

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

**NICHOLAS A. SLATTEN,

Defendant.**

Crim. No. CR-14-107 (RCL)

Hon. Royce C. Lamberth

**DEFENDANT NICHOLAS SLATTEN'S
MEMORANDUM AND POINTS OF AUTHORITY IN SUPPORT
OF MOTION FOR JUDGMENT OF ACQUITTAL**

The government has charged Nicholas Slatten in a single-count indictment with the murder of Ahmed Al Rubia'y, the driver of a white Kia sedan that approached Nisur Square from the south on September 16, 2007. But after approximately two months of testimony from over sixty witnesses, the government has presented no physical evidence to connect Mr. Slatten to Mr. Al Rubia'y's death, no witness who testified that Mr. Slatten shot Mr. Al Rubia'y, and no witness who testified that Mr. Slatten ever made any admission that he did. Instead, the evidence conclusively shows that Mr. Al Rubia'y was shot and killed by an individual that occupied a turret position on one of the Blackwater convoy vehicles. Two Iraqi police officers who were just meters from the Blackwater convoy when the first shots at the white Kia were fired—Ali Ghalaf and Sarhan Moneim—testified that those shots came from an individual in a turret. Mr. Slatten did not occupy a turret; he was located inside his vehicle. What is more, Jeremy Ridgeway, who pled guilty to killing the passenger of the white Kia, admitted on cross examination that he shot the driver of the white Kia, putting three to five well-aimed shots into the driver-side windshield. Mr. Ghalaf corroborated Mr. Ridgeway's admission, stating with

absolute certainty that the individual who shot Mr. Al Rubia'y was in a turret of the vehicle with two turrets, *i.e.*, the fourth vehicle, occupied by Mr. Ridgeway.

Federal Rule of Criminal Procedure 29 requires the Court to enter a judgment of acquittal when, after hearing the government's case and drawing all legitimate inferences in favor of the government, no reasonable juror could find a defendant guilty beyond a reasonable doubt. Here, not only is there a complete lack of evidence connecting Mr. Slatten to the death of Mr. Al Rubia'y, but the testimony of the government's own witnesses shows Mr. Al Rubia'y was killed by Mr. Ridgeway. On the record in this trial, a reasonable juror would undoubtedly conclude that Mr. Slatten did not kill Mr. Al Rubia'y.

But all that Mr. Slatten must demonstrate is that there is *at least* a reasonable doubt as to whether Mr. Slatten caused the death of Mr. Al Rubia'y; and it cannot seriously be claimed that a reasonable juror could conclude otherwise. Mr. Slatten therefore moves, by and through his attorneys, pursuant to Federal Rule of Criminal Procedure 29 for judgment of acquittal on the only charge against him.¹

LEGAL STANDARD

Federal Rule of Criminal Procedure 29(a) provides that a court "must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction." Fed. R. Crim. P. 29(a). Evidence is insufficient to sustain a conviction when it goes no further than to "raise a question [of guilt] in a reasonable man's mind" or "create suspicion." *Cooper v. United*

¹ Mr. Slatten also hereby moves for a judgment of acquittal based on the government's failure to (1) to prove the mental state required to convict him of first degree murder; (2) show that Mr. Slatten's contract employment for the Department of State related to supporting the mission of the Department of Defense in Iraq and thus failed to establish jurisdiction under the Military Extraterritorial Jurisdiction Act; and (3) establish venue. Mr. Slatten also joins the oral motions of the defendants Paul Slough, Dustin Heard, and Evan Liberty with respect to jurisdiction under MEJA and venue.

States, 218 F.2d 39, 42 (D.C. Cir. 1954). Even evidence that raises a “grave suspicion” in the reasonable juror’s mind as to guilt is insufficient to support a verdict unless proof of guilt beyond “a reasonable doubt” is possible on the evidence. *Scott v. United States*, 232 F.2d 362, 364 (D.C. Cir. 1956) (emphasis added).

While a court considering a Rule 29 motion must “view[] the evidence most favorably to the government and accord[] the government the benefit of all *legitimate* inferences therefrom,” *United States v. Weisz*, 718 F.2d 413, 437 (D.C. Cir. 1983) (emphasis added), the court may not permit a jury to render a guilty verdict based on “ambiguous evidence” from the government, which encourages the jury to “engage in speculation.” *Bailey v. United States*, 416 F.2d 1110, 1116 (D.C. Cir. 1969); *see also United States v. Preston*, 331 F. Supp. 457, 459 (D.D.C. 1971) (“[S]uspicion is not enough to permit the case to go to the jury”). At the Rule 29 stage, the Court does not analyze whether there is “a visceral or moral” doubt about guilt, but whether there is “a doubt upon the record,” whereby “the lack of essential proof creates the doubt as a legal matter.” *Hiet v. United States*, 365 F.2d 504, 506 (D.C. Cir. 1966). That is, a court should “not indulge in fanciful speculation or bizarre reconstruction of the evidence,” or “view the evidence through dirty window panes and assume that evidence which otherwise can be explained as equally innocent must be evidence of guilt.” *United States v. Recognition Equip. Inc.*, 725 F. Supp. 587, 588 (D.D.C. 1989).

ARGUMENT

I. FEDERAL RULE OF CRIMINAL PROCEDURE 29 COMPELS ENTRY OF A JUDGMENT OF ACQUITTAL.

On May 8, 2014, Mr. Slatten was charged in a single-count indictment with the first-degree murder of Mr. Al Rubia’y. This is the only charge against Mr. Slatten. In order to convict Mr. Slatten of this charge, the government must prove beyond a reasonable doubt, *inter*

alia, that Mr. Slatten caused the death of Mr. Al Rubia'y. See 18 U.S.C. § 1111 ("Murder is the unlawful killing of a human being with malice aforethought."). On the threshold question—whether Mr. Slatten caused the death of Mr. Al Rubia'y—the record is completely absent of evidence showing that Mr. Slatten killed Mr. Al Rubia'y. What is more, there is unequivocal and corroborated evidence that *someone else* killed Mr. Al Rubia'y. On this record, therefore, the Court should enter a judgment of acquittal.

A. The Government Has Failed to Produce *Any* Evidence that Mr. Slatten Caused the Death of Al Rubia'y.

The government charges that, with his SR-25 and from inside the Command vehicle, Mr. Slatten shot Mr. Al Rubia'y in the head. Attach. A (Gov't's Opening Stmt., June 17, 2014 PM, Tr. at 50:3-52:8.) The government's claim, however, is based on pure speculation. Despite calling over sixty witnesses—including multiple ballistics and firearms experts, nearly every member of Raven 23, and numerous Iraqis who were present at Nisur Square on September 16, 2007—the government has failed to offer any evidence that Mr. Slatten shot Mr. Al Rubia'y.

First, there is no forensic evidence linking Mr. Slatten's SR-25, which fires a 7.62 mm round, to Mr. Al Rubia'y or the white Kia. The government's tool mark and firearms expert, Brandon Giroux, candidly testified that there was not a single match of *any* bullet or bullet fragment recovered *in this case*, let alone a bullet or bullet fragment recovered from Mr. Al Rubia'y or the white Kia, to Mr. Slatten's SR-25. Attach. B (B. Giroux, Aug. 7, 2014 PM, Tr. at 22:17-20.) What is more, the physical evidence that was recovered from the white Kia was consistent with a weapon that fires a 5.56 mm round, *e.g.*, the M-4—not the SR-25. See Attach. C (Gov't Ex. 9061.) Not only is there no match to Mr. Slatten's weapon, there is no trajectory analysis linking Mr. Slatten to any shot into the white Kia generally or Mr. Rubia'y specifically. Douglas Murphy, the government's shooting scene reconstruction expert performed trajectory

analysis on several vehicles, including the white Kia. He offered no opinion, however, about where any shots fired at the vehicles originated. Attach. D (D. Murphy, Jul. 14, 2014 AM, Tr. at 34:20-35:12; 42:7-23.) And in the case of the white Kia, no trajectory analysis could be performed on any shots through the windshield into the driver because there was no windshield. Attach. E (D. Murphy, Jul. 10, 2014 PM, Tr. at 70:22-71:10.) In short, there is absolutely no physical evidence showing Mr. Slatten shot Mr. Rubia'y or even the white Kia in which he rode.

Second, among the sixty-plus government witnesses who testified, not a single one testified that they saw or in any way perceived Mr. Slatten shoot Mr. Al Rubia'y. In fact, the *only* percipient witness of Mr. Slatten's conduct, Jimmy Watson, testified that he had "no idea" at what Mr. Slatten shot. Attach. F (J. Watson, Jul. 29, 2014 AM, Tr. at 28:3-22.) Mr. Watson heard Mr. Slatten fire two rounds from his SR-25. But, the best he was able to do was identify the general direction—south—in which Mr. Slatten was oriented when he fired, which also happened to be the direction from which the white Kia approached. (*Id.*, at 30:4-32:4.) But as Mr. Watson agreed, there were millions of square feet "south" of the convoy, and his testimony regarding Mr. Slatten's general orientation in no way suggested that Mr. Slatten shot the white Kia. (*Id.*)

Third, the government offered no evidence that Mr. Slatten admitted to shooting Mr. Al Rubia'y. The testimony elicited about Mr. Slatten acknowledging he shot on September 16, 2007 actually described a conversation in which Mr. Slatten admitted to Mr. Ridgeway that he shot an individual engaging the convoy. Mr. Ridgeway testified that while he and Mr. Slatten were proceeding to their rooms on the evening of September 16, 2007, Mr. Slatten told him that he had engaged an "active shooter," *i.e.*, a person shooting at the convoy. Attach. G (J.

Ridgeway, Aug. 4, 2014 PM, Tr. at 67:7-68:16.) That “active shooter” was plainly not Mr. Al Rubia’y, whom the government claims was simply driving his car through Nisur Square that day.

Given the government’s failure to present *any* evidence that Mr. Slatten killed Al Rubia’y, a reasonable juror would be compelled to conclude, *at a minimum*, that there is *at least* a reasonable doubt that Mr. Slatten caused the death of Mr. Al Rubia’y. *Scott*, 232 F.2d at 364. On those grounds alone Rule 29 dismissal is appropriate.

B. The Government Has Elicited Exculpatory Evidence Showing Mr. Slatten Did Not Kill Mr. Al Rubia’y.

The complete absence of any inculpatory evidence on the fundamental issue alone compels entry of a judgment of acquittal. But acquittal is all the more necessary in light of the testimony from *four* of the government’s own witnesses, who show that someone *other than Mr. Slatten* caused the death of Mr. Al Rubia’y.

In the government’s opening statement, it claimed that two Iraqi traffic officers, who were mere feet from the Raven 23 convoy, would supposedly testify that they “heard a gunshot. And when [they] heard a gunshot, [they] were looking at these convoy vehicles in front of [them] and [they] *could not tell who had shot, even though many of the people [were] visible on top.*” Attach. A (Gov’t’s Opening Stmt., Jun. 17, 2014 PM, Tr. at 52:19-22) (emphasis added.)

Contrary to the government’s representation, the two traffic police officers heard multiple shots and in fact saw who fired the first shots from the Blackwater convoy. Mr. Ghalaf, who stopped traffic in Nisur Square as the Blackwater convoy entered it on September 16, 2007, was standing “within feet” of the Blackwater convoy when it came to rest in the circle. Attach H. (A. Al Hamidi, Jul. 2, 2014 AM, Tr. at 89:15-90:17.) While he was looking at the convoy, Mr. Ghalaf observed “three to four shots” fired by the *turret gunner*, and was absolutely confident this was the first firing and was similarly confident that it came from the turret gunner on the vehicle with

two turrets, *i.e.*, the “follow” or fourth vehicle. (*Id.*); Attach. I (A. Al Hamidi, Jul. 2, 2014 PM, Tr. at 34:13-36:17) (testifying that he “s[aw] the man who pulled the trigger” for the first shots that he observed, and that the shooter was “on top of the armored turret” of a Blackwater vehicle with “two turrets”.) Mr. Slatten was located *inside* his vehicle, not in a turret. Mr. Ghalaf then immediately heard a woman screaming in Mr. Al Rubia’y’s car, moved toward the vehicle, and saw that “the window [to the car] had three to four shots” in it, Attach. H (A. Al Hamidi, Jul. 2, 2014 AM, Tr. at 91:5-22), and that Mr. Al Rubia’y’s face was “bloodied.” (*Id.* at 91:2-7, 20-22.)

Mr. Ghalaf’s partner that day, Sarhan Moneim, confirmed that a turret gunner, *not Mr. Slatten*, fired those shots that struck Mr. Al Rubia’y in the head. Similar to Mr. Ghalaf, Mr. Moneim was “three to four meters” from the Blackwater vehicles when they stopped in Nisur Square. Attach. J (S. Moneim, Jun. 23, 2014 AM Tr. at 12:1-2.) Mr. Moneim testified that he heard the first shots from the Blackwater vehicles “coming from the turrets and not from the holes or the windows that are in the vehicles.” (*Id.* at 10:7-12:9.)

If this were not enough to compel judgment of acquittal—and plainly it is—Jeremy Ridgeway *himself* took responsibility for shooting Mr. Al Rubia’y in the head, and otherwise corroborated the police officers’ accounts in detail. As an initial matter, Mr. Ridgeway testified that he neither heard nor saw Mr. Slatten do *anything* during the encounter at Nisur Square. Attach. G (J. Ridgeway, Aug. 4, 2014 PM, Tr. at 66:14-24.) Mr. Ridgeway then testified that, very early in the encounter, he fired “three to five” shots with his M-4 rifle at “the driver of the white Kia.” Attach. K (J. Ridgeway, Aug. 4, 2014 AM, Tr. at 34:20-35:2; *see also* 86:16-21); Attach. L (J. Ridgeway, Jul. 31, 2014 AM, Tr. at 26:24-27:2); Attach. M (J. Ridgeway, Jul. 30, 2014 PM, Tr. at 88:7-89:9.) Mr. Ridgeway then corroborated the details of the police officer’s accounts of what happened next. Mr. Ridgeway testified that directly after he fired “three to five

rounds in [Mr. Al Rubia’y’s] windshield,” he observed “a uniformed traffic official or a police officer” run to the driver’s side door of the Kia. Attach. G (J. Ridgeway, Aug. 4, 2014 PM, Tr. at 62:17-63:11.) That police officer was, of course, Mr. Ghalaf, who testified that when he “saw that the [car’s] window had three to four shots, [he] went and [] wanted to save this man.” Attach. H (A. Al Hamidi, Jul. 2, 2014 AM, Tr. at 90:25-91:7.)

Finally, Jeremy Krueger also corroborates this version of events. Mr. Krueger testified that the first sounds that he heard that day were “several single pops or shots,” which he identified as either “pen flares” or “5.56 rounds”—a 5.56 round being the ammunition fired from an M-4 rifle. Attach. N (J. Krueger, Aug. 5, 2014 AM Tr. at 21:13-22:2.) Critically, Mr. Krueger specifically explained that he was able to distinguish a 5.56 round from a 7.62 round, the ammunition that Mr. Slatten would have fired from his SR-25 sniper rifle. (*Id.*) Mr. Krueger identified the former, not the latter, as a possible source of the first sounds he heard that day.

The combination of this testimony from *four* of the government’s witnesses is insurmountable for the government. No “best light” or “legitimate inference” in favor of the government would permit a reasonable juror to discard these accounts of Mr. Al Rubia’y’s death, and conclude beyond a reasonable doubt that Mr. Slatten killed Mr. Al Rubia’y. Rarely does the record not only lack any evidence to support the government’s charge, but also contain a compelling explanation of the events that the government claims to be incriminating. That, however, is what is now before the Court, and a judgment of acquittal is therefore warranted.

II. THE GOVERNMENT’S EVIDENCE THAT MR. SLATTEN CAUSED THE DEATH OF MR. AL RUBIA’Y RELIES ON NO MORE THAN RANK SPECULATION.

