

Witness:

You can hear screams and I did hear a stop resisting one time.

Counsel:

Can you tell me what type of screams did you hear?

Witness:

Male voices screaming is the best I can give you sir.

Counsel:

After you were done unloading the bus, what did you do?

Witness:

After the bus was completely unloaded, I searched the bus for anything they may have left behind. [REDACTED] came on the bus and said that was it. We got off the bus and I went back to sleep. (b)(6)-4

Counsel:

After the mission, did you speak with anyone else about what happened on the bus?

Witness:

After unloading our vehicles, I ran into [REDACTED] and she made a statement to me. (b)(6)-5

Counsel:

What did she tell you?

Witness:

She had said she had kicked and kneed someone in the balls...the three females that escorted one of the rapists. And, that she saw [REDACTED] flip somebody. (b)(6)-5

Counsel:

When she said she kicked somebody in the balls, who did she say she kicked in the balls?

Witness:

The comment was directed towards one of the rapists. She said that the three females had escorted one of the rapists, and that she had kicked him in the leg or ball region.

Counsel:

And the rapist wasn't part of your unit?

Witness:

No he was one of the prisoners.

011818

Counsel:

And what else did she tell you? I'm sorry, you mentioned a couple things after you talked about [REDACTED] (b)(6)-5

Witness:

She had mentioned the flipping of...she said she saw [REDACTED] flip somebody, and that she had kicked somebody in the balls. (b)(6)-5

Counsel:

And then what did you do after that conversation?

Witness:

After that conversation, I found my wife. I talked to her a little bit and then I went to bed.

Counsel:

Did you...have you subsequent conversations with Master Sergeant Girman?

Witness:

Excuse me sir?

Counsel:

Did you have conversations with Master Sergeant Girman after that, after the mission?

Witness:

No sir.

Counsel:

You didn't see her in a white pickup, when you were in a white pickup with your wife?

Witness:

That wasn't after the mission sir. That was a couple weeks later, there after. After we'd been questioned by CID.

Counsel:

Okay. You want to tell me about that conversation?

Witness:

What had happened was my wife and I were in a white pickup at the ALOC. Sergeant Girman stopped by, as many others have, advised me to seek out a lawyer for question purposes. We got into a conversation, basically the words were something to the effect of, the way I phrase it was, you didn't see anything right. And I said yes that's right; I didn't see anything. She winked at me. I didn't think it of anything. I thought it was just her looking at me. That's it.

011819

Counsel:

Okay. And after that, or the day before the CID interview, did you encounter Master Sergeant Girman again?

Witness:

Yes sir. I heard a rumor the night before we were supposed to go to CID. And I went over to their tent area. What had happened was I talked to a few people prior to this.

And what it boiled down to is that [REDACTED] and I walked over toward the tent.

[REDACTED] broke off and went towards RU. I spoke to [REDACTED] who was on the back patio about my family and other things. And we went up...it was getting late so I went around the front of the tent. There was five people inside the tent plus one other. There was [REDACTED]

[REDACTED] and Sergeant Girman. They were all sitting inside the tent. And there was one other, I assumed it was [REDACTED]. It's a female I saw sitting on the floor.

I went in and I told them the rumor that I heard, that CID had names of [REDACTED] flipping somebody and somebody assaulting a male by kicking him in the balls.

Counsel:

Could you describe the layout of that tent where this meeting was occurring?

Witness:

It was towards the front of the tent, which was Sergeant Girman and [REDACTED] layout or living space. It was cordoned off by ponchos, like a poncho wall. And it was just her...Sergeant Girman lived on...when you walked in it was on the left, [REDACTED] was on the right and they were in a, kind of like a semi-circle around the area, in the front of this tent.

Counsel:

How large was the tent?

Witness:

It's a GP large.

Counsel:

Okay. And then how large is the area where you saw the meeting?

Witness:

I couldn't, enough for a cot and a walkway between each of the beds. I couldn't even begin to guess for you.

Counsel:

Was there anyone else in the tent on the other side?

Witness:

No they were all out in the back enjoying a good time.

011820

Counsel:

I apologize. Let me take you back to the bus again. You said that you poked your head outside at one point?

Witness:

(b)(6)-4
Yes sir. When I heard the stop resisting and then a scream, I was in between transitioning for a prisoner for [REDACTED]. So I popped my head out to look out towards the... I looked towards the rear of the bus and I saw what appeared to be two male soldiers with a male EPW on the ground.

Counsel:

(b)(6)-5
During a conversation with [REDACTED], did you ever tell her that you had kicked one of the prisoners?

Witness:

Yes sir.

Counsel:

Why did you do that?

Witness:

It was just to bolster my image. I was lying.

Counsel:

You were lying to [REDACTED] (b)(6)-5

Witness:

Yes sir.

Counsel:

Are you telling the truth today?

Witness:

Yes sir.

Counsel:

Okay. Sir that's all I have for right now.

I/O:

Defense?

011821

CROSS-EXAMINATION

Questions by the defense counsel: [REDACTED] (b)(6) -2

Counsel: (b)(6) -4
One moment. [REDACTED] you are in First Platoon, right?

Witness:
Yes ma'am.

Counsel: (b)(6) -4
[REDACTED] is your Platoon Sergeant?

Witness:
Yes ma'am.

Counsel:
Do you remember who detailed you to go on this mission?

Witness: (b)(6) -4
As I stated to you earlier today, to my best recollection, it was either [REDACTED] or [REDACTED] (b)(6) -4
[REDACTED] As of to when, I do not know.

Counsel:
Okay, but it came from your platoon, right?

Witness:
Yes ma'am.

Counsel: (b)(6) 4
When you got to Talil, [REDACTED] gave you a briefing about the EPWs you were going to be transporting, correct?

Witness:
Yes ma'am.

Counsel:
What did he tell you about the EPWs who was going to be on the bus?

Witness:
He told me...he pointed out to me, by using gestures instead of, so not to alert the EPWs who was a high priority; who was a low priority. Such as what...and their background as to the high priorities.

Counsel: Okay. Who were the high priorities?

Witness:

We had a General, a Major that trained the Fedahyeen soldiers. We had two FIFs, previous soldiers. Eight people that supposedly sprung their buddies out of a jail. A Major and a Captain from the police force. And two car dealers, or something to that effect, had a large sum of money on them.

Counsel:

Can you remember what he told you about the interpreter?

Witness:

My apologies. Yes there was an interpreter. He was there during, supposedly there, during the interpretation of the 507TH Maintenance Company.

Counsel:

During the interrogation?

Witness:

The interrogation of the 507TH Maintenance Company.

Counsel:

It was going to be your responsibility to load the bus, right?

Witness:

Yes ma'am.

Counsel:

And when you're loading the bus, you're the only person on the bus, right?

Witness:

Yes ma'am.

Counsel:

You'd never loaded a bus before, right?

Witness:

Not prior to this day, no ma'am.

Counsel:

Because it was your first escort mission, right?

Witness:

Yes ma'am.

Counsel:

And the guidance was low priority in the back, right?

011823

Witness:
Yes ma'am.

Counsel:
And high priority in the front.

Witness:
Yes ma'am.

Counsel: (b)(6)-4
And [REDACTED] also told you to pack'em in there pretty tight, right?

Witness:
Yes ma'am, to leave a reactionary gap.

Counsel:
Okay. So you left a large buffer so that you guys could react?

Witness:
Yes ma'am. So we don't get overrun.

Counsel: (b)(6)-4
[REDACTED] was the one that was determining who, in what order the prisoners got on the bus, right?

Witness:
That was prior to me. He was at the base of the door handing me the prisoners ma'am.

Counsel:
So your job was just to put them in their seats after he gave them to you?

Witness:
Yes ma'am.

Counsel:
You said that the Iraqi police Captain and Major were high priority, right?

Witness:
Yes ma'am.

Counsel:
And the Major who trained the Fedahyeen, he was high priority as well, right?

Witness:
Yes ma'am.

011824

Counsel:

And actually, the Major that trained the Fedahyeen was on crutches, correct?

Witness:

Yes ma'am.

Counsel:

He was the last one that you sat down on the bus?

Witness:

Yes ma'am. Yes ma'am, he was in the aisle-way ma'am.

Counsel:

So he was in the aisle-way and the Iraqi police Captain and Major were behind him in the aisle-way, correct?

Witness:

Yes ma'am. They were in line in the aisle-way ma'am.

Counsel:

And when you loaded them onto the bus, they didn't want to have to sit three to a seat, right?

Witness:

Yes ma'am.

Counsel:

So you had to tell them and move them to get them to sit, right?

Witness:

Yes ma'am.

Counsel:

So your first step is tell them to sit, right?

Witness:

Yes ma'am.

Counsel:

And then you actually had to move some of the prisoners to get them to sit where you wanted them to sit?

Witness:

Yes ma'am.

Counsel: And they didn't want to be quiet either, right?

011825

Witness:

Not during loading process ma'am. They were talking amongst each other ma'am.

Counsel:

Okay. Now you said you had some problems during the ride, right?

Witness:

Yes ma'am. They were small problems such as talking, people looking out the window, and as I said before, the Fedahyeen kept stretching his legs past our imaginary line that we had drawn.

Counsel:

Okay. So the guy on the crutches, that was sitting in the aisle...

Witness:

Yes ma'am.

Counsel:

Kept moving his legs over the line where you told him...

Witness:

Not to, yes ma'am.

Counsel:

You told him quit doing that many times during the trip, right?

Witness:

Not me personally, but a bunch of us ma'am, yes.

Counsel:

Okay. He just kept kicking his feet out.

Witness:

He kept stretching out and, yes ma'am.

Counsel:

Okay. The bus stopped at some point, right?

Witness:

Yes ma'am.

Counsel:

And, as far as you know, you weren't able to get in touch with that lead 223 vehicle, correct?

011826

Witness:
That is above my rank ma'am.

Counsel:
The signal for problems on the bus is putting on the hazards and pulling over, right?

Witness:
Yes ma'am.

Counsel:
And that signal applies if there's a mechanical problem, right?

Witness:
Yes ma'am.

Counsel:
And it also applies if there's a problem on the bus with controlling EPWs?

Witness:
To the best of my knowledge, yes ma'am.

Counsel:
Okay. So same signal for both...

Witness:
Universal ma'am.

Counsel: (b)(6)-4
Okay. The bus stopped and you and (b)(6)-4 got off the bus to pull security, correct?

Witness: (b)(6)-4 (b)(6)-4
The bus stopped. (b)(6)-4, (b)(6)-4 came up to the vehicle and knocked on the door. Somebody yelled out and told them that it was just an air hose break. That was the last I saw them and that's when (b)(6)-4 and I hopped off the bus and pulled side security. (b)(6)-4

Counsel: (b)(6)-4 (b)(6)-4
Okay. You didn't see (b)(6)-4 and (b)(6)-4 get on the bus, right?

Witness:
No ma'am.

Counsel:
And you guys actually got off the bus and pulled security outside the bus, right?

C11827

Witness:
Yes ma'am.

Counsel: (b)(6)-4
As you were...they said...I'm sorry, [REDACTED] said everything's okay; let's go?

Witness:
When we got further along, yes ma'am. He had said the driver fixed it; everything's good, let's go. We collapsed towards the door. At that time there was a bunch of people speaking, just talking. Sergeant Girman and [REDACTED] being one of them, just talking right by the door. We hopped on the bus. We got ready to leave.

Counsel: (b)(6)-5
So you talked to [REDACTED] while the bus was stopped, right?

Witness:
Yes. We just had chit-chat over basic stuff.

Counsel:
He appeared to be calm?

Witness:
Yes ma'am.

Counsel:
Wasn't upset about anything?

Witness:
No ma'am.

Counsel:
Basically, he asked you what's the setup like in there, right?

Witness:
He had asked that...he had actually come on the bus for a couple...like a minute or two. He wanted to see the setup and asked how it was setup, that kind of thing. If there were any problems. I gave him the breakdown of what was going on and then he hopped off the bus.

Counsel:
He also asked you how things were had been going on the bus, right?

Witness:
Yes ma'am.

Counsel: And you told him that some of the EPWs weren't listening to you guys.

C11828

Witness:

Yes ma'am. I told him that some were talking; some were looking around and then we had the Fedahyeen who would stretch his legs, and the Captain looking at [REDACTED] (b)(6)-5
[REDACTED], that was corrected by somebody, either [REDACTED] (b)(6)-4
[REDACTED] (b)(6)-4

Counsel:

And you talked to Master Sergeant Girman at that time?

Witness:

I talked to Master Sergeant Girman before I got on the bus ma'am.

Counsel:

Okay. So she never got on the bus?

Witness:

As far as my recollection, no ma'am.

Counsel:

How did she appear?

Witness:

Normal, collected, happy, no problems ma'am.

Counsel:

She upset?

Witness:

No ma'am.

Counsel:

Now your job when the bus stopped at Camp Bucca was then to unload, right?

Witness:

Yes ma'am.

Counsel:

And again, when you're unloading, you're the only soldier on the bus?

Witness:

Yes ma'am.

Counsel:

The first person that left the bus was that Major that was sitting in the front with the crutches, right?

011829

Witness:
Yes ma'am.

Counsel:
The one that wasn't listening prior?

Witness:
Yes ma'am.

Counsel:
You told him to get up?

Witness:
Yes ma'am.

Counsel:
And he wouldn't get up, would he?

Witness:
No ma'am.

Counsel:
Then you gave him a hand signal to get up?

Witness:
Yes ma'am.

Counsel:
Lifted your arms up and said get up?

Witness:
Yes ma'am.

Counsel:
And he still wouldn't move, right?

Witness:
No ma'am.

Counsel:
So you actually had to physically pick him up, correct?

Witness:
Yes ma'am.

C11830

Counsel:

And he wasn't cooperating with you as you were picking him up, was he?

Witness:

No ma'am.

Counsel:

Basically refused to move, even as you were trying to carry him, correct?

Witness:

Yes ma'am.

Counsel:

And you had to carry him all the way down the aisle, right?

Witness:

To the front of the door, yes ma'am.

Counsel:

Did you have to pull any other EPW up?

Witness:

As I said before, with you guys, I think if any, there was one, if any.

Counsel:

Did you push any EPW down the aisle of the bus?

Witness:

No ma'am. I did not forcibly push anybody down that aisle, ma'am.

Counsel:

Did you run with any of the EPWs down the aisle of the bus?

Witness:

No ma'am. No ma'am. I stomped my feet to make it...I don't know the proper wording...but I stomped my feet to intimidate them, ma'am.

Counsel:

Okay. But you didn't push them from behind to get them to move?

Witness:

I had my hand on one of...two of them on their back and I did not forcibly push, but I had my hands so that they would not come back towards me ma'am.

Counsel:

Now as you're unloading, the curtains on the bus are closed, correct?

011831

Witness:
Yes ma'am.

Counsel:
And you had two responsibilities at that time, correct?

Witness:
Yes ma'am.

Counsel:
You had to unload the EPWs...?

Witness:
Yes ma'am.

Counsel:
And then you had to make sure that the bus was still secure in the back, correct?

Witness:
Yes ma'am.

Counsel:
Because you were the only soldier left on the bus?

Witness:
Yes ma'am.

Counsel:
You were focused on the bus, and what you needed to do on the bus, right?

Witness:
Yes ma'am.

Counsel:
And you said you stuck your head out the front door once, right?

Witness:
Yes ma'am.

Counsel:
And you couldn't see what was going on?

C11832

Witness:

I saw, as I said, I looked towards the rear of the bus...I saw what appeared to be two U.S. male soldiers on the ground with one male EPW, but there was a light set that blinded my vision, also. I could make out the bodies of the soldiers because of the uniform, and the other was a prisoner because of the clothing he was wearing. But as for who, what, when and where, they were so far towards the rear of the bus...how far I was already extended out of the bus, I could not see anymore.

Counsel:

Okay. So you couldn't tell who it was?

Witness:

No ma'am.

Counsel:

And you couldn't tell what they were doing?

Witness:

No ma'am.

Counsel:

And you looked out that same door that (b)(6)-4 was standing at, right?

Witness:

Yes ma'am. Instead of peering out of the bus like I did, he was right below my view.

Counsel:

Now once all the EPWs were unloaded, you went back and searched the bus, correct?

Witness:

Yes ma'am. From front to rear.

Counsel:

And you found some medical tape, correct?

Witness:

Yes ma'am. I found what appeared to be one long enough role to...medical tape is what we use to secure the prisoners. Or I should say the 744TH, they didn't have flexi-cuffs. I found a long enough piece that should have been on one EPW, ma'am.

Counsel:

So you found a broken restraint on the bus?

Witness:

Yes ma'am.

C11833

Counsel:

Now, afterwards, you said you spoke to (b)(6)-5 [REDACTED] right?

Witness:

This was after the whole thing. We were back in our living area, yes ma'am.

Counsel:

That night?

Witness:

Yes ma'am.

Counsel:

You spoke with (b)(6)-5 [REDACTED] and you stated that she said that she kicked someone in the balls, rights?

Witness:

Yes ma'am.

Counsel:

And your response to her was, hey I kneed somebody too, correct?

Witness:

Yes ma'am.

Counsel:

You told her a lie.

Witness:

Yes ma'am.

Counsel:

To make yourself look tough, right?

Counsel:

And you thought that she was telling you a lie?

Witness:

Yes ma'am.

Counsel:

For the same reason, right?

Witness:

Yes ma'am.

C11834

Counsel:
Kind of make herself look tough?

Witness:
Yes ma'am.

Counsel: (b)(6)-5
You knew [REDACTED] before the twelfth of May, correct?

