

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF Patrick W. Weatherman TAKEN AT 2150 DATED 4 SEP 09

9. STATEMENT (Continued)

at approximately 0455. I went to main medical and when I came back P.O. Dimartino was gone. P.O. Higbie and EMS Freeh were outside the cell. They left a few moments later and P.O. Dimartino arrived and then I left. I did not hear about incident or anything else until Mr. Oniel called a meeting at approximately 0800, later that morning.

Q1: Did you see Huertas, McCabe or Keefe at the detainee facility?

A1: I don't remember seeing them at the detainee facility.

Q2: What was the condition of the detainee ~~at the time of the medical exam.~~ ^{plw} ~~at the time of the medical exam.~~

A2: Fine, NO visible deformities or trauma.

Q3: Were pictures taken prior to the detainee medical exam.

A3: As far as I know, yes.

Q4: Do I know of any animosity between P.O. Dimartino and Huertas, McCabe and Keefe.

A4: NO.

Q5: DO I know of any reason why we would lie about incident.

A5: NO.

INITIALS OF PERSON MAKING STATEMENT

plw

PAGE 2 OF 3 PAGES

STATEMENT OF Patrick L. Weatherman TAKEN AT 2150 DATED 4 SEP 09

9. STATEMENT (Continued)

Q6: Did I do a medical exam prior to detainee being turned over to Iraqi police?

A6: NO.

Q7: DO I THINK SOMEONE FROM MY DETACHMENT ABUSED DETAINEE?

A7: NO.

Q8: DO I HAVE ANYTHING ELSE TO ADD TO THIS STATEMENT.

A8: NO.

No Further Entries

AFFIDAVIT

I, Patrick L. Weatherman, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Patrick L. Weatherman
(Signature of Person Making Statement)

WITNESSES:

John J. Westfall

JOHN J. WESTFALL
SEAL TEAM SEVEN - SOTF-W

ORGANIZATION OR ADDRESS

SOTF-W

ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4th day of September, 2009 at CAMP MONSOUR, RAMADI IRAQ

Alan Wing
(Signature of Person Administering Oath)

ALAN WING
(Typed Name of Person Administering Oath)

LCDR USN
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PLW

PAGE 3 OF 3 PAGES

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your Social Security Number is voluntary.

1. LOCATION <i>Kamadi</i>	2. DATE <i>9 SEP 89</i>	3. TIME <i>2140</i>	4. FILE NO.
5. NAME (Last, First, MI) <i>Weatherman Patrick L.</i>	8. ORGANIZATION OR ADDRESS <i>SEAL TEAM TEN 1900 GATOR BLVD NORFOLK VA 23521</i>		
6. SSN <i>552-837825</i>	7. GRADE/STATUS <i>HM1 E-6</i>		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States *NAVY* and wanted to question me about the following offense(s) of which I am suspected/accused: *Detainee Abuse*

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- (For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -

(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS (Continue on reverse side)

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES (If available)		3. SIGNATURE OF INTERVIEWEE <i>Patrick R Weatherman</i>
1a. NAME (Type or Print) <i>John J Westfall</i>	696-3762 SVP	4. SIGNATURE OF INVESTIGATOR <i>Alan Wing</i>
b. ORGANIZATION OR ADDRESS AND PHONE <i>SEAL TEAM SEVEN SOTF-W</i>		5. TYPED NAME OF INVESTIGATOR <i>ALAN WING</i>
2a. NAME (Type or Print)		6. ORGANIZATION OF INVESTIGATOR <i>SOTF-W</i>
b. ORGANIZATION OR ADDRESS AND PHONE		

Section C. Non-waiver

- I do not want to give up my rights
 I want a lawyer I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. **WARNING** - Inform the suspect/accused of:
 - a. Your official position.
 - b. Nature of offense(s).
 - c. The fact that he/she is a suspect/accused.
2. **RIGHTS** - Advise the suspect/accused of his/her rights as follows:

"Before I ask you any questions, you must understand your rights."