Failing to offer any proof to establish Mr. Slatten’s guilt beyond a reasonable doubt, the government instead asks the jury to speculate about the meaning of otherwise innocuous evidence. The government’s centerpiece for this is the testimony of Jimmy Watson, who was

located in the third vehicle with Mr. Slatten on September 16, 2007. Mr. Watson testified that, on September 16, 2007, he heard Mr. Slatten fire his sniper rifle twice toward the south of Nisur Square. Attach. O (J. Watson, Jul. 28, 2014 PM, Tr. at 33:8-34:23.) Mr. Watson testified that this happened shortly after the vehicles stopped in the square, and that he believed that Mr. Slatten may have fired either before or after the turret gunners fired. (*Id.*)

This is the extent of the testimony that the government relies on from its primary witness against Mr. Slatten. That is because Mr. Watson expressly disavowed having any idea who or what Mr. Slatten actually shot at that day. Attach. F (J. Watson, Jul. 29, 2014 AM, Tr. at 28:17-20) (“Q. You have no idea what [Mr. Slatten] was aiming at, do you? A. It’s impossible for me to know. Q. You didn’t know a year ago in Grand Jury; correct? A. That’s correct. Q. And you didn’t know seven years ago; correct? A. That’s correct.”) Even assuming that the government is entitled at this stage to the inference that Mr. Watson heard Mr. Slatten fire *before* the turret gunners, this testimony says *nothing* about what Mr. Slatten shot at—and is certainly insufficient to support a guilty verdict here.

And in fact, other testimony from Mr. Watson offers an affirmative suggestion about at what or whom Mr. Slatten was aiming: Mr. Watson testified that shortly after Raven 23 came to a stop in Nisur Square, he heard the distant sound of pops, which he perceived to be AK-47 fire. Attach. O (J. Watson, Jul. 28, 2014 PM, Tr. at 24:17-25:4.) Almost immediately thereafter, another member of Raven 23 began reporting over the team’s internal radio “contact, contact, contact.” (*Id.*, at 26:12-27:4.) Indeed, several other witnesses—including Matthew Murphy, Edward Randall, Jeremy Krueger, and Franklin Paul—testified that they heard the sound of AK-47 fire or perceived incoming fire directed at the convoy. Attach. P (E. Randall, Aug. 11, 2014 PM, Tr. at 54:2-56:10); Attach. Q (J. Krueger, Aug. 5, 2014 PM, Tr. at 34:2-16); Attach. P (F.

Paul, Aug. 11, 2014 PM, Tr. at 130:18-22); Attach. R (M. Murphy, Jul. 1, 2014 AM, Tr. at 18:22-20:5.) Similarly, following the engagement, Mr. Frost, Mr. Murphy, Mr. Rhodes, Mr. Krueger, and Mr. Hill all identified the impact marks to the Command vehicle received on September 16 to be bullet impacts. Attach. S (M. Murphy, Jul. 1, 2014 PM, Tr. at 96:16-104:5); Attach. T (A. Frost, Jul. 15, 2014 AM, Tr. at 92:2-93:10); Attach. Q (J. Krueger, Aug. 5, 2014 PM, Tr. at 62:15-63:12); Attach. U (K. Rhodes, Aug. 6, 2014 AM, Tr. at 104:4-106:1); Attach. V (D. Hill, Aug. 18, 2014 PM, Tr. at 15:20-16:4.)

To bolster Mr. Watson's weak testimony against Mr. Slatten, the government attempts to create the illusion of corroboration from other witnesses. But the government's "corroborating" witnesses do nothing to connect Mr. Slatten to the death of Mr. Al Rubia'y. Instead, they at most either suggest that Mr. Slatten fired his weapon on September 16, 2007, or they simply confirm that Mr. Al Rubia'y was shot—neither of which is in serious dispute at the Rule 29 stage, and neither of which supports a guilty verdict here.

Thus, the government suggested to the jury in its opening statement that Mr. Randall would corroborate Mr. Watson's testimony and confirm that Mr. Slatten had fired the first shots on September 16, 2007. Attach. A (Gov't's Opening Stmt., Jun. 17, 2014 PM, Tr. at 53:5-23.) But Mr. Randall in fact testified that, early in the encounter at Nisur Square, he heard "a few shots" from "in front of [him]," which he could only "guess" came from the Command vehicle. Attach. W (E. Randall, Aug. 11, 2014 AM, Tr. at 49:7-51:1.) Yet, Mr. Ridgeway testified that the first shots from the Command vehicle came from the vehicle's turret gunner. Attach. M (J. Ridgeway, Jul. 30, 2014 PM, Tr. at 86:11-19.) The apogee of the government's reliance on Mr. Randall's testimony is that, when asked whether "there [was] anything in [Mr. Slough's] appearance either his body or otherwise that had suggested to [him that Mr. Slough] had fired

shots,” Mr. Randall answered “I don’t believe so.” Attach. W (E. Randall, Aug. 11, 2014 AM, Tr. at 52:6-9.) Even giving the government every benefit of the doubt here, the most this could possibly prove is the same innocuous thing to which Mr. Watson testified: Mr. Slatten fired his weapon early in the engagement on September 16, 2007.

The government’s other attempts at “corroboration” likewise do no more than confirm that Mr. Al Rubia’y was killed. The government’s primary witness in this regard is Majed Kareem Al-Gharbawi, the driver of a vehicle close to the white Kia on September 16, 2007. Attach. A (Gov’t’s Opening Stmt., Jun. 17, 2014 PM, Tr. at 51:18-52:8.) But Mr. Al-Gharbawi’s testimony is almost identical to the *exculpatory* testimony from Mr. Ghalaf, Mr. Moneim, and Mr. Ridgeway. The only difference is that Mr. Al-Gharbawi testified that he heard an initial single gunshot rather than multiple shots. Attach. X (M. Al-Gharbawi, Jun. 24, 2014 AM, Tr. at 48:13-17.) But Mr. Al-Gharbawi otherwise described the same woman screaming in Mr. Al Rubia’y’s car that the police officers did, stated that he turned and saw a hole in the car’s windshield, and saw an Iraqi police officer—that is, Mr. Ghalaf—immediately run to the driver’s side of the vehicle. (*Id.* at 48:13-49:23.) Despite the government’s claim in its opening statement that Mr. Al-Gharbawi would identify Mr. Slatten as the person who shot Mr. Al Rubia’y, Mr. Al-Gharbawi testified that he did not know who fired the shots he heard. Attach. Y (M. Al-Gharbawi, Jun. 24, 2014 PM, Tr. at 24:23-25:2.)

This leaves the government with its most bizarre claim of evidence of Mr. Slatten’s guilt: Mr. Ridgeway’s testimony about a conversation with Mr. Slatten after the incident on September 16, 2007. What makes the government’s assertion here so fantastic is that Mr. Ridgeway did not claim that Mr. Slatten admitted to shooting Mr. Al Rubia’y, or even to shooting in the vicinity of Mr. Al Rubia’y’s vehicle. Instead, Mr. Ridgeway testified that Mr. Slatten told him that he “shot

someone who was actively shooting at the convoy,” Attach. G (J. Ridgeway, Aug. 4, 2014 PM, Tr. at 67:4-15), in the head, and that that person “slumped forward.” Attach. L (J. Ridgeway, Jul. 31, 2014 AM, Tr. at 49:15-16.) Despite the complete divorce between Mr. Slatten’s alleged description of shooting an active shooter and the death of the driver of the white Kia, the government nevertheless will apparently ask the jury to conclude from this that Mr. Slatten was cryptically describing to Mr. Ridgeway his murder of Mr. Al Rubia’y. The government claims to have deciphered Mr. Slatten’s coded communication because Mr. Slatten said that the person he shot “slumped forward,” and, at least in the government’s theory of the case, Mr. Al Rubia’y also “slumped forward” after he was shot. Attach. A (Gov’t’s Opening Stmt., Jun. 17, 2014 PM, Tr. at 7:9-25.) The government’s audacity in drawing such an unfounded conclusion is remarkable, but all the more so given that one of the only hairs supporting the government’s theory—the body position of the person that Mr. Slatten shot—is rebutted by the government’s own witness: Mr. Moneim testified that Mr. Al Rubia’y fell to the side when shot, not forward. See Attach. J (S. Moneim, Jun. 23, 2014 AM, Tr. at 18:5-20.) Either way, the government presents here the paradigm of an *illegitimate* inference to be drawn from trial evidence. The jury is not permitted to follow the government’s encouragement and engage in rank speculation that Mr. Slatten was describing Mr. Al Rubia’y’s shooting when he plainly was not. In Mr. Ridgeway’s telling, Mr. Slatten never admitted to shooting Mr. Al Rubia’y, and no reasonable juror could conclude that the words Mr. Ridgeway attributed to Mr. Slatten support a verdict of guilt beyond reasonable doubt.

None of the government’s evidence thus actually incriminates Mr. Slatten. Evidence that he fired his weapon on September 16, 2007 comes nowhere near proving beyond a reasonable doubt that he killed Mr. Al Rubia’y.

III. THE GOVERNMENT HAS FAILED TO ESTABLISH OTHER ELEMENTS REQUIRED TO CONVICT MR. SLATTEN.

A. The Government Has Not Proven that Mr. Slatten Had the Requisite Intent to Commit Murder.

To prove first-degree murder, the government must prove beyond a reasonable doubt that Mr. Slatten intended to kill Mr. Al Rubia'y, and that he did so with premeditation and deliberation. *See* Red Book Inst. 4.202(A.) But the government has failed to prove any of these elements beyond a reasonable doubt. The government attempted to meet its burden by submitting (generally suspect) evidence suggesting that Mr. Slatten had a strong dislike for the Iraqi people. But none of this evidence illuminated Mr. Slatten's alleged mental state on September 16, 2007, and none of it showed beyond a reasonable doubt that he acted with intention, premeditation, or deliberation in the alleged shooting of Mr. Al Rubia'y. The same is true with respect to the evidence that the government submitted concerning the trigger mechanism on Mr. Slatten's sniper rifle. According to the government, Mr. Slatten adjusted his sniper rifle trigger mechanism to allow him to fire it "quicker [sic] and easier." Attach. A (Gov't's Opening Stmt., Jun. 17, 2014 PM, Tr. at 41:17-42:2.) But at trial, the government produced no evidence that Mr. Slatten adjusted the trigger mechanism, and in fact instead elicited that the trigger functioned properly when the weapon was turned in to the Blackwater armory. Attach. Z (J. Webb, Jul. 21, 2014 AM, Tr. at 66:17-67:17.) Even if the government were entitled to a favorable inference on this issue at this stage, no reasonable juror could conclude that Mr. Slatten's use of a *less* reliable weapon could show the premeditation and deliberation required to prove first-degree murder. The government's failure to establish the required mental state elements here thus also supports a Rule 29 judgment of acquittal.

B. The Government Has Failed to Prove the Elements Required to Establish Jurisdiction Under the Military Extraterritorial Jurisdiction Act (“MEJA”).

Mr. Slatten also moves for a judgment of acquittal based on the government’s failure to establish jurisdiction under the Military Extraterritorial Jurisdiction Act (“MEJA”). While we briefly outline the basis for that motion here, we also join in and adopt all of the arguments made by defendants Slough, Heard, and Liberty in their oral motion for a judgment of acquittal on the same grounds.

As a general matter, United States courts have jurisdiction over criminal offenses committed outside the United States only when the relevant statute expressly establishes that jurisdiction. *See United States v. Bowman*, 260 U.S. 94, 98 (1922); *see also United States v. Ali*, 718 F.3d 929, 934-35 (D.C. Cir. 2013.) Here, the substantive statute under which the government has charged Mr. Slatten, 18 U.S.C. § 1111, does not provide for such extraterritorial jurisdiction. The government thus relies on MEJA, 18 U.S.C. § 3261(a), to reach conduct outside of the United States. MEJA provides in pertinent part:

(a) Whoever engages in conduct outside the United States that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States—(1) *while employed by . . . the Armed Forces outside the United States . . .* shall be punished as provided for that offense.

18 U.S.C. § 3261 (emphasis added.)

As used in MEJA, the phrase “employed by the Armed Forces outside the United States” has a specific statutory meaning that is set forth in 18 U.S.C. § 3267(1.) That Subsection provides:

The term “employed by the Armed Forces outside the United States” means—(A) employed as— . . . (ii) a contractor (including a subcontractor at any tier) of— . . . (I) the Department of Defense . . . ; or (II) any other Federal agency [i.e., Department of State], . . . to the extent such employment relates to supporting the mission of the Department of Defense overseas.

Here, Mr. Slatten was employed as a contractor for Blackwater when the alleged offense took place. Blackwater in turn contracted with the Department of State under its Worldwide Protective Services II Contract to provide diplomatic security for U.S. government personnel who were under the authority of the United States Embassy in Iraq. The only way that MEJA could provide extraterritorial jurisdiction here, then, is by showing that Mr. Slatten's contractual employment "support[ed] the mission of the Department of Defense." 18 U.S.C. § 3267(1)(A)(ii)(II.) But the government has submitted no evidence to show that this is true.

Federal statute establishes that the work that Mr. Slatten was doing for Blackwater—providing diplomatic security—falls under the responsibility of the Department of State, not the Department of Defense. *See* 22 U.S.C. § 4802. Mr. Slatten's employment by the Department of State as a contractor thus related to support of a statutorily-assigned State Department mission, and did not support the mission of the Department of Defense.

By contrast, the only evidence that the government presented at trial in support of MEJA jurisdiction here was anecdotal evidence that, in isolated instances, Blackwater contractors for the State Department assisted U.S. Army forces in Baghdad. Such isolated instances, involving other facts and other Blackwater contractors at times and circumstances other than those charged in the Indictment, have no effect on jurisdiction here. None of the encounters that the government presented affected the nature of Mr. Slatten's contractual employment with the Department of State—and it is that contractual employment that the jury must look to for purposes of MEJA. Similarly, even if the jury could look beyond the contours of Mr. Slatten's contractual employment—and there is no reason to think that it can—that would still not change the fact that the specific alleged conduct for which Mr. Slatten was indicted was entirely unrelated to supporting the mission of the Department of Defense.

There is therefore no basis on which a reasonable juror here could find that jurisdiction under MEJA was proper. And there is certainly no basis for finding jurisdiction under MEJA proper *beyond a reasonable doubt*. For this reason as well, the Court should therefore enter a judgment of acquittal here.

C. The Government Has Failed to Establish that Venue is Proper Here.

The government has also failed to establish that venue is proper with respect to Mr. Slatten. Venue here is predicated on the arrest of supposed joint-offender Jeremy Ridgeway in Washington, D.C. in 2008. As described in Mr. Slatten's previous motion to dismiss for lack of venue. *See* Def.'s Mot. Dismiss (ECF No. 22), which we adopt here in full as if set forth herein in light of the evidence at trial, Mr. Ridgeway was not in fact a joint offender with Mr. Slatten for purposes of venue, and Mr. Ridgeway was not in fact arrested in Washington, D.C. Setting aside the obvious problem in concluding that Mr. Slatten committed any offense in this case, Mr. Ridgeway's testimony made clear that he acted entirely separately from Mr. Slatten on September 16, 2007, and that he was not aware at the time of the incident of *anything* that Mr. Slatten did while in Nisur Square that day. Attach. G (J. Ridgeway, Aug. 4, 2014 PM Tr. at 66:14-24.) Similarly, Mr. Ridgeway's testimony showed that his supposed arrest in Washington D.C. was merely a sham, and not sufficient for purposes of conferring venue. Attach. AA (J. Ridgeway, Jul. 31, 2014 PM Tr. at 11:5-13:23.) Along with the arguments we previously articulated on this issue, these reasons, too, support a judgment of acquittal for improper venue.