Witness:
Yes ma'am.

Counsel:
And kicking someone in the balls didn't seem like something she would be capable of doing, did it?

Witness:
No ma'am.

Counsel:
Cause she's quiet?

Witness:
Yes ma'am.

Counsel:
Kind of timid?

Witness:
Yes ma'am.

Counsel: (b)(6)-5
And that was the end of your conversation with [REDACTED]?

Witness:
Yes ma'am.

Counsel:
That was it? Then you left to go find your wife?

Witness:
Yes ma'am.

Counsel:
Now a couple days after this, you talked to CID, right?

C11835

Witness:
Yes ma'am.

Counsel:
You gave them a statement?

Witness:
Yes ma'am.

Counsel:
And then they moved you, the Command moved you down to Camp Arifjan, correct?

Witness:
Yes ma'am. I don't know the time frame, but it was pretty much a little while after that ma'am.

Counsel:
So you gave your statement and then you were moved down to Arifjan?

Witness:
Yes ma'am. We were still at Bucca for a little while and then they started moving us.

Counsel:
Can you remember about how long you up at Bucca in between?

Witness:
I would say a month, doing details and other things.

Counsel:
All right, and then after that they moved you down to Arifjan?

Witness:
To the best of my recollection, yes ma'am.

Counsel:
And your wife stayed up at Camp Bucca?

Witness:
Yes ma'am.

Counsel:
Now she called you from Camp Bucca, right?

Witness:
Yes ma'am. We talked on a cell phone which cost a lot.

C11836

Counsel:

She called you cause she had gone to talk to CID, right?

Witness:

I had asked her actually, while I was at Arifjan, I had asked her to go and...I wanted to add to my statement. She went to see CID and she had called me up. Pretty much a few times, but one day in particular, yes ma'am.

Counsel:

Okay. Before you left Arifjan, you told your wife, I didn't see anything and I didn't do anything wrong, right?

Witness:

Before I left Arifjan, I told her that I didn't see anything and I didn't do anything wrong. That's right ma'am.

Counsel:

Okay. And after she talked to CID, she called you and said, hey they're telling me that you were involved.

Witness:

Yes ma'am.

Counsel:

She was pretty upset, wasn't she?

Witness:

Yes ma'am.

Counsel:

It's something that you guys discussed and argued about on the phone, right?

Witness:

Yes ma'am.

Counsel:

And she told you, what you need to do now is go back and think about all the details of what happened.

Witness:

She asked to go over in my mind the incident the day of, and there after, and anything I can come up with I should think about it.

Counsel: To see if there were any new details that you remember?

011837

Witness:
Yes ma'am.

Counsel: (b)(6)-2
Then after that, you talked to [REDACTED] right?

Witness:
Yes ma'am.

Counsel: (b)(6)-2 (b)(6)-2
[REDACTED] and [REDACTED] sat in as well?

Witness:
Yes ma'am.

Counsel:
And then that's when you did that second sworn statement, right?

Witness:
Yes ma'am.

Counsel:
Now it's your understanding that you have immunity from prosecution, right?

Witness:
Yes ma'am.

Counsel:
And it's your understanding that you can't be prosecuted for anything that you might have done on the bus, right?

Witness:
I didn't do anything on the bus, but yes ma'am.

Counsel:
Okay. Or if you told CID something that was incomplete or untruthful, you can't be prosecuted for that either, right?

Witness:
At both times when I made a statement, at that point when I made a statement, I was truthful to the whole point and extent, but yes ma'am.

Counsel:
Okay, except that you left out some of the details the first time?

C11838

Witness:

Ma'am I was flustered and I was getting...I was completely truthful with what I can remember at the time. Yes ma'am.

Counsel:

Okay. That's my question. You went back, and later, there were new details.

Witness:

Yes ma'am.

Counsel:

Thank you

(b)(6)-4

Questions by the defense counsel:

(b)(6) - 2

Counsel:

(b)(6)-4

I want to talk to you a little bit about this conversation that you say you had with Master Sergeant Girman. You said you were sitting in the truck when she approached you?

Witness:

Yes ma'am.

Counsel:

And you said that she advised you that you ought to get an attorney?

Witness:

As many others, yes ma'am.

Counsel:

Okay. You said many others had already told you ought to get an attorney?

Witness:

Yes ma'am.

Counsel:

That was other members of your Command?

Witness:

Yes ma'am.

Counsel:

And you took that as her taking care of you?

Witness: Yes ma'am.

011839

Counsel:

You didn't see that as any sort of coercion or anything, just that she was telling you that you ought to get an attorney?

Witness:

Yes ma'am.

Counsel:

And then, you said that you discussed whether or not you had seen anything, correct?

Witness:

Yes ma'am.

Counsel:

And you told her you had not seen anything, correct?

Witness:

That's right ma'am.

Counsel:

And that's what you had already told CID, correct?

Witness:

Yes ma'am.

Counsel:

And that's what you had already told your wife, correct?

Witness:

Yes ma'am.

Counsel:

And that was end of the conversation, correct?

Witness:

That's right ma'am.

Counsel:

And throughout that entire conversation, you just thought of this as just a normal, everyday conversation you would have with Master Sergeant Girman?

Witness:

Yes ma'am.

Counsel: Didn't take it as any sort of event, didn't feel coerced in any manner, correct?

011840

Witness:
No ma'am.

Counsel:
Didn't say anything different as a result of this conversation?

Witness:
No ma'am.

Counsel:
Now you said she winked at you?

Witness:
Yes ma'am.

Counsel:
You said that you thought that was part of her personality, correct?

Witness:
Yes ma'am.

Counsel:
Normal thing you would see Master Sergeant Girman do?

Witness:
Yes ma'am.

Counsel:
Didn't take it as any sort of coercion on her part?

Witness:
No ma'am.

Counsel: (b)(6)-4
Thank you [REDACTED]

Questions by the defense counsel: [REDACTED] (b)(6)-2

Counsel: (b)(6)-4
[REDACTED] when you went to the tent to ask...you thought you had some information people might like to know and you saw [REDACTED] correct?

Witness: (b)(6)-4
Yes ma'am.

C11841

Counsel:

And you told them you had some information about CID and what they were doing with the investigation?

Witness:

It was a rumor ma'am.

Counsel:

A rumor, okay. And you said to us that you like rumors and you passed them along to other people.

Witness:

Yes ma'am.

Counsel:

I have no further questions.

Questions by the defense counsel: [REDACTED] (b)(6)-2

Counsel: (b)(6)-4

[REDACTED], you testified about the Fedahyeen Major who...when he was on the bus and you were getting ready to unload him, he refused to get up?

Witness:

Yes ma'am, or yes sir, I mean. My apologies sir.

Counsel:

And then you said that you hoped there was at least one other EPW that you kind of had to push along, or you kind of had to forcefully had to move along through the aisle because he wouldn't move.

Witness:

Yes sir. There was a few that night that just didn't want to move, sir.

Counsel:

Okay. So there was a number, actually a number of EPWs, before they even got off the bus, they were kind of like dead weight?

Witness:

Yes sir.

Counsel:

Okay. Thank you Specialist.

C11842

REDIRECT EXAMINATION

Questions by the trial counsel: [REDACTED] (b)(6) - 2

Counsel: (b)(6) - 4

[REDACTED] the first prisoner that, you say, didn't want to move, was he on crutches?

Witness:

Yes sir. He had crutches.

Counsel:

Okay. Did you know why he was on crutches?

Witness:

No sir. I don't know the extent of why he had the crutches.

Counsel:

At the end of the mission, you said you searched the bus?

Witness:

Yes sir.

Counsel:

Okay, and found some medical tape. Did you search the bus prior to letting the prisoners board?

Witness:

Yes sir. It was searched prior to, and the only thing we found was a lot of water bottles and leftover MREs.

Counsel:

Okay. A lot of trash on the ground?

Witness:

Yes sir.

Counsel:

Okay. Did you clean up all the trash?

Witness:

No sir. We didn't have trash bags available.

Counsel: Okay. So you just left all this trash?

011843

Witness:

Yes sir.

Counsel:

That's all I have sir.

I/O:

Anything else?

Defense counsel:

No, sir.

Questions by the Investigating Officer: [REDACTED] (b)(6) - 2

I/O: (b)(6) - 4

[REDACTED] when the bus pulled off to the side of the road, midway back to Camp Bucca, you said that [REDACTED] and [REDACTED] came up to the bus, is that correct?
(b)(6) - 4 (b)(6) - 4

Witness:

Yes sir.

I/O:

And you said that they asked what was happening?

Witness:

Yes sir. They were the rear security vehicle at the time, sir.

I/O:

Okay. And then who responded back to them?

Witness:

I don't know, it was a male voice over the top of my head so I would assume it was either [REDACTED] or [REDACTED] sir.

(b)(6) - 4

(b)(6) - 4

I/O:

And then that voice said that everything is okay?

Witness:

It's just an air hose that broke.

I/O:

And then at that point, they left?

C11844

Witness:

We were in the transition of doing a bunch of things at the time, so I didn't see them from that point on.

I/O:

Where were you exactly on the bus?

Witness:

I was in the front of the bus and I was then asked to pull side security. So they asked me to hop off with my M-16 and pull security on the side of the bus.

I/O:

You were in the front of the bus doing what?

Witness:

I was just, I was a passenger at the time when this air hose broke. (b)(6)-4 and (b)(6)-4 were security at the time, with their shotgun.

I/O:

They were behind you, I guess?

Witness:

Yes sir.

I/O:

Okay. And then you went out and pulled security at that point?

Witness:

Yes sir.

I/O:

And where were you on the outside of the bus when you pulled security?

Witness:

I was between the front tire and the first cargo compartment.

I/O:

So if anybody had come on the bus after that point, you would have seen them or no?

Witness:

No sir. My vision was towards the desert in case anything would pop up, sir.

I/O:

So your not really sure if anybody came on the bus after that point or not?

011845

Witness:

No sir. I couldn't tell you if anybody came on between that point in time, no sir.

I/O:

How long was that?

Witness:

Ten minutes sir.

I/O:

Okay. Who called you back in?

Witness: (b)(6)-4

[REDACTED] had screamed out, he had voiced out through the door that everything was all right, time to board up to go.

I/O:

Anybody say anything to you when you came back on the bus?

Witness:

I'm not understanding sir.

I/O:

Did anybody, did any of the other MPs say anything to you when you came back on the bus?

Witness:

No sir. There was two comments made during the trip, but not when we got back on the bus sir.

I/O:

So you just got back on the bus and took off and continued the mission?

Witness:

Yes sir.

I/O:

Okay. Since the twelfth of May, have you had any conversations or discussions with anybody from the 223RD MP Company?

Witness:

No sir.

I/O:

Did you aware...were you aware that they were even on the ground that night?

C11846

Witness:

Yes sir. Two of them were on the bus and then the lead vehicle was theirs.

I/O:

And you knew them to be members of the 223RD?

Witness:

There was an E-6, female E-4 gunner, an E-4 driver and then two Sergeants on the bus, as far as my recollection sir.

I/O:

(b)(6)-2
When [REDACTED] asked you about this conversation, or this brief conversation, I guess you had with Master Sergeant Girman, was it typical for her to come up to you and advise you to get an attorney?

Witness:

No sir. There had not been any incidents requiring such a talk.

I/O:

Is it part of her personality to wink at you?

Witness:

Yes sir. She's the kind of...kind of her personality. She always winks at the end of some of her conversations towards me. It's just her personality. Her persona. It's part of her.

I/O:

Witness:

So she came up to you and advised you to get an attorney and then winked at you?

Witness:

Yes sir. Basically, essentially part of it, yes sir. The end of her conversation she just winked at us and that was the end of the conversation. I didn't take it as anything other than that.

I/O:

Anybody have any further questions?

Questions by the trial counsel [REDACTED]

(b)(6)-2

Counsel:

That conversation with Master Sergeant Girman, didn't she also say you didn't see anything, right?

Witness:

Yes sir. I said that prior to...

C11847

Counsel:

I just wanted to clear that up. Thank you Specialist.

I/O:

Any further questions? (b)(6)-4 thank you for your testimony

[The witness was duly warned, dismissed and withdrew from the room.]

I/O:

Is that the end of the live witnesses we have?

Counsel:

The live ones, yes.

I/O:

Okay.

Counsel:

Then we have a CID agent who...I thought Ohio...are you sure it's eight hours?

I/O:

(b)(6)-1 hello can you hear me?

Witness:

Yes, yes.

I/O:

(b)(6)-1, this is (b)(6)-2 I'm calling from Camp Doha Kuwait. We're in the middle of the Article 32 hearing that I believe you were contacted about previously. We have the Government and Defense counsel here. If you're prepared, we'd like to go ahead and interview you and conduct that part of the hearing?

Witness:

I'm ready sir.

I/O:

Okay.

Who we have here is (b)(6)-2 who's the counsel for the Government.

Then we have (b)(6)-2 and (b)(6)-2 here as the counsel for the accused. And I believe what we'll do is start with the Government counsel who will swear you in over the connection here, and then we'll begin the questioning here, okay?

Witness:

All right sir.

C11848

(b)(6)-1

DIRECT EXAMINATION

[REDACTED], U.S. Army, was called as a witness for the Government, was sworn and testified as follows:

Questions by the trial counsel: [REDACTED] (b)(6)-2

Counsel: (b)(6)-1
[REDACTED] could you give your full name for the record, please?

Witness:
[REDACTED] (b)(6)-1

Counsel:
And your unit of assignment?

Witness:
44TH MP Detachment, CID.

Counsel:
And where is that unit currently stationed?

Witness:
I'm stationed with the forward element of that unit in Camp Bucca, which is located in Umm Qasr, Iraq.

Counsel:
Okay. Thank you Special Agent. I've no questions for you, if you please answer any questions that defense counsel pose.

CROSS-EXAMINATION

Questions by the defense counsel: [REDACTED] (b)(6)-2

Counsel: (b)(6)-1
[REDACTED] this is [REDACTED] (b)(6)-2

I/O:
Can you hear him?

Witness: (b)(6)-2
I heard this is [REDACTED]. I heard the introduction.

I/O:
Okay.

Counsel: (b)(6)1

(b)(6) -4
[REDACTED] you had previously interviewed [REDACTED] before you interviewed him in this case, is that correct?

Witness:
That is correct.

Counsel:
And that was involving another allegation by an EPW that he'd been abused, correct?

Witness:
That is correct.

Counsel:
And the EPW was a minor?

Witness:
That is correct.

Counsel:
And it turned out that that EPW had actually been injuring himself, correct?

Witness:
Yes that is correct.

Counsel: (b)(6) -4
But what he actually claimed is that [REDACTED] had twisted his already injured arm, correct?

Witness:
That is correct.

Counsel:
And then you helped conduct the investigation in this case, correct?

Witness:
That is correct.

Counsel: (b)(6) -4
And you did an interview, again, with [REDACTED]?

Witness:
That is correct.

Counsel:

And since the time of that first investigation, there have been several EPWs who have alleged abuse by [REDACTED] correct?

(b)(6)-4

Witness:

No, I cannot say with a high percent of certainty.

Counsel:

I'm sorry, can you repeat that answer?

Witness:

(b)(6)-4

I was not aware of any other EPWs which alleged abuse against [REDACTED]

Counsel:

Okay. So you don't remember...do you remember having a conversation with myself and [REDACTED] a few weeks back?

(b)(6)-4

Witness:

Yes I do.

Counsel:

Okay. Do you remember at that time saying that EPWs, they sort of got a hold of [REDACTED] name and sort of past it around, and everyone said they got abused by [REDACTED]

(b)(6)-4

(b)(6)-4

Witness:

I remember saying that they alleged abuse against a soldier by the name of [REDACTED] Whether or not they were directed towards, against [REDACTED], I forget his full name, I cannot say. I do not know if they were directed...if there were any allegations directed, specifically towards [REDACTED] or towards a soldier named [REDACTED]

(b)(6)-4

(b)(6)-4

(b)(6)-4

(b)(6)-4

Counsel:

Okay. But it is the case that EPWs were claiming that they were abused by a soldier named [REDACTED] correct? (b)(6)-4

Witness:

I've been told that have been alleging anything and everything against a soldier named [REDACTED]

(b)(6)-4

Counsel:

Okay. Thank you [REDACTED], I don't have anymore questions for you.

(b)(6)-1

I/O:

(b)(6)-2

[REDACTED] is going to ask now.

Counsel: ██████████ (b)(6) - 2 (b)(6) - 1
I'm sorry. I did forget to ask you one other question. ██████████ All of those allegations against some soldier named ██████████ all those allegations were ultimately unfounded, correct? (b)(6) - 4

Witness:
Yes. The allegations with the minor were unfounded, that is correct.

Counsel:
Okay. And then all of the subsequent allegations by all the EPWs claiming that some soldier named ██████████ abused them, all of those allegations were also unfounded, correct?

(b)(6) - 4
Witness:
To my knowledge, yes sir that's correct.

Counsel:
Okay. I don't have any more questions for you.

Questions by the defense counsel: ██████████ (b)(6) - 2

Counsel: (b)(6) - 1 (b)(6) - 2
██████████ this is ██████████ Can you hear me?

Witness:
Yes I can ma'am.

Counsel: (b)(6) - 4
Okay. Sticking with the line of questioning on ██████████ you did interview a ██████████ (b)(6) - 4
██████████ in this particular case, correct?

Witness:
That is correct.

Counsel:
And you took a sworn statement from him on May sixteenth, according to your IARR?

Witness:
That is correct.

