

The deposition opened at 1612, 15 September 2011.

DO: The proceedings will now come to order at Marine Corps Base, Quantico on 15 September 2011 at 1612.

These proceedings are being recorded by Sergeant Zane Presley, a court reporter, pursuant to Rules for Courts-Martial 702(g)(3).

The persons present are:

**Captain Antonio Contreras, myself, as DEPOSITION OFFICER;
Captain Peter Combe, TRIAL COUNSEL;
Major Matthew McConnell, DEFENSE COUNSEL;
Captain James Rowe, the ACCUSED; and
Mr. Jeremy Owens, the DEPONENT.**

The purpose of this proceeding is to take the deposition of Mr. Owens to be used in evidence in the case of the *United States versus Captain Rowe*. The charges were preferred against the accused on 27 April 2011 and referred to trial on 9 August 2011 by order of General R. P. Mills, the convening authority.

Authority to take the deposition is vested in me, Captain Contreras, as the deposition officer by order of General Mills' letter, dated 31 August 2011; a copy of which shall be inserted in the record of this deposition as Exhibit 1.

I am a judge advocate certified according to Article 27(b) of the UCMJ.

Captain Combe, a judge advocate certified according to Article 27(b) of the UCMJ, will represent the government in the taking of the deposition of Mr. Owens.

At this time, defense counsel, please state your qualifications.

DC: I don't have the whole thing in front of me. I am sworn and certified in accordance with Articles 27(b) and 42(a) of the Uniform Code of Military Justice.

DO: At this time, I want to advise the accused and counsel for the government that objections, including the grounds for such objections, shall be stated at the time of taking the deposition. All objections will be noted during the deposition. It will be ruled upon at the time of trial.

Any questions from trial or defense counsel?

TC: No.

DC: The only thing I need to see is that letter you referred to -- the order of the deposition.

DO: The deposition order?

DC: Yes.

DO: Okay. At this time, we will take a recess, so I can print out a copy of the deposition. This proceeding --

DC: Because I have the other one from Captain Combe, but I don't have -- I have the notice but not the order.

DO: My order?

DC: Yes.

DO: Okay. I will get it for you, sir. These proceedings are halted at 1614.

The deposition recessed at 1614, 15 September 2011.

The deposition was called to order at 1616, 15 September 2011.

DO: The proceedings will now come to order at Marine Corps Base, Quantico at 1616.

Major McConnell, do you have now the documents that you requested?

DC: I do.

DO: At this time, are there any objections that either party would want to express?

TC: Nothing from the government.

DC: Two objections. The first objection is that Captain Rowe does not waive the appearance of his defense counsel that he has hired -- he has retained in this case -- Mr. Haytham Faraj. Therefore, our objection is that this proceeding should not go forward without Mr. Faraj's presence.

The second objection is a timeliness issue in that the notice given for the deposition was not done in a timely enough manner for Mr. Faraj to be able to be present, and that is why he is not available.

Our objection is, in that case, that this deposition is therefore improper.

me Actually, there is a third objection. The third objection is that because Mr. Faraj is the lead counsel in this case, as retained by Captain Rowe, I am only here because I am ordered to be here, but I am not authorized to speak on behalf of my client without his lead counsel present.

That summarizes my three objections.

DO: Understood, sir. Obviously, the objections are noted. However, because of the nature of the proceedings, it is understood that the deposition will continue and go forward and the judge at the time will -- if the testimony here has to be used in court -- rule upon the objection.

I know you know that, but I just stated it out loud.

At this time, I will swear in the deponent and then open up the --

TC: Mr. Owens, if you would, please stand and raise your right hand.

Mr. Jeremy Owens, a civilian, the deponent, was called by the prosecution, was sworn, and testified as follows:

DIRECT EXAMINATION

Questions by the trial counsel:

Q. Just for the court reporter, if you would, state your first and last name and spell your last.

A. Jeremy Owens; O-W-E-N-S.

Q. Your city and state where you currently reside.

A. Greensburg, Indiana.

Q. Do you know the accused?

A. Yes.

Q. Okay. How?

A. We was in the military together, and we have been friends ever since.

Q. Could you give us a little more details for the time frame that you all were in the military together and those things?

A. Oh boy. I want to say 2001/2002 time frame. We met in the Reserve. We was in the same Reserve Unit, went overseas to Iraq together. Ever since then, it has continued since I have been out of the military.

Q. Okay. I'm assuming this was a Marine Corps Reserve Unit?

A. Yes.

Q. Okay. When did you get out?

A. April 6th, 2004.

Q. Now, you said you served with him in 2001/2002 time frame. Anything beyond that? Any other military association or anything like that?

A. No, just the time we was in together.

Q. Okay. What sort of contact did you all maintain after that?

A. We have always visited each other. I would go out and visit him. He would come over and visit me -- phone calls, communications, things like that.

Q. About how often?

A. Couple times a week.

Q. Okay. I am going to assume that's phone calls. I mean, you are not --

A. Yes. Phone calls or you know, it just depends what his schedule was like and what my schedule was like. I try to get out and see him. We would see each other -- we tried two or three time a year to get together.

Q. Okay. Forgive me for any delay; I'm just taking notes here.

A. No problem.

Q. Now, you ever have the opportunity to visit him in Washington, D.C.?

A. Yes.

Q. Okay. About how many times?

A. Just once.

Q. Okay. Could you tell us, kind of, what the lead up to that was; why you were coming out; those sorts of things?

A. Like I said, we tried to get together, you know, the different duty stations he goes to. You know, I try to get out -- you know, the Marine Corps is a big part of my life. I still enjoy it, so I tried to get out and see the different units, see what he is doing, see what's going on.