CONCLUSION

The government is entitled to favorable inferences based on the evidence on a Rule 29 motion for acquittal. But here, no finger on the scales of justice can compensate for the complete lack of evidence against Mr. Slatten, or outweigh the compelling, corroborated evidence that someone else killed Mr. Al Rubia'y. In the face of the bare record against Mr. Slatten and the

detailed exculpatory testimony of the government's own witnesses, any reasonable juror would be compelled to conclude that there is *at least* a reasonable doubt as to Mr. Slatten's guilt. As the D.C. Circuit has admonished, "the trial judge should not allow the case to go to the jury if the evidence is such as to permit the jury to merely conjecture or to speculate as to defendant's guilt." *United States v. Bethea*, 442 F.2d 790, 792 (D.C. Cir. 1971.) Conjecture and speculation are all that the government has against Mr. Slatten here, and the Court should not permit the government to offer the same to the jury. The Court should dismiss the indictment against Mr. Slatten as unsupportable by the record.

Date: August 19, 2014

Respectfully submitted,

/s/ Thomas G. Connolly
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Counsel for Nicholas A. Slatten

Attachment A

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
June 17, 2014
2:08 p.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
June 3, 2014
2:08 p.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
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1 To do so he has had to disobey two orders, direct
2 orders from his chain of command. But that sits just fine
3 with Defendant Slatten because he is doing what he likes to
4 do best. He is on a piece of board looking out of the left
5 side of the third vehicle through a porthole where his rifle
6 is sticking. It is a sniper rifle because he alone carries
7 the sniper rifle for that team. He alone knows what his
8 capabilities are, and he is looking through a scope on that
9 sniper rifle out at cars approaching from the south.

10 Now, Nicholas Slatten knows that that scope allows
11 him to see what others cannot see, and he knows that that
12 rifle allows him to shoot more accurately than others as
13 well. He knows that in his hands he can be deadly accurate
14 at a range of up to a thousand yards. And on this
15 particular day, ladies and gentlemen, he has got his
16 crosshairs on a target that is no more than a hundred feet
17 away, Ahmed Al Rubia'y.

18 Now, before I tell you what happens next, ladies
19 and gentlemen, you need to know a little bit about Nicholas
20 Slatten. On September 16th, 2007 and well before that, he
21 was a man with hatred in his heart, an intense dislike and
22 hatred for the Iraqi people. In his mind they were
23 responsible for 911, not just Iraq, a country, but the Iraqi
24 people were responsible for 911, one of the worse days in
25 our history.

1 In his mind, ladies and gentlemen, he was there in
2 Iraq to get payback. In his mind the Iraqi people were that
3 opportunity. He would tell his teammates when he would kill
4 Iraqis, got another kill on my weapon. He would tell his
5 teammates when he would kill Iraqis, I'm getting closer and
6 closer to evening the score. And, ladies and gentlemen, he
7 thought they were animals, he thought they were subhuman,
8 and that made it easier for him to do exactly that.

9 After the incident in the circle that day, he will
10 confide in someone close to him, Jeremy Ridgeway, a
11 corporator for the government who you will hear from. He
12 will confide in Mr. Ridgeway that out there in the circle on
13 September 16th, 2007 he had popped a man's grape; his head,
14 and the man had slumped forward, which brings us back to
15 Ahmed Al Rubia'y.

16 Because as Ahmed Al Rubia'y sits in that car
17 waiting patiently with his mother beside him, he does not
18 know that he is in the crosshairs of Nicholas Slatten. He
19 does not know that he may be breathing his last breath. He
20 does not know within minutes he and his mother will be dead
21 and incinerated. And Nicholas Slatten pulls the trigger.
22 When he does he sends a bullet outside of his rifle that is
23 speeding toward Ahmed and hits him right smack in the
24 forehead, exploding through his head, immediately
25 incapacitating Ahmed and causing him to slump over.

1 the Court --

2 MR. SCHERTLER: He is using it that way.

3 THE COURT: The objection is sustained.

4 [Open court.]

5 MR. MARTIN: Now, ladies and gentlemen, one of the
6 things I forget to tell you is that there's an additional
7 piece of evidence about that sniper rifle. And I overlooked
8 it and I'd like to talk to you about it very briefly.

9 This is the sniper rifle that was used by
10 Defendant Slatten on the day of the incident. And you'll
11 see that a scope is on there, the very scope he was looking
12 through at the time he took the shot at Ahmed. And you'll
13 see that within this area right here (indicating), this is
14 essentially like that rifle that everyone else has, except
15 it's got a little bit longer barrel and fires a different
16 round. It has the ability to fire a shot further.

17 But within here is a mechanism called the trigger
18 mechanism. And it's very sensitive. It's so sensitive that
19 if you try to get in there and manipulate it, it can convert
20 this from a, what's called a two-stage pull, which is you
21 take a little slack out of it and then pull it the rest of
22 the way, to a one-stage pull, which means as soon as you
23 touch it it's almost like a hair trigger and it will go off.
24 There will be evidence that he received this weapon two
25 months before this event, and that when the FBI seized it,

1 the trigger was a one-stage pull. It had been manipulated
2 so that it could be fired quicker and easier.

3 Now, ladies and gentlemen, prior to
4 September 16th, 2007, these men would get into a particular
5 routine. They'd either be the primary, the secondary or
6 they'd have a day off, and then they might have a day of
7 training. In other words, they weren't being sent out into
8 the Red Zone every single day, they were being sent out in
9 the Red Zone as needed.

10 Now, on September 16th, 2007, they were not the
11 primary team. There was another tactical support team that
12 was going to go out if there was danger in the Red Zone.
13 They were the secondary team. That didn't make them second
14 string, that just meant they were the second ones to
15 respond. On September 16th, 2007, what you'll hear is that
16 the men did what they did every day. They would show up in
17 the morning and they'd get an intelligence briefing. And
18 the briefing had various levels of usefulness to them, but
19 essentially what it was is, a Blackwater analyst would say,
20 this is what's going on out there in Baghdad today, this is
21 what's going on out there in Baghdad in the last few days.
22 They would talk about attacks, attacks -- they would talk
23 about car bombs. And then sometimes they would talk about,
24 this is what you should be on the lookout for. It was
25 called a be on the lookout for list. And they would

1 vehicles sat up somewhat like this (indicating). Now, this
2 is just an approximation. But it's the Raven 23 convoy, and
3 it's set up on the southern end of the circle. You've got
4 the lead vehicle, the emergency response vehicle, the
5 command vehicle and the follow vehicle. And because I'm
6 going to be talking a lot about these gentlemen over the
7 course of the next 45 to 50 minutes here, I want to make
8 sure that you have access to the diagram as well. So if at
9 any time I'm starting to lose you, you can look over there.
10 What I want to point out here in this diagram is this little
11 police kiosk will become very important to you. This is the
12 center of the traffic circle and this is the southern
13 portion.

14 We're going to talk about this even in essentially
15 five parts: The first shots by Mr. Slatten, the shots by
16 others at the white Kia, shots that were taken by defendants
17 at targets, individuals, civilians and cars further south of
18 the traffic circle, the tow hookup when the command vehicle,
19 the third vehicle goes down and they have to hook it up to
20 get it out of there, the shooting that occurs west of the
21 circle, Ghaniyah is your example, and then also the shooting
22 that occurs well north of the circle. I'll take it one by
23 one.

24 Here's the evidence you're going to see as to
25 Defendant Slatten and his taking the life of Ahmed Al

1 Rubia'y. This depicts Ahmed's car right here, this little
2 white car. And in front of him is a car, a VW Caddy.

3 You're going to hear from Jimmy Watson that as
4 they were rolling into the circle, he knew where Slatten
5 was. And when they stopped, he knew where Slatten was. And
6 you're going to hear that before the first shots were fired
7 that day, Jimmy Watson as the shift leader was actually
8 looking down at his lap. Sitting here as if he were sitting
9 in the command vehicle with Paul Slough standing up behind
10 him so he could look out of the turret, and with Slatten,
11 his designated sniper, a little bit further back in that
12 third vehicle. And you're going to hear how the first shots
13 heard by Mr. Watson that day were a boom, boom. And when he
14 heard the first boom, he knew it was in his vehicle and he
15 looked over his shoulder to the left, and it was Slatten
16 firing his rifle out of a porthole, which I just showed you,
17 in the direction of the white vehicle.

18 And you're going to see a demonstrative of what it
19 looks like to look through a sniper's scope just like
20 Slatten's at a target that's approximately 50 meters away.
21 And it's going to look something like that. In other words,
22 it's going to bring that person who's 50 meters away closer
23 up. And the reason this is going to be important to you,
24 ladies and gentlemen, is because when Defendant Slatten was
25 looking through his scope before he took that first shot, he

1 had every ability with that scope to see whether Ahmed Al
2 Rubia'y was a threat. He had every ability to see whether
3 the person next to him was a threat. And remember, his
4 mother was next to him. And he would know that before he
5 pulled the trigger if he were looking through a scope like
6 this at Ahmed Al Rubia'y.

7 Now, the situation is sets as I told you before.
8 Ahmed Al Rubia'y is in that white car down here. He's about
9 two car lengths back from the mouth of the traffic circle.
10 Nick Slatten is in the rear here (indicating) of the command
11 vehicle. He's got his rifle pointed out one of the gun
12 holes. Jimmy Watson is sitting right here (indicating)
13 looking down while they're stopped in the traffic circle,
14 and he hears a boom. And he looks back and as he's looking
15 back, he will tell you he hears another boom. And it's
16 Slatten's rifle, the first shots fired by Raven 23 that day.
17 He identifies Slatten as the first one to shoot.

18 But there will be others that tell you that
19 Slatten was the one that shot Majed -- excuse me, Ahmed.
20 Majed Kareem, you'll hear from this man who's the passenger
21 in this VW Caddy. And his testimony will be crucial to you.
22 He will be, I believe, the second witness you'll hear from.
23 And what he will tell you is that he was sitting in traffic
24 in the passenger seat, his good friend Osama was right next
25 to him, and there was a single shot that went off. And

1 shortly after that, the car gets bumped.

2 And when the car gets bumped, he looks back and he
3 see a hole in the windshield. And shortly after that he
4 hears Mahassin start to scream. And he knows what has
5 happened. The driver has been shot, the car has come
6 forward and bumped his vehicle. And he will tell you about
7 the officers who run to the white Kia to try to assist, both
8 now the shots driver and Mahassin, the mother.

9 And then you will hear from the two traffic police
10 officers, who their picture is up there. This is Ali and
11 this is Sabahin, of where they were approximately standing
12 when the convoy vehicles had come into the circle and
13 stopped traffic. Because their job, they'll tell you, is to
14 make sure that none of these civilian vehicles try to get
15 into the circle while there's a military convoy there.

16 And so, they had turned around when the convoy had
17 come in and they had stopped traffic. And while they were
18 stopping traffic, they too will tell you, we heard a
19 gunshot. And when we heard a gunshot, we were looking at
20 these convoy vehicles in front of us and we could not tell
21 who had shot, even though many of the people are visible on
22 top.

23 But then they would hear Mahassin's screams and
24 they would look back to this white Kia and they would see,
25 just as Majed had, that there was a hole in the windshield

1 by the driver, and there was a passenger, a female
2 passenger, that was screaming. And they will tell you how
3 they went to render aid, how they were unable to do so and
4 how the vehicle started moving forward.

5 And then you'll hear from Edward Randall. And
6 I've got him up here over -- right down in the lower
7 right-hand corner there. Edward Randall was the driver of
8 the fourth vehicle, right back here (indicating). And it's
9 important to know by the way, ladies and gentlemen, one, two
10 and three, the steering wheel is on the right side, so
11 Edward Randall was actually on the right side of the
12 vehicle.

13 But what he will tell you is after the convoy had
14 pulled in and set up in their positions, he was in the
15 fourth vehicle. The command vehicle where Mr. Slatten was,
16 the defendant, was right in front of him. And the first
17 shots he hears are coming from the command vehicle, and
18 they're the first shots fired that day. And when he looks
19 to his left, he doesn't see anything. Now, he can see
20 Mr. Slough on top of this particular vehicle, but he can't
21 see who shot. And he will tell you about ten to 15 seconds
22 later he looks to his left again and he sees this white car
23 starting to crawl and roll out towards the convoy.

24 And then, ladies and gentlemen, you'll have
25 Defendant Slatten's own admission, the popping of the grape.

1 The admission he will make to Jeremy Ridgeway after this
2 incident, where he describes, essentially in the same way
3 that Ahmed was shot and slumped over, that he had popped a
4 man's grape and the man had slumped over. Now, he will
5 throw in there that the man also had an AK-47, but he will
6 have described exactly what happened to young Ahmed Rubia'y
7 that day.

8 Now, this vehicle that Defendant Slatten had set
9 in motion is now starting to roll towards the convoy. Now,
10 it's rolling at a crawl. And you'll hear these traffic
11 officers describe it, that when they're trying to get the
12 door open to let Mahassin out, they're literally walking
13 next to it, both of them. And they're also trying to signal
14 by the way to the convoy, don't shoot, don't shoot, this
15 isn't a problem. He's been shot in the head, don't shoot
16 anymore.

17 They're not speaking English obviously, so they
18 can't communicate that way, but they are trying to wave
19 their hands. And even though that vehicle is slowly
20 creeping forward, you'll hear that Defendant Slough shoots
21 it with a series of shots from his M-4 rifle. And you'll
22 hear that from no less than three of the Raven 23 members;
23 mark Mealy, Matthew Murphy and Jeremy Ridgeway.

24 And you'll also hear that after Defendant Slough
25 shoots the driver's side windshield, that Defendant Heard

1 turns and shoots. And you'll hear that from somebody else
2 who shot, Jeremy Ridgeway. Because Jeremy Ridgeway will
3 describe that while they were in the circle, he heard Slough
4 use his gun, he saw that he was shooting at the white
5 vehicle, so he himself turned to the white vehicle and shot
6 and Heard did as well. But mark Mealy will also tell you
7 that because Mark Mealy, who's in the first vehicle here,
8 but he's in a turret position, is in a position where he'll
9 tell you, when I hear the (indicating) of the shots coming
10 from Slough's gun, I will turn to my left and I will see
11 Slough, Heard and Ridgeway firing at a vehicle that is
12 rolling towards the convoy.

13 And then you'll hear about how Defendant Liberty
14 shoots. Because Jimmy Watson will tell you that as he's
15 seated in his right position in the command vehicle, the
16 third vehicle, Liberty is driving right next to him. And
17 he'll tell you that when Slatten pulls the trigger, not
18 once, but twice, and some time after that Slough starts to
19 fire at this car, he will see through the window a car
20 coming at him. And so, he will tell Liberty, open your door
21 because I'm here and I want to shoot, so open your door.

22 And Liberty, according to Mr. Watson, will open
23 his door and Watson will lay over his lap and fire his M-4
24 rifle into this slowly-moving white Kia. But he'll also
25 tell you that Liberty, when given a chance, also fires into

1 And when this judge, Judge Lamberth, sentences
2 Mr. Ridgeway, he will have the ability to sentence him to up
3 to 17 years. Ten years for the manslaughter count that he
4 pled guilty to, and seven years for the attempted
5 manslaughter count.

6 And I'll mention just one more thing about
7 Mr. Ridgeway. Because he pled early prior to indictment, he
8 did not have to take a third charge which is a firearms
9 charge. And you'll hear that that charge has a 30-year
10 mandatory minimum. So because he pled guilty, he was able
11 to bargain away that charge, the firearms charge, and he
12 will not have to face that as a potential sentence.

13 Court's indulgence.

14 [Brief pause.]

15 MR. MARTIN: I'm going to spend just a little bit
16 of time on the legal charges, then I'm going to move on.
17 There's a difference between first degree murder obviously
18 and manslaughter.