Counsel: (b)(6) - 4
And you were the person who did the questioning of ██████████ and did the Q and A on the question on his statement?

Witness: That is correct.

Counsel:

At this time I would like to have this admitted into evidence. Just a moment [REDACTED] (b)(6) - 1
[REDACTED] I'm moving to admit [REDACTED] sworn statement into evidence. (b)(6) - 4

[The sworn statement was marked as Exhibit 12 without objection.]

Counsel:

Without objection.

Counsel:

Okay, without objection. It's marked as exhibit twelve and I'm going to leave it with the IO. I have no further questions, but another defense may. Please hold on.

Questions by the defense counsel: [REDACTED] (b)(6) - 2

Counsel: (b)(6) 1

[REDACTED] this is [REDACTED] (b)(6) - 2 one of the defense counsels in the case.
Can you hear me okay?

Witness:

Yes I can.

Counsel: (b)(6) 1

[REDACTED] on the sixteenth of May, did you do an interview with a [REDACTED] (b)(6) - 4

Witness:

Yes. That is correct.

Counsel:

And he told you that he was present during the off-loading of the EPWs on the bus on the twelfth of May, correct?

Witness:

That is correct.

Counsel:

And he related to you that he did see any soldiers striking EPWs, correct?

Witness:

That is correct.

Counsel:

And he told you that the soldiers were complaining to him that the EPWs were being combative and resisting, correct?

C11853

Witness:

If it is in my AAR, the details are in there.

Counsel:

Thank you [REDACTED] (b)(6)-1

I/O:

[REDACTED] (b)(6)-2

Defense counsel: [REDACTED] (b)(6)-2

No, sir.

[REDACTED] (b)(6)-2

No, sir

I/O:

(b)(6)-1
I don't have any questions [REDACTED] I appreciate your time very much. I hope this wasn't too much of an inconvenience for you; I hope everything's okay back home. And please don't, if you have an opportunity, don't discuss your testimony with any other witnesses or potential witnesses. And if we need anything, we will try and get back a hold of you.

Witness:

Thank you sir. I can be reached at this number.

I/O:

All right. Thank you very much. Goodbye.

[The witness was duly warned, dismissed and ended his telephonic interview.]

[The Article 32 hearing recessed at 1705 hours 01 September 2003.]

C11854

[The Article 32 hearing reconvened at 1300 hours 02 September 2003.]

(b)(6)-4
[REDACTED], U.S. Army National Guard, was called as a witness for the Government, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by the trial counsel: [REDACTED] (b)(6)-2

Counsel:

You are [REDACTED] (b)(6)-4

Witness: Yes.

Counsel:

Of the 223rd MP Company?

Witness:

Yes.

Counsel:

And the 223rd is currently stationed at Camp Bucca, Iraq. Is that correct?

Witness:

Yes.

Counsel:

(b)(6)-4
Okay, [REDACTED] do you remember the events of the 12th of May of this year?

Witness:

Yes I do.

Counsel:

What was your unit's mission on that day?

Witness:

On that day our mission was to go up to Talil, with 320th, and help train them on escorting EPW's.

Counsel:

Who was with you from your unit?

Witness:

[REDACTED] and [REDACTED]

(b)(6)-4 (b)(6)-4 (b)(6)-4 (b)(6)-4

Counsel: And do you remember how many vehicles that you took up on the mission?

C11855

Witness:

We took four vehicles.

Counsel:

What type of vehicles were they?

Witness:

There was one upper armored humvee, which was ours, a bus, and I believe both of their humvee's were soft tops.

Counsel:

Which vehicle were you in?

Witness:

I was in the lead vehicle.

Counsel:

And your position in the vehicle?

Witness:

Gunner.

Counsel:

So you weren't on the bus?

Witness:

No.

Counsel:

I'm going to go ahead and fast forward to the--your return to Camp Bucca. Could you describe for me the unloading process of the EPWs once you reached Camp Bucca?

Witness:

Once we get to Camp Bucca we have all the prisoners down-loaded and they're handed off to whoever's helping down-load them. And they're set-up in groups of five and they're taken escorted down to the search area.

Counsel:

What was your job during the unloading process?

Witness:

I helped unload and take them to the first area we set-up and I also escorted them to the search area.

C11856

Counsel:
Were you on the bus at any point?

Witness:
No.

Counsel:
So just tell me what did you do exactly?

Witness:
I helped escort them from the bus to the search area.

Counsel:
Was anyone else from the 223rd helping escort the EPWs?

Witness:
Not to the search area.

Counsel:
Who was helping you escort these EPWs?

Witness:
I know there were members of the 320th and I believe some people from the in processing station as well.

Counsel:
Do you remember when the first EPW came off the bus?

Witness:
Yes.

Counsel:
Was there anything unusual about that EPW?

Witness:
He was on crutches, he was a heavy guy, I'm not sure what else you're asking for.

Counsel:
What happened when he came off the bus?

Witness:
When he came off the bus he sat at the bottom of the stairs and he was speaking in Arabic, and the interpreter was telling us that he needed help getting off the bus that he could not walk, and everybody kept yelling "get up! get up! let's go!" and nobody seemed to want to help him.

C11857

Counsel:
Who was yelling at him?

Witness:
Everybody--people that were around the bus.

Counsel:
Do you remember who was in that group that was in that group that was helping to --as this POW was being taken off the bus?

Witness:
I can't recall who all was there, pretty much it was the first EPW off the bus pretty much everybody was there, but I can't recall exactly who was where.

Counsel:
Did you--so he finally got up?

Witness:
Yes.

Counsel:
Did he get up under his own power?

Witness:
How he got up I do not remember, but when he got up he...first there were two people beside him on each side of him, I don't know who it was, but then they kinda just let him walk on his own with the interpreter to the initial staging area before we walked the five of them.

Counsel:
And did at that point what role did you play in the escort?

Witness:
I was just kinda sitting back watching.

Counsel:
Did you see what happened next?

Witness:
After the five were lined up there was five prisoners lined up after that they began to walk them, I'm not sure exactly who walked with them, but as they started walking down to lane to the search area I saw the MSG come up from their right side and strike the first prisoner who was on the crutches and knock him down on the ground.

Counsel:
Okay, who was this MSG?

C11858

Witness:

This woman right here (pointing to MSG Girman)

Counsel:

When you say she, MSG Girman, struck this EPW, what do you mean by struck?

Witness:

She ran up from behind him and he fell forward onto the ground.

Counsel:

How did she strike him?

Witness:

I don't know whether it was with fist or pushing I just know she came up and struck him and he fell down I don't know exactly how.

Counsel:

How did he land?

Witness:

He landed onto the ground just like head first on the ground.

Counsel:

What happened after he was down on the ground?

Witness:

After he was on the ground, she began punching and kicking him, and then her and another male--.

Counsel:

Hold on a second--she began, who is she?

Witness:

The MSG.

Counsel:

And then what?

Witness:

And then after that her as well as another male, I don't know who it was, grabbed him from beneath his armpits and drug him to the searching area.

Counsel:

Would you recognize the individual that grabbed him by the armpits and drug him off?

C11859

Witness:
No.

Counsel:
Did you hear any noise coming from this EPW?

Witness:
There was screams coming from many EPWs.

Counsel:
How about that the first EPW in particular?

Witness:
When he was knocked down, yes.

Counsel:
What kind of scream was it?

Witness:
I mean they were just high-pitched wails from him.

Counsel:
You were in a position to see them walk away?

Witness:
Right

Counsel:
Did you--did he have his crutches at that point?

Witness:
No.

Counsel:
Did he appear to be resisting?

Witness:
Not at all.

Counsel:
Did he look like he was fighting them?

Witness:
No.

C11860

Counsel:

Did it look to you as if he was under the control of the two escorts?

Witness:

Not at all, are you asking did he control them?

Counsel:

No, I'm the other thing too. Did it look like the two escorts were in control of the EPW?

Witness:

Oh, yes.

Counsel:

And later on after that was over, did you help move the EPW referred to as the rapist?

Witness:

Yes.

Counsel:

Who escorted him?

Witness:

SGT [REDACTED] and I.

Counsel:

Were his hands bound?

Witness:

Yes.

Counsel:

And what happened while you were escorting this EPW?

Witness:

When he came off the bus the MSG Said, "I think the females need to take care of him for what he's done" and he was handed off to [REDACTED] and I. She was on his left side and I was on his right side and we walked him to the initial place where we stage them before we take them to searching area, and MSG struck him from behind and he was knocked out of [REDACTED]'s and I hands onto the ground face first.

Counsel:

Did you see how she struck him?

Witness:

I did not she was behind us.

C11861

Counsel:
So what happened as you were escorting that EPW?

Witness:
We just had to hold his arms and we walked with him, and he was knocked out of our hands. And that's when she began kicking him in the groin from behind.

Counsel:
How did he fall?

Witness:
He fell head first onto his knees.

Counsel:
And then what happened next?

Witness:
She began kicking him in the groin from behind.

Counsel:
How many times did she kick him?

Witness:
Probably about five to seven times.

Counsel:
How hard did she kick him?

Witness:
Pretty forcefully.

Counsel:
And then after she kicked him in the groin, what happened next?

Witness:
He kinda fell over onto his right side trying to block it with his kinda--separate-- put his legs together and that's when she started kicking him in his stomach and in his face.

Counsel:
Did the EPW make any noise?

Witness:
He yelled out. He kept yelling out and I heard him yelling "Nothing.. nothing" I don't know what he meant by that, but I heard him yelling that.

C11862

Counsel: (b)(6)-5
As you and [REDACTED] were escorting that EPW was he resisting?

Witness:
Not at all.

Counsel:
When he was shoved out of your arms was he resisting?

Witness:
No.

Counsel:
Was he fighting you?

Witness:
No.

Counsel:
Was he complying with what you'd told him?

Witness:
Yes.

Counsel:
Then the next EPW that you were escorting, could you tell me about that?

Witness:
I can't recall which one was the next one that I escorted.

Counsel:
Did you see any other instances where an EPW was hit or struck?

Witness:
Yes.

Counsel:
Could you tell me about that please?

Witness:
There were various ones when we would be escorting them down the search area they were being kicked, thrown on the ground, and everything.

Counsel:
Now, you say various ones, could you pick one in particular out and describe what happened to him?

C11863

Witness:

Not really in particular, I mean there were a lot of them that this occurred to.

Counsel:

Did you see one that was dressed unusually?

Witness:

Not really unusually.

Counsel:

How about one that their pants had fallen down?

Witness:

Yes I did.

Counsel:

Let's talk about him for a little bit. What did you see happen to him?

Witness:

He was, I believe, behind the guy--the supposed rapist guy, and he had been thrown down on the ground and the--

Counsel:

Okay, how did he make it down on the ground?

Witness:

I believe he was thrown down on the ground. The short specialist was sitting on top of him.

Counsel:

Did you actually see him throw him to the ground?

Witness:

No I did not.

Counsel:

But somebody was sitting on top of him?

Witness:

Yes.

Counsel:

Is that individual sitting here with us today?

Witness:
Yes.

Counsel:
Could you point him out to us please?

Witness:
The specialist right here (pointing to (b)(6)-5)

Counsel:
After the specialist was sitting on his back did you see anything else happen with this EPW?

Witness:
Not that particular one.

Counsel:
Did you see any other EPWs that were thrown to the ground?

Witness:
There were many EPWs that were thrown to the ground. There was one instance where we had a line of medical EPWs lined up. There was a man with one arm, there were, I believe, one of them had a sling on his arm, there was crutches, and then the last guy in the group he wasn't medical I believe he was a teacher that was a supposed interpreter. And when they came off the bus the MSG was asking, "whose a problem, are they a problem? Are they a problem?" and then they were like--no I take that back the MSG didn't say that, someone said that I don't remember who said that, but she said, "they're all here aren't they, well then they're a problem". And then that is when the tall SSG began picking them up off their feet and throwing them down on the ground.

Counsel:
Would you recognize that SSG?

Witness:
Yes.

Counsel:
Is he in the room here today?

Witness:
Yes he is.

Counsel:
Would you point him out for us please?

011865

Witness:

It's [REDACTED] over there (pointing to him)

(b)(6)-5
Counsel:

You say, he threw that EPW to the ground?

Witness:

Yes.

Counsel:

You saw that happen?

Witness:

Yes.

Counsel:

Did that EPW, at the time, appear to be resisting?

Witness:

Not at all.

Counsel:

How about fighting?

Witness:

No, the first one he did it to had only one arm.

Counsel:

What happened to him when he was, after he was thrown to the ground?

Witness:

He just laid there.

Counsel:

Did you see any other EPWs that were thrown to the ground?

Witness:

Yes, particularly all the EPWs in that line, the medical and the teacher, and it was five of them.

Counsel:

Did you recall an EPW that being down on the ground who was being held on the ground?

Witness:

Besides the one that was sat on top of?

011866

Counsel:

Yes.

Witness:

No I do not.

Counsel:

I'm going to go back to the EPW that was called the rapist. What exactly happened with him again?

Witness:

When he was taken off the bus he was handed to (b)(6)-5 and I and we walked him to the initial area where we set him down. And when we got there he was struck from behind, by the MSG, and he was knocked down head first onto his knees. And the MSG began kicking him in his groin from behind and he fell over onto his side and she began kicking him in his stomach and in his face. And then after that (b)(6)-5 and I put him into the prone position, except the only difference was his hands were bound beneath him, so we could not spread his hands apart like we were trained to do. And that's when the SPC and the SSG grabbed his ankles and the MSG had her foot on his head and they were all saying, "It's your shot...It's your shot...Go ahead"

Counsel:

Let's back up for a second, he's down on the ground and where was the MSG?

Witness:

MSG was at his head.

Counsel:

What was she doing at his head?

Witness:

At that particular time she just had her foot on his head.

Counsel:

And then, who else was there?

Witness:

(b)(6)-5 and (b)(6)-5

Counsel:

And what were they doing?

Witness:

(b)(6)-5 was sitting on top of the other EPW, the second one in the row, and (b)(6)-5 he was just over there. I guess he had walked up when it was occurring.

C11867

Counsel:
And then,--were they holding on to his legs?

Witness:
They held on to his ankles.

Counsel:
And so each one had a hold of one ankle?

Witness:
Yes.

Counsel:
How were his legs arranged at that point?

Witness:
At that point they were spread apart.

Counsel:
And where was his face?

Witness:
His face was in the ground.

Counsel:
And what happened when his legs were spread apart?

Witness:
When his legs were spread apart and they had a hold of his ankles they kept saying, "It's your shot--It's your shot. Go ahead"

Counsel:
Who was saying that?

Witness: (b)(6)-5 (b)(6)-5
The MSG, [REDACTED] and [REDACTED]

Counsel:
And they were saying, "It's your shot"?"

Witness: (b)(6)-5
Yes, and they were looking at [REDACTED] and I.

Counsel:
And what happened then?

Witness: *b6-5*
SGT [REDACTED] looked over at me and I just kinda stepped back, like I don't want to have any part in it. And she was looking around real nervous biting her lip like she knew that she didn't want to do it, and she just--they kept urging her on and she did it anyway.

Counsel:
She did what?

Witness:
She kicked him in his groin.

Counsel:
How many times did she kick him?

Witness:
That I saw, she probably only kicked him three to five times, I walked away.

Counsel:
How hard were the kicks?

Witness:
They were pretty forceful, probably not as hard as she could've, but she kicked him pretty good.

Counsel:
How did that EPW finally make it to the holding area?

Witness:
After I had walked away and walked over to *(S6)-5* and *(S6)-5* came back and got me and we picked him up and walked him to the search area together.

Counsel:
While he was down on the ground did he make any noise?

Witness:
Yes he was screaming out.

Counsel:
And what would happen when he screamed?

Witness:
When he screamed she would kick him in his face each time, the MSG.

011869

I/O: Could you say that again, I'm sorry?

Witness:

When he screamed the MSG would kick him in his face each time.

I/O: After you picked him up?

Witness:

No, this was before we picked him up while he was still on the ground.

I/O: After she kicked him in the groin, according to you?

Witness:

Yes.

Counsel:

And did anything happen as you were moving him over to the search area?

Witness:

Yes, there was someone walking behind us, I'm not sure exactly who it was 'cause they were behind us, and they kept trying to trip the prisoner from behind and I just kept a firmer grip on his arm and tried to walk faster. [REDACTED] started to kick him from the side, but he never fell. I just kept trying to walk faster with the prisoner.

Counsel:

Did you hear anything as you were walking away with him?

Witness:

I don't recall.

Counsel:

After you got to the searching area, I assume, you went back to the bus?

Witness:

Correct.

Counsel:

Did you hear anything as you were walking back to the bus?

Witness:

On the way back I heard [REDACTED] (b)(6)-5 and the MSG were right behind me, and [REDACTED] (b)(6)5 said "I didn't get a good kick in the first time, but I got him good after that" and the MSG said, "I got a good cock shot in".

Counsel:

What did you see when you got back to the door of the bus?

011870

Witness:

When I got back to the bus that was when the next group happened, with the guy with one arm and the medical guys and the teacher that was the next time.

Counsel:

What happened to the next EPW off the bus, that you saw?

Witness:

That was the ones that were lined up and the SSG was throwing them down on the ground.

Counsel:

What do you mean throwing them on the ground?

Witness:

He was actually picking them up off their feet and throwing them down--like a body slam.

Counsel:

How would they land?

Witness:

Generally like their whole body like face first into the ground.

Counsel:

And then what happened after they would land on the ground?

Witness:

They just lay there, sit there however they landed.

Counsel:

So, how many EPWs were in this group?