 - a. "You do not have to answer my questions or say anything."
 - b. "Anything you say or do can be used as evidence against you in a criminal trial."
 - c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer

can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

- or -

(For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."

- d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"

(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?"

(If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"

(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.

2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS (Continued)

STATEMENT

Place : NCISRA Iraq, Camp Ramadi, Iraq

Date : September 5, 2009

plw I, Patrick L. Weatherman, make the following free and voluntary statement to Special Agent John Stamp whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of the alleged abuse of detainee Ahmad Hashim Abd. *plw*

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

plw This statement is given as a ^{*plw*}supplemental to the statement I provided to command on 04SEP09. *plw*

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

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

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

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

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


^{plw} This statement, consisting of this page and 1 other page(s) was typed for me by Special Agent John Stamp as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief. ^{plw}

Signature: Patrick L. Weatherman

Sworn to and subscribed before me this 5 day of September in the year 2009 at

NCIS RA Camp Ramadh, Iraq

Witnessed: _____



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

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is PMG.

PRIVACY ACT STATEMENT

AUTHORITY: Title 10, USC Section 301; Title 5, USC Section 2951; E.O. 9397 Social Security Number (SSN).
PRINCIPAL PURPOSE: To document potential criminal activity involving the U.S. Army, and to allow Army officials to maintain discipline, law and order through investigation of complaints and incidents.
ROUTINE USES: Information provided may be further disclosed to federal, state, local, and foreign government law enforcement agencies, prosecutors, courts, child protective services, victims, witnesses, the Department of Veterans Affairs, and the Office of Personnel Management. Information provided may be used for determinations regarding judicial or non-judicial punishment, other administrative disciplinary actions, security clearances, recruitment, retention, placement, and other personnel actions.
DISCLOSURE: Disclosure of your SSN and other information is voluntary.

1. LOCATION SOTF-W (RAMADI)	2. DATE (YYYYMMDD) 20090904	3. TIME 1929	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME DE MARTINO, MEVIN, DARIO	6. SSN 564-95-4302	7. GRADE/STATUS E-4 / ACTIVE DUTY	
8. ORGANIZATION OR ADDRESS NSW DET (DE)			

9. I, KEVIN DARIO DE MARTINO, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

AT APPROXIMATELY 0330^{15 SEP 09}, OPERATORS FROM NSW DET (DE) LANDED IN BAHARIA, IRAQ AFTER COMPLETING OBJECTIVE AMBER. THE OBJECTIVE WAS A SUCCESS AND THEY HAD THE TARGETED DETAINEE WITH THEM. I OBSERVED THE DETAINEE WHO WAS FLEX CUFFED AND HAD A MASK COVERING HIS FACE. HE APPEARED TO BE IN GOOD HEALTH. OUR ORIGINAL PLAN WAS TO HAND THE DETAINEE OVER TO FALLUJAH ISWAT. THEY HAD CUSTODY OF THE DETAINEE WHILE I WAITED OUTSIDE THE SPACE THEY WERE HOLDING HIM IN. LT. ONEIL WAS TALKING TO THE ISWAT 2F. AND THEY DECIDED TO LET THE ISWAT MEMBERS REST AND WE WOULD TAKE CUSTODY OF HIM UNTIL THEN. ~~AT~~ THIS AGREEMENT WAS MADE AFTER THE DETAINEE HAD ALREADY BEEN BACK TO OUR SCREENING FACILITY ONCE FOR PHOTOGRAPHS. WHEN DIRECTED BY LT. ONEIL, I WALKED THE DETAINEE BACK TO OUR SCREENING FACILITY ONCE AGAIN I HAD CONTROL OF HIM BY MYSELF FOR A FEW MINUTES BEFORE HM' WEATHERMAN ENTERED TO COMPLETE HIS MEDICAL SCREENING. AT THIS TIME, WE REALIZED THAT THE MEDICAL SCREENING FORMS THAT ARE USUALLY KEPT IN THE SCREENING FACILITY WERE NOT THERE. I WALKED TO MY ROOM TO LOOK TO SEE IF I HAD THE PAPERWORK. I COULDN'T FIND IT SO HM' WEATHERMAN HAD TO GO TO HIS MEDICAL CLINIC TO GET THEM. THIS WAS ONE OF TWO PERIODS WHERE I LEFT THE SCREENING FACILITY. WHEN I RETURNED

10. EXHIBIT	11. INITIALS OF PERSON MAKING STATEMENT KDD	PAGE 1 OF <u>3</u> PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____"

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

ENCLOSURE (E)

USE THIS PAGE IF NEEDED. IF THIS PAGE IS NOT NEEDED, PLEASE PROCEED TO FINAL PAGE OF THIS FORM.