19 Defendant Slatten is charged with first degree
20 murder. It requires that we prove that he intentionally
21 with premeditation and maliciousness killed Ahmed Rubia'y.
22 All right. We have already given you the evidence of that
23 as a preview, and you will get that evidence at trial. But
24 what you'll be able to use in terms of evidence to support
25 that charge is the following: He could see Ahmed sitting in

1 that car with that scope. He knew that Ahmed was not armed.
2 He had a background for wanting to kill Iraqis. He had
3 hatred in his heart. He saw that there was no justification
4 for taking that shot and he still took it and he still
5 killed Ahmed Rubia'y.

6 But that charge is very different than the
7 manslaughter charge. That charge is different because
8 manslaughter is nothing more than an unlawful killing, a
9 killing that is not justified. And what you're going to
10 hear in terms of manslaughter is what these other three men
11 are charged with, manslaughter and attempted manslaughter.
12 And the very definition you'll hear includes a situation
13 where upon, as the judge has already told you, a sudden
14 provocation or heat of passion, you act in a way that you
15 normally would not have. You lose your otherwise self
16 control.

17 And that, ladies and gentlemen, is exactly what
18 the evidence will show you in this case, is that these men
19 could have responded the same way the other 12 did which was
20 not to shoot. They could have responded the same way which
21 is to really assess is there something out there or not? Or
22 am I just going to shoot first and justify later? And by
23 shooting first and justifying later, they committed unlawful
24 killings. And when they shot first and chose to justify
25 later, they committed attempted manslaughter.

Attachment B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
Paul Alvin Slough,)
Evan Shawn Liberty,)
Dustin Laurent Heard,)
)
Defendants.)

File No: CR 08-360

Date: August 7, 2014
Time: 2:09 p.m.

----- DAY 35 - P.M. Session

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
Vs.)
)
Nicholas Abram Slatten,)
)
Defendant.)

File No: CR 14-107

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter: Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 A. No.

2 Q. And was there anything else that you did in those
3 examinations that you know of? Or have we covered it all?

4 A. I believe we covered it all. The one thing that I would
5 add is the hole on the Q92 tire I actually did test inside
6 that hole. I used a screwdriver, I used to push the fabric
7 into the hole in which I was testing. And I did test the
8 interior, and it came out as negative for both the presence
9 of copper and lead. And my positive and negative controls
10 worked as expected showing that the chemicals were working
11 properly.

12 Q. And it was negative for the presence of copper and lead?

13 A. Yes, it was.

14 Q. Did your screwdriver actually fit all the way through
15 that hole?

16 A. I don't recall. It's been a long time.

17 MR. KAVANAUGH: Your Honor, those are all of my
18 questions.

19 Those are all the questions I have.

20 THE COURT: All right. You may cross-examine.

21 MR. BARATZ: May I proceed?

22 CROSS-EXAMINATION

23 BY MR. BARATZ:

24 Q. It's Mr. "Giroux"?

25 A. Yes.

1 Q. That's correct pronunciation? My name's Michael Baratz.
2 I represent Paul Slough, one of the defendants. I've been
3 saying your name differently in my head, so if I slip up, my
4 apologies.

5 A. Sure.

6 Q. You've covered a lot of ground and I've got some
7 questions for you. And one thing I just wanted to alert you
8 to at the outset, I thought it would be the most efficient
9 if we used the exhibits that the government used with you.

10 A. Okay.

11 Q. Doesn't mean that I necessarily agree with everything on
12 them, but I thought that that would make things efficient.

13 A. Sure.

14 Q. So if I have it correct, you have no opinion about who
15 shot whom, right?

16 A. Correct.

17 Q. And in all of the bullets and bullet fragments that we
18 looked at, you were not able to match any of them to a
19 specific weapon.

20 A. Yes. That's correct.

21 Q. So for every bullet and every bullet fragment that you
22 looked at in this case, there is no match back to a specific
23 shooter, right?

24 A. Yes, that's correct.

25 Q. But that is something that you can do; match a specific

1 bullet on occasion to a specific gun?

2 A. Yes. If the firearm is reproducing, then I can identify
3 a bullet back to a barrel.

4 Q. And that's those individual characteristics that you can
5 look at under a microscope. And is it somewhat analogous to
6 a fingerprint?

7 A. Yes. I've heard the parallel many times. The signature
8 from a barrel is the fingerprint of that barrel.

9 Q. But for every bullet in this case, no specific match?

10 A. Yes. That is correct.

11 Q. The cartridge cases are different, right? In this case
12 you were able to match some of the cartridge cases to
13 specific weapons.

14 A. Yes.

15 Q. But all that means is that the weapon was fired, right?

16 A. Correct.

17 Q. And in this case, are you aware that the defendants are
18 claiming self-defense?

19 MR. KAVANAUGH: Objection.

20 THE COURT: Overruled.

21 BY MR. BARATZ:

22 Q. In this case, are you aware that the defendants are
23 claiming self-defense?

24 A. What I know about this case is what I've seen on the
25 news. And I am aware that self-defense was one of the

1 claims made based on that exposure to this case.

2 Q. So the defendants don't dispute that their weapons were
3 fired.

4 A. Okay.

5 Q. But you don't know what a particular defendant shot at,
6 right?

7 A. That's correct.

8 Q. Or what that shot actually hit?

9 A. That's correct.

10 Q. And that's because from your demonstration, the
11 cartridge case gets ejected out of the gun, right?

12 A. Yes.

13 Q. Or firearm. And then -- if I use the wrong terms, I am
14 inexperienced with weapons.

15 A. Okay.

16 Q. So -- my client tries to educate me. But so the
17 cartridge case gets ejected out of the weapon, right?

18 A. Yes.

19 Q. And so that's some indication that the weapon was shot.

20 A. Yes.

21 Q. But the bullet goes forward.

22 A. Yes.

23 Q. And wherever that bullet is, there's no way for you in
24 this case to match that bullet to any particular shot.

25 A. That's correct.

1 Q. And there's no way in this work, the forensic firearms
2 and tool marks, there's no way to match a bullet to a
3 cartridge case.

4 A. Yes, that is correct.

5 Q. So you can match a bullet to a specific gun, and you can
6 match a cartridge case to a specific gun, but not the two
7 together.

8 A. Right.

9 Q. You also examined some cartridge cases and at least one
10 bullet that were consistent with being fired from a 7.62 X
11 39mm weapon.

12 A. Can you repeat that question?

13 Q. Sure. You examined some cartridge cases and at least
14 one bullet that were consistent with being fired from a 7.62
15 X 39mm weapon?

16 A. Yes.

17 Q. And one example of that type of weapon is an AK-47?

18 A. Yes.

19 Q. You also examined cartridge cases that are consistent
20 with being fired from a 7.62 X 54R weapon.

21 A. Yes.

22 Q. And one such weapon that has ammunition that size is a
23 Dragunov sniper rifle?

24 A. Yes.

25 Q. And you understand those to be foreign made weapons?

Attachment C



Firearm Evidence

White Kia

Govt. Ex	Q#	Description	Additional Info.
92	121	bullet jacket fragment*	No
84	90	steering wheel with bullet impacts	bullet core fragment in steering wheel, consistent with steel penetrator tip in 5.56 mm bullet (M855 exemplar)

Attachment D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 14, 2014
10:08 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 20

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 14, 2014
10:08 a.m.

NICHOLAS SLATTEN,
Defendant.

Day 20

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
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1 trajectory analysis.

2 Q. And acknowledging that some of those are law
3 enforcement involved incidents where there's no court, you've
4 testified about once or twice about trajectory analysis?

5 A. Just one previous time, yes.

6 Q. And what is it that you usually testify about in court?

7 A. The vast majority of my testimonies involve
8 examinations of firearms, bullets and cartridge cases.

9 Q. And in connection with this case, did you do any
10 analysis of firearms, cartridge cases and bullets?

11 A. Yes, I did.

12 MR. MARTIN: Objection, Your Honor, beyond the
13 scope.

14 THE COURT: Overruled.

15 BY MR. BARATZ:

16 Q. So just to be clear so in this case you did do some
17 work about bullets, cartridge cases and fragments, but you
18 weren't asked to testify about that today?

19 A. Correct.

20 Q. Let's talk about the opinions that you are offering
21 with respect to a trajectory analysis. You're not offering
22 any opinion about the position of any vehicle at the scene?

23 A. That is correct.

24 Q. And you have no opinion about where the Blackwater
25 vehicles were?

1 A. That's correct.

2 Q. And you have no opinion about how close or how far
3 those vehicles were from one another?

4 A. Correct.

5 Q. And you have in certain cases you've identified
6 trajectories; right?

7 A. Correct.

8 Q. And in certain cases with these vehicles you've
9 identified particular directions from bullets?

10 A. Yes.

11 Q. But you have no opinion about who shot the vehicles?

12 A. That's correct.

13 Q. Now, you took two trips to Baghdad?

14 A. Yes.

15 Q. And the first trip was in late March or early
16 April 2008?

17 A. Both late March and early April, yes.

18 Q. Late March and April 2008. And your report as a result
19 of that trip, you didn't write the report until May of 2009?

20 A. That's correct.

21 Q. And the second trip was in June of 2009?

22 A. That's correct.

23 Q. And on direct you testified that you had extra time,
24 you had extra time on the second trip to go back and at least
25 count the number of bullet holes in these vehicles and that

1 you were not able to establish a trajectory for all of them,
2 but that there were three additional vehicles that you went
3 back to look at?

4 A. Yes.

5 Q. Were there other reasons, weren't there other reasons
6 for your second trip back to Baghdad?

7 A. At the time, the focus of the second trip was for the
8 vehicles I had already looked at, to be able to say something
9 about the remaining bullet holes that I did not have
10 trajectories for.

11 There was some hope that additional vehicles would
12 become available on the second trip that were not available on
13 the first trip so that was also part of the purpose of the
14 trip. And then there were a couple vehicles that were there
15 the first time I was there, but that we didn't have time to
16 look at, and so that was also a part of the reason for the
17 second trip.

18 MR. BARATZ: And, Madam Deputy, if we could switch
19 the system to defense. I believe it may be Defense 2.

20 THE DEPUTY CLERK: I have it.

21 MR. BARATZ: And for the witness only, if we could
22 pull up DX3117, please.

23 And this is for the witness only.

24 BY MR. BARATZ:

25 Q. And I'm showing you what's been marked as 3117, and is

1 they really wanted you to testify about?

2 A. Yes, but it's also important to know that all along on
3 the first trip we knew we were limiting ourselves to some
4 extent because of the time constraints, and so that would --
5 it was understood all along that there was additional work
6 that could be done if more time was available.

7 Q. Now, when you went to Baghdad on both trips, there was
8 only one occasion that you went to Nisur Square, the actual
9 incident site?

10 A. Actually I was able to view Nisur Square from a wall on
11 the edge of the Green Zone, but I didn't actually walk through
12 the square.

13 Q. Okay. And that was my point, so you saw it from the
14 tower, but you didn't actually walk the square?

15 A. Correct.

16 Q. And that was just a short time that you looked at the
17 square from the tower?

18 A. Yes, I think they only gave us five or ten minutes.

19 Q. You didn't do any of the measuring of the square
20 yourself?

21 A. I did not.

22 Q. Now, you testified that it's typical for a car to be
23 removed from the scene and that's not unusual in a shooting
24 incident reconstruction?

25 A. That's correct.

1 Q. But you also testified that you teach in your classes,
2 you teach first responders to tape the glass or to take other
3 efforts to preserve evidence?

4 A. Correct.

5 Q. And was that done in this case as far as you know?

6 A. I do not recall seeing any tape on any of the windows.

7 Q. And is it also helpful or typical that law enforcement
8 will photograph the exact locations of the cars involved in an
9 incident?

10 A. It may not be helpful for me, but it's helpful overall
11 to the investigation to know where the vehicle was first
12 found.

13 Q. But even for the impact or the significance of your
14 trajectories, knowing the location of the vehicle, that would
15 be important; right?

16 A. Usually to others, but not necessarily to my specific
17 work on the car.

18 Q. Understood. But just assume for a moment that the jury
19 wanted to put your diagram with the lines that come out on a
20 map, and then they wanted to follow where those lines went.
21 The position of the vehicle would have a material impact on
22 where the shot originated from; right?

23 A. Absolutely.

24 Q. Now, is it fair to say that vehicles can present
25 problems for trajectory analysis and your analysis as compared

1 to a room with flat walls and flat surfaces?

2 A. There are more complexities, yes.

3 Q. And that's because automobiles are constructed with a
4 wide variety of surfaces that are susceptible to bullet
5 impacts?

6 A. I would say it's because the surfaces are not square
7 like the walls of a room, but it's more complicated.

8 Q. Well, beyond just not -- so there are curved surfaces?

9 A. Yes.

10 Q. And it's not square, and you have glass?

11 A. Correct.

12 Q. And you have sheet metal?

13 A. Yes.

14 Q. You have heavy metal structures like an engine frame?

15 A. Correct.

16 Q. And with an engine frame, there may not be an actual
17 impact or hole, the bullet may not cause an actual hole in the
18 engine frame?

19 A. Correct.

20 Q. And you have soft materials like plastic and fabric and
21 rubber?

22 A. Yes.

23 Q. And various composites?

24 A. Yes.

25 Q. Tires?

Attachment E

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF COLUMBIA**

3
4 UNITED STATES OF AMERICA,
 Government,

CR No. 08-360

5
6 vs.

Washington, DC
July 10, 2014
2:11 p.m.

7 PAUL SLOUGH,
8 EVAN LIBERTY,
9 DUSTIN HEARD,
 Defendants.

10
11 UNITED STATES OF AMERICA,
 Government,

CR No. 14-107

12
13 vs.

Washington, DC
July 10, 2014
2:11 p.m.

14 NICHOLAS SLATTEN,
 Defendant.

15
16 TRANSCRIPT OF JURY TRIAL
17 BEFORE THE HONORABLE ROYCE C. LAMBERTH
18 UNITED STATES DISTRICT JUDGE

19 APPEARANCES:

20 For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
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25

1 response time would have taken photographs of.

2 Q Of course, I've shown you a fair number of photographs
3 of the vehicle itself, correct?

4 A Yes.

5 Q Are you aware of whether that is the complete
6 complement of photographs taken of that vehicle? Or are
7 there dozens more?

8 A I believe there's dozens more, but there may even be
9 some that I'm not aware of at this point. I was only there
10 for a certain period of time. So --

11 Q Okay.

12 MR. MARTIN: Your Honor, is now a good time for
13 break?

14 THE COURT: It is.

15 [Thereupon, Jury exits courtroom at 3:42 p.m.]

16 [Thereupon, recess taken at 3:42 p.m., resuming at
17 4:00 p.m.]

18 [Thereupon, Jury enters courtroom at 4:02 p.m.]

19 THE COURT: You may be seated. Mr. Martin, you
20 may proceed.

21 BY MR. MARTIN:

22 Q Thank you. I want to go back to this exhibit. I'll
23 get the exhibit number in a second, but the photograph of
24 the white Kia as you saw it when you first got there in
25 Baghdad. I think one thing I didn't cover with you, are you

1 to track trajectories of bullets that go through a
2 windshield don't hit anything and go out the back?

3 A If the windshield is gone or the rear window is gone
4 then you can't establish a trajectory for that.

5 Q In this instance where you don't have any windows left,
6 the full evidence of having been shot through you wouldn't
7 know one way or another whether shots impacted the
8 windshield and then went through the vehicle without hitting
9 anything else?

10 A That's correct.

11 MR. MARTIN: We'll move in at this time E eight,
12 excuse me, E-285 A and this is the blue Suzuki for counsel.
13 E-285 B, E-285 C, E-285 D as well as E-286 A through U as in
14 uniform.

15 THE COURT: Received.

16 [Thereupon, Government's Exhibit No. E-285 B,
17 E-285 C, E-285 D, E-286 A through U admitted into
18 evidence.]