Witness:

Five.

Counsel:

And each one of them got thrown?

Witness:

Yes.

Counsel:

How far away were you from this group of EPWs?

C11871

Witness:
Less than five feet.

Counsel:
Did they appear to be resisting?

Witness:
Not at all.

Counsel:
Were they fighting?

Witness:
No.

Counsel:
Did they appear to be doing what they were told?

Witness:
Yes.

Counsel:
With this group of EPWs did you see any training going on?

Witness:
I did notice that it was out of the ordinary of what we were taught on how he was throwing them down to the ground. For one they weren't resisting, so there was no reason to, and for another we weren't taught like that. So I made a comment to [REDACTED] (S)(b) -5 [REDACTED] I was like, "what is he a cop or something" I mean obviously I don't know how cops are trained either, but I was just asking, and she said, "No, he's an Ultimate Fighter". She tried to explain it to me I had-kinda had-no clue what she was talking about so I just let it go.

Counsel:
Do you know what an Ultimate Fighter is?

Witness:
No I don't.

Counsel:
Sir, I have no further questions.

After a recess the following occurred for the record:

[REDACTED] (b)(b) -2 [REDACTED] Sir, is there anything that we should know about that you can't continue with the hearing or anything, sir?

C11872

I/O: No, I'm just feeling a little queasy after lunch that's all.

(b)(6)-2
[REDACTED]: Aside from the hearing, sir?

I/O: Yeah

(b)(6)-2
CPT [REDACTED]: That's all I just wanted to inquire about, sir. That there's no problem.

CROSS-EXAMINATION

Questions by the defense counsel: [REDACTED] (b)(6)-2

(b)(6)-4
Counsel: [REDACTED] you've been with the 223rd since November 2001?

Witness:
Yes.

Counsel:
And your civilian occupation?

Witness:
I work in a deli.

(b)(6)-4
Counsel: [REDACTED] is your team leader, right?

Witness:
Yes.

(b)(6)-4
Counsel: [REDACTED] would be your squad leader?

Witness:
Yes.

Counsel:
Prior to this mission you guys had done about 20 escort missions?

Witness:
Yes.

Counsel:
[REDACTED] was with you on most of those missions, right?

(b)(6)-4

Witness:
That's correct.

Counsel: (b)(6)-4
And [REDACTED] as well?

Witness:
Yes.

Counsel:
And on this mission your job was to be the gunner for the lead vehicle?

Witness:
That's correct.

Counsel:
You were wearing DCUs?

Witness:
I was wearing my brown T-shirt, Flak vest, Kevlar, in the vehicle of course, my DCU pants, boots 9M, and I mount a SAW on top of the vehicle.

Counsel:
Were you wearing goggles?

Witness:
Goggles--I usually wear goggles, yes. I can't remember whether I was that day, but I'm pretty sure I was.

Counsel:
Up in the turret you didn't have goggles on?

Witness:
Up in the turret I usually wear goggles, but other than driving I don't know if I had them on.

Counsel:
That night you had your goggles on as well, correct?

Witness:
Yes.

Counsel:
Not those glasses, right?

011874

Witness:
No.

Counsel:
You had the big birth control glasses that you were wearing?

Witness:
Yes.

Counsel:
They're big and black?

Witness:
Yes.

Counsel:
With a strap around them?

Witness:
Yes.

Counsel:
Were you wearing a desert do-rag that night?

Witness:
I very well may have been I'm not sure.

Counsel:
Now your duties as the gunner, your main duty is to face forward and cover the sectors of fire that are in front of the convoy, right?

Witness:
Yes.

Counsel:
Can you remember the configuration of the convoy that night?

Witness:
Yes, there was my vehicle, and behind us was a soft top humvee, then there was the bus, and another humvee.

Counsel:
And that configuration was the same both going and coming, right?

Witness:
Yes.

011875

Counsel:

Now the communications that you had that night...everybody in the truck was wearing the internal head-sets, correct?

Witness:

Correct.

Counsel:

And that allowed you to hear the SINCGARS communication that was going on on the radio, right?

Witness:

Yes.

Counsel:

And it also allowed you to talk to the three people that were in the truck with you, correct?

Witness:

Yes.

Counsel:

Now on the ride up you had no communications from the bus, correct?

Witness:

That's right.

Counsel:

You didn't hear them come on to the SINCGARS and talk to you guys, right?

Witness:

No.

Counsel:

And on the way back you didn't hear anything from the bus either, correct?

Witness:

No.

Counsel:

On the way back the bus stopped, right?

Witness:

Correct.

011876

Counsel:

And at that point the people in your vehicle had no idea what was wrong with the bus, correct?

Witness:

That's right.

Counsel:

And your job, when the convoy stops, is to pull security towards the front, correct?

Witness:

That's correct.

Counsel:

And when the bus stopped (b)(6)-4 and (b)(6)-4 got out right?

Witness:

Correct.

Counsel:

And per your SOP when people exit the vehicles their jobs are to pull security, right?

Witness:

Correct.

Counsel:

Now it was your understanding that (b)(6)-4 was going to go to the bus, correct?

Witness:

Correct.

Counsel: (b)(6)-4

And (b)(6)-4 was going to pull security?

Witness:

Correct.

Counsel:

Did you see where (b)(6)-4 pulled security?

Witness:

No.

Counsel:

Now when you arrived at Camp Bucca, there was no one from the in processing unit to meet you, right?

011877

Witness:
Correct.

Counsel:
So you guys waited for those in processing soldiers to arrive before you downloaded the bus, correct?

Witness:
That's correct.

Counsel:
That night when you were escorting prisoners you were armed only with 9M, right?

Witness:
Right.

Counsel:
No M16s out there?

Witness:
No M16s.

Counsel:
Why not?

Witness:
Because if you have your M16 with you the M16 is long and bulky and the prisoner could possible, you know, if they got out of line could reach for your M16 and you wouldn't be in very good a shape, obviously.

Counsel:
So there were no M16s out there on the escorts?

Witness:
No.

Counsel:
So the in processing people weren't there--the set-up was a little bit different too correct?

Witness:
Yes.

Counsel:
The distance to the search area was further, right?

011878

Witness:
Further, yes.

Counsel:
Now that first EPW off the bus was the major on crutches, correct?

Witness:
Yes.

Counsel:
And he sat down on that top step and he refused to move, right?

Witness:
He sat down on the bottom step yes.

Counsel:
Okay, I'm sorry, he sat down on the bottom step and he wouldn't get up?

Witness:
Right.

Counsel:
And you're not sure how he eventually did get up, correct?

Witness:
Correct.

Counsel:
But he walked by himself with his crutches to the staging area, right?

Witness:
By himself with his crutches along next to the Kuwaiti interpreter, I assume he's Kuwaiti
I don't know his nationality for sure, but he works for the Americans.

Counsel:
He walked by himself?

Witness:
Yes.

Counsel:
And that kinda stood out in your mind as being odd, right?

Witness:
Right.

011879

Counsel:

And that staging area is how far from the bus?

Witness:

Probably about approximately 15 feet away from the bus.

Counsel:

Fifteen feet away?

Witness:

Approximately.

Counsel:

And as he was moving the other escorts were standing in line, correct?

Witness:

Yes.

Counsel:

So you were standing in line next to (b)(6)-4 waiting for your turn to escort a prisoner, correct?

Witness:

Maybe not directly next to him, but around the same area, yes.

Counsel:

How far do you think you were from him?

Witness:

Within five feet.

Counsel:

After that the major sat down at the staging area four more EPWs followed, correct?

Witness:

Yes.

Counsel:

And it was after that that you say that MSG Girman came up from behind the EPW on crutches, right?

Witness:

Yes.

Counsel:

At that point all five EPWs were moving down towards to search area, right?

C11880

Witness:
Right.

Counsel:
What were the escorts doing? The two escorts that were escorting the five?

Witness:
I don't recall what they were doing.

Counsel: (b)(6)-4
At the time that you saw that happening, did you hear [REDACTED] say anything?

Witness:
No.

Counsel: (b)(6)-4
Did you hear [REDACTED] say anything?

Witness:
I wasn't listening or paying any attention to what people were saying.

Counsel:
Then that EPW was picked up underneath the arms, correct?

Witness:
Yes.

Counsel:
And it was his feet that you saw dragging, right?

Witness:
Right.

Counsel:
Now you talked about the major that you identified as the rapist, correct?

Witness:
Yes.

Counsel:
And what you saw happen to the rapist also happened 15 feet from the bus, is that right?

Witness:
Yes.

011881

Counsel: (b)(6)-5
It was you and [REDACTED] that were escorting the major, right?

Witness:
Yes.

Counsel:
And while he was on the ground you claim that the MSG kicked him in the groin?

Witness:
Yes.

Counsel:
Five times?

Witness:
Yes.

Counsel:
Five times before he rolled over on his side?

Witness:
Approximately five times before he rolled over onto his side.

Counsel:
And then there was kicks in the face as well?

Witness:
Yes.

Counsel:
And you said that she had her foot on her head?

Witness:
Yes.

Counsel: (b)(6)-5
And it was at that point that you and [REDACTED] kicked the EPWs legs apart to put him in the prone?

Witness:
Yes.

Counsel:
While he was in the prone, after you kicked his legs apart, you walked away, right?

Witness: (b)(6)-5
After [REDACTED] began to kick him is when I walked away.

Counsel: (b)(6)-4 (b)(6)-4
You walked to back to where [REDACTED] and [REDACTED] were?

Witness:
Yes.

Counsel: b6-4
Did [REDACTED] say anything then?

Witness: (b)(6)-4 (b)(6)-4
I didn't speak to [REDACTED] I spoke to [REDACTED]

Counsel:
And you said, "I don't like what's going on"?

Witness:
Right.

Counsel: (b)(6)5
And then you went back with [REDACTED] to escort that prisoner down to the search area?

Witness:
Right.

Counsel:
And at that point he walked down to the search area with the two of you?

Witness:
Yes.

Counsel:
When the EPW was on the ground, after you kicked his legs apart and put him in the prone, you said that two individuals were holding his ankles, correct?

Witness:
Correct.

Witness: (b)(6)-5
And you said that [REDACTED] was sitting on an EPW, right?

Witness:
Right.

011883

Counsel:
You didn't see how that EPW got on the ground, correct?

Witness:
That's correct.

Counsel:
You described a third incident with the five EPWs that you say were thrown on the ground, correct?

Witness:
Correct.

Counsel:
That also happened out by the staging area, right?

Witness:
Yes.

Counsel:
That NCO was by himself out there at the staging area?

Witness:
Possibly not by himself, but he was the only one that was actually throwing them down.

Counsel:
Who else did you see out there with him?

Witness:
I didn't see anybody else out there.

Counsel:
And this happened after the EPWs were lined up out there?

Witness:
Yes.

Counsel:
So the five of them were sitting in a line?

Witness:
They were standing in the line:

Counsel:
Okay the five of them are standing in a line?

011884

Witness:

Yes.

Counsel:

Fifteen feet from the bus?

Witness:

This one was ..they changed the area where we started putting them. They cut a piece of the engineer tape to where we could walk straight up and around, rather than go to the end of the bus, come back across, and around.

Counsel:

Okay so someone cut a hole in the barbed wire, correct?

Witness:

The engineer tape.

Counsel:

The engineer tape, I'm sorry, it's not barbed wire there quite yet?

Witness:

Not in that point right.

Counsel:

So someone cut a hole in the engineer tape?

Witness:

Yes.

Counsel:

And that actually made the distance between the bus and the search area shorter, right?

Witness:

No it didn't make it shorter it just the path was shorter, but the distance was about the same--from the bus to the searching area you've still got the same distance, but rather than going back here and around we just went straight out--so it just made the path shorter.

Counsel:

That area where the hole was in the fence was close to the bus than the other staging area was, correct?

Witness:

Yes.

011885

Counsel:

So these five guys are lined up and you're standing at the bus with [REDACTED] right? Near

[REDACTED] b6-4

(b)(6)-4

Witness:

Yes.

Counsel:

Did you hear [REDACTED] say anything at that point?

b6-4

Witness:

No.

Counsel:

[REDACTED] (b)(6)-4

Witness:

I didn't hear anybody say anything.

Counsel:

Did you have to put anyone on the ground that night?

Witness:

No.

Counsel:

Any EPW?

Witness:

No.

Counsel:

Did you tell another soldier that you had put an EPW on the ground that night?

Witness:

I did not tell them I had to put another one on the ground, no.

Counsel:

There was lots of commotion out there, right?

Witness:

Yes.

Counsel:

People were running around everywhere, right?

011886

Witness:
Not necessarily running around, but yes.

Counsel:
At some point you started running with EPWs, correct?

Witness:
Yes.

Counsel:
So you're the MP that's running with the EPWs, right?

Witness:
Yes.

Counsel:
Some people--some EPWs were being taken off the bus one-to-one escort, right?

Witness:
Right.

Counsel:
Some EPWs had two escorts on them, right?

Witness:
Yes.

Counsel:
Now you kicked EPW's legs apart before, right?

Witness:
Yes.

Counsel:
On one of the first the 223rd did you guys had an EPW that you had to put in the prone, right?

Witness:
Yes.

Counsel:
And the EPW was in the prone, correct?

Witness:
Correct.

011887

Counsel:
And you were standing over him, right?

Witness:
I was standing near him, yes.

Counsel:
Okay near him. And the EPW put his legs together?

Witness:
Right.

Counsel:
And so you kicked him to put them back apart?

Witness:
Yes.

Counsel:
And one of the in processing NCOs told you, hey you shouldn't...that's not how you should do that, correct?

Witness:
Yes.

Counsel:
When everything was said and done that night, you talked to (b)(6)-4 right?

Witness:
Yes.

Counsel:
And it was in front of your company TOC, correct?

Witness:
Yes.

Counsel: (b)(6)-4
And (b)(6)-4 showed up at some point as well?

Witness:
Yes.

Counsel: (b)(6)-4
And (b)(6)-4 told you some things that you didn't see, correct?

C11888

Witness:
That's correct.

Counsel:
Like for example-- she told you that when the bus stopped he saw soldiers jump on the bus, correct?

Witness:
Yes.

Counsel:
And you didn't see that yourself?

Witness:
That's right.

Counsel:
'Cause you were pulling security to the front when the convoy had stopped, right?

Witness:
Yes, well originally when the convoy had stopped we had to turn around and come back, and then I was pulling security on the front, so I didn't see that.

Counsel:
And that's something he told you?

Witness:
Yes.

Counsel:
And you told him some of the things that you'd seen, right?

Witness:
Yes.

Counsel:
That he hadn't necessarily seen, correct?

Witness:
Yes.

Counsel:
And you also talked to (b)(6)-4 later, right?

Witness:
Yes, at some point in time I did.

011889

Counsel:

But you can't remember if it was that night or maybe the next day?

Witness:

Yes.

Counsel:

And he told you that he didn't see anything, right?

Witness:

Right.

Counsel:

'Cause he was busy dealing with the property?

Witness:

Yes.

Counsel:

And you told him well this is what I saw, correct?

Witness:

Yes.

Counsel:

You guys didn't actually go back to your company area right after the escorts were over, correct?

Witness:

That's correct.

Counsel:

'Cause there was a problem with the property?

Witness:

Yes.

Counsel:

As far as you know someone had signed for something that either didn't show up or there was some mistake with the paperwork?

Witness:

Yes.

C11890

Counsel:
So you all stayed there together, right?

Witness:
That's right.

Counsel:
And you didn't talk about what you saw then, right?

Witness:
Not that I can recall.

Counsel:
'Cause at that point the focus was on taking care of the property?

Witness:
The property issue.

Counsel: (b) (6) -1
[REDACTED] I just want to go back one more time to this incident with the rapist?

Witness:
Yes.

Counsel:
You said that you were escorting this individual and the MSG ran up and pushed him to the ground?

Witness:
Yes.

Counsel:
And then he kicked...she kicked him in the groin?

Witness:
Yes.

Counsel:
Five times?

Witness:
Approximately five times.

Counsel:
And then he rolled onto his side?

C11891

Witness:
Yes.

Counsel:
And she kicked him some more?

Witness:
Yes.

Counsel: (b)(6)-5
And it was at that point that you and [REDACTED] kicked his legs apart into the prone position?

Witness:
Yes.

Counsel:
At that point that's when you did that?

Witness:
Yes.

Counsel: (b)(6)-5
And then [REDACTED] you said kicked him and you walked away?

Witness:
Yes.

Counsel:
No further questions.

Questions by the defense counsel: [REDACTED] (b)(6)-2

Counsel:
After he got kicked in the groin and you kicked his legs apart to spread them apart?

Witness:
Right.

Counsel:
He didn't resist and flail his legs?

Witness:
Not at all.

Counsel: He compliantly opened his legs again after he had been kicked in the groin?

Witness:

Yes.

Counsel:

And you said so there was-- he was first of the set of five, correct?

Witness:

Correct.

Counsel:

And you don't know who was escorting the other ones, correct?

Witness:

That is correct.

Counsel:

You said-- you identified in your statement there was a specialist sitting on top of this second EPW.

Witness:

The second one, yes.

Counsel:

And you didn't know his name?

Witness:

I didn't know his name, no.

Counsel:

You were told his name, later correct?

Witness:

That's correct.

Counsel:

And you said he was sitting on top of the EPW that you thought was a teacher?

Witness:

No.

Counsel:

No? Okay just sitting on top of the second EPW in line?

Witness:

Yes.

C11893

Counsel:
He wasn't punching him, right?

Witness:
No.

Counsel:
And he wasn't kicking him?

