



Freeh proceeded to the detainee holding area to locate Weatherman. When they arrived at the detainee holding facility, Higbie looked inside to see if Weatherman was present. SO2 Higbie did not see anyone present with the detainee, so he waited outside the door to the CONEX container with LTJG Freeh. Soon thereafter MA3 Demartino arrived and SO2 Higbie and LTJG Freeh took the ATV back to the kitchen. At the kitchen, SO2 Higbie dismounted and LTJG Freeh took the ATV back toward the TOC indicating he would eat as soon as he finished what he needed to do.

At the detainee holding area, SO2 Higbie was in the CONEX for only a few seconds – just enough to ascertain whether HM1 Weatherman was present. At the time SO2 Higbie looked in the CONEX the detainee was seated with his hands behind his back and was wearing the mask to obscure his vision. All looked in order, except for the fact that no one was with the detainee guarding him at the time. SO2 Higbie did not see any of the other SEALs present at the CONEX, except LTJG Freeh, whom he arrived with. He did not see any American strike AMBER. SO2 Higbie did not strike AMBER. No one told SO2 Higbie that they had hit or struck AMBER at any time.

After SO2 Higbie finished breakfast, he went back to the TOC to complete his debrief with Captain Antonini. This call was made at 5:30 AM according to the secure phone, which registered the time of the call. This is the only specific time that SO2 Higbie is sure about because the time was recorded on the phone when the call was made. The rest of the times are best estimates.

After SO2 Higbie completed his call, he took a shower and went to bed. He had not slept but for a few hours over a period of longer than a day and he was tired. At approximately 0830, SO2 Higbie was awakened and told he was to report to Danny's. When SO2 Higbie arrived, pretty much all of the American operators in the camp were present – approximately 20-25 persons. LT O'Neil addressed the group and told them that there have been allegations of prisoner abuse. LT O'Neil reiterated that the prisoner was complaining to the Iraqis about prisoner abuse and that he, LT O'Neil, would have to report it. SO2 Higbie had no idea what LT O'Neil was talking about, and did not believe that any one in the room would abuse the detainee, so he spoke up stating: "Nobody hit this guy." Others spoke up and echoed what SO2 Higbie had stated. The meeting ended and SO2 Higbie went back to bed.

A few hours later, SO2 Higbie was awakened and told that he was going on a convoy to get the detainee back from the Iraqis. SO2 Higbie was a driver in a two vehicle convoy to try to return the prisoner to US control. Although LT O'Neil negotiated for several hours with the Iraqis, the detainee was not released and the convoy returned to base without the detainee.

After returning to the base, SO2 Higbie was told that they were going back for the detainee. This was done during daylight hours. Again SO2 Higbie was a driver of one of the two vehicles in the convoy. On this occasion, after hours of negotiations, AMBER was released back to the Americans. At the Iraqi police station, SO2 Higbie remained in his vehicle and did not see the detainee. The detainee rode in the other vehicle so SO2

Higbie was not able to observe him or determine his condition.

AMBER was transported to the detainee holding facility at Baghdad International Airport. The members of the convoy turned over the detainee at BIAP, ate chow at the BIAP dining facility and then returned to their base.

SO2 Higbie believes that the next day, following the 1800 daily meeting, all those personnel who had any contact with the detainee were ordered by LT O'Neil to report to the MWR space and fill out a "shooter statement." LT O'Neil told those present that they were required to fill out statements detailing their contact with the detainee because there had been allegations of detainee abuse. A form was provided to each of them and they were told that the statement had to be completed and returned to LT O'Neil within 24 hours. Several people had questions about how to fill out the statement and SO2 Higbie spoke up because he had previously been called upon during his prior deployment to fill out such statements after an incident.

SO2 Higbie stood up at a white board and told those present that they should provide truthful facts, not speculation, because the document was a legal document. He put a "timeline" on the board based upon inputs of those present that identified the time that they returned "wheels down" from the operation, the time they returned to the camp in the pick-up trucks, the time the detainee was placed in the holding facility, and the time the prisoner was turned over to the Iraqis. SO2 Higbie then told the assembled group that they should fill in the truthful details of their contact with the detainee. He offered to assist anyone who needed help in formatting the shooter statement. There was no effort to tell anyone what to say; SO2 Higbie merely captured the accurate times for the return of the prisoner so that everyone had an accurate frame of time reference. Following the meeting, SO2 Higbie ate dinner and lifted weights. He then wrote his statement and provided it to LT O'Neil after being sworn to the truth of its contents. SO2 Higbie's handwritten statement of 3 September 2009 was, and is, true to the best of SO2 Higbie's knowledge and belief.

SO2 Higbie is not certain of the date, but a day or so later, he was told by LT O'Neil that he was required to travel to Ramadi to be interviewed by NCIS. LT O'Neil told SO2 Higbie that there were allegations of prisoner abuse and that everyone who provided a shooter statement had to go to Ramadi. SO2 Higbie went to Ramadi in the convoy. After they arrived in Ramadi, they were told that Weatherman, Demartino, Keefe, Huertas and McCabe would be remaining behind. SO2 Higbie was not interviewed by NCIS on this trip.

SO2 Higbie believes that a few days later, he was ordered to return to Ramadi to be interviewed by NCIS. He does not believe he was read his rights by the NCIS agent, although he is not certain. SO2 Higbie told the NCIS agent that his prior written statement, which the agent had there to review, was true and accurate. The NCIS agent re-typed it, nearly verbatim, after which SO2 Higbie was sworn to its truth. SO2 Higbie requested a copy of his written statement and the agent refused to provide it. SO2 Higbie then departed NCIS. SO2 Higbie believes that his written statement to NCIS was true

and accurate to the best of his knowledge and belief, although his recall is hampered by the fact that he does not possess a copy of the statement to review at this time.

A few days later, SO2 Higbie was ordered to return to Ramadi, this time with LT O'Neill, LTJG Freeh and SO\_ Mitchell. When he arrived at Ramadi, SO2 Higbie learned that they were going to be re-interviewed by NCIS. On this occasion, SO2 Higbie was read his rights and he requested legal counsel; the interview was terminated without providing any statement.

As Team 10 was transitioning with Team 1, SO2 Higbie had occasion to eat chow with CMC Wilsky, the Command Master Chief at TF West's camp. CMC Wilsky was apparently unaware of who SO2 Higbie was because Higbie was not wearing his uniform at the time. Chief Wilsky told SO2 Higbie that he was very disappointed in the SEALs for abusing a prisoner and even more disappointed that they had tried to cover it up, or words to that effect. SO2 Higbie told Chief Wilsky very candidly that no one did anything to the detainee and no one was covering anything up and that SO2 Higbie thought it was ridiculous that the CMC would say that without any knowledge of the facts. Chief Wilsky became quiet, made a sort of a grunt, and changed the subject.

**END OF PROFFER**

Respectfully submitted,

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