and somehow explained to Wacker that I was going to stay at my younger sister's house in University District. I was able to give him directions, and he drove me there. Her house was quite nice and well decorated, and I invited him in to show him what a great house she was renting so close to campus. I think that I spoke of this earlier and I remember my intentions, but I do not remember doing this. I have a faint memory of not being able to work the key in the front door for an extremely frustrating long time. The next thing I remember is standing in my sister's bedroom and realizing that I was going to vomit. I couldn't move and just vomited all down my front and into my boots. I remember sitting on the edge of her bed, not caring that I had vomited and starting to lie down and go to sleep. Wacker insisted that I had to shower. I remember thinking it was way too nice of him to be cleaning my vomit off my sister's floor, finding my sister's laundry room, and laundering my vomit clothes. He made me get in her shower and brought me someone else's toothbrush to brush my teeth. I was very uncomfortable with all this, but I really didn't know what was going on and figured that he knew best. I do remember being so intoxicated and out of control of my body that I slipped on the tub/shower floor and fell, bringing the shower curtain down with me. I remember Wacker laughing and feeling very embarrassed because I barely knew him and had to go back to law school with him in January. I did not know this at the time, but while I was in the shower he called our mutual male friends to brag about seeing me naked. *nc*

nc I know that I wrapped a towel around my body and one around my hair and got into my sister's bed. When I regained consciousness, Wacker was naked and on top of me. His penis was inside my vagina. He was having sex with me. I did not want this and did not know how this had happened. I was very confused and having a hard time saying anything. I know that I said "no" and something about having to go to law school with him. Although it sounds ridiculous now, I think that in my compromised, confused state I was looking for an excuse so that he wouldn't be mad at me for making him stop. I do not remember anything after this. I just assumed that he stopped, but I do not know for sure. *nc*

nc The next thing I remember is waking up very sick the next morning. Wacker was gone, I was still naked in my sister's bed, and I couldn't even get out of her bed to vomit. My sister arrived home and quickly dragged a full trash bag into her room because I was shouting to her to bring me something to throw up into. Even though there were paper towels covered in vomit, food, and standard kitchen trash, I threw up into the bag and laid over the edge of the bed with my head on it. It took well into the rest of the day and part of the next day to recover. *nc*

nc I was humiliated and ashamed over what had happened with Wacker. I couldn't understand how I had gotten so drunk off of just a few shots or how it had gotten to the point that he was having sex with me. I blamed myself and thought that it was my fault for getting so drunk. I did think it was extremely odd that I lost control of myself and threw up. I remember telling my parents that I wondered if I had gotten food poisoning because it was such an unusual reaction. I would frequently drink with my friends. I knew how my body handled alcohol, and I had never experienced such an extreme violent physical reaction as blacking out so fast and suddenly vomiting all over myself. I relayed the story to my friends in the form of a self-deprecating joke. Despite me trying to make it a funny, "wow, how

Continuation of voluntary sworn statement of
Nicole Colleen CUSACK
on January 6, 2009

did I get so drunk and do something so stupid?" story, my friends all voiced their disgust and disapproval of Wacker taking advantage of a girl who had just vomited all over herself. *nc*

nc Despite this encounter with Wacker, I remained friends with him. When I returned to school in January, I was grossed out by Wacker. He was calling and emailing and trying really hard to be my friend. He was known as an apple-shiner, Mr. Nice Guy, and I eventually felt like he was such a nice guy who was going above and beyond to be a good friend to me. I would google chat with him during class, and he eventually became part of my group of friends. Although my friends found him creepy and were uncomfortable with having him around, he was so over-the-top considerate to me that I became better friends with him. A couple of weeks after being back in school, Wacker came over to my apartment after school. We were watching television in my living room, but Wacker thought it would be more comfortable and considerate of my roommate (who might want to watch something else) to watch tv in my bedroom. Once in my room, he began trying to kiss me. I remember saying that I could not bring myself to hook up with him. I went so far as to say that I knew I could not do anything physical with him "sober". Instead of being extremely insulted and getting the point, he recommended that we all go out and get drunk that night. *nc*

nc Not long after this incident, I did get drunk and sleep with Wacker. Although I did not like him or find myself physically attracted to him, I continued to sleep with him for several months. We were not dating. I did not speak to him at school or in public. I did not want a relationship with him. I do not understand why I did this. I was ashamed of what I was doing with him. *nc*

nc I stopped sleeping with Wacker in May of 2007. I went to work in Anchorage, Alaska for the summer and gained some perspective. I remained cordial with Wacker because we had to see each other at law school and on USD's Moot Court Board. I was not angry with him, just disinterested. *nc*

nc I learned of the rape allegations against Wacker in the spring of 2008. I had heard bits of it through the grapevine, but I did not know the details. My friend, Jessie Baxter heard the details from April Tatton and was shocked to hear how similar the accounts were to my night in Seattle. After speaking with April, I was sure that Wacker had done the same thing to me. I figured that because I had remained friends with him, slept with him, and not realized what had actually happened until a year later, no one would believe that he had also drugged and raped me. I was very angry and felt that it was unfair that he was free to attend law school, go to bars and parties and not be held responsible for his actions. I got drunk one night and started talking about it to several of my friends. I thought that people should know what he had done. Wacker got wind of this and had my friend, Alex Lowder, shut me up. *nc*

nc After that conversation with Alex, I did not speak of the rape as openly, but I was openly hostile and angry toward Wacker. I was appalled that despite the allegations of rape, he was always the last guy hitting on drunk girls in bars. He was always vocal about sexual conquests and boisterous in inappropriate sexual conversations. It has been frightening and difficult interacting with him at school and in social situations and knowing that he is free to do this to other unsuspecting girls. *nc*

Continuation of voluntary sworn statement of
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This statement, consisting of this page and 3 other page(s) was typed for me by myself 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: Nicole Cusack

Sworn to and subscribed before me this 06 day of January in the year 2009 at

MCAS Miramar, CA, Bldg 7208

Witnessed: Henry Lewis

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