Witness:
No.

Counsel:
And you don't know, you said people were yelling "take a shot--it's your shot" you don't know what he said do you, specifically what came out of his mouth?

Witness:
Not specifically, no.

Counsel:
I have no further questions.

I/O:
Was that it?

Defense counsel: [REDACTED] (b)(6) - 2
I think its all been covered

I/O:
Okay.

Questions by the Investigating Officer: [REDACTED] (b)(6) - 2

I/O:
SPC, this EPW that you call the rapist do you have any other description of him?

Witness:
No he was just an Iraqi.

I/O:
What was his dress?

Witness:
He was wearing a green Iraqi uniform.

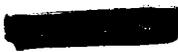
011894

I/O:
Green Iraqi--

Witness:
Just all green.

I/O:
I'm interested to know when you saw the second EPW being kicked, what was going through your mind at that time?

Witness:
I was just shocked. I mean, this isn't anything I've ever seen before and I knew it wasn't right. I just couldn't believe it was happening.

 (b)(6)-2
Excuse me did you say the second EPW?

I/O:
The one that you were calling the rapist.

Witness:
Yes.

I/O:
The one that was being kicked. Am I correct when that's what you said that that was the one that was being kicked?

Witness:
Yes

I/O:
When you said you...kicked his legs apart?

Witness:
Yes.

I/O:
And put him in the prone position after that?

Witness:
That's right.

I/O:
How did you go about kicking his legs?

011895

Witness:

Just use your foot to kind of, you know, kick his feet apart, because you can't reach down and move his feet where you want with your hands. Because you're putting yourself in a position to be kicked in the face, so you use your feet to kick their feet apart.

I/O:

And this was after he'd been knocked out of your hands?

Witness:

Yes.

I/O:

So you didn't have any other control measure on him at the time that you were kicking his legs apart, is that correct?

Witness:

That's correct.

I/O:

You said that after they were holding his ankles and then you were being invited to kick the EPW, you said you didn't do that you just walked away?

Witness:

Yes.

I/O:

Is that correct?

Witness:

That's correct.

I/O:

Where did you walk to?

Witness:

(b)(6)-4
I walked- [redacted] was standing by the bus and I walked over to him and he was just kinda standing around and I said, "I don't like they way they work. This is ridiculous I've never seen anything like it" and he was just like "I know" and just kinda shaking his head disappointingly. And that's when [redacted] came back over and asked me to help her escort

I/O:

(b)(6)-5
Who told you [redacted] s name?

Witness: I do not recall.

C11896

I/O:
Was it that night?

Witness:
No it was not that night.

I/O:
Sometime later?

Witness:
Yes.

I/O:
Have you ever seen any EPWs treated in the manner that you say that you saw them treated that night?

Witness:
No I had not.

I/O:
Did you have any conversations with (b)(6)-4 while all this was supposedly going on?

Witness:
I could've, I don't recall speaking to him, but I could've I don't remember.

I/O:
And then you said that you talked with (b)(6)-4 and (b)(6)-4 later that night?

Witness:
That's correct.

I/O:
Did you all come to any conclusions about what you'd say you saw say you'd seen that night?

Witness:
I don't know what you mean by conclusions.

I/O:
I mean, did you come to any course of action, like "we have to tell somebody about this" or "we're not gonna tell anybody about this"?

011897

Witness:

We did mention that something needed to be done about it, because that's not how we're trained to treat EPWs at all.

I/O:

And then after you had these conversations did you go back to your tent that night?

Witness:

Yes.

I/O:

I don't have any further questions. Does anybody else have any questions that they would like to ask?

Questions by the defense counsel: [REDACTED]

(b)(6) - 2

Counsel: You didn't know [REDACTED]'s name when you gave your statement to the 15-6 officer?

(b)(6) - 5

Witness:

Correct.

Counsel:

Nor when you talked to CID, right?

Witness:

That's right.

Counsel:

That's another name that somebody told you, right?

Witness:

Yes.

Questions by the defense counsel: [REDACTED]

(b)(6) - 2

Counsel:

Did you know MSG Girman's name at the time you gave your statement?

Witness:

No I did not.

Counsel:

So, somebody told you that name later also?

C11898

Witness:

Yes.

I/O:

Any other questions, defense?

Defense counsel:

No, sir.

Questions by the Investigating Officer: [REDACTED] (b)(6) - 2

I/O:

SPC am I to understand that you recognize these individuals that you've identified here today by sight, is that correct?

Witness:

Yes, that's correct.

I/O:

And not by what someone has told you, is that correct?

Witness:

That's correct. I don't have any further questions.

[The witness was duly warned, dismissed and withdrew from the room.]

I/O:

(b)(6)-2 We have just finished with the testimony of [REDACTED] (b)(6)-4 The government had made a request to broaden the scope of the investigation to include two additional charges. And [REDACTED] did you want to address that at this point after we've had our conversations, and I've talked with the legal advisor?

[REDACTED] (b)(6)-2

(b)(6)-5 Yes, sir. The government in fact that only the investigation be expanded and that you make recommendations concerning a additional charge of Obstruction of Justice against [REDACTED] in light of the testimony of [REDACTED] when she said that [REDACTED] (b)(6)-5 [REDACTED] had hidden her diary in [REDACTED] belongings so that CID would not find it when they conducted the search that day. (b)(6)-4

[REDACTED]: (b)(6)-2 (b)(6)-5 I would, on behalf of [REDACTED], object to the Investigating Officer making a recommendation on that charge based solely on the testimony the uncorroborated testimony of [REDACTED]. We would just maintain our objection for the record. (b)(6)-4

011899

I/O:

I have heard both sides of the argument and the recommendation at this point in my mind is due to the late nature of the request from the government the Investigating Officer will not recommend the additional charge be included.

We have a matter or some additional witnesses that the government was attempting to contact: (b)(6)-4 (b)(6)-4 (b)(6)-4 (b)(6)-1, and (b)(6)-1 as well as (b)(6)-4 who was a translator present that evening. It's my understanding from the defense they are going to waive any further attempts to contact these individuals and do not desire further testimony to be presented, is that correct?

Defense counsels:
Yes that's correct.

I/O:
All four-defense counsel agree to that?

Defense Counsels:
Yes, sir (all)

I/O:
I will invite the government to make any closing recommendations.

(b)(6)-2
Sir, the government waives that opportunity at this point.

I/O:
Very well. I invite any of the defense counsel to make any closing recommendations to the Investigating Officer.

Defense Counsel:
No sir (all)

I/O:
All four-defense counsel waives that opportunity. One question I do have before we close, before we began these proceedings defense had requested and I had acknowledged that a verbatim transcript be made of the proceedings here. Can a summarized transcript be produced first and then I understand a verbatim transcript is going to take some time to be produced. Can that then be followed by the verbatim transcript?

(b)(6)-2:
The summarize take a great deal of time also, sir so I think that would actually be harder on the court reporter. To make it summarized and then go back and make it verbatim.

I/O: I just noticed the court reporter eyes just widen a little bit back there.

(b)(6) - 2
I just know from experience sir that sometimes a summarized transcript takes as long or longer as a verbatim for the court reporter, but the government may want to weigh in.

(b)(6) - 2
Verbatim portion, or just the--

I/O:
We just need to acknowledge that (b)(6) - 2's direction was that a summarized transcript be produced within three days of the closing of the hearing. (b)(6) - 2 I don't even know if that's possible or not. I will have the XO of the 800th contact (b)(6) - 2 and tell her that we are proceeding with all due haste to produce a verbatim transcript it could be a matter, from what I understand, two or three weeks before that transcript is produced. And I'll communicate that to her. Then I believe her direction in the appointment letter was that three days following the production of the transcript that I was to have my report complete and forwarded. And I also acknowledge that a request was made by the defense counsel to have copies of the report forwarded to them and that will be done or at least that will be recommended to (b)(6) - 2 when the report is forwarded to her.

(b)(6) - 2
(b)(6) - 2
May I ask that as it's being typed, can it be sent to us in chunks. I don't know how you'd do it, if you like to read the entire thing first. But, like with records of trial I know they get sent to me as their being done to expedite the reading. It's just a suggestion. Maybe by email?

(b)(6) - 2
Yes, that's something we'll try to accommodate.

(b)(6) - 2
And also I'd like to go on record to ask that the tapes--that the tapes be preserved for the trial.

(b)(6) - 2
I have just one last question, a truck drove by, you said that you are not going to consider the additional charge of Obstruction of Justice or you are?

I/O:
That's correct.

(b)(6) - 2
You're not?

I/O:
I'm not.

C11901

[REDACTED] (b)(6) - 2

Okay. I couldn't hear because of a truck going by.

I/O: And my reasoning for that is the date or the late time of the request placed in the hearing. Any other matters that any counsel would like to present at this time for my consideration?

All Counsel: No sir

I/O: I'd like to thank all the counsel for your cooperation, I'd like to thank the government for their efforts to set all this up and as well as at Camp Bucca, and here at Camp Doha. If there are no further matters then I'll declare that the Article 32 proceedings are closed.

[The Article 32 Hearing was closed at 1601, 02 October 2003.]

C11902



DEPARTMENT OF THE ARMY
800TH POLICE BATTALION
CAMP BUCCA, IRAQ
APO AE 09375

REPLY TO
ATTENTION OF:

AFRD-JA

16 July 2003

(b)(6) - 2
MEMORANDUM FOR [REDACTED], Headquarters and Headquarters Company,
220th Military Police Brigade

SUBJECT: Appointment of Article 32 Investigating Officer

1. You are hereby appointed to investigate the enclosed preferred charges and specification concerning Master Sergeant Lisa M. Girman, [REDACTED] HHC, 320th Military Police Battalion, Camp Bucca, Iraq, APO AE 09375. (b)(6) - 5
2. You will conduct your investigation in accordance with Article 32a, UCMJ, and Rules for Courts-Martial 405. You will use DA Pam 27-17 as a procedural guide. Additionally, you shall investigate and make a recommendation as to any uncharged offenses, except minor offenses as defined by Part V, Manual for Courts-Martial, brought to your attention during the investigation unless counsel for both sides agree that they should not be investigated. This duty takes priority over all other duties.
3. A defense counsel will be detailed for the accused by Trial Defense Service. Each counsel plays an adversarial role in the proceedings. Avoid talking to the legal counsels, the commanders of the accused, and any prospective witnesses about the merits of the case outside of formal sessions where all parties are present.
4. Your legal advisor for this investigation will be [REDACTED] CFLCC Staff Judge Advocate. You can contact him at 825-2352 for legal advice as soon as possible upon notification of this duty. Logistical support will be provided by the Criminal Law Division, CFLCC- OSJA. The hearing will be open. (b)(6) - 2
5. The Article 32 should be set as soon as possible from the date you receive this memorandum. Any request to delay this investigation by the attorneys must be in the writing and must detail the basis for the request. You have the authority to grant reasonable requests by the attorney to delay the investigation. However, any request, which would delay this investigation any more than ten (10) calendar days, must be approved by myself.

011903

AFRD-JA

SUBJECT: Appointment of Article 32 Investigating Officer

6. After the hearing is completed, the legal specialist assigned to the investigation shall complete a summarized transcript within 3 duty days. Upon receipt of the transcript, you have 3 duty days to submit the report of your investigation, with five copies, on DD Form 457 (Investigating Officer's Report) to the Criminal Law Division, OSJA. Your report will contain a detailed date and time chronology of your actions in conducting this investigation, to include all delays.

A large, irregular black redaction mark covering the signature area of the document.

BG, USA
Commanding

JANIS L. KARPINSKI

C11904

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) Girman, Lisa M.		2. SSN [REDACTED] (b)(6)-2	3. GRADE OR RANK MSG	4. PAY GRADE E8
5. UNIT OR ORGANIZATION HHG, 320th Military Police Battalion Camp Bucca, Iraq 09375			6. CURRENT SERVICE	
7. PAY PER MONTH			a. INITIAL DATE 19940406	b. TERM 11 years
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL	8. NATURE OF RESTRAINT OF ACCUSED	
3,342.00	250.00	3,592.00	N/A	
9. DATE(S) IMPOSED				

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION:

CHARGE I: VIOLATION OF ARTICLE 92
 Specification 1: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, who knew of her duties at or near Camp Bucca, Iraq, on or about 12 May 2003, was derelict in the performance of those duties in that she willfully failed to safeguard from assault or abuse captured Iraqi prisoners of war that she was escorting from Talil Air Base, Iraq, to Camp Bucca, Iraq, as it was her duty to do.

Specification 2: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, who knew of her duties at or near Camp Bucca, Iraq, on or about 12 May 2003, was derelict in the performance of those duties in that she through culpable neglect failed to supervise the soldiers under her authority who then assaulted and abused Iraqi prisoners of war.

CHARGE II: VIOLATION OF ARTICLE 93
 Specification 1: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] (b)(6)-4, a person subject to her orders, by kicking him in the groin, abdomen, and head.

Specification 2: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] (b)(6)-4, a person subject to her orders, by kicking and punching him, and by dragging him by his armpits across the ground.

Specification 3: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] (b)(6)-4 and [REDACTED] an Iraqi prisoner of war by kicking him in the face and leg.

(SEE CONTINUATION SHEET)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED] (b)(6)-2	b. GRADE 02	c. ORGANIZATION OF ACCUSER 320th MP Battalion
d. SIGNATURE OF ACCUSER [REDACTED] (b)(6)-2	e. DATE 13 Jul 03	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 13th day of July, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED] (b)(6)-2

 Typed Name of Officer

OSJA, CFLCC

 Organization of Officer

MAJ / 04

 Grade

Article 136, UCMJ

 Official Capacity to Administer Oath
 (See R.C.M. 307(b) - must be commissioned officer)

[REDACTED] (b)(6)-2

 Signature

12.

On 13 July, 19 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted] (b)(6)-2
Typed Name of Immediate Commander

HHC, 320th MP Battalion
Organization of Immediate Commander

1LT/O2

[Redacted] (b)(6)-2
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____ 19 _____ at _____
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 402)

FOR THE ¹ _____

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY	b. PLACE	c. DATE
--	----------	---------

Referred for trial to the _____ court-martial convened by _____

_____ 19 _____, subject to the following instructions:² _____

By _____ of _____
Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, 19 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

CONTINUATION SHEET 2

CHARGE III: VIOLATION OF ARTICLE 107

Specification: In that Master Sergeant Lisa Marie Girman, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 16 May 2003, with the intent to deceive, make to [REDACTED], United States Army Criminal Investigation Division Command, an official statement on a DA Form 2823 Sworn Statement, to wit: that she did not kick or strike an Iraqi prisoner of war, and that she did not see any of her soldiers kick or strike and Iraqi prisoner of war, which was totally false, and was known by the said Master Sergeant Girman to be so false. (b)(6) 1

CHARGE IV: VIOLATION OF ARTICLE 128

Specification 1: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick and punch, [REDACTED], an Iraqi prisoner of war, and dragged him across the ground by his armpits. (b)(6) - 4

Specification 2: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick and strike [REDACTED], an Iraqi prisoner of war in the groin, face, abdomen, and head. (b)(6) - 4

Specification 3: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick [REDACTED], an Iraqi prisoner of war in the face and leg. (b)(6) - 4

CHARGE V: VIOLATION OF ARTICLE 134

Specification: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC 320th Military Police Battalion, Camp Bucca, Iraq, did, at or near Camp Bucca, Iraq, about on or between 13 May 2003 and 10 June 2003, wrongfully endeavor to impede a United States Army Criminal Investigation Division Command investigation into alleged abuse of Iraqi prisoners of war by telling [REDACTED] a potential subject and/or witness in the investigation, not to take a polygraph examination, and by winking at him and telling him that he did not see anything regarding the maltreatment of the Iraqi prisoners of war. (b)(6) - 4

C11907

INVESTIGATING OFFICER'S REPORT

(Of Charges Under Article 32, UCMJ and R.C.M. 405, Manual for Courts-Martial)

FROM: (Name of Investigating Officer - Last, First, MI) [REDACTED] (b)(6)2	b. GRADE O-5/LTC	c. ORGANIZATION 220TH MILITARY POLICE BRIGADE APO AE 09366	d. DATE OF REPORT
1. TO: (Name of Officer who directed the investigation - Last, First, MI) KARPINSKI, JAMES L.	b. TITLE BRIGADE COMMANDER	c. ORGANIZATION 800TH MILITARY POLICE BRIGADE APO AE 09366	
a. NAME OF ACCUSED (Last, First, MI) GIRMAN, LISA M.	b. GRADE E-8	c. SSN [REDACTED]	d. ORGANIZATION 320TH MILITARY POLICE BN
			e. DATE OF CHARGES 13 JUL 03

(Check appropriate answer)

IN ACCORDANCE WITH ARTICLE 32, UCMJ, AND R.C.M. 405, MANUAL FOR COURTS-MARTIAL, I HAVE INVESTIGATED THE CHARGES APPENDED HERETO (Exhibit 1)	YES	N
1. THE ACCUSED WAS REPRESENTED BY COUNSEL (If not, see 9 below)	X	
2. COUNSEL WHO REPRESENTED THE ACCUSED WAS QUALIFIED UNDER R.C.M. 405(d)(2), 502(d)	X	
3a. NAME OF DEFENSE COUNSEL (Last, First, MI) [REDACTED] (b)(6)-2	b. GRADE O-3/CPT	3a. NAME OF ASSISTANT DEFENSE COUNSEL (If any) NA
		b. GRADE NA
3. ORGANIZATION (If appropriate) US ARMY TRIAL DEFENSE SERVICE WURZBURG FIELD OFFICE, REGION VIII	c. ORGANIZATION (If appropriate) NA	
d. ADDRESS (If appropriate) APO AE 09036	d. ADDRESS (If appropriate) NA	
9. (To be signed by accused if accused waives counsel. If accused does not sign, investigating officer will explain in detail in Item 21.)		
a. PLACE	b. DATE	

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED IN THIS INVESTIGATION BY COUNSEL, INCLUDING MY RIGHT TO CIVILIAN OR MILITARY COUNSEL OF MY CHOICE IF REASONABLY AVAILABLE. I WAIVE MY RIGHT TO COUNSEL IN THIS INVESTIGATION.

c. SIGNATURE OF ACCUSED

10. AT THE BEGINNING OF THE INVESTIGATION I INFORMED THE ACCUSED OF: (Check appropriate answer)	YES	N
a. THE CHARGE(S) UNDER INVESTIGATION	X	
b. THE IDENTITY OF THE ACCUSER	X	
c. THE RIGHT AGAINST SELF-INCRIMINATION UNDER ARTICLE 31	X	
d. THE PURPOSE OF THE INVESTIGATION	X	
e. THE RIGHT TO BE PRESENT THROUGHOUT THE TAKING OF EVIDENCE	X	
f. THE WITNESSES AND OTHER EVIDENCE KNOWN TO ME WHICH I EXPECTED TO PRESENT	X	
g. THE RIGHT TO CROSS-EXAMINE WITNESSES	X	
h. THE RIGHT TO HAVE AVAILABLE WITNESSES AND EVIDENCE PRESENTED	X	
i. THE RIGHT TO PRESENT ANYTHING IN DEFENSE, EXTENUATION, OR MITIGATION	X	
j. THE RIGHT TO MAKE A SWORN OR UNSWORN STATEMENT, ORALLY OR IN WRITING		
11a. THE ACCUSED AND ACCUSED'S COUNSEL WERE PRESENT THROUGHOUT THE PRESENTATION OF EVIDENCE (If the accused or counsel were absent during any part of the presentation of evidence, complete b below.)	X	

b. STATE THE CIRCUMSTANCES AND DESCRIBE THE PROCEEDINGS CONDUCTED IN THE ABSENCE OF ACCUSED OR COUNSEL

NOTE: If additional space is required for any item, enter the additional material in Item 21 or on a separate sheet. Identify such material with the proper numerical and, if appropriate, lettered heading (Example: "7c") Securely attach any additional sheets to the form and add a note in the appropriate item of the form: "See additional sheet."