STATEMENT OF KEVIN D. DEMARTINO TAKEN AT RAMADI DATED 4 SEP 09

9. STATEMENT (Continued)

SO⁻ HIGBIE ^{AND LT. F. REEH} WAS INSIDE THE SCREENING FACILITY. THEY LEFT SHORTLY AFTER I RETURNED I LEFT ONE MORE TIME TO PUT MY RIFLE IN MY ROOM AND TO TALK TO THE INTELLIGENCE OFFICER ABOUT THE PROCESSING OF THE DETAINEE. WHEN I RETURNED, I SAW KM'WEATHERMAN STANDING OUTSIDE WORKING ON HIS MEDICAL PAPERWORK. I LOOKED IN AND SAW SO⁻ HVERTAS, SO⁻ MCCABE, AND SO⁻ KEEFE STANDING NEAR THE DETAINEE. I WALKED IN AND STOOD NEXT TO THEM. IT WAS AT THIS TIME WHEN SO⁻ MCCABE STRUCK THE DETAINEE (WHO WAS STANDING) AND KNOCKED HIM TO THE GROUND. THEY SAW THE REACTION ON MY FACE AND REMINDED ME THAT THE DETAINEE HAD KILLED SEVERAL AMERICANS. SHORTLY AFTER, I NOTICED SMALL AMOUNTS OF BLOOD ON THE LIPS OF THE DETAINEE. THE THREE DEPARTED AND I STOOD WATCH ON THE DETAINEE UNTIL DRAY WHEN WE RELEASED HIM TO FALLUJAH ISWAT.

Q1: DID THE THREE SEALS THAT YOU SAW IN THE ROOM THREATEN YOU IN ANY WAY AFTER YOU WITNESSED THE STRIKE?

A1: NO

Q2: DESCRIBE YOUR RELATIONSHIP WITH THE THREE SEALS.

A2: THE THREE SEALS HAVE BEEN VERY PROFESSIONAL AND EXEMPLARY SAILORS THIS DEPLOYMENT. I GOT ALONG WITH ALL THREE OF THEM VERY WELL.

Q3: WHY DID YOU WAIT THREE DAYS TO REPORT IT?

A3: I WAS COMPLETELY DUMBFOUNDED BY THE INCIDENT. I WANTED TO MAKE SURE I WASN'T GOING TO MAKE A WRONG DECISION I TALKED TO TWO OF MY IMMEDIATE SENIORS FOR ADVICE AND TALKED TO LT. ONEIL SHORTLY AFTER.

INITIALS OF PERSON MAKING STATEMENT

KDD

PAGE 2 OF 3 PAGES

STATEMENT OF KEVIN D. DEMARTINO TAKEN AT RAMADI DATED 4 SEP 09

9. STATEMENT (Continued)

Q:4 WHEN DID YOU NOTICE HE WAS BLEEDING?

A: I NOTICED HE WAS BLEEDING AFTER I PICKED HIM UP OFF OF THE FLOOR.

Q:5 WHAT WAS THE REACTION OF LT. O'NEILL WHEN YOU TOLD HIM ABOUT THE ACCIDENT?

A: HE BRIEFLY INTERVIEWED ME AND ASKED ME WHAT HAD HAPPENED. HE IMMEDIATELY CONTACTED CDR STAHL AND THE SOTF-W JAG OFFICER.

Q:6 DO YOU HAVE ANY FURTHER DETAILS OR ADDITIONS TO YOUR STATEMENT THAT YOU FEEL ARE PERTINENT?

