

Witness:

Yes.

Counsel:

And she kicked him some more?

Witness:

Yes.

b(6)-5; b(7)(c)-5

Counsel:

And it was at that point that you and SGT [REDACTED] kicked his legs apart into the prone position?

Witness:

Yes.

Counsel:

At that point that's when you did that?

Witness:

Yes.

Counsel:

And then SGT [REDACTED] ^{same} you said kicked him and you walked away?

Witness:

Yes.

Counsel:

No further questions.

b(6)-2; b(7)(c)-2

Questions by the defense counsel: MAJ [REDACTED]

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?

C13497

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.

C13498

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 to 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: CPT [REDACTED] b(6)-2; b(7)(c)-2
I think its all been covered

I/O:
Okay.

Questions by the Investigating Officer: LTC [REDACTED] (Same)

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.

C13499

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.

MAJ [REDACTED] b(6)r2; b(7)(c)-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?

013500

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:

I walked--SPC [REDACTED] ^{b(6)-4; b(7)(c)-4} 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 SGT [REDACTED] ^{b(6)-5; b(7)(c)-5} came back over and asked me to help her escort

I/O:

Who told you SPC Canjar's name?

Witness: I do not recall.

C13501

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 SGT [REDACTED] while all this was supposedly going on?

b(6)-4; b(7)(c)-4

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 SGT [REDACTED] and SSG [REDACTED] later that night?

b(6)-4; b(7)(c)-4

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"?

C13502

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: CPT [REDACTED]

b(6)-2; b(7)(c)-2

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

b(6)-5; b(7)(c)-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: CPT [REDACTED]

b(6)-2; b(7)(c)-2

Counsel:

Did you know MSG [REDACTED] name at the time you gave your statement?

same

Witness:

No I did not.

Counsel:

So, somebody told you that name later also?

013503

Witness:
Yes.

I/O:
Any other questions, defense?

Defense counsel:
No, sir.

Questions by the Investigating Officer: LTC [REDACTED] b(6)-2, b(7)(c)-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; b(7)(c)-2 b(6)-4; b(7)(c)-4
We have just finished with the testimony of SPC [REDACTED] The government had made a request to broaden the scope of the investigation to include two additional charges. And Major [REDACTED] did you want to address that at this point after we've had our conversations, and I've talked with the legal advisor?

MAJ [REDACTED] b(6)-2; b(7)(c)-2 b(6)-4; b(7)(c)-4
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 SGT [REDACTED] in light of the testimony of SPC [REDACTED] when she said that SGT [REDACTED] had hidden her diary in SPC [REDACTED] belongings so that CID would not find it when they conducted the search that day.

CPT [REDACTED] b(6)-2; b(7)(c)-2 b(6)-5; b(7)(c)-5
I would, on behalf of SGT [REDACTED] object to the Investigating Officer making a recommendation on that charge based solely on the testimony the uncorroborated testimony of SPC [REDACTED] We would just maintain our objection for the record.

b(6)-4; b(7)(c)-4

013504

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: CPT [REDACTED] LTC [REDACTED] Investigator [REDACTED] and Special Agent [REDACTED] as well as [REDACTED] 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.

b(6)-4; b(7)(c)-4

b(6)-1; b(7)(c)-1

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.

MAJ [REDACTED] - b(6)-2; b(7)(c)-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?

CPT [REDACTED] b(6)-2; b(7)(c)-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.

013505

CPT [REDACTED] b(6)-2; b(7)(c)-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.

Major [REDACTED] — b(6)-2; b(7)(c)-2

Verbatim portion, or just the--

I/O:

We just need to acknowledge that General Karpinski's direction was that a summarized transcript be produced within three days of the closing of the hearing. I don't even know if that's possible or not. I will have the XO of the 800th contact General Karpinski 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 General Karpinski when the report is forwarded to her.

MAJ [REDACTED] — same

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?

MAJ [REDACTED] — same

Yes, that's something we'll try to accommodate.

MAJ [REDACTED] — same

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

MAJ [REDACTED] — same

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.

MAJ [REDACTED] — same

You're not?

I/O:

I'm not.

013506

MAJ [REDACTED] — b(6)-2, b(7)(c)-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.]

013507