19 BY MR. MARTIN:

20 Q Starting with E-285 A, can I get that on the screen,
21 ma'am. What are we looking at here with respect to this
22 blue Suzuki?

23 A In this diagram you can see five different
24 trajectories. The ones that's hard to see is right there
25 [Indicating] into the windshield, but then there's two more

Attachment F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 29, 2014
10:10 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 29

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 29, 2014
10:10 a.m.

NICHOLAS SLATTEN,
Defendant.

Day 29

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
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1 Q. It was your interest to do your best so you wouldn't
2 face any criminal charges; correct?

3 A. Absolutely.

4 Q. All right. And so in front of the Grand Jury you tried
5 to convey the best you could your memory about what occurred
6 five and a half years before; correct?

7 A. Yes, sir, that's correct.

8 Q. But as we've just discussed, given the distortion that
9 occurs to senses in a gunfight, you couldn't say with any
10 precision exactly what happened at Nisur Square; correct?

11 A. Yes, sir.

12 Q. You may not have known with any precision what had
13 happened at Nisur Square ten minutes after it happened;
14 correct?

15 A. That's fair to say.

16 Q. So five and a half years later as you're trying to do
17 your best to recall, and you tried your best, didn't you?

18 A. I did, yes.

19 Q. Mr. Watson, as to the sequence of events about whether
20 Mr. Slatten or the up gunners fired first, as you sit here
21 today, you truly don't; know correct?

22 A. I have no idea.

23 Q. And when you testified in the Grand Jury in March
24 of 2013, five and a half years after the event, you truly
25 didn't know for sure; correct?

1 A. Yes, that's correct.

2 Q. So when somebody points to a Grand Jury that occurred
3 five and a half years after the events, looking at that Grand
4 Jury testimony doesn't really eliminate the sequence of events
5 at Nisur Square, does it?

6 A. No, sir.

7 Q. In fact, in your Grand Jury, which is the exhibit in
8 front of you, Exhibit 498G, on page 135, the first line you're
9 asked, 135.

10 A. I should be getting good at this.

11 Q. I should have put stickies on it for you.

12 A. Okay, I'm there.

13 Q. So the question having to do with the sequence of
14 events, the question is from the prosecutor, and it's:

15 "And I know it may be an impossible task, but
16 when you say at the beginning in your mind, in
17 your head, in your time line, what are you
18 referring to in the beginning?"

19 The prosecutor is acknowledging this is an impossible
20 task; correct?

21 A. Yes, I noticed that yesterday.

22 Q. And it is an impossible task five and a half years
23 later, isn't it?

24 A. It is.

25 Q. Now, I'm going to have you turn to page 110 of that

1 exhibit, please.

2 A. Okay.

3 Q. And the particular reference to line 17 through 19.

4 This is a portion of your Grand Jury exhibit that Mr. Martin
5 didn't read you yesterday, but it's in reference to the very
6 first firing -- excuse me, the firing that you say Mr. Slatten
7 did early in this incident; correct?

8 A. Yes.

9 Q. And you were asked: "Do you know what he was
10 aiming at when he shot that?"

11 And your answer is: "I have no idea."

12 Correct?

13 A. That is correct.

14 Q. This is a reference to what you say is Mr. Slatten's
15 shots south of the circle; correct?

16 A. Yes, sir.

17 Q. You have no idea what he was aiming at, do you?

18 A. It's impossible for me to know.

19 Q. You didn't know a year ago in Grand Jury; correct?

20 A. That's correct.

21 Q. And you didn't know seven years ago; correct?

22 A. That's correct.

23 Q. When this incident happened, there was serious glare in
24 your window; correct?

25 A. Yes.

1 Q. You really couldn't see south of the circle; correct?

2 A. That is correct.

3 Q. You told the Government in the Grand Jury in March
4 of 2013 that you had no idea what Mr. Slatten shot at south of
5 the circle; correct?

6 A. That's correct.

7 Q. You never suggested to them whatsoever that Mr. Slatten
8 shot at that white car, did you?

9 A. No, I did not.

10 Q. Now, Mr. Martin read a passage yesterday on page 123 of
11 this exhibit. I'd ask you to take a look at that, please.

12 A. Okay.

13 Q. Beginning on line 7 you were asked in the Grand Jury,
14 and this is what Mr. Martin read to you yesterday.

15 "Well, I guess my only question is, could you
16 tell was he" -- meaning Slatten -- "firing
17 anywhere near the direction of the white
18 vehicle that you ended up putting rounds into?"

19 That's the question; correct?

20 A. Yes.

21 Q. And your answer: Coincidentally, where he
22 was, the direction that he was firing is where
23 the car was. It was on that left side exactly
24 where he was." Correct?

25 A. That's correct.

1 Q. You were not suggesting by that testimony in any way
2 that Mr. Slatten shot the white car; correct?

3 A. That's correct.

4 Q. You're saying that coincidentally Mr. Slatten fired
5 south; correct?

6 A. Yes.

7 Q. And coincidentally the white car was south; correct?

8 A. That's correct.

9 Q. All right.

10 MR. CONNOLLY: Can I have Government Exhibit 323,
11 please?

12 BY MR. CONNOLLY:

13 Q. Now, I haven't done this yet in trial so bear with me
14 here. But if I put a pointer right there, that's
15 approximately where you have the command vehicle; correct?

16 A. That's approximately, I'm not sure, though.

17 Q. Again, it's seven years ago, I understand. I'm just
18 saying approximately. So to the south of the command vehicle
19 is an area something like that; correct?

20 A. That's correct.

21 Q. And when you were asked in the Grand Jury, well,
22 coincidentally, where was the white car, the white car was
23 somewhere around there; correct?

24 A. Yes, approximately.

25 Q. But, coincidentally, that tree was to the south;

1 correct?

2 A. That's right.

3 Q. Coincidentally that was to the south; correct?

4 A. That's right.

5 Q. Coincidentally that was to the south; correct?

6 A. Yes, sir.

7 Q. Coincidentally that was to the south; correct?

8 A. Yes, sir.

9 Q. Coincidentally that was to the south?

10 A. Yes.

11 Q. Coincidentally that was to the south?

12 A. Yes.

13 Q. Coincidentally that was to the south?

14 A. Yes, sir.

15 Q. Coincidentally that was to the south?

16 A. Yes, sir.

17 Q. Coincidentally, coincidentally, coincidentally,
18 coincidentally, coincidentally, coincidentally, everything's
19 to the south?

20 A. Yes.

21 Q. There's millions of square feet to the south; correct?

22 A. Yes.

23 Q. So when you use the word "coincidental," having to do
24 with the car, the white car being coincidentally south, all
25 you were saying is the car was to the south, coincidentally

1 Mr. Slatten shot to the south somewhere?

2 A. That's correct.

3 Q. And you have no idea where he shot?

4 A. I have no idea.

5 Q. You testified -- I did it. You testified yesterday
6 about on the tow out, your car was being towed; correct?

7 A. Yes, sir.

8 Q. And during the tow out you saw a gentleman walking
9 across the square; correct?

10 A. I don't remember that, sorry.

11 Q. Again, we're talking about events from a long time ago.

12 A. What was your question about again?

13 Q. The question is yesterday you conveyed to us that you
14 saw a gentleman, Mr. Slatten said, look at the guy at
15 1:00 o'clock, and you said, I got it, don't worry, correct,
16 words to that effect; right? Don't shoot the mother fucker,
17 or mother fucker, don't shoot him, or some words to that
18 effect?

19 A. Yeah, that was -- I mean, that's not the area, but
20 that's what happened, yes, sir.

21 Q. All right. Now, Mr. Martin asked you yesterday, page
22 146 of the Grand Jury. And I'm going to line 23.

23 A. Okay.

24 Q. And you relayed, guy was walking, said, hey, Nick said
25 there's a guy on the left side. You said, okay. And then you

1 were like, don't shoot, and sorry about my language, you say,
2 but that's what I said, I said don't shoot; correct?

3 A. That's correct.

4 Q. And he was like, Roger that?

5 A. Yep.

6 Q. Roger that?

7 A. Yep.

8 Q. Acting calmly, professionally; correct?

9 A. Very calm, yeah.

10 Q. You didn't think Mr. Slatten was going to shoot that
11 man, did you?

12 A. No, huh-uh.

13 Q. You -- there's no suggestion that you thought that he
14 was suggesting you would shoot that man; right?

15 A. No, sir, he was just calling out that there was
16 somebody there.

17 Q. And as the DDM, Mr. Slatten's job is to be
18 situationally aware of what's going around you; correct?

19 A. That's his job.

20 Q. He is -- he's supposed to call out anything that is
21 unusual that you should keep an eye on; correct?

22 A. Yes, sir.

23 Q. And you've seen him do it dozens and dozens of times in
24 the past; correct?

25 A. Yes, sir.

1 Q. And there was nothing unusual about Mr. Slatten saying
2 to you keep an eye on the guy on the left; correct?

3 A. That's correct.

4 Q. And you're not suggesting that he was doing anything
5 wrong whatsoever by doing that; correct?

6 A. That is correct, yes.

7 Q. Okay.

8 MR. CONNOLLY: May I have the Court's brief
9 indulgence?

10 THE COURT: Yes.

11 MR. CONNOLLY: Thanks.

12 (Pause.)

13 MR. CONNOLLY: Mr. Watson, we'll get you on your
14 way. Thank you.

15 THE WITNESS: Thank you very much.

16 MR. CONNOLLY: Your Honor, may I retrieve the
17 exhibit to give to Mr. Martin?

18 THE COURT: Yes. Other counsel?

19 MR. SCHERTLER: No, Your Honor.

20 THE COURT: Redirect?

21 MR. MARTIN: Yes, Your Honor.

22 Your Honor, may I approach briefly?

23 THE COURT: Yes.

24

25

Attachment G

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Paul Alvin Slough,)

Evan Shawn Liberty,)

Dustin Laurent Heard,)

Defendants.)

File No: CR 08-360

Date: August 4, 2014

Time: 2:04 p.m.

----- DAY 32 - P.M. Session

THE UNITED STATES OF AMERICA,)

Plaintiff,)

Vs.)

Nicholas Abram Slatten,)

Defendant.)

File No: CR 14-107

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter:

Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 questions they expected to ask you in front of this jury,
2 correct?

3 A. I'm sorry. Could you repeat that?

4 Q. In those practice sessions, the prosecutor would ask you
5 questions, the questions they expected to ask you at trial
6 in front of this jury, correct?

7 A. They had -- they asked me lot of questions. I'm not
8 sure if they were all -- they asked the exact same questions
9 or not. We had gone through a lot of prep.

10 Q. And they asked you questions that you might expect from
11 the defense lawyers in this case, correct?

12 A. Yes.

13 Q. So when you practiced with Mr. Asuncion for your trial
14 testimony, did you practice what you would say if you were
15 asked: What did you shoot when you shot at the white Kia?

16 A. I don't -- I don't recall if we did or not.

17 Q. The three to five M-4 rounds that you shot at the
18 driver, those occurred before the person dressed as an Iraqi
19 police officer ran to the driver's side door, correct?

20 A. Pardon me? Could you say that again?

21 Q. You testified that after you shot the three to five
22 rounds at the driver, correct?

23 A. Yes.

24 Q. After that occurred, someone who was dressed as an Iraqi
25 police officer ran to the driver's side door, correct?

1 A. He was a uniformed traffic official or a police officer,
2 yeah. I had said that.

3 Q. I'm not trying to quibble about what he was. He was
4 somebody in uniform, correct?

5 A. Yes.

6 Q. Ran to the driver's side door.

7 A. Yes, sir.

8 Q. And this was after you shot the three to five rounds in
9 the driver's windshield, correct?

10 A. Yes, sir.

11 Q. So if that person in the uniform saw three to five
12 rounds in the windshield of the white Kia, those are rounds
13 from your perspective that would have come from you,
14 correct?

15 MR. ASUNCION: Objection.

16 THE COURT: Sustained.

17 BY MR. CONNOLLY:

18 Q. The person in the Iraqi police uniform, if he saw rounds
19 in the windshield, from your perspective that would have
20 come from you?

21 MR. ASUNCION: Same objection.

22 THE COURT: Sustained.

23 BY MR. CONNOLLY:

24 Q. You testified that you don't know -- although Mr. Slough
25 was firing, you don't know where Mr. Slough's bullets

1 MR. CONNOLLY: Your Honor, would this be a good
2 time to take a break.

3 THE COURT: We'll take a break.

4 (NOTE: The jury exiting the courtroom at
5 3:17 p.m.)

6

7 (Upon resuming at 3:32 p.m.)

8 THE COURT: Mr. Connolly, you may proceed.

9 MR. CONNOLLY: Thank you.

10 BY MR. CONNOLLY:

11 Q. Mr. Ridgeway, during the incident in Nisur Square, you
12 were in the follow vehicle, correct?

13 A. Yes, sir.

14 Q. Mr. Slatten was inside the command vehicle?

15 A. Yes, sir.

16 Q. Was not within your line of sight, correct?

17 A. Yes, sir.

18 Q. You didn't see him do anything at Nisur Square?

19 A. No, sir.

20 Q. You didn't hear him do anything at Nisur Square.

21 A. No.

22 Q. You never heard his sniper weapon fire during Nisur
23 Square.

24 A. No, sir.

25 Q. What you have to say, if at all about Mr. Slatten in

1 Nisur Square, is about a conversation you had with him after
2 the incident, correct?

3 A. Yes, sir.

4 Q. Okay. You've told the jury that this conversation
5 occurred once you came back to the man camp, correct?

6 A. Yes, sir.

7 Q. And what Mr. Slatten told you was that he engaged an
8 active shooter, correct?

9 A. Yes, sir.

10 Q. Which means he shot at someone who was actively shooting
11 at the convoy, correct?

12 A. Yes. That's what he said.

13 Q. And he said that that person was to the south or
14 southwest, correct?

15 A. Yes, sir.

16 Q. This was someone that Mr. Slatten perceived to be
17 threatening the convoy, correct?

18 MR. ASUNCION: Objection.

19 BY MR. CONNOLLY:

20 Q. That's what he told you.

21 MR. ASUNCION: Perception.

22 THE COURT: Just rephrase it.

23 BY MR. CONNOLLY:

24 Q. So he told you words to the effect this is someone who's
25 threatening the convoy. Correct?

1 A. Yes, sir.

2 Q. Threatening people like you, up gunners, who were not
3 protected from small arms fire, correct?

4 A. Yes, sir.

5 Q. And just to be clear, if he sees -- Mr. Slatten sees
6 somebody shooting at the convoy, as the designated defensive
7 marksman, it's his duty to engage that threat, correct?

8 A. Yes, sir.

9 Q. Let's be crystal clear. At no time did Mr. Slatten ever
10 say to you he shot at a white car, correct?

11 A. I don't recall him telling me that.

12 Q. He said nothing about shooting at a car, correct?

13 A. I don't remember him saying that, no, sir. He didn't.

14 Q. He told you he was shooting at someone who was shooting
15 at the convoy, correct?

16 A. Yes, sir.

17 Q. Switching topics for a moment. I believe you told the
18 ladies and gentlemen of this jury -- but I want to make sure
19 I understand that -- that early in your cooperation with the
20 United States government you told them that Jimmy Watson had
21 acknowledged to you that Mr. Watson fired during the Nisur
22 Square incident. Correct?

23 A. Pardon me? Can you repeat that?

24 Q. I'm moving now to Jimmy Watson.

25 A. Right.

Attachment H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 2, 2014
10:17 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 2, 2014
10:17 a.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
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anthony.asuncion@usdoj.gov

1 A. Yes. Four cars, a Riva, a brand, high, very high, and
2 then it has two towers.

3 Q. Now, you mentioned Riva, is that a term you use to
4 describe American military looking vehicles?

5 A. Yes.

6 Q. When you saw them first enter the circle, where were
7 you standing?

8 A. I was in the square in my point where I was standing.

9 Q. When they entered the circle, where did those armed
10 vehicles go?

11 A. The armored car, instead of going through its own
12 route, I had blocked the street, and they came the wrong side.