He had called me up. He was part of the Marine Corps Parade out there. He told me it was a great ~~spectral~~ *Spectacle* scene, so he invited me down to come down to the very last one before he was getting ready to change duty stations again. So I went out there for that. *AME*

Q. Do you remember what time of the year this was?

A. August of 2010.

Q. Okay. When did you get in? I mean, not specific date, but what day of the week; do you remember?

A. I want to say Friday, but I'm not positive. It was the day of the parade, and it was the day that I was there.

Q. Okay.
A. I flew in the day of the parade.

Q. Okay. What happened the day that you got in?
A. He picked me up at the airport. The flight and everything was running late. He drove me to his house. He left for the parade. I stayed with his wife, got dressed, went out to dinner, and then went to the parade.

Q. Who went out to dinner?
A. Myself and his wife.

Q. Okay.
A. There was some Marines' wives with us [inaudible].

Q. Okay. He went with you then?
A. No.

Q. You met some of the other Marines' wives?
A. Yes.

Q. Did you meet Lieutenant Klay at that time?
A. No.

Q. Okay. You said you all went to dinner, and then you went to the parade afterwards. About how long were you all at the parade?
A. For the entire parade.

Q. I'm just curious about how long of a time period that was.
A. I want to say two to three hours. That's all I can remember. Best guess: Two to three hours, somewhere around there.

Q. Okay. Did you all link up with Captain Rowe there?
A. Yes, after the parade was over.

Q. After the parade was over?
A. Yes.

Q. All right. Could you tell us about that? What happened then?
A. When the parade was over, I went out to meet him. Myself, him, and his wife went to the hall. I do not

know the name of the hall, pretty much where everybody congregates after the parade. We went in there, and I had something to eat, started drinking couple of beers, introduced me to some people, things like that.

Q. Did you meet Lieutenant Klay at that time?

A. Yes.

Q. Okay. Could you tell us about that? What happened with that interaction?

A. She had come to me. I didn't know who she was. I didn't even know how she knew who I was. She had come up and introduced herself to me. At that time, Captain Rowe nor his wife [inaudible] was around. I don't know if she just seen me with somebody or what, but she'd come up and introduced herself to me. With that, you know, she went on and pulled out a bottle of whiskey out of her purse, know you, telling me how she liked to party and stuff like that. That's pretty much how I met her.

Q. About how long was that exchange?

A. Five to ten minutes that she talked to me.

Q. Was it just small talk, like making pleasantries?

A. Yeah, yeah, yeah.

Q. I mean, I'm not trying to put words in your mouth. Was it like, "How do you know Captain Rowe" or something like that?

A. When I first met her, our first conversation -- the first time like I said, five to ten -- it was just small conversation: Where are you from; what do you do; how do you know Jim, things like that.

Q. Okay. You said that he wasn't around at that point in time?

A. No.

Q. What was he doing; do you know?

A. Him and his wife was off introducing and meeting the other people. I'm not sure. She was talking to me, so my attention was there, so I'm not sure.

Q. After you had this brief conversation with her, what did you all do after that?

A. We actually stayed there pretty much the whole night.

Q. Okay. You say "the whole night." What time did you all leave?

A. To be honest with you, I have no idea. I don't even know if they had a time to shut down, but it was probably 11 o'clock when we left there, maybe 11:30 when we left there.

Q. Okay. Now, you said it was the hall there, but you are not sure the name. Was this Center House?

A. Yes. I believe that was the name; yes, sir. There was a bar, and they had food inside. I remember there was some bedrooms upstairs for Marines that come in. Maybe they get there before their duty station time or something, and they can stay upstairs.

Q. Okay.

A. I think it was, sir.

Q. Okay. What I mean is that this was the actual Marine Corps facility? It wasn't one of the bars across the street or it was --

A. No, it was a Marine Corps facility.

Q. Okay.

A. Yep.

Q. You all left -- I think you said -- 2300/2330, around there?

A. Somewhere around that, yes.

Q. Okay. Did you have any other interactions with Lieutenant Klay that night?

A. Couple times throughout the night, yeah.

Q. What kind?

A. She'd come to me several different times, couple of times when Captain Rowe was with me. Just pretty much -- a lot of it was small talk. As the night drove on, she got into more conversation and wanted us to come out to her house. Rejected her many times.

Later on that night, she caught me by myself again and had some girls with her, introduced me to these girls. I had no idea what their names were or anything like that. She said, "They wanted to all come back to her place and party." I rejected, told her I wasn't interested.

She got a little agitated, kind of walked off, and I never talked to her again the rest of that night because it was -- I don't know -- shortly after that, we left the Center House.

Q. Okay. After this last time when you said she got agitated and left, you said, "shortly after." About how much time?

A. It would strictly be a guess but maybe an hour.

Q. Okay. I'm not trying to put you on the spot.

A. No. I understand. I'm just trying to think. You know, it's been over a year.

Q. Yeah.

A. I'm trying to the best of my knowledge remember what it was.

Q. Did you see her interacting with Captain Rowe?

A. She'd come up to talk to him a few times. Like I said, she would come up when I was with him and talk to her. I don't remember anytime where it was just him by himself; but like I said, I was introduced to a lot of people that night, so I spent a lot of time talking to a lot of different people, a lot of the Marines that worked with Jim, talked to his XO a couple of times -- pretty much, things like that all throughout the night.