A:6 NO

END OF STATEMENT



AFFIDAVIT

I, KEVIN DARIO DEMARTINO, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE _____. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

[Signature]
(Signature of Person Making Statement)

WITNESSES:

Lance Flake, YMC(HW)
SOTF-W HQ Ramadi, Iraq

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

ODD

INITIALS OF PERSON MAKING STATEMENT

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4th day of September, 2009 at CAMP MONITOR, RAMADI IRAQ

[Signature]
(Signature of Person Administering Oath)

ALAN WING
(Typed Name of Person Administering Oath)

LCDR, USN
(Authority To Administer Oaths)

RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
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ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your Social Security Number is voluntary.

1. LOCATION <i>SOTF-W</i>	2. DATE <i>4 SEP 09</i>	3. TIME <i>1424</i>	4. FILE NO.
5. NAME (Last, First, MI) <i>DE MARTINO, KEVIN, D</i>	8. ORGANIZATION OR ADDRESS <i>NSWDET 10E</i>		
6. SSN <i>564-95-4302</i>	7. GRADE/STATUS <i>E-4/ACTIVE</i>		

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States ~~Army~~ ^{*NAVY*} and wanted to question me about the following offense(s) of which I am suspected/accused: *NOT SUSPECTED AT THIS TIME.*

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

- I do not have to answer any question or say anything.
- Anything I say or do can be used as evidence against me in a criminal trial.
- (For personnel subject to the UCMJ)* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

- or -


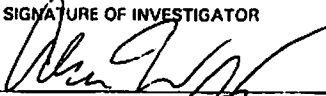
(For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.

- If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

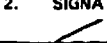
Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES <i>(if available)</i>		3. SIGNATURE OF INTERVIEWEE 
1a. NAME <i>(Type or Print)</i> <i>Lance V. Fleke</i>		
b. ORGANIZATION OR ADDRESS AND PHONE <i>SOTF-W Ramadi, Iraq</i>		4. SIGNATURE OF INVESTIGATOR 
2a. NAME <i>(Type or Print)</i>		5. TYPED NAME OF INVESTIGATOR <i>ALAN WING</i>
b. ORGANIZATION OR ADDRESS AND PHONE		6. ORGANIZATION OF INVESTIGATOR <i>SOTF - W</i>

Section C. Non-waiver

- I do not want to give up my rights
 I want a lawyer I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE


ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT (DA FORM 2823) SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

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"Before I ask you any questions, you must understand your rights."
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- d. *"If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."*

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"

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"Do you want a lawyer at this time?"

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PRIOR INCRIMINATING STATEMENTS:

1. *If the suspect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.*

2. *If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.*

NOTE: *If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.*

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: *If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")*

COMMENTS (Continued)

STATEMENT

Place : NCISRA Camp Ramadi, Iraq

Date : September 5, 2009

ADD I, Kevin Dario Demartino, make the following free and voluntary statement to Special Agent John Stamp whom I know to be a Representative of the United States Naval Criminal Investigative Service. I make this statement of my own free will and without any threats made to me or promises extended. I fully understand that this statement is given concerning my knowledge of the abuse of detainee Ahmad Hashim Abd. *ADD*

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

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

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

Abd *ADD*

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

ADD I picked up detainee Abd from the floor and set him in a chair. He was still bound with his hands behind his back and he was wearing a mask covering his eyes and nose. Abd's mouth was visible and I observed blood coming from his lip. I kept custody of Abd until approximately 0800 when Lt. James Oneil, Seal Team Ten, came to escort him to the Iraqi Police. When Lt. Oneil entered the screening facility he immediately noticed blood on Abd's gown and asked me what happened. I told Lt. Oneil that I had left a couple of times and that some team guys had been in here, meaning the screening facility with the detainee. Lt. ^{ADD} Oneil then went and woke SO1 Huertas, the Seal Lead Petty Officer to advise him of what happened. Lt. Oneil and Huertas gave Abd a new gown and cleaned up his face before we escorted him to the Iraqi Police. *ADD*