13 Q. What did you do when that happened?

14 A. I blocked the circulation, I have four cars that came
15 towards me, and the type is Riva, and they walked or they
16 drove by me, and they became in half circle, the shape. On,
17 two, three, and the fourth one.

18 Q. Okay.

19 MR. ASUNCION: And for the record, the witness has
20 stood up again and extended your arm out in the way that you
21 say indicates for traffic to stop; is that right.

22 THE WITNESS: (Indicating) Yes, I stopped traffic.
23 Yes, as soon as they left the Green Zone and before they get
24 to the circle, I do block the -- stop the traffic. I don't
25 let traffic go in front of any convoy whether it's military,

1 American military cars or any other convoy.

2 BY MR. ASUNCION:

3 Q. Okay. So after you did that, based our observations,
4 did the traffic stop?

5 A. Yes, it did stop.

6 Q. Now, when the cars stopped, were they in a straight
7 line or something different?

8 A. We are not in Washington, all the cars are so you can
9 be in five different or five or six different lines.

10 Q. What did you see happen next?

11 A. It was a terrible day, a catastrophic day and a very
12 sad day. I did not go to sleep for a whole week.

13 Q. Okay. So let me step back for a moment, you just
14 stopped traffic.

15 A. I stopped traffic.

16 Q. What's the next thing that happened?

17 A. The third car started throwing bottles of water and
18 then shot three to four shots, and I thought this was just to
19 scare people.

20 Q. Okay, let me stop you right there. At the time that
21 you see these water bottles being thrown, are you facing that
22 vehicle or are you facing the traffic?

23 A. No, I had blocked this -- the traffic.

24 Q. Right. So you talk about seeing water bottles being
25 thrown. At that point, are you facing that armored vehicle or

1 is your back to the armored vehicle?

2 A. No, as soon as -- yes, as soon as he -- yes, as soon as
3 I saw that they were throwing water, I turned to see what was
4 happening, and then I turned and I saw that there was no car
5 moving, and I turned toward them.

6 Q. Towards the armored vehicles?

7 A. Yes.

8 Q. Okay. Tell us what you heard?

9 A. I heard three to four shots.

10 Q. Okay. Where were those three or four shots, based
11 on -- well, where do you believe those three or four shots
12 were coming from?

13 A. Yes, I was working just close to it, so there was the
14 distance, it's like the distance between me and the computer.

15 Q. Okay. So you're within feet of this vehicle, is that
16 what you're saying?

17 A. Yes.

18 Q. All right. So this vehicle, when you talked about the
19 convoy vehicles coming the circle, you -- I believe you
20 referred to them as one, two, three, four?

21 A. Yes.

22 Q. What is your best recollection of where those sounds
23 came from, the gunshots?

24 A. From the third car.

25 Q. After you heard those gunshots, what's the next thing

1 you remember hearing?

2 A. I heard a woman screaming, "My son, my son." I went
3 toward them, I wanted to open the door of the car, and I saw
4 the man, he was bloodied and the woman hanging to her car,
5 holding her son and screaming, "My son, my son." So I saw
6 that the window had three to four shots, so I went and I
7 wanted to save this man.

8 Q. All right, let me stop you right there. So, just so
9 we're clear, when you heard this woman screaming, did you turn
10 to see where the screams were coming from?

11 A. Yes, she was very close to me in the third car.

12 Q. And do you recall what the color of that car was?

13 A. Yes.

14 Q. What color?

15 A. White Credos, Kia.

16 Q. Do you recall which seat she was in?

17 A. Yes.

18 Q. Which one?

19 A. She was close to the driver, the passenger seat.

20 Q. Did you notice, tell us your observations regarding the
21 person in the driver's seat, what did you see?

22 A. Three to four shots, and then I saw he was bloodied on
23 the face.

24 Q. Okay. Just so we're clear, you say three to four
25 shots, what are you referring to?

1 A. I'm talking about the glass window.

2 Q. Okay. So, the windshield in front of the driver; is
3 that what you're saying?

4 A. Yes, exactly.

5 Q. And with respect to the driver, did you actually get to
6 see that person in the driver's seat?

7 A. Yes. Yes, yes, he was sitting in the driver's seat.

8 Q. Tell us what you observed about how he looked?

9 A. He was like that (indicating). He was all bloodied,
10 and he was in that position (indicating).

11 Q. And so the record is entirely clear, where was the
12 blood coming from?

13 A. It was coming from the head, and his whole face was
14 full of blood (indicating).

15 Q. Now, the woman who was screaming, "My son, my son," did
16 you see whether she was touching him in any way, the driver?

17 A. No, she was holding to him (indicating).

18 Q. All right. And can you demonstrate for us, just where
19 you're seated, demonstrate for us what you saw her doing, and
20 because we're making a record here, if you could do your best
21 to describe what you're doing as you're doing it?

22 A. She was holding her son, she was screaming, "My son, my
23 son." (Indicating), and she was crying and screaming, "My
24 son, my son." I came, I opened the door, and I was pointing
25 and doing this to them (indicating).

Attachment I

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 2, 2014
2:09 p.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
July 2, 2014
2:09 p.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786

1 to a stop?

2 A The one that was directly in front of me?

3 Q Well, let's start with which one was directly in front
4 of you? Do you remember which vehicle?

5 A The third vehicle.

6 Q And how close were you to that vehicle?

7 A Three to four meters.

8 Q Distance between you and me, was it about the same or
9 less?

10 A Maybe little shorter closer to the front of the table
11 there.

12 Q Okay. And were you also with your partner, Sarhan
13 Dheyab? Was he out next to you?

14 A Yes.

15 Q Now, after the convoy came to a stop, but before any
16 shots were fired?

17 A Yes.

18 Q You saw a white sedan move forward toward the convoy,
19 correct?

20 A Before the firing started?

21 Q Correct.

22 A I was standing, after I stopped the traffic, I was
23 standing facing the convoy and I said I saw the bottles of
24 water being thrown. There was no car approaching. And this
25 is a very important point I would like to make is that

1 before they actually leave the Green Zone, I immediately
2 stop the traffic. So when they enter the street, the street
3 is totally free of traffic. When they approach the square,
4 it would be -- the street would be completely free of
5 traffic.

6 Q Do you recall, sir, telling the FBI during this
7 investigation that you saw a white car move forward before
8 those first four shots were fired?

9 A No.

10 Q Do you deny telling them that or do you just not
11 recall?

12 A No, I didn't say that.

13 Q Okay. So let me direct your attention then to the
14 first shots that you say you heard.

15 A Yes.

16 Q You testified I believe that you heard four shots
17 fired?

18 A From three to four shots.

19 Q And were those shots fired in rapid succession?

20 THE INTERPRETER: Kind of pop, pop, like that.

21 MR. HEBERLIG: I'm sorry?

22 THE INTERPRETER: He made a sound like pop, pop,
23 if you want to hear it again.

24 MR. HEBERLIG: Please.

25 THE WITNESS: Pop, pop, intermittent, but fast.

1 BY MR. HEBERLIG:

2 Q Okay. But four shots?

3 A Three to four.

4 Q Sorry, three to four. When you heard those shots fired
5 were you facing the convoy or facing the traffic?

6 A I was facing the convoy.

7 Q Okay. And did you see the man who pulled the trigger?

8 A Yes, on top of the armored turret.

9 Q He was a man who was on the turret on top of vehicle
10 number three, correct?

11 A Yes.

12 Q And those are the very first shots you heard?

13 A Yes.

14 Q You're 100 percent certain of that?

15 A Yes.

16 Q Then you turned, and you looked toward the traffic,
17 correct?

18 A Yes.

19 Q And it's at that time that you saw this white car,
20 correct?

21 A Yes.

22 Q And the white car had three or four holes in its
23 windshield?

24 A Yes.

25 Q And at that time you saw it the white car was beginning

1 to move forward, correct?

2 A When the person inside it was killed, the car started,
3 it was still in gear it started moving very slowly forward.

4 Q And you saw that when you turned around that first
5 time, correct?

6 A When I turned to look at it I heard the woman
7 screaming, my son, my son. I went to the car and I saw it
8 moving very slowly forward.

9 Q Was it moving or not the first time you saw it?

10 A Very slowly.

11 Q Okay. But it was moving, correct?

12 A Yes, it was moving very slowly.

13 Q Now the vehicle that you saw fire these shots had two
14 turret gunners, correct?

15 A Yes, two turrets.

16 Q Okay. And you're sure about that as well?

17 A Yes.

18 Q Are you as confident about that as you are that that
19 was the vehicle that did the first shooting that day?

20 A Yes.

21 Q Now, when you turned and looked at that vehicle were
22 there any other vehicles in between your position and that
23 white car?

24 A Yes, there were.

25 Q How many?

Attachment J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
June 23 2014
10:08 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
June 23, 2014
10:08 a.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
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anthony.asuncion@usdoj.gov

1 MR. MARTIN: And, Your Honor, through the Court may
2 I ask, can the jurors all see the witness?

3 May I ask the interpreter to step back by the
4 microphone stand?

5 THE INTERPRETER: Yes.

6 MR. MARTIN: I don't mean to put you in the corner,
7 sir.

8 THE INTERPRETER: That's okay, I just want him to
9 hear.

10 MR. MARTIN: Okay. Can everyone see him now?

11 JURORS IN UNISON: Yes.

12 BY MR. MARTIN:

13 Q. Did you say you heard shooting?

14 A. Yes, yes.

15 Q. Do you recall how many shots?

16 A. I do not recall exactly, but I believe it was light
17 shooting, singular.

18 Q. Single?

19 A. In Arabic, as an expression, use it to state that the
20 rounds were one after the other.

21 Q. Would it be accurate to say there was a shot, a pause,
22 a shot, in that sense?

23 MR. SCHERTLER: Objection, leading.

24 THE COURT: Overruled.

25 THE WITNESS: Yes, sir.

1 BY MR. MARTIN:

2 Q. When you heard those shots, were you looking at the
3 convoy vehicles?

4 A. Yes.

5 Q. Could you see the men on top of the convoy vehicles?

6 A. Yes.

7 Q. Could you see whether one of those men had fired the
8 shots you heard?

9 A. They were inside the turrets, but I was hearing the
10 sounds of firing coming from the vehicles.

11 Q. Okay. Let me ask my question a different way. When
12 you were looking at the men on top of the vehicles
13 (indicating) and you heard the shots, did you see those men
14 shooting?

15 A. Yes, sir, they were shooting.

16 Q. Which one?

17 A. Both of them, but the most was from the vehicle that
18 was straight in front of me.

19 Q. Now, I'm referring to the very first shots. Do you
20 understand my question?

21 A. I do understand your question, but it was all of a
22 sudden that the shooting began, and I couldn't tell from which
23 one. I was only hearing the sounds.

24 Q. And that's my question. When you're facing these men
25 on the convoy vehicles (indicating), and you heard those first

1 shots, could you at that time see who shot?

2 A. Yes.

3 Q. At that time, who did you believe shot?

4 A. The people, the men on the vehicle, on top of the
5 vehicle.

6 Q. Why do you believe that the men on the vehicle took the
7 first shot?

8 A. Because they were the only ones that are outside the
9 vehicle itself and the sound was coming from that area.

10 Q. Now, the two convoy vehicles or armored vehicles you
11 saw, did they have holes in the side?

12 A. Yes.

13 Q. Did you see anything coming out of those holes?

14 A. Yes, the rifles, the front of the rifles.

15 Q. So in addition to the men on top of the vehicle, you
16 also saw the rifles sticking out the holes on the side?

17 A. Yes.

18 Q. Could you tell at the time you heard the first shots
19 whether one of the men behind the rifles inside the vehicle
20 had shot?

21 A. Yes.

22 Q. You could tell whether they had shot inside the
23 vehicle?

24 A. Yes.

25 Q. How could you tell?

1 A. If you notice in the exhibit that I was about three to
2 four meters away from those armored cars. I was very close to
3 them.

4 Q. Okay. And when you say you believe one of the
5 individuals inside one of the cars shot, which armored vehicle
6 are you talking about?

7 A. In the beginning when I mentioned that there was
8 firing, I meant it was coming from the turrets and not from
9 the holes or the windows that are in the vehicles.

10 Q. And let me make sure I understand that. Did you
11 actually see the explosion out of the end of the barrel?

12 A. No, I did not see the explosion from the mouth of the
13 rifle, but it was so close I can tell it is from the sound.

14 Q. You saw the men pointing their rifles?

15 A. Yes.

16 Q. And you heard the shots?

17 A. Yes, sir.

18 Q. What happened next?

19 A. We heard the sound of the screaming of a person who was
20 shot in a vehicle behind us.

21 Q. When you say "behind," can you indicate on the diagram
22 here what you mean by behind you?

23 A. The vehicles that have stopped behind us.

24 Q. The red arrow that you've placed on the diagram, what
25 is that supposed to indicate?

1 A. I just touched it and it became an arrow, and I didn't
2 mean to.

3 Q. Let me clear this for a second.

4 Now, did you identify where the scream was coming from?

5 A. From among the vehicles that had stopped behind me.

6 Q. Could you locate the vehicle?

7 A. It's close to the sidewalk toward the cabin, about two
8 or three cars in front of it.

9 Q. What color was the vehicle?

10 A. White.

11 Q. What kind of vehicle was it?

12 A. Kia Credos.

13 Q. Can you indicate with your finger -- well, let me do it
14 a different way.

15 MR. MARTIN: May I approach again, Your Honor?

16 THE COURT: Yes.

17 BY MR. MARTIN:

18 Q. Can you take a moment and mark on the diagram where you
19 first saw the white Kia Credos that you saw?

20 A. (Witness complies.)

21 Q. Now, Mr. Monem, is this the same vehicle that you
22 identified as having the scream?

23 A. Yes. One from among the vehicles that had already
24 stopped.

25 Q. Was that the, that green box, the white Kia Credos?

1 A. I was talking in Arabic and by pointing and saying,
2 "please stop," in Arabic.

3 Q. And while you were explaining that, you actually had
4 both of your palms towards the armored vehicles?

5 A. Yes, it was directed toward them, and they were up in
6 the air.

7 Q. Your hands were up in the air?

8 A. Yes.

9 Q. Did you get any response?

10 A. No, there was none.

11 Q. So what did you do?

12 A. I returned back to the vehicle where there was an
13 injured individual.

14 Q. What did you do?

15 A. Most of the vehicles that were stopped around that area
16 had already left, I went directly to the passenger side and
17 there was a lady in it.

18 Q. There was a lady?

19 A. Yes.

20 Q. What was she doing?

21 A. She was screaming and she was asking for help.

22 Q. Was this the same person that was screaming before or
23 different or do you know?

24 A. Yes, the same person.

25 Q. What was the lady screaming?

1 A. She was screaming and weeping about her son and asking
2 for help.

3 Q. Was she doing anything?

4 A. She was just screaming and looking at my face.

5 Q. Did you see the driver at that time?

6 A. Yes.

7 Q. Can you describe that driver's body position?

8 A. In the beginning when I saw him, he was laying or
9 leaning to the side that's close to him. After that, the lady
10 that was screaming pulled him and moved him to her shoulder.

11 Q. The lady that was screaming, was she in the front
12 passenger seat?

13 A. Yes.

14 Q. And when you say she pulled the driver towards her, was
15 it in this fashion (indicating)?

16 A. From the side. She moved his head and moved it to her
17 shoulder.

18 Q. And you just indicated she reached to the left and
19 pulled the head to her left shoulder?

20 A. Yes.

21 Q. Did you try to help the woman?

22 A. Yes.

23 Q. What did you do?

24 A. I was -- I tried to open the door so I can get her to
25 come out of the vehicle, but the door was locked. I asked her

1 to open the door so I could help her, but she was paying
2 attention only to her son.