I do know she interacted with him when I was there. I'm not real for sure when I wasn't there; I don't know.

Q. Okay. Let me ask you: You observed people who have been intoxicated before?

A. Uh-hum.

Q. How do they act?

A. How do they act?

Q. Yeah. How?

A. A lot of people are different. Some people, of course, slur their words. Some people can't talk very well. Some people lose their balance.

Q. Maybe, get more outgoing or more willful, things like that?

A. Oh, absolutely.

Q. Okay. Was she showing any of those signs?

A. To be honest with you, not really. I mean, she was actually pretty calm. She was obviously outgoing because she'd come to me and introduced herself. I don't know how much she'd been drinking [inaudible] time because it was soon after we got there. So I assume she was at the parade. I really don't know what she did or what she was.

Q. Okay.

A. I would assume that -- she didn't seem be to me. I mean, she was very outgoing.

Q. Okay.

A. I don't know if that was just her personality or what.

Q. All right. You all took off around 2300/2330; right?

A. Uh-hum.

Q. What happened then?

A. From there, we went to a bar off the Marine Corps Base. There was myself, Jim's wife -- Captain Rowe's wife, and Captain Rowe. There was a couple of other Marines with us and couple of their wives. We went in, wasn't there very long. It was late in the night. We had one beer, I think there. So, we weren't there more than probably 25/30 minutes. After that, we left -- myself, Captain Rowe, and his wife. We got in the car and went to his house.

Q. Okay. Now, you say "off the Marine Base." Like, how far? Was it one of the ones that was right across the street?

A. Yes, within walking.

Q. Okay. If you left half-an-hour later or twenty minutes later, you might have left right around midnight?

A. Yes.

Q. Is that fair to say?

A. Yes.

Q. Okay. Did you see Lieutenant Klay there at all?

A. No, she was not there.

Q. Okay. You didn't see any kind of interaction with her and Captain Rowe or anything like that?

A. No. He was with us, his wife and myself, the whole time. I think I did see Lieutenant Klay afterwards. I think she was at another bar because there was something going on, and all the Marines there was talking about something that happened over there. I don't know what was going on, but I never personally saw her and she wasn't nowhere around us. She was somewhere around there, I think.

Q. You heard her name or something happened, but you didn't see her?

A. Yeah. It wasn't anything I was really paying attention to.

Q. Okay. You said that you all got in the car and drove back. Who drove?

A. Megan drove, his wife.

Q. All right. I think you said that you had a couple of beers?

A. Yes.

Q. Okay. You all went back to their home and then what?

A. We went to sleep.

Q. Okay. What time did you all get up the next day?

A. It was early. I want to say either 5:30 or 6 o'clock, possibly 6 o'clock.

Q. Why so early?

A. We was going to go to the formation at the Barracks. The plan was: That morning, we was going to go out. He was going to take me. We was going to go to the formation. He was going to take me around the Barracks, give me a

tour of the Barracks. I never got to see it the night before because of the parade, so he was going to take me up, show me the office where he works, things like that. Then shortly after that, we had an appointment to go on a tour of the White House.

Q. Okay. What time were you supposed to go on this White House tour?

A. 9:30/9 o'clock.

Q. Okay. I mean, you sound unsure. Kind of a roundabout?

A. It's a roundabout, yeah. I'm not for sure what the time -- there was another Marine that actually gave us the tour, and I couldn't tell you his name.

Q. Now, something happened before you all went on the White House tour; right?

A. On our way to the Barracks, yes.

Q. Okay. Tell us about that.

A. We was on our way to the Barracks. I hadn't been to D.C. We was driving, and I'm checking things out, looking at the houses, things like that. We was talking about it. We was going down the road; I'm not sure. It ended up being Lieutenant Klay's road. We was driving by her house, and we had seen --

Q. Is this before you went to the Barracks?

A. Yes.

Q. Okay.

A. Yes. This was on our way to the Barracks.

Q. Okay. Go ahead.

A. When we was going down the road, we noticed the house and the door was wide open in front of it. We could see inside the house, and that's when he told me that was Lieutenant Klay from the [inaudible] of her house.

Q. Okay. What happened then?

A. We stopped. Jim got out. I stayed in the vehicle. He was walking up the front door. There was a dog out running around. He picked it up; [inaudible] says it was Lieutenant Klay's. He picked it up and carried it to the door. He started hollering for Lieutenant Klay. I don't

know when she'd come down or what. We ended up walking in. I don't know how long we was in there, just a few minutes. He'd come back out to the Jeep. He needed some help. He said that one of his Marines was in the house - - upstairs -- that Ms. Klay had been with.

Q. Did he identify the Marine?

A. No. He said he didn't know who it was or anything like that.

Q. How do you know? I may be asking you to speculate.

A. I don't know. I'm assuming she told him.

Q. Okay.

A. Because he said it was one of his Marine. I knew he didn't -- I hadn't seen him. Especially, when I got the Marine, I knew he hadn't seen me. I am assuming that she told him.

Q. Okay.

A. That's the only way I knew.

Q. So, he comes in and says he needs your help because there is this Marine in there. What happens then?

A. I go in the house. Ms. Klay is standing there. Jim goes into the kitchen. I go up the stairs and into the bedroom. The Marine is there. He was getting dressed. I told him --

Q. I'm going to interrupt you right here.

A. Uh-hum.

Q. You say he is getting dressed?

A. Yes.

Q. How undressed was he?

A. When I got in there, his pants were on.

Q. Okay.

A. I don't think he had any shoes and socks on or shirt on, but like I said -- I do know he wasn't in his underwear or anything like that or naked. He wasn't purely naked.