12a. THE FOLLOWING WITNESSES TESTIFIED UNDER OATH (Check appropriate answer)					
NAME (Last, First, MI)	GRADE (If any)	ORGANIZATION/ADDRESS (Whichever is appropriate)	YES	NO	
[REDACTED] (b)(6)-4	E-6/SSG	223rd MP COMPANY	X		
[REDACTED] (b)(6)-4	E-5/SGT	223rd MP COMPANY	X		
[REDACTED] (b)(6)-4	E-4/SPC	223rd MP COMPANY	X		
[REDACTED] (b)(6)-4	E-5/SGT	223rd MP COMPANY	X		
[REDACTED] (b)(6)-4	E-4/SPC	320th MP BATTALION	X		
[REDACTED] (b)(6)-4	E-4/SPC	320th MP BATTALION	X		

b. THE SUBSTANCE OF THE TESTIMONY OF THESE WITNESSES HAS BEEN REDUCED TO WRITING AND IS ATTACHED. X

13a. THE FOLLOWING STATEMENTS, DOCUMENTS, OR MATTERS WERE CONSIDERED; THE ACCUSED WAS PERMITTED TO EXAMINE EACH.

DESCRIPTION OF ITEM	LOCATION OF ORIGINAL (If not attached)	YES	NO
#1: SWORN STATEMENT, [REDACTED] DTD 14 MAY 03 (b)(6)-4	OSJA, CFLCC, Camp Doha, KU	X	
#2: AIR [REDACTED] 14 MAY 03 (b)(6)-4	OSJA, CFLCC, Camp Doha, KU	X	
#3: SWORN STATEMENT, [REDACTED] DTD 14 MAY 03 (b)(6)-4	OSJA, CFLCC, Camp Doha, KU	X	
#4: SWORN STATEMENT, [REDACTED] DTD 14 MAY 03 (b)(6)-4	OSJA, CFLCC, Camp Doha, KU	X	
#5: SWORN STATEMENT, [REDACTED] (b)(6)-4	OSJA, CFLCC, Camp Doha, KU	X	
#6: [REDACTED] 744th MP BN, DTD 12 MAY 03 (b)(6)-4	OSJA, CFLCC, Camp Doha, KU	X	

b. EACH ITEM CONSIDERED, OR A COPY OR RECITAL OF THE SUBSTANCE OR NATURE THEREOF, IS ATTACHED X

14. THERE ARE GROUNDS TO BELIEVE THAT THE ACCUSED WAS NOT MENTALLY RESPONSIBLE FOR THE OFFENSE(S) OR NOT COMPETENT TO PARTICIPATE IN THE DEFENSE. (See R.C.M. 909, 916(k).) X

15. THE DEFENSE DID REQUEST OBJECTIONS TO BE NOTED IN THIS REPORT (If Yes, specify in Item 21 below.) X

16. ALL ESSENTIAL WITNESSES WILL BE AVAILABLE IN THE EVENT OF TRIAL X

17. THE CHARGES AND SPECIFICATIONS ARE IN PROPER FORM X

18. REASONABLE GROUNDS EXIST TO BELIEVE THAT THE ACCUSED COMMITTED THE OFFENSE(S) ALLEGED X

19. I AM NOT AWARE OF ANY GROUNDS WHICH WOULD DISQUALIFY ME FROM ACTING AS INVESTIGATING OFFICER. (See R.C.M. 405(d)(1).) X

20. I RECOMMEND:
a. TRIAL BY SUMMARY SPECIAL GENERAL COURT-MARTIAL
b. OTHER (Specify in Item 21 below)

21. REMARKS (Include, as necessary, explanation for any delays in the investigation, and explanation for any "no" answers above.)

SEE ATTACHED CONTINUATION SHEET

22a TYPED NAME OF INVESTIGATING OFFICER [REDACTED] (b)(6)-2	b. GRADE O-5/LTC	c. ORGANIZATION 220th MILITARY POLICE BRIGADE APO AE 09366
d. SIGNATURE OF INVESTIGATING OFFICER [REDACTED] (b)(6)-2	e. DATE	

CONTINUATION SHEET, DD FORM 457, INVESTIGATING OFFICER'S REPORT

Item 13a, Witnesses

- #7: SWORN STATEMENT, [REDACTED] (S)(b) OSJA, CFLCC, CAMP DOHA, KU YES
DTD 15 MAY 03
- #8: SWORN STATEMENT, [REDACTED] (b)(6) OSJA, CFLCC, CAMP DOHA, KU YES
DTD 16 MAY 03
- #9: AIR [REDACTED] (b)(6) OSJA, CFLCC, CAMP DOHA, KU YES
DTD 14 MAY 03
- #10: SWORN STATEMENT, [REDACTED] OSJA, CFLCC, CAMP DOHA, KU YES
DTD 15 MAY 03 (b)(6)
- #11: SWORN STATEMENT, [REDACTED] OSJA, CFLCC, CAMP DOHA, KU YES
DTD 16 MAY 03 (b)(6)-5
- #12: SECOND SWORN STATEMENT, [REDACTED] OSJA, CFLCC, CAMP DOHA, KU YES
DTD 15 MAY 03 (b)(6)-5

CONTINUATION SHEET, DD FORM 457, INVESTIGATING OFFICER'S REPORT

MSG Lisa M. Girman, [REDACTED] - (b)(6) - 5

Item 21, Remarks

1. Twelve pieces of evidence were submitted during the hearing. The evidence presented and examined consisted of sworn statements or Agent's Investigation Reports taken or written by CID Special Agents. A manifest from the 744th Military Police Battalion, dated 12 May 03, was also submitted during the hearing. In some cases, witnesses referred to their statements or reports to re-fresh their recollection of events under question. Thirty-one separate witnesses were heard. The witnesses were credible, although defense counsels attempted to refute the testimony of certain witnesses and highlight that previous testimony or statements were contradictory to the recorded testimony during this hearing. Based on the testimony of the witnesses and the evidence presented, I am able to make a recommendation with regard to further action involving the accused soldier.
2. With regard to MSG Lisa M. Girman, I make the following recommendations to the charges and specifications alleged against her:
 - a. Charge I: Violation of Article 92, Dereliction of Duty: I find that a preponderance of the evidence exists to validate both specifications alleged against her. MSG Girman's position, her previous experience, and her senior non-commissioned officer rank are clearly indicative that she had certain duties that night and that she knew of those duties. The testimony of [REDACTED] (b)(6) - 4, [REDACTED] (b)(6) - 4, and [REDACTED] (b)(6) - 4 all indicate that she was willfully derelict in the performance of those duties, to include her responsibilities to safeguard EPWs herself and to ensure that her soldiers also safeguarded EPWs.
 - b. Charge II: Violation of Article 93, Cruelty and Maltreatment: I find that a preponderance of the evidence exists to validate specifications 1 and 2 alleged against her, but that evidence was not presented to sufficiently validate specification 3 alleged against her. The testimony of [REDACTED] (b)(6) - 4 and [REDACTED] (b)(6) - 4 indicate MSG Girman's participation in the cruel mistreatment of EPW [REDACTED] (b)(6) - 4. The testimony of [REDACTED] (b)(6) - 4, [REDACTED] (b)(6) - 4, and [REDACTED] (b)(6) - 4 indicate her cruel mistreatment of EPW [REDACTED] (b)(6) - 4. I did not find that sufficient evidence existed to confirm the specification alleged against her regarding EPW [REDACTED] (b)(6) - 4.

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c. Charge III: Violation of Article 107, False Official Statements: I find that a preponderance of the evidence exists to validate the specification alleged against her. Based on the testimony of the witnesses previously indicated, MSG Girman's sworn statement of 16 May appears to be false in that she denies the mistreatment and assault of any of the EPWs, that she evidently knew the statement to be false, and that her statement was intended to deceive investigators as to her true actions.

d. Charge IV: Violation of Article 128, Assault: I find that a preponderance of the evidence exists to validate specifications 1 and 2, but that evidence was not presented to sufficiently validate specification 3 alleged against her. The testimony of (b)(6)-4 (b)(6)-4 (b)(6) 4 (b)(6)-4 and (b)(6)-4 all indicate that MSG Girman did bodily harm to EPWs (b)(6)-4 and (b)(6)-4 and that the harm was done with unlawful force. Again, I did not find that sufficient evidence existed to confirm the specification alleged against her regarding EPW (b)(6)-4

e. Charge V: Violation of Article 134: I find that the evidence presented was insufficient to validate the specification against her. The testimony of (b)(6)-4 (b)(6)-4 indicates that while MSG Girman's inquiry of him, both about his need for an attorney and his actual knowledge of the events of 12 May, was suspicious, it does not meet the criteria to validate this charge. (b)(6)-4

f. During the course of the hearing, testimony from (b)(6)-4 prompted counsel for the government to request that the investigation be broadened to include violations of Article 81, Conspiracy, and Article 134, Obstruction of Justice, against all four of the accused. I granted that request over the objection of all defense counsels. Aside from the testimony of (b)(6)-4, I do not feel that further, sufficient evidence was presented to validate these charges. I, therefore, cannot report that a preponderance of the evidence suggests that these charges are true.

g. I recommend that you proceed with a general court martial, charging the accused with Violation of Article 92, both specifications, Violation of Article 93, Specifications 1 and 2, Violation of Article 107 and its specification, and Violation of Article 128, Specifications 1 and 2.

3. Delays in proceedings:

a. IO proposed original date of 28 July 03 for hearing. Defense counsels requested delay to 5 September 03 due to schedule conflicts. IO set date of 27 August 03

C11913

after consulting all counsels. Defense counsels acknowledged that the time would not count against the speedy trial requirement of the government.

- b. 28 August 03: Defense counsels requested additional time to prepare for EPW witnesses and CID Special Agent testimony. IO granted recess until 290800 August 03. At approx. 2000 Hrs, defense counsels requested further delay due to problems accessing EPW witnesses. IO granted further delay until 291300 August 03.
- c. 29 August 03: Hearing recessed until arrival of additional witnesses on leave. Re-convene at Camp Doha, KU.
- d. 1 September 03: Hearing recessed until 021300 September 03 for additional witness. Further delayed until 021430 Sep 03 at request of defense counsels for additional time to interview witness.

4. Defense and Government Objections:

- a. Defense: Defense counsels objected to introduction of sworn statement of [REDACTED] (b)(6)-4 in addition to his sworn testimony at the hearing. [REDACTED] (b)(6)-4 did not refer to his report during his testimony. IO sustained objection IAW RCM 405(4)(g)(B), allowing introduction of sworn statements over defense objection when the witness is not available.
- b. Government: Government counsel objected to defense line of questioning, asking whether certain witnesses had been advised of their rights under Article 31, or were being investigated, or had been charged with violation of Article 32, UCMJ, Dereliction of Duty. IO allowed defense counsels to ask this question due to its relevance based on the testimony of the witnesses.
- c. Defense: Government counsel requested to broaden the scope of the investigation to include violations of Article 81, UCMJ, 80, Conspiracy to Obstruct Justice, and Article 134, UCMJ, Obstruction of Justice, against all four of the accused, based on testimony of [REDACTED] (b)(6)-4. Based on her testimony, IO allowed government to broaden the scope of the investigation to include these two charges.
- d. Defense: Defense counsels perceived an allegation of impropriety in line of questioning by government counsel and asked that hearing area be cleared to further discuss the matter. IO cleared the courtroom of all spectators, including the media. I was advised by the PAO representation of a potential violation of the Freedom of Information Act in doing so, since the hearing was declared open. My

C11914

legal advisor also suggested that other spectators carried the same weight as the media. Both were allowed back in, although the government counsel assured all parties that no such implied accusation was intended against any defense counsel and withdrew any further line of questioning along these lines.

- e. Defense: defense counsels objected to line of questioning by the government of (b)(6)-1 regarding a previous investigation by (b)(6)-1 of MSG Girman as irrelevant to the proceedings at hand. Government did not argue probative v. prejudiced value of the questioning. I sustained the objection and disallowed the questioning.
- f. Defense: after the testimony of the final witness, (b)(6)-1 government counsel asked that the scope of the investigation be broadened to include violation of Article 134, Adultery and Obstruction of Justice. Government withdrew its request for the adultery charge. I did not allow the inclusion of this charge due to inadequate notice to the defense to prepare for the additional charges.
5. While EPW witnesses have agreed to be available for further testimony, their release might make it difficult to reach them once they have returned home.
6. During the course of this hearing, testimony from (b)(6)-4 (b)(6)-4 (b)(6)-4 (b)(6)-4 and (b)(6)-4 indicated that while the alleged incidents were occurring, they did not actively attempt to intervene as it was their responsibility to do as soldiers, and in the case of (b)(6)-4 (b)(6)-4 and (b)(6)-4 as non-commissioned officers and leaders. Beyond (b)(6)-4 verbal attempts to stop the abuse of these EPWs, nothing else seems to have been done. (b)(6)-4 testimony that he turned away because he could not bear to watch this treatment is especially disturbing. I recommend that you consider appropriate action with regard to these soldiers and their evident failure to act to protect the enemy prisoners of war in their charge or stop the mistreatment to which they have testified, under oath.

C11915



DEPARTMENT OF THE ARMY
COALITION FORCES LAND COMPONENT COMMAND
THIRD US ARMY
CAMP DOHA, KUWAIT 09304

REPLY TO
ATTENTION OF:

AFRD-JA (27-10e)

8 November 2003

MEMORANDUM FOR Commanding General, Coalition Forces Land Component Command,
APO AE 09304

SUBJECT: Advice on Disposition of Court-Martial Charges, MSG Lisa M. Girman, 320th
Military Police Battalion, Camp Bucca, Iraq

1. PURPOSE: To provide pretrial advice in accordance with the provisions of Article 34, Uniform Code of Military Justice (UCMJ) and Rule for Courts-Martial (RCM) 406.
2. ACCUSED: MSG Lisa M. Girman, 320th Military Police Battalion, Camp Bucca, Iraq
3. PERSONAL DATA:

- a. MOS: 95B5H, Military Police;
- b. Age: 35;
- c. Marital Status: Single;
- d. Education: High School;
- e. Current Enlistment Expires: 01 November 2005;
- f. BASD: 07 April 1986;
- g. Previous Convictions: None;
- h. Nonjudicial Punishment: None;
- i. Pretrial Restraint: None.