3 Q. The very first time you saw the white Kia Credos when
4 you heard the screams and turned back and saw it --

5 A. Yes.

6 Q. -- was it moving?

7 A. No, it was at standstill.

8 Q. And the second time you went back to help the mother,
9 excuse me, the female, was it moving at that time?

10 A. No, it had stopped and actually resting on the vehicle
11 in front of it.

12 Q. What type of vehicle was that?

13 A. It was a white vehicle, box type.

14 Q. Is that a type of truck?

15 A. Yes, it is a vehicle for transporting articles and
16 goods.

17 Q. Were the two vehicles touching?

18 A. It was touching the vehicle from the left side to the
19 right side.

20 Q. What portion of the white Kia was touching the box
21 truck?

22 A. It is the right side of the vehicle, which is the
23 closest to the passenger side of the vehicle, it is touching
24 the other vehicle in front of it from the right side of the
25 driver's side.

Attachment K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
August 4, 2014
10:05 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 32

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
August 4, 2014
10:05 a.m.

NICHOLAS SLATTEN,
Defendant.

Day 32

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786
anthony.asuncion@usdoj.gov

1 anyone, did he?

2 A. No, sir, he did not.

3 Q. He didn't saying anything like, guys, we all saw muzzle
4 flashes to the southwest and you all need to say it. He
5 didn't that, did he?

6 A. No, sir, he didn't.

7 Q. You chose what to say in your sworn statement to those
8 State Department investigators; correct?

9 A. Yes, sir.

10 Q. And you chose to say that you had seen muzzle flashes;
11 correct?

12 A. Yes, sir.

13 Q. And you chose to continue to say that long after your
14 guilty plea; correct?

15 A. Yes, sir.

16 Q. All right. I want to make sure now that I understand
17 all of the times that you say you fired your weapon on
18 September 16th, 2007, okay?

19 A. Yes, sir.

20 Q. So we're all clear about that. You testified that the
21 first shots you fired were at the driver of the white Kia;
22 correct?

23 A. Yes, sir.

24 Q. You fired those shots with your M-4; correct?

25 A. Yes, sir.

1 Q. How many shots?

2 A. I'm not sure, sir, maybe three to five.

3 Q. Okay. Then I believe you testified that you fired your
4 weapon at the feet of the man in the dishdasha; correct.

5 A. Yes, sir.

6 Q. That's when he was located behind the white Kia?

7 A. Yes, sir.

8 Q. Again you fired those shots with your M-4?

9 A. Yes, sir.

10 Q. How many shots that time?

11 A. I believe it was about three.

12 Q. Then I believe you described firing shots at the
13 passenger of the white Kia; correct?

14 A. Yes, sir.

15 Q. Again you say you fired those shots with your M-4?

16 A. Yes, sir.

17 Q. How many shots there?

18 A. Sir, maybe three to five, I'm not sure.

19 Q. Then you testified that you reoriented and you fired
20 your weapon to the south or southeast of the traffic circle;
21 correct?

22 A. I did fire one of my weapons to the southeast, yes,
23 sir.

24 Q. In the rough vicinity of that bus stop we've been
25 looking at?

1 to say and tell us that when you observed the white Kia it was
2 coming directly at your vehicle, all other traffic was
3 stopped, and it's moving at a speed that's faster than you
4 would have liked to have seen it move; correct?

5 A. I had said that, yes, sir.

6 Q. That is a perception that you had at that time. In
7 real time you see this car moving; correct?

8 A. I saw the car moving, yes, sir.

9 Q. And you see it moving at a speed that's faster than you
10 would like it to be moving; correct?

11 A. I said that, yes, sir.

12 Q. And you see in real time, it's moving toward your
13 vehicle; correct?

14 A. Yes, sir.

15 Q. And so that was a reason for you to be concerned about
16 what was going on with that white Kia, correct, at the time?

17 A. I wouldn't know, sir.

18 Q. After you fired those first three to five shots that
19 you've testified about at the driver of the white Kia, and
20 just so I have it clear. We again talked about you're --
21 you're using your M-4; correct?

22 A. In which situation are you talking about, sir?

23 Q. We're talking about the first time you shot at the
24 white Kia.

25 A. Yes, sir.

1 Q. You were using your M-4?

2 A. Yes, sir.

3 Q. You testified that you had it on, it was on
4 semi-automatic, it was not on automatic; correct?

5 A. That's correct.

6 Q. So you can fire single shots; correct?

7 A. That's correct.

8 Q. And you can take aim?

9 A. Yes, sir.

10 Q. Your vehicle had stopped at that point; correct?

11 A. At which point, sir?

12 Q. At the point where you fired at the white Kia?

13 A. I wasn't sure, there was -- the vehicle, my vehicle was
14 readjusting and moving at what point it stopped. I mean, it
15 did at some point stop.

16 Q. Okay. Well, when you fired your M-4 single shot --

17 A. Yes, sir.

18 Q. -- three to five shots at the driver of the white Kia,
19 did you aim right for the driver side of the car, through the
20 windshield?

21 A. I believe I did.

22 Q. And did you take time to aim your shots at the driver?

23 A. I brought the weapon up to me and fired, yeah, I mean,
24 somewhat I took aim.

25 Q. Well, we talked about your marksmanship and how, you

1 know, you could fire something at -- something accurately, I
2 believe it was up to 300 yards, do you remember that?

3 A. Yes, sir.

4 Q. Okay. And this -- and the white Kia is much closer
5 than 300 yards; right?

6 A. Yes, sir.

7 Q. So this is a target that you could hit pretty
8 accurately under those circumstances; right?

9 A. Yes, sir.

10 Q. And then I think your testimony was that the car stops;
11 correct?

12 A. Yes, sir.

13 Q. And at that point you stop shooting at the white Kia;
14 correct?

15 A. Yes, sir.

16 Q. And you've also testified at that point Dustin Heard,
17 who you had seen start shooting at the white Kia, and just to
18 back up a little bit. You've testified that Dustin Heard, who
19 was the rear turret gunner, started firing at that white Kia
20 the first time at about the same time or shortly after you
21 began firing; correct?

22 A. That's -- yes.

23 Q. Okay. And then he, when you stopped firing because the
24 car had stopped, he stopped firing; correct?

25 A. I believe he did, yes, sir.

Attachment L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 31, 2014
10:10 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 31

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 9, 2014
10:10 a.m.

NICHOLAS SLATTEN,
Defendant.

Day 31

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
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Criminal Division
555 Fourth Street, NW
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anthony.asuncion@usdoj.gov

1 THE COURT: We're going to take a short recess.

2 JURY ESCORTED OUT OF THE COURTROOM AT 10:40 A.M.

3 BRIEF RECESS AT 10:40 A.M.

4 AFTER RECESS

5 THE COURT: You can bring in the jury.

6 (Whereupon, Jeremy Ridgeway resumed the
7 witness stand).

8 JURY ESCORTED INTO THE COURTROOM AT 10:55 A.M.

9 THE COURT: All right, you may be seated.

10 All right. Mr. Asuncion, you may proceed.

11 DIRECT EXAMINATION (Cont'd)

12 BY MR. ASUNCION:

13 Q. Before we get totally north of the circle,
14 Mr. Ridgeway, yesterday I believe you testified about
15 observing explosions or hearing explosions. Do you remember
16 that?

17 A. Yes, sir, I do.

18 Q. All right. So, can you tell us about that. What is it
19 that you actually observed?

20 A. I observed explosions consistent to be from M-203
21 explosions, detonations.

22 Q. Okay. Well, let me step back, then, and understand
23 where in the sequence of events this occurs.

24 A. It would have been, sir, it would have been after --
25 after I saw -- right prior to firing at the white Kia at

1 Dr. Al-Khazali after I fired. I observed approximately three
2 explosions in short -- within a few seconds of each other.

3 Q. And is this -- do you observe -- why do you say -- when
4 you say you observe it, what is it, do you see it, do you hear
5 it or both?

6 A. I see it and hear it.

7 Q. Okay. And are you able to tell from which direction
8 it's coming?

9 A. I see the explosions, no, I'm not able to tell which
10 direction it's coming from.

11 Q. Well, can you tell whether it's coming from the convoy
12 or at the convoy?

13 A. I believe it was coming from the convoy, sir.

14 Q. So, just -- I just want to be sure. So you talked
15 about the hand.

16 A. Yes, sir.

17 Q. And is it after that or during that you observed these
18 explosions?

19 A. It was both, just prior to and after as well, sir.

20 Q. After you heard those explosions, did you get to see
21 the white Kia?

22 A. Yes, sir, I did see the white Kia.

23 Q. And how did the white Kia appear to you?

24 A. The white Kia was engulfed in flames, sir.

25 MR. ASUNCION: And if we could publish to the jury

1 BY MR. ASUNCION:

2 Q. Now, sir, going back to Patriot's parking lot right
3 after you got back, did you have any interactions with
4 Mr. Slatten?

5 MR. CONNOLLY: I'm sorry, I just cannot hear.

6 THE COURT: He said if there was any interaction
7 with Mr. Slatten when they came back.

8 MR. CONNOLLY: Okay.

9 THE WITNESS: In Patriot's parking lot?

10 BY MR. ASUNCION:

11 Q. Well, how about after the shooting, when you're back at
12 man camp, at any point did you have some interactions with
13 Mr. Slatten?

14 A. There was, yes, sir.

15 Q. Tell us about that?

16 A. We were -- it was after the conversation with
17 Mr. Liberty, and I had a conversation with Mr. Slatten.

18 Q. And just so we're clear, you mean the YouTube
19 conversation or the other conversation relating to Mr. Liberty
20 in terms of timing?

21 A. It would have been the first conversation the day of
22 the incident, sir.

23 Q. I got it, okay. So tell us about that. Where did you
24 see Mr. Slatten and what happened?

25 A. We were walking together, our rooms are within a row or

1 two apart. The -- the -- they were in rows. The living
2 quarters, they were in rows, his living quarters were a row or
3 two behind mine.

4 Q. Tell us about what you said and what you heard?

5 A. Mr. -- I don't remember how we -- what prompted the
6 conversation, but Mr. Slatten had told me that he had shot
7 someone that was taking aim on the convoy.

8 Q. Did he describe what happened to the man's body or
9 anything else that you remember?

10 A. Yes, sir, he did.

11 Q. Okay. So to the best, I know it's been a long time
12 since then, but to the best of your recollection, what are
13 some of the other things you remember him saying during that
14 conversation?

15 A. Sir, he said he had popped his grape and he slumped
16 forward.

17 Q. How would you describe Mr. Slatten's demeanor when he
18 said that?

19 A. It wasn't -- nothing that sticks out in my mind, it
20 wasn't excited or solemn about it, not one way or another.

21 Q. Were there times after September 16th of 2007 that you
22 were playing poker with Mr. Slatten that the subject of the
23 shooting came up?

24 A. Yes, sir. I'm sorry, sir, could you repeat the
25 question?

1 Q. Sure. Are there times after the September 16th
2 incident that you played poker with Slatten and the subject of
3 what occurred in Nisur Square came up?

4 A. I believe we were playing poker, I don't know if
5 Mr. Slatten was with -- playing poker at the time. But it's
6 typically in the evenings we play poker, and we may have been,
7 yes, there was conversations.

8 MR. CONNOLLY: Your Honor, may we approach?

9 THE COURT: All right.

10 SIDEBAR DISCUSSION ON THE RECORD AS FOLLOWS:

11 MR. CONNOLLY: Your Honor, seven years in this
12 case, and all the discovery we received, we've had one
13 conversation in discovery where he says repeatedly exactly
14 what he just said right there. Slatten said a guy, an armed
15 guy was shooting at him and he took him out.

16 Now apparently there's some other conversation that
17 he wants to get into that I have never been provided any
18 discovery on in any fashion.

19 MR. ASUNCION: I believe this is from the filter
20 302, Your Honor. What I intend to get into is that
21 Mr. Slatten said they needed to talk to Mealy, Murphy, Frost
22 and Krueger. And that Slatten went to each of their rooms to
23 plead his case.

24 MR. CONNOLLY: Does he know that Slatten went to
25 each room? Was he with him?

1 MR. ASUNCION: I'm sorry?

2 MR. CONNOLLY: Was he with Slatten?

3 THE COURT: That Slatten said that?

4 MR. ASUNCION: Yes.

5 MR. CONNOLLY: Slatten said that he went to each
6 room?

7 MR. ASUNCION: That's what I have, it's in the
8 filter 302.

9 MR. CONNOLLY: All right. We'll deal with it on
10 cross.

11 MR. ASUNCION: May 7th, 2013, page 2. I'll
12 doublecheck.

13 MR. CONNOLLY: You're asking him: Did Mr. Slatten
14 say anything else about what happened at Nisur Square? This
15 is not about what happened at Nisur Square.

16 MR. ASUNCION: That's fine. I can lead him, if
17 that's the objection.

18 THE COURT: All right.

19 SIDEBAR DISCUSSION CONCLUDED

20 BY MR. ASUNCION:

21 Q. Mr. Ridgeway, was there a point that you were in a room
22 with Mark Mealy, Matthew Murphy -- actually, strike that.

23 Was there a point that you heard Mr. Slatten say to you
24 that -- and others, that they needed to talk to Mark Mealy,
25 Matthew Murphy, Adam Frost and Jeremy Krueger?

Attachment M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 30, 2014
2:15 p.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 30

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 30, 2014
2:15 p.m.

NICHOLAS SLATTEN,
Defendant.

Day 30

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
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anthony.asuncion@usdoj.gov

1 A. There was a point where it did, yes, sir.

2 Q. And when you say repositioning, tell us what you mean
3 by that?

4 A. They were backing up a little, then pulling forward a
5 little, just moving the vehicle -- getting it situated better,
6 I suppose.

7 Q. At some time during this period that we're talking
8 about, did you hear something that sounded like gunfire?

9 A. Sir, I believe that the gunfire would have been prior
10 to that, but I did, yes, sir.

11 Q. Tell us about that then. When is it that you first
12 hear what you believe is gunfire?

13 A. As we were rolling into the traffic circle, we were
14 still moving, I hear automatic gunfire from our convoy.

15 Q. Did you turn in the direction of where the gunfire was
16 coming from?

17 A. Yes, sir, I did.

18 Q. What did you see?

19 A. I saw -- I observed Paul Slough firing.

20 Q. Which weapon was he firing?

21 A. His M-4 Carbine.

22 Q. Do you recall whether that was on automatic or
23 semiautomatic?

24 A. It appeared to be on automatic, sir.

25 Q. As this is happening, is your vehicle still moving

1 around or not?

2 A. Yes, sir. Well, I had -- as I was turning, at some
3 point either while I was turning or immediately shortly after
4 there was some repositioning, that's when the repositioning
5 took place.

6 Q. Did you observe what Slough was firing at?

7 A. Yes, sir, I did.

8 Q. What did you observe?

9 A. I observed him firing at a white vehicle, sir.

10 Q. How far -- approximately, how far away were you from
11 him when he was firing at that white vehicle?

12 A. I would guess around 20-25 feet, give or take, sir.
13 Close enough to see it.

14 Q. Could you see the driver or the -- you, yourself, could
15 you see the driver or the passenger at that point?

16 A. No, sir, I did not.

17 Q. When you first saw that vehicle, did you think to
18 yourself that this was a car on a BOLO list?

19 A. I didn't think about it, sir.

20 Q. Was the car moving when you first saw it?

21 A. Yes, sir, it was.

22 Q. And describe that movement, if you can?

23 A. When I observed -- when I observed Mr. Slough firing on
24 the vehicle, the vehicle was moving towards our convoy.

25 Q. When you say moving towards your convoy, describe that?

1 A. It was driving in the direction of our convoy, sir.

2 Q. How would you describe the speed at which it was
3 moving?

4 A. I couldn't be accurate on it, sir. I would say -- I
5 did not have the impression that it was accelerating, sir.

6 Q. What did you do when you saw that?

7 A. When I saw Mr. Slough firing, I immediately turned --
8 as I was turning, I switched my weapon to fire, and I fired on
9 the white vehicle, sir.