Q. Okay. So, you go in, and he's got his pants and his getting the rest [inaudible]?

A. Uh-hum.

Q. Okay. Go ahead, please?

A. I asked him who he was. He wouldn't tell me. I told him not to worry, that he wasn't in trouble. I told him that his XO was downstairs, you know, he shouldn't be here. I said, "You need to get out of here and get to the Barracks."

Q. Okay.

A. So, he was --

Q. You go in there, and he is getting dressed?

A. Uh-hum.

Q. Where is Lieutenant Klay?

A. Downstairs.

Q. She's downstairs?

A. In their little dining room area.

Q. Okay. You saw her when you walked in?

A. Yes.

Q. Okay. She was in the living room/dining room area. Where specifically?

A. Soon as I walked in -- their house is kind of strange. You walk in, there is a living room/dining room and there is a kitchen. She was just right there at the bottom of the stairs.

Q. Okay. She was at the bottom of the stairs. Was she standing? Was she awake? Was she --

A. She was standing, wide awake.

Q. Was she saying anything at that point in time?

A. No.

Q. Okay. What was she wearing?

A. Shorts and a t-shirt, I think. I know she was dressed. Her bra and panties were lying on the floor. I noticed that when I walked in, but she was dressed.

- Q. Okay. Like, PT gear?
A. Somewhere, yeah, I guess you could call it that. Yeah.
- Q. I mean, like, athletic shorts and a t-shirt kind of thing?
A. Yes.
- Q. Okay.. I'm sorry. Go ahead, please?
A. I went upstairs. The Marine got dressed; told him that he wasn't in trouble; told him that his XO was downstairs; and I said, "You need to get back to the Barracks." At first, he didn't want to go downstairs -- of course, worried about getting into trouble. I told him, "Look, you are not in trouble. You need to get out of here. You don't need to be in here."
- Me and him walked downstairs. Ms. Klay was still standing there. She never said anything to him. He never said nothing to her, and he walked out the front door.
- Q. Okay. What happened after that?
A. Not much. We started talking. It got a little better now since there was a lot tension when I first walked in -- of course, the Marine was upstairs and stuff. She seemed like she was nervous. She didn't realize that the door was wide open. I don't know, overtaken. I'm not sure really what was going on, but we started talking. She was apologizing to Jim for what was going on. You know, he said, "Don't worry about it." At that time, she started asking Jim, you know, to threaten the Marine to make sure he didn't say nothing to anybody.
- Q. I'm going to backtrack a little bit here; okay?
A. Yeah.
- Q. You went upstairs to talk to this Marine. About how long were you upstairs?
A. Three minutes to four minutes.
- Q. Okay. Did you hear anything going on downstairs with those two, with Lieutenant Klay and Captain Rowe?
A. No.

Q. Okay. You couldn't hear anything happening?

A. No. I was talking to him.

Q. Is it up one floor, up two floors, what?

A. Just one.

Q. Okay. I'm sorry. I don't know the layout of that house.

A. Yeah. It was right up the stairs.

Q. Okay. When you came back downstairs, you said Lieutenant Klay was at the base of the stairs?

A. Uh-hum.

Q. Do you know where Captain Rowe was?

A. He was back in the kitchen. There was a wall coming out. He didn't want to see the Marine. I understand [inaudible]. He didn't see the Marine, didn't know the Marine's name. Probably didn't want the Marine to get in trouble.

Q. Okay. I'm sorry. Go ahead.

A. Like I said, we started talking. You know, she was apologizing to Jim. He said, "Don't worry about it. It's not a big deal." Then she got concerned about the Marine saying something to somebody. That started really worrying her, and then she wanted Jim to threaten the Marine to pretty much keep quiet, not saying nothing to anybody.

Jim didn't want no part of it. He pretty much said, "Look, I'm not saying nothing to him. I'm not getting him in trouble. I'm staying out of it." She got a little mad at him, nothing too bad. It didn't really drag on much past that, and we went back to talking. She asked me how, you know, how I enjoyed parade. We started talking about stuff from the night before, you know, the people I met and things like. We was all talking. I told Jim we needed to go. He told her we needed to go. We had an appointment at the White House.

Well, she didn't want us to leave, so every time Captain Rowe would try to leave, she would block the doorway or she would wrap her arms around him. She just didn't want him to go. I don't know why. I don't know what the situation was. I just knew she wouldn't let us leave.

Then she said -- [inaudible] we got to go. We got an appointment, you know, we need to go. Then that's when she asked Jim to go upstairs and talk with her. She wanted to talk to him in private. She wanted to go upstairs and talk to her.

Q. Before we get upstairs --

A. Uh-hum.

Q. Now, you said that she was getting kind of frustrated. I know that's not your exact words, but she was trying to get him to threaten this Marine, and she was getting kind of frustrated because he was refusing to do so.

A. Uh-hum.

Q. About how much were they raising their voices or anything?

A. Not much. I mean, Jim was pretty adamant, was saying, "Look, I'm not going to get the Marine. I'm not going to say nothing to him. He is not going to say nothing." You know, he said, "Why would he get himself into trouble?" Trying to reassure her, "Look, he is probably not going to say nothing, and I'm definitely not going to say nothing to him." Like I said, it didn't last long. She was pretty much, you know, "I don't know why you won't talk to him." You know, kind of frustrated, but the voices never got loud. There was no arguing or anything like that.