4. CHARGES: Preferred 13 July 2003.

<u>CHG</u>	<u>Article</u>	<u>Spec</u>	<u>Summarized Specification</u>
I.	92	1	Dereliction of Duty (Willful)
		2	Dereliction of Duty (Negligent)
II.	93	1	Cruelty and Maltreatment
		2	Cruelty and Maltreatment
		3	Cruelty and Maltreatment

C11916

RECORD OF PROCEEDINGS OF
COURT-MARTIAL

011917

RECORD OF TRIAL

(b)(6)-5

GIRMAN, LISA M <i>(Name: Last, First, Middle Initial)</i>	of [REDACTED] <i>(Social Security Number)</i>	MASTER SERGEANT (E8) <i>(Rank)</i>
HHC, 320th MP Bn 800th MP Bde <i>(Unit/Command Name)</i>	U. S. ARMY <i>(Branch of Service)</i>	Camp Bucca, Iraq <i>(Station or Ship)</i>

By

GENERAL

COURT-MARTIAL

Convened by COMMANDER
(Title of Convening Authority)

Coalition Land Forces Component Command
Third U.S. Army
U.S. Army Forces Central Command
(Unit/Command of Convening Authority)

Tried at

Camp Doha, Kuwait APO AE 09304 on 15 November 2003
(Place or Places of Trial) *(Date or Dates of Trial)*

INDEX	RECORD
Article 39(a) Sessions:	
On 15 November 2003	R- 1
Introduction of Counsel	R- 2
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Prosecution evidence	R- --
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Findings	R- --
Prosecution evidence	R- --
Defense evidence	R- --
Sentence	R- --
Appellate rights advisement	R- --
Proceedings in revision	R- --

TESTIMONY

Name of Witness (Last, First, Middle Initial)	Direct and Redirect	Cross and Recross	Court
Prosecution			
NA			
Defense			
NA			
Court			
NA			

EXHIBITS ADMITTED IN EVIDENCE

Number or Letter	Description	Page Where-	
		Offered	Admitted
AE I	Advice on Disposition of Court-Martial Charges	--	--

COPIES OF RECORD₁

_____ copy of record furnished the accused or defense counsel as per attached certificate or receipt.

_____ copy(ies) of record forwarded herewith.

RECEIPT FOR COPY OF RECORD₂

I hereby acknowledge receipt of a copy of the record of trial in the case of United States v. _____

Delivered to me at _____ this _____ day of _____, 20____

(Signature of accused)

I hereby acknowledge receipt of a copy of the record of trial in the case of United States v. _____

Delivered to me at _____ this _____ day of _____, 20____

(Signature of accused)

1 For instructions as to preparation of copies of record, see back cover or appendices 13 and 14, MCM, 1995

2 If copy of record prepared for accused contains matters requiring security protection, see RCM 1104(b)(1)(D), MCM, 1995.

CERTIFICATE IN LIEU OF RECEIPT

(Place)

(Date)

I certify that on this date a copy of the record of trial in the case of United States v. _____

was transmitted (delivered) to the accused, _____,

(Rank and Name of accused)

at _____, by _____

(Place of delivery, or address sent to)

(Means of effecting delivery, i.e., mail, messenger, etc)

and that the receipt of the accused had not been received on the date this record was forwarded to the convening authority.

The receipt of the accused will be forwarded as soon as it is received.

(Signature of trial counsel)

OR

(Place)

(Date)

I certify that on this date a copy of the record of trial in the case of United States v. _____

was transmitted (delivered) to the accused, _____,

(Rank and Name of accused)

at _____, by _____

(Place of delivery, or address sent to)

(Means of effecting delivery, i.e., mail, messenger, etc)

because (it was impracticable to serve the record of trial on the accused because he/she was transferred to

_____ (the accused requested such at trial) (the accused so
(Place)

requested in writing, which is attached)(the accused is absent without leave)(_____)
(Other Reason)

(Signature of trial counsel)

OR

The accused was not served personally because (he/she is absent without leave)(_____)

_____)

Accused has no defense counsel to receive the record because (defense counsel has been excused under

RCM 505(D)(2)(B)) (_____)

(Date)

(Signature of trial counsel)

PROCEEDINGS OF A GENERAL COURT-MARTIAL

1
2
3
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9

The military judge called the Article 39(a) session to order at Camp Doha, Kuwait, at 1007, 15 November 2003, pursuant to the following orders:

Court-Martial Convening Order Number 6, Headquarters, Coalition Forces Land Component Command, Camp Doha, Kuwait, dated 3 July 2003.

[END OF PAGE]



REPLY TO
ATTENTION OF:

CORRECTED COPY
DEPARTMENT OF THE ARMY
COALITION FORCES LAND COMPONENT COMMAND
HEADQUARTERS THIRD UNITED STATES ARMY
UNITED STATES ARMY FORCES CENTRAL COMMAND
APO AE 09304

COURT-MARTIAL CONVENING ORDER
NUMBER

6

3 July 2003

A general court-martial is hereby convened with the following members and shall meet at ARCENT/Kuwait, unless otherwise directed:

MEMBERS

- (b)(6)-2 [REDACTED] SC, HHC, Third U.S. Army, CFLCC-C6
- (b)(6)-2 [REDACTED] AG, HHC, 143d Transportation Group, DCS, G4
- (b)(6)-2 [REDACTED] IO, HHC, Third U.S. Army, CFLCC-C3
- [REDACTED] N, HHC, Third U.S. Army, CFLCC, C3
- [REDACTED] ADA, HHC, Third U.S. Army, CFLCC, C3
- [REDACTED] AV, HHC, Third U.S. Army, CFLCC, C4
- * [REDACTED] IN, HHC, ARCENT-KU
- [REDACTED] AG, HHC, 335th Theater Signal Command
- [REDACTED] OM, HHC, Third U.S. Army, CFLCC, C4
- [REDACTED] SC, HHC, Third U.S. Army, CFLCC-C6

*These members are excused when the accused requests to be tried by a panel consisting of enlisted and officer members.

The following members are detailed to the court-martial when the accused requests enlisted members under Article 25(C), UCMJ:

MEMBERS

- (b)(6)-2 [REDACTED] USA, HHC, Third U.S. Army, CFLCC, C7
- [REDACTED] USA, HHC, 377th Theater Support Command
- [REDACTED] USA, HHC, Third U.S. Army, CFLCC, C6
- [REDACTED] USA, HHC, 377th Theater Support Command
- [REDACTED] USA, HHC, 377th Theater Support Command

BY COMMAND OF LTG McKIERNAN:

[REDACTED SIGNATURE]
Criminal Law NCOIC

(b)(6)-2

DISTRIBUTION:
Each Member Selected

C11924

1 MJ: This Article 39(a) session is called to order.

2 TC: This court-martial is convened by Court-Martial Convening
3 Order Number 6, Headquarters, Third Army United States-- excuse me,
4 Third United States Army, Coalition Forces Land Component Command,
5 dated 3 July 2003, copies of which have been furnished to the
6 military judge, counsel and the accused and which will be inserted at
7 this point in the record.

8 The charges have been properly referred to this court for trial
9 and were served on the accused on 10 November 2003.

10 The prosecution is ready to proceed in the arraignment in the
11 case of The United States versus Master Sergeant Lisa M. Girman.

12 The accused and the following persons detailed to this court are
13 present:

14 (b)(6)-2
[REDACTED], **MILITARY JUDGE;**
15 (b)(6)-2
[REDACTED] **TRIAL COUNSEL; and**
16 (b)(6)-2
[REDACTED] **ASSISTANT TRIAL COUNSEL;**
17 (b)(6)-2
[REDACTED] **DEFENSE COUNSEL.**

18 The members are absent.

19 (b)(6)-2
[REDACTED] has been detailed reporter for
20 this court and has been previously sworn.

21 TC: All members of the prosecution have been detailed to this
22 court-martial by (b)(6)-2 [REDACTED] All members of the
23 prosecution are qualified and certified under Article 27(b) and sworn

1 under Article 42(a) of the Uniform Code of Military Justice. No
2 member of the prosecution has acted in any manner which might tend to
3 disqualify us in this court-martial.

4 MJ: Thank you. (b)(6)-2
5 are you lead counsel or
6 assistant trial counsel?

7 TC: Assistant trial counsel.

8 MJ: All right. So (b)(6)-2
9 you're the lead trial counsel?

10 TC: Yes I am.

11 MJ: All right. Master Sergeant Girman I was informed by
12 (b)(6)-2 that you received a copy of the referred charge
13 sheet on the 10th of November. Now today's the 15th of November. The
14 law requires that you have at least five days between the day that
15 you received the referred charge sheet and the day that we go to
16 trial. Now today is a pretrial hearing, it's called an arraignment,
17 so it's not the actual day of trial. In fact one of the purposes of
18 having this hearing today is to go ahead and set the dates for trial.
19 Nevertheless, if you wanted to, you could say, "Time out, I don't
20 want to even have a pretrial hearing today, I want to push it off
21 until tomorrow and have my statutory five days."

22 Do you understand that?

23 ACC: Yes, Your Honor, I do.

MJ: Have you discussed this with (b)(6)-2?

ACC: Yes ma'am, I have.

1 MJ: Is it okay with you if we go ahead with this arraignment
2 here today?

3 ACC: Yes, Your Honor, it is.

4 MJ: All right, so you're waiving that statutory period then?

5 ACC: Yes.

6 MJ: All right. I want to talk to you now about your rights to
7 counsel. You are currently represented by (b)(6)-2. She is
8 your detailed military defense counsel and she is provided to you at
9 no expense to you. You also have the right to request a different
10 military lawyer to represent you and if that person were reasonably
11 available he or she would represent you also free of charge. If your
12 request for another military lawyer were granted, however, you would
13 not have the right to keep the services of (b)(6)-2 because
14 you're normally entitled to only one military lawyer. You could ask
15 her superiors to let you keep your detailed defense counsel, but they
16 would not have to grant that request.

17 In addition, you, of course have the right to be
18 represented by a civilian lawyer. A civilian lawyer would have to be
19 provided by you at no expense to the government. If you are
20 represented by a civilian lawyer, you can also keep your military
21 lawyer on the case to assist your civilian lawyer, or you could
22 excuse your military lawyer and be represented solely by a civilian
23 lawyer.

1 Do you understand everything I've told you?

2 ACC: Yes, Your Honor.

3 MJ: Do you have any questions about your rights to counsel?

4 ACC: No I do not.

5 MJ: By whom do you wish to be represented?

6 ACC: [REDACTED] (b)(6)-2

7 MJ: By [REDACTED] (b)(6)-2 alone then?

8 ACC: Yes, Your Honor.

9 MJ: Okay. [REDACTED] (b)(6)-2, please state your detail and
10 qualifications for the record.

11 DC: Yes, Your Honor, I've been detailed to this court-martial by
12 [REDACTED] (b)(6)-2 Regional Defense Counsel
13 Region VIII Trial Defense Service. I am qualified and certified
14 under Article 27(b) and sworn under Article 42(a) of the Uniform Code
15 of Military Justice. I have not acted in any manner which might tend
16 to disqualify me in this court-martial.

17 MJ: Thank you. I too have been detailed, sworn, and properly
18 certified to this court-martial. Counsel for both sides appear to
19 have the requisite qualifications and all personnel required to be
20 sworn have been sworn. Trial counsel, please announce the general
21 nature of the charge-- charges.

22 TC: The general nature of the charges in this case is violation
23 of Article 92 UCMJ, failure to obey a lawful order two

1 Specifications; violation of Article 93 UCMJ, dereliction of duty,
2 two Specifications; violation of Article 107 UCMJ, a false official
3 statement; violation of Article 128 UCMJ, assault consummated by a
4 battery three Specifications; violation of Article 134 UCMJ,
5 obstruction of justice.

(b)(6) - 2

6 These charges were preferred by [REDACTED]
7 [REDACTED] and forwarded with recommendations as to disposition by
8 [REDACTED] and investigated by Lieutenant
9 [REDACTED]. The general nature of the
10 additional charges, violation of Article 134 UCMJ, obstruction of
11 justice and violation of Article 81 UCMJ, conspiracy to obstruct
12 justice. These charges were preferred by [REDACTED] and
13 forwarded with recommendations as to disposition [REDACTED]

(b)(6) - 2

(b)(6) 2

(b)(6) - 2

(b)(6) - 2

15 Your Honor, are you aware of any matter which might be a
16 ground for challenge against you?

17 MJ: I am not. Does either side desire either to question me or
18 challenge me?

19 DC: No, Your Honor.

20 TC: No, Your Honor. (b)(6) - 2

21 MJ: All right. [REDACTED] my copy of the referred
22 charge sheet said that actually on Charge II, violation of Article

1 93, maltreatment, there are three specifications. You announced that
2 there are two. Was one of them dismissed?

3 DC: No ma'am-- no Your Honor, you're correct, it is three
4 specifications.

5 MJ: All right. *Master Sergeant GIRMAN*
6 ~~██~~, what we're going to
7 talk about now is your rights as to how you can be tried at this
8 court-martial.

9 You have the right to be tried by a court consisting of at
10 least five officer members. They would be commissioned and or
11 warrant officers. Also, if you request it you would be tried by a
12 court consisting of at least one-third enlisted members, but none of
13 those enlisted members would be junior to you and none of them would
14 come from your company.

15 Do you understand what I've said so far?

16 ACC: Yes, Your Honor.

17 MJ: If you are tried by court members, the members will vote by
18 secret written ballot and two-thirds of the members must agree before
19 you could be found guilty of any offense. If you're found guilty
20 then two-thirds must also agree in voting on a sentence and if that
21 sentence included confinement for more than 10 years, then three-
22 fourths would have to agree. You also have the right to request a
23 trial by military judge alone, and if approved there will be no court
members and the judge alone will determine whether you are guilty or

1 not guilty and if found guilty the judge alone will determine your
2 sentence.

3 Do you understand the difference between trial before court
4 members and trial before a military judge alone?

5 ACC: Yes, I do, Your Honor.

6 MJ: ^{(b)(6) - 2} [REDACTED], are you prepared to enter a choice of
7 forum today?

8 DC: No, Your Honor, we'd request permission to defer on that
9 decision.

10 MJ: Very well. All right. Master Sergeant Girman, I expect
11 that between now and the date that we set for trial you continue to
12 talk to your counsel and that sometime prior to trial you'll notify
13 the government and the court as to what your choice is as to how you
14 want to be tried. All right?

15 ACC: Yes, Your Honor.

16 MJ: Okay. The accused will now be arraigned.

17 TC: Your Honor, all parties to the trial have been furnished
18 with a copy of the charges. Does the accused want them read?

19 DC: The accused waives reading of the charges.

20 MJ: The reading may be omitted.

21 [END OF PAGE]

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) Girman, Lisa M.			2. SSN [REDACTED]	3. GRADE OR RANK MSG	4. PAY GRADE E8
5. UNIT OR ORGANIZATION HHG, 320th Military Police Battalion Camp Bucca, Iraq 09375				6. CURRENT SERVICE	
				a. INITIAL DATE 19940406	b. TERM 11 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED N/A	9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL			
3,342.00	250.00	3,592.00			

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION:

CHARGE I: VIOLATION OF ARTICLE 92

Specification 1: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, who knew of her duties at or near Camp Bucca, Iraq, on or about 12 May 2003, was derelict in the performance of those duties in that she willfully failed to safeguard from assault or abuse captured Iraqi prisoners of war that she was escorting from Talil Air Base, Iraq, to Camp Bucca, Iraq, as it was her duty to do.

Specification 2: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, who knew of her duties at or near Camp Bucca, Iraq, on or about 12 May 2003, was derelict in the performance of those duties in that she through culpable neglect failed to supervise the soldiers under her authority who then assaulted and abused Iraqi prisoner of war.

CHARGE II: VIOLATION OF ARTICLE 93

Specification 1: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] a person subject to her orders, by kicking him in the groin, abdomen, and head. (b)(6)-4

Specification 2: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] a person subject to her orders, by kicking and punching him, and by dragging him by his armpits across the ground. (b)(6)-4

Specification 3: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, at or near Camp Bucca, Iraq, on or about 12 May 2003, did maltreat [REDACTED] and [REDACTED] an Iraqi prisoner of war by kicking him in the face and leg. (b)(6)-4

(SEE CONTINUATION SHEET)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) [REDACTED]	(b)(6)-2	b. GRADE 02	c. ORGANIZATION OF ACCUSER 320th MP Battalion
d. SIGNATURE OF ACCUSER [REDACTED]	(b)(6)-2	e. DATE 13 Jul 03	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 13th day of July, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

[REDACTED]
Typed Name of Officer

MAJ / 04

Grade

[REDACTED]
Signature

OSJA, CFLCC

Organization of Officer

Article 136, UCMJ

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be commissioned officer)

011932

CONTINUATION SHEET 2

CHARGE III: VIOLATION OF ARTICLE 107

Specification: In that Master Sergeant Lisa Marie Girman, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 16 May 2003, with the intent to deceive, make to [REDACTED] (b)(6) 1 United States Army Criminal Investigation Division Command, an official statement on a DA Form 2823 Sworn Statement, to wit: that she did not kick or strike an Iraqi prisoner of war, and that she did not see any of her soldiers kick or strike and Iraqi prisoner of war, which was totally false, and was known by the said Master Sergeant Girman to be so false.

CHARGE IV: VIOLATION OF ARTICLE 128

Specification 1: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick and punch, [REDACTED] (b)(6) -4 [REDACTED] an Iraqi prisoner of war, and dragged him across the ground by his armpits.

Specification 2: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick and strike [REDACTED] (b)(6) 4 [REDACTED] an Iraqi prisoner of war in the groin, face, abdomen, and head.

Specification 3: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC, 320th Military Police Battalion, Camp Bucca, Iraq, on active duty, did, at or near Camp Bucca, Iraq, on or about 12 May 2003, unlawfully kick [REDACTED] (b)(6) -4 [REDACTED] an Iraqi prisoner of war in the face and leg.

CHARGE V: VIOLATION OF ARTICLE 134

Specification: In that Master Sergeant Lisa Marie Girman, U.S. Army, HHC 320th Military Police Battalion, Camp Bucca, Iraq, did, at or near Camp Bucca, Iraq, about on or between 13 May 2003 and 10 June 2003, wrongfully endeavor to impede a United States Army Criminal Investigation Division Command investigation into alleged abuse of Iraqi prisoners of war by telling [REDACTED] a potential subject and/or witness in the investigation, not to take a polygraph examination, and by winking at him and telling him that he did not see anything regarding the maltreatment of the Iraqi prisoners of war.