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

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

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

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

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

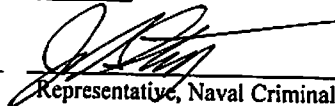
AD This statement, consisting of this page and 1 other page(s) was typed for me by Special Agent John Stamp as we discussed its contents. I have read and understand the above statement. I have been given the opportunity to make any changes or corrections I desire to make and have placed my initials over the changes or corrections. This statement is the truth to the best of my knowledge and belief. AD

Signature: 

Sworn to and subscribed before me this 5 day of September in the year 2009 at

NCISRA Camp Ramadi, Iraq

Witnessed: _____


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

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

13SEP09

UNCLASSIFIED//FOR OFFICIAL USE ONLY

S/MCCABE, MATTHEW VERNON/SO2, USN

M/W/NEE5/S/270-84-1386/12JUN85/TOLEDO, OH

DUSTA: NAVAL SPECIAL WARFARE TEAM 10, NORFOLK, VA

X/HUERTAS, JULIO ANTONIO/SO1, USN

M/H/NEE6/TS/331-72-8310/09APR81/CHICAGO, IL

DUSTA: NAVAL SPECIAL WARFARE TEAM 10, NORFOLK, VA

X/KEEFE, JONATHON ELLIOT/SO2, USN

M/W/NEE5/S/224-33-1893/10MAY84/NEWPORT NEWS, VA

DUSTA: NAVAL SPECIAL WARFARE TEAM 10, NORFOLK, VA

V/HASHIM, AHMAD ABD AL-ISAWI M/W/FNIZ/N/01JUL69/IRAQ

RESULTS OF INTERVIEW OF MA3 DARIO DEMARTINO, USN

1. (U) On 13SEP09, Reporting Agent (RA) conducted a re-interview of MA3 Kevin Dario DEMARTINO, Naval Special Warfare Team 10, regarding the alleged abuse of Iraqi Detainee Ahmad Hashim Abd AL-ISAWI (V/HASHIM) on 01SEP09. DEMARTINO was asked a specific set of questions in order to assist in his re-interview in regard to his version of events. DEMARTINO had previously given a sworn statement, the questions listed below are a supplement to that statement:

1. How long were you gone from the screening facility before you observed Huertas, McCabe and Keefe?

I left once to go get medical paperwork, once to put rifle away. I was away from the detention facility approximatley five to ten minutes before returning to find X/HUERTAS, S/MCCABE, and X/KEEFE inside with the detainee.

2. What did you first see?

I saw S/MCCABE, X/HUERTAS, and X/KEEFE standing three feet away from the detainee. The detainee was facing them, standing up against the wall. He did not appear to be in any distress.

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3. What did you first hear?

I did not hear anything out of the ordinary when I returned to the detainee facility.

4. Is there a sign in log book?

No. No video either.

5. Describe the exact positioning of Huertas, McCabe and Keefe when you entered?

Al-Isawi was standing up, facing S/MCCABE, X/HUERTAS, and X/KEEFE, with his back to the wall. He did not seem distressed. Huertas, Mccabe, and Keefe, were three feet away from him.

6. What did they say to you when you entered?

I don't remember anything being said.

7. What did you say to them?

Nothing.

8. Did it appear like something was going on? What did you first think when you entered?

Yes, because I saw X/Huertas looking out the door, as if making sure no one saw that would report what they were doing. When I walked in I didn't think anything was going to go on, as if me being there would deter them from doing anything to the detainee.

9. Why would they be in there?

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They had no reason to be in there. With past detainees the team guys would poke their heads in to look at a detainee but I'd never seen them abuse detainees before.

10. What was Al-Isawi doing?

He was just standing there.

11. What Abd sitting or standing?

Standing.

12. Did X/HUERTAS, S/MCCABE or X/KEEFE have their hands on Al-Isawi in any way? Helping him stand?

No, I didn't see anyone touch him until S/MCCABE hit him.

13. Did you ask X/HUERTAS, S/MCCABE or X/KEEFE what they were doing?

No.