Q. Okay. You said that the two of them went upstairs?

A. Uh-hum.

Q. All right. Go ahead, please?

A. They went up the stairs. I was still down in the living room/dining room area. Staying in there, I don't know how long -- a few minutes went by, five minutes maybe went by. I could hear them upstairs laughing and talking, couldn't hear what was being said or anything like that. Like I said, five to -- I don't know what the time was. It was somewhere between five to ten minutes.

Captain Rowe hollered at me, told me to come upstairs. I went up the stairs, and there in the bed was Captain Rowe and Lieutenant Klay. They was laying in bed there naked, side by side.

Q. Okay. Were they on top of the covers or something? Were they under the covers and you assumed they were naked?

A. I don't --

Q. You are saying "naked." I am curious as to how you exactly know that?

A. While I was still up there when they got dressed, so I knew they was naked.

Q. Okay. It wasn't like --

A. When I first walked in, covers might have been barely on her side. I don't know. I can't remember.

Q. Okay. Go ahead, please?

A. I saw them very naked. We was bullshitting -- pardon my language -- making small talk, told Jim we needed to get going. He said, "Yeah, let's go. We got to go."

Q. It's kind of an awkward situation; right?

A. Uh-hum. Oh, yeah.

Q. Okay. I'm just curious what you all were talking about? Again, it seems like an awkward situation. What kinds of things were you all talking about? You say "small talk."

A. Like you said, it was an awkward situation, so I don't remember what all was talked about.

Q. Okay.

A. I couldn't tell you.

Q. They was laying in the bed, naked. Did you see the two of them engage in any kind of --

A. Not when I come upstairs. They were laying side by side when I come upstairs.

Q. You didn't see them engaging in any kind of -- go ahead, please?

A. They got up, got dressed. We went downstairs, still talking. I mean, she is a very chatty person. Still didn't want Jim to leave. She wanted us to stick around. We told her we had to leave, and then we left.

Q. Okay. At any point in time when you all were upstairs, did she proposition you or try to encourage you to engage in anything?

A. No. She did not proposition me.

Q. Okay. Did Captain Rowe say anything to you about that? Did he try and get you to do anything with her?

A. No. He didn't try to get me doing anything with her.

Q. Okay. I guess this is the logical follow-up, but did you do anything? Were you engaged in any kind of activity up there?

A. I'm not going to answer that.

Q. Okay.

A. I can tell you that she was -- you know, the whole time I was there, she was never asked to do something or forced to do nothing the whole time I was there.

Q. You didn't see anything take place?

A. No, not while I was there.

Q. She never asked you to do anything?

A. No.

Q. Okay. He never tried to encourage you to engage in --

A. He never asked me [inaudible].

Q. Okay. You all headed back downstairs, then what?

A. We was downstairs for another five or ten minutes or so. Like I said, she still didn't really want us to leave. I told her we had to go, we had an appointment. Jim's wife was waiting on us, and we left. From there, we headed to the Barracks, and he called the guy that we was supposed to meet up with, at the White House, to make sure he was on schedule. We headed to the White House where we met up with Jim's wife and him.

Q. Okay. About how long were you all at her house?

A. Maybe an hour, hour-and-a-half. I don't know.

Q. Then you all went to the Barracks.

A. Yes.

- Q. I mean, you said you all got up around 5:30 to 6. About how long did it take you all to get to her house?
- A. No idea. I know he lived a little distance from the base, but I'm not sure what the timeline was of that.
- Q. Okay. You all were at her house for maybe an hour or so?
- A. Hour/hour-and-a-half. Like I said, I couldn't tell the time.
- Q. Okay.
- A. I know things started to get close to where we needed to be at the White House, but I don't know. At that time, we went to the Barracks. He still showed me around the Barracks; and then, we had to get from there to the White House, which we had to take some trains or whatever -- the train to get to the White House.
- Q. Okay. You all made the White House tour?
- A. Yes, sir.
- Q. Where did you link up with his wife?
- A. We met her outside one of the train terminals.
- Q. Okay.
- A. I have no idea which one. The one whichever was closest to the White House, and then we walked from there.
- Q. You all went on the White House tour?
- A. Uh-hum.
- Q. What happened after that?
- A. After that, we was walking around different areas of the White House. Jim's phone kept going off.
- Q. You say "we." Who is "we"?
- A. Myself, Jim, and Megan, his wife, at the time --
- Q. Okay.
- A. -- not still this time. His phone kept going off. I asked him who it was. He said it was Lieutenant Klay, texting him and calling him. I don't know what was in the text or --
- Q. Was his wife there at that point?
- A. Yeah, she was still there.

Q. Did she overhear this or do you know?

A. No. No, she didn't.

Q. Okay. It was kind of discrete?

A. Yeah. I just seen him kept messing with his phone. I said, "What's going on?" He told me who it was.

Q. Okay.

A. Then I never said nothing more about it. We walked around half-an-hour, 45 minutes, maybe an hour. We went back to their house, went and had some lunch, stayed at their house for awhile. We had more plans that evening. We wanted to go see some more of the sites of D.C. and stuff.

Q. There are some details in your written statement that we are not getting from some of the other things. I'm being a little bit more thorough because I'm trying to understand the timeline.