(b)(6) -4

12.

On 13 July, ~~19~~ 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted] (b)(6)-2
Typed Name of Immediate Commander

HHC, 320th MP Battalion
Organization of Immediate Commander

[Redacted] (b)(6)-2
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1500 hours, 13 July ~~19~~ 2003 at Camp Al-Fijon, KU
Designation of Command or

[Redacted] (b)(6)-2
Summary Court-Martial Jurisdiction (See R.C.M. 403)

~~XXXXXX~~¹

[Redacted] (b)(6)-2
Typed Name of Officer

Commander
Official Capacity of Officer Signing

LTC, MP
Grade

Commander, 320th MP Battalion
~~XXXXXX~~

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY Third U.S. Army/CFLCC	b. PLACE Camp Doha, Kuwait	c. DATE 8 NOVEMBER 2003
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Referred for trial to the General court-martial convened by Court-Martial Convening Order Number 6

dated July 3, ~~19~~ 2003, subject to the following instructions:² None.

By Command of [Redacted]
Command or Order (b)(6) 2

[Redacted] (b)(6)-2
Typed Name of Officer

Chief Paralegal, CFLCC FWD
Official Capacity of Officer Signing

Sergeant Major
Grade

[Redacted] (b)(6)-2
Signature

15.

On 10th November, ~~19~~ 2003, I (caused to be) served a copy hereof on (each of) the above named accused.

[Redacted] (b)(6)-2
Typed Name of Trial Counsel

Captain
Grade or Rank of Trial Counsel

[Redacted] (b)(6)-2
Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

CHARGE SHEET

I. PERSONAL DATA

(b)(6)-5

1. NAME OF ACCUSED (Last, First, Middle Initial) Girman, Lisa M.			2. SSN [REDACTED]	3. GRADE OR RANK MSG	4. PAY GRADE E-8
5. UNIT OR ORGANIZATION 320th Military Police Battalion, 800th MP Brigade				6. CURRENT SERVICE	
				a. INITIAL DATE 19940406	b. TERM 11 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED N/A	9. DATE(S) IMPOSED	
a. BASIC \$3,342.00	b. SEA/FOREIGN DUTY \$250.00	c. TOTAL \$3,592.00			

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION:

ADDITIONAL CHARGE I: VIOLATION OF ARTICLE 134

Specification: In that Master Sergeant Lisa Marie Girman, US Army, HHD, 320th Military Police Battalion, Camp Arifjan, Kuwait, on active duty did at or near Camp Bucca, Iraq, on or about 16 May 2003, wrongfully endeavor to impede an investigation by meeting with [REDACTED] and others for the purpose of deciding who would take responsibility for the actions of MSG Girman's unit and to misrepresent what occurred on or near Camp Bucca, Iraq on or about 12 May 2003 and by deciding that MSG Lisa Girman, [REDACTED] and [REDACTED] would take responsibility for the actions of MSG Girman's unit on or near Camp Bucca, Iraq on or about 12 May 2003.

(b)(6)-5

(b)(6)-5

ADDITIONAL CHARGE II: VIOLATION OF ARTICLE 81

Specification: In that Master Sergeant Lisa Marie Girman, US Army, HHD, 320th Military Police Battalion, Camp Arifjan, Kuwait, on active duty did at or near Camp Bucca, Iraq, on or about 16 May 2003, conspire with [REDACTED] to commit an offense under the Uniform Code of Military Justice, to wit: Obstruction of Justice, by meeting to decide who would take responsibility for the actions of MSG Girman's unit, and in order to effect the object of the conspiracy the said MSG Lisa Girman, [REDACTED] and [REDACTED] decided who would take responsibility for the actions of MSG Girman's unit and to misrepresent what occurred on or near Camp Bucca, Iraq on or about 12 May 2003, and that misrepresentations were made.

(b)(6)-5

(b)(6)-5

(b)(6)-5

(b)(6)-5

(b)(6)-5

(b)(6)-5

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, Middle Initial) [REDACTED] (b)(6)-2		b. GRADE MAJ	c. ORGANIZATION OF ACCUSER CFLCC
d. [REDACTED] (b)(6)-2			e. DATE (YYYYMMDD) 20030927

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser this 27th day of September, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Typed Name of Officer

Organization of Officer

MAJ
Grade

Article 136, UCMJ
Official Capacity to Administer Oath
(See R.C.M. 307(b) must be commissioned officer)

12. On 27 September, 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted] (b)(6)-2
Typed Name of Immediate Commander

HHD, 320th Military Police Battalion
Organization of Immediate Commander

2LT/O-1
Grade

[Redacted] (b)(6)-2
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 1845 hours, 29 SEPT, 2003 at _____
Designation of Command or

Commander, 320th Military Police Battalion
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

~~XXXXX~~

[Redacted] (b)(6)-2
Typed Name of Officer

COMMANDER
Official Capacity of Officer Signing

LTC/O-5
Grade

[Redacted] (b)(6)-2
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY <u>Third U.S. ARMY/CFLCC</u>	b. PLACE <u>Camp Doha, Kuwait</u>	c. DATE (YYYYMMDD) <u>8 NOVEMBER 2003</u>
--	--------------------------------------	--

Referred for trial to the General court-martial convened by Court-Martial Convening Order

Number 6, this Headquarters,

Dated July 3, 2003, subject to the following instructions: ² None.

By Command of LIEUTENANT GENERAL DAVID D. MCKIERNAN
Command or Order

[Redacted] (b)(6)-2
Typed Name of Officer
Sergeant Major
Grade

Chief Paralegal, CFLCC
Official Capacity of Officer Signing

[Redacted] (b)(6)-2
Signature

15. On 10th November, 2003, I (caused to be) served a copy hereof on (each of) the above named accused.

[Redacted] (b)(6)-2
Typed Name of Trial Counsel

Captain
Grade or Rank of Trial Counsel

[Redacted] (b)(6)-2
Signature

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

(b)(6)-2

1 TC: The charges are signed by [REDACTED]
2 [REDACTED] a person subject to the Uniform-- to the Code as accuser; are
3 properly sworn to before a commissioned officer of the Armed Forces
4 authorized to administer the oath; and are properly referred to this
5 court-martial for trial by LIEUTENANT GENERAL DAVID D. MCKIERNAN [REDACTED], the
6 Convening Authority.

7 The additional charges are signed by [REDACTED] (b)(6)-2
8 [REDACTED], a person subject to the Code as accuser, are properly sworn
9 to before a commissioned officer of the Armed Forces authorized to
10 administer the oath; and are properly referred to this court-martial
11 for trial by LIEUTENANT GENERAL DAVID D. MCKIERNAN [REDACTED], the Convening
12 Authority.

13 MJ: All right. Before we get to plea, I just noticed, trial
14 counsel the-- there's nothing to indicate on the charge sheets that
15 the Convening Authority intended that the original charges be tried
16 in conjunction with the additional charges. Do you know if that was
17 his intent?

18 TC: I do know, Your Honor, that that was the general's intent.
19 It's not on the referral sheet, but----

20 MJ: Do you have a copy of the SJA recommendation, perhaps?

21 TC: I have a copy of the SJA recommendation and also the
22 referral and I believe, if I'm not mistaken, I'll look at it. The
23 SJA recommendation, Your Honor, didn't address the issue of whether

1 or not the additional charges and the charges would be tried together
2 or tried separately. Only that all the charges be charged [sic]
3 under a general court-martial. The direction of the convening
4 authority referring the charges refers them for trial by general
5 court-martial, umm-- the charges and specifications against Master
6 Sergeant Girman which would include the additional charges.

7 MJ: Okay, that's not standard procedure. Let's mark that as an
8 Appellate Exhibit please, that referral document.

9 TC: If I may approach, Your Honor.

10 MJ: Yes.

11 [Trial counsel hands documents to reporter.]

12 [Reporter hands documents to military judge.]

13 MJ: All right, Appellate Exhibit I is the direction of the
14 convening authority, dated 8 November 2003. It does indeed say that
15 the charges and specifications against Master Sergeant Lisa M. Girman
16 be referred to court-martial convening order number six, dated 3
17 January 2003. And I note for the record that the charges and
18 specifications then pending against Master Sergeant Girman, included
19 both the original Charges I, II, III, IV and V, originally preferred
20 on 13 July 2003 and the additional Charges I and II preferred against
21 her on the 27th of September. And so I am convinced that this court
22 has jurisdiction over both sets of charges.

23 Master Sergeant Girman, [REDACTED], please rise.

1 [Accused and counsel did as directed.]

2 MJ: Master Sergeant Lisa M. Girman, how do you plead?
3 receiving your plea, I advise you that any motions to dismiss
4 grant any other appropriate relief should be made at this time. Your
5 defense counsel will speak for you.

6 DC: Your Honor, we request permission to defer our motions and
7 plea at this time.

8 MJ: Very well, please be seated.

9 [The accused and counsel did as directed.]

10 MJ: All right. Prior to trial I met with counsel in chambers
11 for the primary reason of selecting a trial date. Present were
12 ^{(b)(6)-2} [REDACTED], ^{(b)(6)-2} [REDACTED] who is defense counsel in a co-
13 defendant case, ^{(b)(6)-2} [REDACTED] who is also a defense counsel in
14 a co-accused case, ^{(b)(6)-2} [REDACTED] and ^{(b)(6)-2} [REDACTED], along with me.
15 I asked defense counsel what kinds of motions they anticipated
16 raising in this case. The primary motions that need immediate
17 adjudication in my opinion are a request for a new Article 32
18 investigation based on the convening authority not following the
19 recommendation of the 32 investigating officer. Apparently he
20 recommended that five of the specifications against Master Sergeant
21 Girman be dismissed prior to referral. That four of the
22 specifications against ^{(b)(6)-5} [REDACTED] be dismissed and that three-
23 - excuse me, four specifications against [REDACTED] be

1 dismissed prior to referral. Similar to that and related to it is
2 there is a request to find that the referral is defective in that the
3 convening authority apparently disregarded the recommendation of the
4 32 officer. While the defective referral-- I did not mention this in
5 the 802 counsel, but I would expect that the defective referral part
6 of that ought to be litigated as soon as possible as well because if
7 this court doesn't have jurisdiction we need to stop the train now,
8 okay? I was also informed that the other issue that may need
9 litigation is that the defense intends today to request investigative
10 assistance from the government, that is to have an investigator
11 detailed to the defense case and presumably cloaked with Toledo
12 privilege for investigation both here in Kuwait and investigation
13 back in Philadelphia for the purpose primarily of generating defense
14 character evidence. If the convening authority grants that request
15 then there's no issue. If the convening authority denies that
16 request, government I would expect that that would be done within the
17 next week so that we can litigate that as soon as possible.

18 TC: Yes, ma'am.

19 MJ: I told counsel that we will set aside the 3rd and 4th of
20 December, here in Kuwait at Camp Doha to litigate those specific
21 issues. I was also informed that they expect additional possible
22 motions, certainly there will be a motion on multiplicity, or an
23 unreasonable multiplication of charges. They expect a motion on

1 Article 13, Unlawful Punishment Prior to Trial based on inability of
2 Master Sergeant Girman to perform her MP duties, derogatory comments
3 have been made and other issues. There is a possibility, though
4 defense has not yet done the research to verify, there's a
5 possibility that there may have been unlawful command influence. And
6 finally, the defense expects to serve on the defense-- excuse me, on
7 the trial counsel today a discovery request which if it's granted *in*
8 *toto*, there'll be no issues, but if any parts of that discovery
9 request are denied, the defense expects to raise that as an issue.
10 And defense you can raise that either at the 3rd and 4th of December to
11 the extent that you have information on it, or I notified defense
12 counsel that the remaining motions pleadings were due on the 24th of
13 November to the court and to the government. Government response is
14 due the 1st of December, excuse me-- 24th of November is for the 32 and
15 the investigative assistance, government response on the 1st of
16 December. The remaining motions defense are due the 10th of December,
17 government response on the 17th of December.

18 Government did inform me that their preference is to try
19 Master Sergeant Girman first, then ^{(b)(6)-5} [REDACTED], and then
20 ^{(b)(6)-5} [REDACTED]. That there are seventeen witnesses that will need
21 to be brought back from the United States. That we will need to do a
22 bifurcated trial that is to interview or hear the witness testimony
23 of Iraqi witnesses in Iraq and then all other remaining witnesses

1 here at Camp Doha. There being no objection from the defense, that's
2 a fine plan with me. And given that the witnesses are similar though
3 not exactly the same for all three trials, the government's
4 preference is to do them back to back. With all of that in mind, I
5 have set aside the 12th of January for motions if needed and you all
6 will let me know, we'll figure that out. For sure we will hear
7 motions on the 20th of January, beginning at 0900 here at Camp Doha.
8 I have then set aside 21, 22, 23, and 24 January to try United States
9 versus Girman. As you contact your witnesses, government, I expect
10 you then to figure out when we're going to Iraq, when we're trying
11 them here and that sort of thing. All right?

12 TC: Yes, ma'am.

13 MJ: Lastly, the defense raised an issue of, and for the record
14 I set (b)(6)-5 [REDACTED] for the following week and (b)(6)-5 [REDACTED] for the week after
15 that. Defense notified me that the chain of command intends to move
16 Master Sergeant Girman from Camp Doha to Camp Udairi, which is
17 approximately thirty-five to forty minutes from here. Defense and
18 trial counsel have differing views as to why that move is occurring,
19 it's not my issue is what I told counsel. * If it's appropriate I
20 expect, defense, to hear the facts in terms of an Article 13 motion
21 and the only thing I told government is to make sure that there is
22 access between defense counsel and Master Sergeant Girman at all

1 times. Whether that be by DSN or to the extent that they can get
2 together when you come into theater, that sort of thing. All right?

3 TC: Yes, Your Honor.

4 MJ: Okay. Have I accurately summarized what we discussed in
5 the 802?

6 TC: You have, Your Honor.

7 DC: Yes, Your Honor.

8 MJ: All right. So Master Sergeant Girman, with regard to you
9 then you will be required to be present on the 3rd and 4th of December
10 when we do motions.

11 ACC: Yes, Your Honor.

12 MJ: Possibly on the 12th of January if we need an additional
13 pretrial motions hearing and then for sure the 20th through the 24th of
14 January and place to be announced, whether that is here or up north.
15 All right?

16 ACC: Yes, Your Honor.

17 MJ: All right. What we've done here today Master Sergeant
18 Girman is a-- an arraignment. It's the legal term for the first
19 pretrial hearing in any court-martial. As the accused in a court-
20 martial you have an absolute right to be present at every session of
21 your court; whether it's the pretrial session, the trial itself or
22 even after trial in a post-trial hearing. The one exception to that
23 is if you were to absent yourself without leave, that is go AWOL

1 between now and the dates that we've set for trial, then the
2 government, now that you have been arraigned, could opt to go ahead
3 and try you anyway.

4 Do you understand that?

5 ACC: Yes, Your Honor.

6 MJ: All right. I don't expect that you're going to go AWOL, in
7 fact, quite the contrary. I tell that to everyone because I want you
8 to understand that you're kind of in the home stretch here. It's
9 critical for you to remain in close contact with your defense counsel
10 now over the next month and a half so that you can be here in January
11 to assist in your defense.

12 All right?

13 ACC: Yes, Your Honor.

14 MJ: Is there anything else we can take up at this hearing
15 today?

16 TC: Not from the government, Your Honor.

17 DC: No, Your Honor.

18 MJ: Court is in recess.

19 **[The court-martial recessed at 1025, 15 November 2003.]**

20 **[END OF PAGE]**

ABATEMENT

1

2 The proceedings were terminated on 7 January 2004 when all
3 charges and additional charges and their specifications were
4 dismissed with prejudice by the convening authority.

5 //NOTHING FOLLOWS//

6

ACTION

THE DEPARTMENT OF THE ARMY
Third United States Army
United States Army Forces Central Command
Coalition Forces Land Component Command
Camp Doha, Kuwait
APO AE 09304

7 JAN 2004

(b)(6) 5
In the case of the US v. MSG Lisa Marie Girman [REDACTED] HHC, 320th MP Battalion, 800th MP Brigade, APO AE, 09304, the charges and additional charges and their specifications are hereby dismissed with prejudice.

[REDACTED]

(b)(6) - 2

DAVID D. MCKIERNAN [REDACTED] Lieutenant General, USA
Commanding

011947

APPELLATE EXHIBITS

011948

AFRD-CG

SUBJECT: Advice on Disposition of Court-Martial Charges

8 NOV 2003

DIRECTION OF THE CONVENING AUTHORITY

1. I have considered the recommendations of the Staff Judge Advocate. I hereby direct the following action on the charges and specifications against MSG Lisa M. Girman, 320th Military Police Battalion, Camp Bucca, Iraq:

Refer them for trial by General Court-Martial, Court-Martial Convening Order Number 6, this Headquarters, dated 3 July 2003.

Refer them for trial by Special Court-Martial empowered to adjudge a Bad Conduct Discharge, Court-Martial Convening Order Number 6, this Headquarters, dated 3 July 2003.

Other, _____

2. POC for this directive is the Staff Judge Advocate, _____ at 438-_____

(b)(6)-2



(b)(6)-2

DAVID D. McKIERNAN

Lieutenant General, USA
Commanding