14. Where were X/HUERTAS and X/KEEFE when S/MCCABE struck AL-ISAWI? Where they holding his arms? **(Have DEMARTINO draw a diagram of everyone's position when the assault occurred)**

NOTE: DEMARTINO drew two diagrams of both the screening facility and an overall layout of NSW 10's compound aboard Camp Schwedler, Baharia, Iraq. The two diagrams are added as enclosures (A) and (B).

They were in the same positions I pointed out earlier, S/MCCABE just reached out and hit him.

15. How long were you standing next to S/MCCABE before he struck AL-ISAWI? Did S/MCCABE say anything before he struck AL-ISAWI? Did

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X/HUERTAS and X/KEEFE say anything either right before or after the punch?

I was standing next to S/MCCABE less than a minute before he hit Al-Isawi. S/MCCABE didn't say anything before he hit him. After the punch, X/HUERTAS and X/KEEFE laughed, and X/KEEFE yelled at the detainee, like a roar. As they were walking out, Huertas said that's enough, he'll get more later.

16. Was there any other conversation that took place in the screening facility other than what you have already told me about?

No.

17. Has anyone attempted to influence your statement? Has S/MCCABE, X/HUERTAS or X/KEEFE spoke to you since you observed the assault? If so, what did they say?

X/HUERTAS wanted to write my sworn statement with me. That's what was the breaking point, what lead me to report it. He also told me, "that guy fucked himself up, your being very unprofessional right now," after he saw me hanging around the TOC. And after the meeting with Lt. Oneil the day this happened, X/HUERTAS said to me, "get in there with those guys and get your story straight." X/HUERTAS was referring to the entire Seal Team and HM1 Weatherman.

18. What did you think when you saw blood on AL-ISAWI'S lip? Did you tell anyone about it?

I was scared but I didn't think it was from S/MCCABE'S punch. I don't think that injury could have happened from a blow like that. I thought that before I got back from putting my rifle away one of those three guys did something to AL-ISAWI, to cause the injury to his lip.

19. Did you ever speak to AL-ISAWI? Did AL-ISAWI ever say anything to you?

I yelled at him to wake up once, when he was trying to fall asleep.

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20. When Lt O'NEIL and X/HUERTAS returned to clean up AL-ISAWI, what did they say about the blood? Did they speak to AL-ISAWI? Did AL-ISAWI say anything to them?

When the Lt. mentioned the wound to X/HUERTAS, Huertas said, "Do you think this could have happened on extract?" meaning during AL-ISAWI'S capture. X/HUERTAS was acting like he was feigning ignorance of the injury.

21. Is there anything else I should ask you about but haven't?

I think he was abused by other Seals but didn't see any other abuse.

22. Did you see anyone else walking around or toward the detention facility while you were leaving to get your medical paperwork or put your rifle away?

When I left the detention facility the first time to get the medical clipboard I saw SO2 HIGBIE riding on a quad runner in the direction of the screening facility. I did not see him go to the screening facility though. When I was coming back with the clipboard I noticed HIGBIE leaving the facility. He said to me, "Nothing happened back here, relax," as he was leaving. At that time I looked in on the detainee, and he seemed to be in no distress. Also, HM1 WEATHERMAN was there, and I don't think he would have let anything happen to the detainee. I didn't see anyone coming or going from the detention facility when I went to put my rifle away. When I was coming back I did not see anyone coming or going from the detainee facility. When I got back to the detainee facility is when I saw X/HUERTAS, S/MCCABE, and X/KEEFE in the room with the detainee. HM1 WEATHERMAN was right outside the door to the detention facility when I went inside, he would have heard if the detainee was being abused while I was gone. I only left the detainee twice.

ENCLOSURES

(A) Diagram of Screening Facility by DEMARTINO/13SEP09 (u)

(B) Diagram of NSW 10 compound by DEMARTINO/13SEP09 (u)

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REPORTED BY: JOHN R. STAMP, SPECIAL AGENT
OFFICE: NCISRA IRAQ, AR RAMADI, IRAQ

Remarked to Unclassified on 09Dec09
By Authority of Soccent SSO
Initials: cga

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