A. Please. It's fine.

Q. This White House tour, about how long were you all at the White House? You said that it probably started at 9/9:30.

A. Yeah. Like I said, this is all guessing.

Q. Okay.

A. The White House tour -- when we got done at the White House, I can tell you this. By the time we got back to their house, it was probably between noon and one because I knew it was lunchtime.

Q. Okay.

A. Like I said, we went and picked up lunch and brought it back to their house and had lunch.

Q. It was regular lunchtime? It wasn't like a late lunch or anything like that?

A. Yeah.

Q. It was midday?

A. Yeah.

Q. Okay.

A. Yeah.

Q. I'm sorry. Please, go ahead?

A. Like I said, we got done eating lunch. We asked his wife if she wanted to come with us because I wanted to go see more sites of D.C., see the memorials and things like that. She didn't want to go. She stayed at the house because she had some things to take care of and do, so we left. Just got to -- I don't remember where in D.C., but just started seeing some of the memorials and stuff like that. I guess Lieutenant Klay was still calling. She was calling, I guess, throughout the day. He had his phone, but he never answered or anything like that.

Q. Uh-hum.

A. It was her again. This time, he answered it. They was talking on the phone. She wanted him to come over. He said, "Look, I'm in town. I want to see the sites. We don't have time to come over and do this."

Q. Uh-hum.

A. He got off the phone. She called several times. Finally, he said, "Look, we might as well go over. She is not going to quit calling me until we go over there." So, we went over there.

We walked in. Wasn't there long. I don't know how long exactly we was there.

Q. Do you have any idea about what time of the day you all went over there?

A. I have no idea, maybe 2 or 3 o'clock. Like I said, I have really no recollection of the time. I know it was still daylight out.

Q. Okay.

A. We went inside. She asked about the White House. Like I said, it was normal conversation. The conversation didn't last long, and we told her, "Look, we got to go." I really didn't want to be there. I told Jim I didn't want to be there, so we needed to get going. He said, "Yeah. We need to go." She started up again. She just, you know, would block Jim from leaving -- "No. Stay here. Stay for a little while. Let's have conversation. Don't leave. Stick around." I said, "No. I want to go. I want to see these sites. I got to head out the next morning." I said, "I want to go." She was like, "All

right." But she said, "Jim, come up first and come upstairs and talk to me. I want to talk to you in private again." I told Jim, "No. Let's just go." Like I said, she locked the doors, strapped her arms around him.

Q. Kind of the same drill as the first time, earlier in the day?

A. Yeah. She just didn't want him to leave whatsoever.

Q. Okay.

A. We ended up still there. He said, "I'm going to go upstairs. I won't be up there for five minutes. She just wants to talk to me. She wants to talk to me in private." I said, "All right." So, he went upstairs -- him and her went upstairs.

It was maybe five minutes. Actually, when they first went upstairs, I went outside and smoked a cigarette. I was out for maybe three to four minutes. I came back in. They was still upstairs. I could hear them up there laughing. I knew it was nothing private. I got kind of frustrated.

Q. Was this right when you came back in from smoking a cigarette?

A. Yeah. It wasn't very long at all.

Q. Okay.

A. Walked in, heard them upstairs laughing [inaudible]. I knew it wasn't something private. To me, she was just trying to get him to stay there.

Q. Uh-hum.

A. You know, kind of frustrated me. I just went up the stairs. I walked up the stairs and into the room. She was naked on top of Jim, masturbating.

Q. She was masturbating?

A. Yes.

Q. Okay. What was he wearing?

A. I don't know if he was naked or not. Like I said, I seen her. She was doing it. I went upstairs, and I said, "Jim, I'm leaving." I saw her -- that's where my eyes

went. I said, "I'm leaving." I turned around and walked downstairs.

Q. Okay. You didn't notice if he had a shirt on? You didn't notice if he had all of his clothes on anything like that?

A. I'm pretty sure he did, but I couldn't swear to it.

Q. Okay.

A. Like I said, I'm pretty sure [inaudible]. I had seen her and what she was doing. I said, "Look, I'm leaving." I turned around and walked back downstairs. I wasn't upstairs more than 20 seconds.

Q. Did she say anything to you?

A. No. I turned and left. I said, "Look, I'm leaving. I'm leaving right now," and I walked downstairs.

Q. I think in your written statement, you said something about she said to him that she knew he would like it or something?

A. Yeah. When I walked into it, she told Jim she knew he liked that.

Q. Okay. She said something to him?

A. Yeah. That was what she was saying when I walked into the conversation. Like I said --

Q. Okay. You kind of walked in, heard this, and saw it all at the same time?

A. Yeah. I walked in; that's what she was saying to him when she was masturbating.

Q. Okay.

A. I said, "Hey, I'm leaving," and I turned around and walked downstairs and started to head out.

Q. She say anything to you?

A. No.

Q. He say anything to you?

A. Not at that time, no.

- Q. Okay. The extent of it was: You walked in, saw and heard this, I'm out of here?
- A. Yeah.
- Q. Okay. Go ahead, please?
- A. Like I said, Jim was right behind me. I told him, and he knew I was serious. He was right behind me. She'd come running down the stairs. She did apologize to him.
- Q. Okay. She came running down the stairs. What was she wearing?
- A. She was getting dressed when she was coming down. She had her shorts. When she'd come down the stairs, she put her shirt on.
- Q. Okay.
- A. She apologized to me, said that, you know, "She wanted him to stick around." You know, just a real chatty person. Didn't want myself or Jim, mainly, to leave. I said, "Look, I'm out of here. I don't want to be here, so we are leaving." Jim looked at her and said, "Look, we are leaving. We are leaving." So we left and spent the rest of the evening looking at sites.
- Q. Okay. I'm sorry. I may jump in here.
- A. No. Go ahead.
- Q. About how long were you at her house that time?
- A. It was not very long, maybe 20/30 minutes.
- Q. Okay.
- A. Like I said, she knew right away. I told him and her both that I didn't want to be there. I wanted to go. She started with him, "Well, come upstairs and talk to me. I want to talk to you in private." When she'd come down, we was downstairs maybe another five or ten minutes. She kept trying to start conversation to get us to stay, you know, talk about my family and things like that or what we have seen. Just any conversation she'd come up with, and I just said, "Look, we are leaving." We left there, and we just started our sites back up in D.C.

- Q. Okay. You went around and did some more of the site-seeing stuff and things like that?
- A. Uh-hum.
- Q. Was he still getting phone calls, text messages, and things like that?
- A. Constantly, constantly.
- Q. Okay.
- A. I told him not to answer them. I said, "Look, I'm here. I'm out of town. Let's go see the sites."
- Q. How did you know who it was?
- A. He told me.
- Q. Okay.
- A. He never answered any of them that I'm aware of. Maybe, he answered text, not that I seen it. Eventually, he turned off his phone because it was just constantly going off; so he eventually turned it off. We spent the rest of the evening looking at the sites. Got back to his house, I have no idea what time -- around dinnertime and we had dinner.
- Q. Still light out or was it getting dark?
- A. It might have been getting close to dusk, maybe getting a little dark out.
- Q. Okay.
- A. It was [inaudible] where we ate dinner outside at his house in the back porch, I think. It was getting there but not too late.
- Q. Okay. You think this was Saturday; is that right?
- A. This would have been the day after the parade.
- Q. Okay. I think earlier, you said you got in on a Friday, the day of the parade. If that's correct, this would have been on a Saturday?
- A. Yes. It would have been because I drove home on Sunday, so yes.
- Q. Okay. You said he picked you up at the airport, so did you fly home?
- A. No. I drove him. Me and him drove back to Indiana.

Q. Okay. You all drove back together?
A. Yes.

Q. Okay. Why was he going back?
A. His dad's birthday.

Q. Okay. I'm sorry. I jumped to the conclusion and assumed since you flew in, you would fly back. Okay. Was that it? Sunday, you got in the car -- I mean, what time did you all get up and get in the car?
A. It was early because it was a long drive home. We got up --

Q. Get up, get something to eat, and get in the car?
A. Visited his wife, yeah. We visited for a little bit before we left. She walked us out; we got in the vehicle and headed home.

Q. Okay. Was he -- I'm sorry. Go ahead.
A. We made a stop at Iwo Jima Memorial, and that was the only stop we made until clear across, you know.

Q. Okay. About how long of a drive?
A. Ten hours, I think.

Q. Okay.
A. Maybe eight.

Q. Was he getting phone calls and text messages during the drive?
A. It started. I didn't ask nothing. I knew his phone was going off. He eventually shut it off, said he was on vacation going to his dad's birthday.

Q. Okay. Did he say anything about who it was?
A. I didn't ask. I didn't -- I just let it go.

Q. Okay. He didn't say anything?
A. No. He never come out and said, "This person is calling me again."

- Q. Okay. He was going back for his dad's birthday. Did you all hang out while you all were back home?
- A. No. Well, we did. We went to his mom and dad's. Like I said, I've known Jim for a long time. I know his parents real well too.
- Q. Uh-hum.
- A. So I went out. I tried to go see them once in a while even though he was not there, pretty close-knit family.
- Q. Okay.
- A. But no, we went out. I visited with his parents; had dinner that Sunday night with him and his parents; then he took me home late that evening. He was only there -- I don't know how long he stayed before he had to come back.
- Q. Okay. Did you all talk about this at all, anything that happened while you all were at home?
- A. Uh-uhn.
- Q. When did you find out that he was charged? I guess NCIS contacted you at some point in time; right?
- A. Yes.
- Q. Between this visit to D.C. and NCIS contacting you -- I mean, did you talk to him?
- A. Yes. I got a call probably the same day or the day before NCIS contacted me.
- Q. Okay. From him?
- A. Yes.
- Q. Did you all talk about what happened that night?
- A. No. He was pretty upset. He needed to talk to me. He called me up. He told me that he was being charged. Told me what he was being charged for. It was a short conversation. There was a lot going on, obviously, with him. His wife was upset and things going on. That was pretty much it.
- Q. Okay. You all didn't talk about the details of what happened that day or anything?
- A. No. It was just [inaudible], you know, [inaudible] said that was absurd. I mean, didn't go into details

[inaudible]. We know that isn't what happened. We know that's not true, you know.

Q. Okay. Now after -- again, I'm just curious. I mean, after NCIS contacted you --

A. Uh-hum.

Q. -- I guess up through now, have you talked to him?

A. Oh, absolutely.

Q. About the case?

A. No.

Q. Not at all?

A. Well, very small things. "Hey, I got to go out to Quantico for a trial hearing" or something like that. Details or --

Q. But nothing about the facts and circumstances of what happened?

A. Nothing of what he was being told or anything like that. We knew better. It's common sense. I didn't ask; he wasn't going to tell me but no.

Q. It was just like, "Hey, man. I'm going to Quantico this week"?

A. Well, he would tell me why. Hey, I got to --

Q. Yeah. I got an arraignment. I got an Article 32 or something like that?

A. Yeah.

TC: Okay. That's all the questions I have for you right now.

DEP: Okay.

DO: Thank you, Captain Combe. Major McConnell, in light of your objection, I do not know what your intentions are at this time.

DC: I'll just kind of restate my objection to say: I'm not going to ask any questions, not necessarily because I don't have any questions to ask; but because of the objection, I'm not going to be party and Captain Rowe does not wish to be party to the deposition because we

think it's objectionable. That's pretty much all I will say.

DO: Very well. In light of the foregoing, this deposition is concluded at 1658 on 15 September 2011.

The deposition closed at 1658, 15 September 2011.

[END OF PAGE]

ATTESTING CERTIFICATE

I am a qualified court reporter in the U.S. Marine Corps, sworn in accordance with Article 42(a) of the UCMJ, and assigned to the Office of the Staff Judge Advocate, Marine Corps Base, Quantico, Virginia.

I declare under penalty of perjury that this transcript is a true and accurate verbatim account of the questions by the trial counsel and the testimony of the deponent during the deposition on 15 September 2011 in the case of *United States v. Rowe*. Such transcript was produced from a digital audio recording of the courtroom proceedings of 15 September 2011.

Executed this 19th day of September 2011 at the Office of the Staff Judge Advocate, Marine Corps Base, Quantico, Virginia.



D. R. Miller
Sergeant
U.S. Marine Corps


19 SEP 2011
Date

**AUTHENTICATION OF DEPOSITION
IN THE CASE OF**

**Captain James M. Rowe, XXX XX 0267, U.S. Marine Corps, Marine
Corps Detachment Fort Sill, located at Fort Sill, Oklahoma.**

Deposition Officer Certification

In accordance with RCM 702(f)(8), I have examined the record of the deposition in these proceedings and caused those changes to be made which are necessary to report the proceedings accurately



A. M. CONTRERAS
Captain
U.S. Marine Corps
Deposition Officer

20 Sep 2011
Date



UNITED STATES MARINE CORPS
MARINE CORPS COMBAT DEVELOPMENT COMMAND
3300 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5033

5800
C 06

AUG 31 2011

From: Commanding General
To: Military Justice Officer, Marine Corps Base Quantico

Subj: REQUEST FOR DEPOSITION IN THE CASE OF UNITED STATES V. CAPTAIN JAMES
M. ROWE 0267/0802 USMC

Ref: (a) Rule for Courts-Martial 702, UCMJ

1. The request is hereby approved, and Captain Antonio M. Contreras, U.S. Marine Corps is hereby appointed deposition officer.

2. Captain Antonio M. Contreras will familiarize himself with his duties under RCM 702 and Article 49, UCMJ and will complete the deposition no later than 15 September 2011.

RICHARD P. MILLS

Copy to:
Captain Antonio M. Contreras, USMC



UNITED STATES MARINE CORPS
OFFICE OF THE STAFF JUDGE ADVOCATE
3250 CATLIN AVENUE
MARINE CORPS BASE
QUANTICO, VIRGINIA 22134-5001

5800
B 0521
25 Aug 11

From: Military Justice Officer, Marine Corps Base Quantico
To: Commanding General, Marine Corps Combat Development Command
Subj: REQUEST FOR DEPOSITION IN THE CASE OF UNITED STATES V. CAPTAIN JAMES
M. ROWE 0267/0802 USMC
Ref: (a) Rule for Courts-Martial 702, UCMJ

1. This is a request to order the oral deposition of Mr. Jeremy Owens, a necessary and material witness in the above captioned case.
2. Captain James M. Rowe, USMC is pending a General Court-Martial at Marine Corps Base Quantico, Virginia. Captain Rowe is being prosecuted for alleged (1) Rape and Carnal Knowledge; specifically, aggravated sexual assault by using threats or placing in fear, abusive sexual contact by using threats and placing in fear, indecent act, and wrongful sexual contact, (2) Sodomy, (3) Extortion, (4) Assault, (5) Conduct Unbecoming an Officer and a Gentleman, and (6) General Article offenses; specifically, adultery, disorderly conduct and drunkenness, indecent language and soliciting another to commit an offense. All of the aforesaid occurred on or about 28 August 2010. Mr. Owens, a percipient witness, is alleged to have been present during and a participant in the sexual assault.
3. Mr. Owens is a critical witness as he was present when the alleged misconduct occurred and has personal knowledge regarding the charged misconduct. Mr. Owens will be called to testify to the facts and details surrounding the sexual assault.
4. Pursuant to paragraph (c) (2) (C) of the reference, this deposition is requested because Mr. Owens has evaded requests by Naval Criminal Investigative Service special agents, trial counsel, and defense counsel for questioning in preparation of Captain Rowe's impending General Court-Martial. Mr. Owens has stated that he will not voluntarily appear at Captain Rowe's General Court-Martial. Due to Mr. Owens evasive and uncooperative position, it is likely that he will be unavailable at the time of Captain Rowe's General Court-Martial. As such, an oral disposition of Mr. Owens is requested to preserve his testimony for use at Court-Martial.
5. Mr. Owens' is currently employed at GECOM, Corp., 1025 Barachel Lance, Greensburg, Indiana 47240-1269. Mr. Owens is not currently pending criminal charges in civilian criminal court as a result of the sexual assault. Adequate preparation for a fair trial and preservation of this witness's testimony are the reasons for requesting an oral deposition.


C. M. HOOVER

EXHIBIT 1

2 OF 2