10 Q. Why?

11 A. Solely based on the fact that I saw Mr. Slough firing,
12 sir.

13 Q. Did you take any time to assess -- further assess the
14 situation?

15 A. No, sir, I did not.

16 Q. Which weapon were you using?

17 A. I was using my M-4 Carbine, sir.

18 Q. You mentioned that your weapon had a -- did it have a
19 scope that day?

20 A. It did, sir.

21 Q. Was that the ACOG?

22 A. Yes, sir, it did.

23 Q. Did you use your scope when you fired it at that time?

24 A. I don't recall, sir.

25 Q. How many rounds do you recall firing at that point?

1 A. I believe somewhere between three and five, sir.

2 Q. After that three to five shots that you fired, what did
3 you do?

4 A. The vehicle had come to a stop and I observed a
5 gentleman -- a uniformed Iraqi official -- I thought he was a
6 traffic officer.

7 Q. Let me stop you right there. So, you fired your three
8 to five and then you stop?

9 A. Yes, sir.

10 Q. Why did you stop firing at that point?

11 A. The vehicle had stopped, sir.

12 Q. All right. Tell us about your observations. What
13 happened next?

14 A. A uniformed -- I believe it was a traffic officer -- he
15 was wearing a white shirt, I believe it was dark trousers, he
16 ran over to the driver's side door and around that same time a
17 gentleman in a traditional dishdasha ran also over to the
18 driver's side of the vehicle.

19 Q. Now, this first person you saw there you believe was a
20 police officer -- why do you believe it was a police officer?

21 A. I believed him to be a traffic officer, sir.

22 Q. Based on what?

23 A. His uniform.

24 Q. And is it a uniform that you were familiar with?

25 A. I had seen Iraqi officials in white shirts typically

1 around traffic circles and directing traffic.

2 Q. Now, at this point do you recall whether Slough was
3 still firing?

4 A. I do recall he was not.

5 Q. So, I want to make sure I understand the sequence of
6 events. You see Slough firing at the beginning and then you
7 join in?

8 A. Yes, sir.

9 Q. And at any point during the first segment we're talking
10 about, do you believe that Dustin Heard fired?

11 A. Yes, sir.

12 Q. At what point was that, if you know?

13 A. It would have been either at the -- immediately -- at
14 the same time as I did or immediately after I fired.

15 Q. How far away were you from Dustin Heard on that
16 vehicle, approximately?

17 A. A few feet, sir.

18 Q. Would you be able to reach out and touch him if you
19 wanted to?

20 A. If I leaned a little bit, yeah. Yes, sir.

21 Q. Which weapon was he using at that time?

22 A. It was M-4 Carbine.

23 Q. So, then you stopped. Did he stop as well at that
24 point?

25 A. He did, sir.

Attachment N

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
August 5, 2014
10:14 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
August 5, 2014
10:14 a.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786
anthony.asuncion@usdoj.gov

1 A. Correct.

2 Q. And down here, this would be south, going south?

3 A. Correct.

4 Q. And this is the circle up here (indicating)?

5 A. Correct.

6 Q. So as you've marked it that day, you've got Mr. Skinner
7 in the driver's seat, which would be the right and to the
8 front, you've got Doc, is that Doc Rhodes?

9 A. Yes.

10 Q. And he's on the driver's side, so closer to the circle?

11 A. Yes.

12 Q. And then you've got Krueger right here, which is
13 yourself, on the passenger side, which would be the side
14 closest to the northbound lanes; is that correct?

15 A. The southbound lanes?

16 Q. In other words, you're right, let me just do this real
17 quick.

18 A. Okay.

19 Q. So if you're on this side of the vehicle, you're closer
20 to these lanes going this way; is that right?

21 A. Correct.

22 Q. And closest to this -- or closer to the police kiosk;
23 is that correct?

24 A. Yes.

25 Q. And then you got Mr. Frost in the rear and Mr. Murphy

1 in the front turret; is that correct?

2 A. Yes.

3 Q. So, now let's got back to your narrative. You were in
4 this circle for somewhere between one and five minutes.
5 During that time, before anything of significance happens,
6 you're just scanning your sector?

7 A. Yes.

8 Q. Are you hearing any chatter of significance over the
9 radio?

10 A. No.

11 Q. And what's the first thing of significance that you
12 recall?

13 A. First thing I recall is hearing several single pops or
14 shots.

15 Q. Do you have an idea of what those were?

16 A. Now or at the time?

17 Q. At the time.

18 A. At the time, I couldn't really differentiate if they
19 were a couple pen flares or 5.56 rounds.

20 Q. Were they individual shots or was it like a burst?

21 A. At first they were individual shots.

22 Q. Now, you said 5.56 rounds, are you able to tell the
23 difference between an individual shot of a 5.56 round or, for
24 example, a 7.62 fired from a sniper rifle?

25 A. It would depend on the situation and circumstances.

1 Inside a vehicle with ear pro on, I still think I would be
2 able to tell the difference.

3 Q. And that particular day, do you see Mr. Nick Slatten
4 there in the Bearcat?

5 A. Yes.

6 Q. Do you recall what his position was within Raven 23
7 that day?

8 A. His physical position or his title?

9 Q. His title, his role?

10 A. I think he was the designated marksman for the team.

11 Q. And that's a -- in that position he would have a sniper
12 rifle?

13 A. Yes.

14 Q. Are you familiar with what type of round that sniper
15 rifle Mr. Slatten had on that day fired?

16 A. I think so.

17 Q. What is that, to the best --

18 A. I think it was a 7.62 or a 308.

19 Q. Now, as you understood it, would Mr. Slatten on that
20 day have been on the interior of the Bearcat or the exterior?

21 A. Interior.

22 Q. So there was somebody in the turret position, but he
23 would have been inside the vehicle?

24 A. Correct.

25 Q. And you were also inside your own vehicle, the ERV; is

1 that correct?

2 A. Correct.

3 Q. Now, you mentioned already you had some type of, either
4 noise reduction or some type of ear?

5 A. Correct, yes.

6 Q. And what do those do in terms of affect your ability to
7 hear? Do they affect your ability to hear?

8 A. They're designed to help you be able to hear better
9 than if you just had ear plugs in or regular earmuffs, but
10 like I said, inside of a vehicle with those on and with some
11 sort of COM or ear plug in to hear radio traffic, it impairs
12 it.

13 Q. Okay. As you sit here today, are you able to tell the
14 jurors how being on the interior of the vehicle with those
15 head sets on, how that affects your ability to hear things
16 that happened in other vehicles or outside your vehicle?

17 A. Having that ear protection on and being inside of the
18 vehicle, it has an effect on what we can hear outside a
19 vehicle and inside another vehicle.

20 Q. Okay. Let me ask you then, you hear these pops, and
21 I'm sorry, was that your term or mine, did you say pops or
22 did --

23 A. I think I may have.

24 Q. Okay. And you're not able to determine exactly what
25 those are; is that fair to say?

1 A. Within the first -- within hearing the first, the first
2 onces, no, I wasn't.

3 Q. When you hear those, are you able to tell at all where
4 they're coming from?

5 A. Based on my orientation in the vehicle and what I could
6 see, I deducted that they came from behind me or to my extreme
7 right or left.

8 Q. And when you say behind you, I'm going to put back on
9 500B. Is your back facing this side of the vehicle at that
10 time (indicating)?

11 A. My best recollection, it was faced -- that was the
12 back, my back was facing south.

13 Q. Are you able to recall, as you sit here today, the
14 location that you perceived the pops or the shots to be coming
15 from in relation to the ERV?

16 A. (Indicating.)

17 Q. And you're generally circling there, for the record, on
18 500B, both the command vehicle, the lead vehicle, and then
19 also an area just south of that; is that correct?

20 A. Correct.

21 Q. So generally to the, for lack of a better term, the
22 rear end of the ERV?

23 A. Yes.

24 Q. Do you have a chance then to look in that direction to
25 see if you can determine what the actual source of those shots

Attachment O

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)
)

Plaintiff,)

vs.)

Paul Alvin Slough,)
Evan Shawn Liberty,)
Dustin Laurent Heard,)

Defendants.)

File No: CR 08-360

Date: July 28, 2014
Time: 2:05 p.m.

----- DAY 28 - P.M. Session

THE UNITED STATES OF AMERICA,)
)

Plaintiff,)

Vs.)

Nicholas Abram Slatten,)
)
Defendant.)

File No: CR 14-107

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter: Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 sir.

2 Q. The arrow would be fine. Okay. Thank you. Okay. So
3 you just -- for the jury now, you've just drawn this not
4 saying which of these gun ports he may have had his weapon
5 out of, just saying he's facing towards the south in that
6 direction.

7 A. That's correct.

8 Q. All right. Let's go back here now. 498-D2. When
9 you're locked down the circle, so would that be consistent
10 with -- I'm not saying exactly where -- but Mr. Slatten
11 pointing somewhere in this direction, towards the south?

12 A. I couldn't say that because that may not be exactly
13 correct where I placed the vehicles. But I do know that our
14 side of the vehicle was facing south. So you know that
15 arrow, with an error margin of ten percent, and the vehicle
16 moved back 20 feet is a pretty large area.

17 Q. So he could have been generally in the south. So he
18 could have been facing anywhere like that, even?

19 A. Yeah, the left and lateral limits would have been south.

20 Q. Gotcha. And then Mr. Slough. When you first locked
21 down the square, do you have a sense which way he was facing
22 based on just seeing where his legs were and knowing that he
23 has a rear and he has a front?

24 A. No, sir.

25 Q. Okay. So you don't -- do you remember at all when you

1 were sitting there before anything happened looking to see
2 whether Mr. Slough was facing a particular direction?

3 A. No, sir.

4 Q. Okay. And how about you? Did you have a sector
5 responsibility?

6 A. My responsibility was relaying to the TOC and keeping
7 situational awareness because your vision tends to go
8 straw-like when you're in that situation.

9 Q. Do you remember whether you yourself took up a sector
10 responsibility anywhere around here or here or anywhere out
11 the right side of that vehicle?

12 A. I was just trying to look out of both. Everywhere.

13 Q. And Mr. Liberty. Do you know if Mr. Liberty had a
14 particular sector of responsibility in terms of where he was
15 looking when you stopped in the circle?

16 A. I don't recall that.

17 Q. All right. Okay. What is the first thing of
18 significance you hear? Or see.

19 A. Of significance?

20 Q. Yes.

21 A. Immediately upon stopping the motorcade, I remember
22 hearing pops.

23 Q. And what did those pops sound like you to?

24 A. To me, hearing AK-47 fire before, that's what it sounded
25 like to me.

1 Q. Okay. Now, is that your testimony today, that you don't
2 recall -- or, that you think they were AK-47?

3 A. I believe that thinking back on it, yes. It was AK-47
4 fire.

5 Q. Now, in May you were asked that same question and you
6 gave a different answer, do you remember that?

7 A. No, I don't.

8 Q. Okay. If we could go to your grand jury transcript at
9 page 106.

10 A. Okay.

11 Q. If you go to -- I'm sorry. It's 107. I apologize.
12 107.

13 A. Okay.

14 Q. Okay. Let me ask you a different question because I
15 think that's a different type of answer.

16 A. Okay.

17 Q. Did you have any idea where the direction was? The
18 direction of the pops? In which direction they came?

19 A. No, I did not.

20 Q. And do you have any recollection now as you look at 107,
21 line 6 through 10?

22 A. 6 through what? 10?

23 Q. 107, lines 6 through 10.

24 A. Okay.

25 Q. Okay. Do you remember being asked the question: And

1 the noises that you heard, from which direction were they
2 coming? And your answer being: I'm not sure. I don't
3 recollect that, but I just recollect hearing like pop, pop,
4 pop outside. And I have headphones on, obviously.

5 A. Yes, that's correct.

6 Q. And do you remember at any time during your grand jury
7 testimony referring to those pops as AK-47 fire as you have
8 here today?

9 A. I don't know. I'm not sure.

10 Q. You're just not sure?

11 A. Not sure.

12 Q. Okay. What happens after you hear the pops?

13 A. About the time that we heard pops -- I'm sorry -- about
14 the time that I heard pops, the lead vehicle commander for
15 vehicle 4 marked on there yelled out, Contact, contact,
16 contact, as loud as he could. And it was fairly startling.
17 And he said, Hoss, there's Iraqi police firing at us.

18 Q. And that would be who in the big blowup on 330? Who did
19 you hear saying, Contact, contact, contact.

20 A. (Indicating.)

21 Q. Is that Thomas Vargas?

22 A. Yes, sir.

23 Q. Thomas Vargas, to the best of your recollection, says,
24 Contact, contact, contact. He says, Hoss, and then IP --
25 did he say IP's? Or Iraqi police?

1 A. Iraqi police.

2 Q. Iraqi police firing. Is that correct?

3 A. Contact, contact, contact. Iraqi police -- Hoss,
4 there's Iraqi police firing at us.

5 Q. Did he give a direction as to where the Iraqi police
6 firing at you were?

7 A. I don't recall that, no.

8 Q. You don't remember or --

9 A. I just don't recall him giving a direction.

10 Q. And do you recall what you did after Thomas Vargas said
11 that?

12 A. I believe that I went ahead and told the Tactical
13 Operation Center that we were receiving fire at this time.

14 Q. Now, after Mr. Vargas said that, did you hear any rounds
15 hit the side of the vehicle?

16 A. Negative.

17 Q. Did you hear any rounds coming by the vehicle or any --
18 any indication that you were actually receiving incoming?

19 A. No. It would be hard to do that. There was so much
20 firing going on.

21 Q. Well, this is before anybody's fired, correct?

22 A. Well, the sequence -- may I go into the sequence?

23 Q. Well, let me just ask you this: At this point,
24 according to you, no one from Raven 23 has fired their
25 weapons.

1 A. No. That's correct.

2 Q. So according to you, the first thing you hear is these
3 pops. You don't know where they are. And then Tommy Vargas
4 reports, Contact, contact, contact, Hoss, Iraqi police
5 firing at us, or words to that effect.

6 A. That's correct.

7 Q. So nobody at that time in Raven 23 is firing, to your
8 knowledge?

9 A. To my knowledge that's correct. But there's a very
10 small fraction of a second there that we're about to get
11 into, maybe.

12 Q. We got to take it step by step. But up until that
13 point, nobody's firing?

14 A. That's correct.

15 Q. What do you do when you hear that?

16 A. Once I hear Tommy Vargas say that, I don't respond to
17 him, I immediately relay to the Tactical Operation Center
18 that we are taking fire at this time. Raven 23 is taking
19 fire at this time.

20 Q. Based only on what Tommy Vargas said?

21 A. That's correct. I'd have to back up a little bit, think
22 about it. But I think that -- can I back up a little bit?

23 Q. You can back up a little bit, sure.

24 A. Thank you. It's hard for me to jump -- your question's
25 out of sync. I like to go in sync, you know?

1 So I heard the pops in the distance, Tommy Vargas
2 yelled out, Contact, contact, contact, Iraqi police. And
3 then either Nick Slatten or turret gunners from the rear or
4 the front started going off, and that cued me to call in to
5 the Tactical Operations Centers that we were taking fire at
6 that time.

7 Q. Okay. But just to be clear, then, you've heard pops,
8 correct?

9 A. Yes.

10 Q. Although you haven't, at that moment at least, heard any
11 shots hit your vehicle.

12 A. That's correct.

13 Q. And nobody else --

14 A. That I don't recall.

15 Q. And Tommy Vargas, according to you, reports taking fire
16 from Iraqi police. That's the next thing that happens.

17 A. That's correct.

18 Q. And then shortly after that, as you've said just now,
19 Mr. Slatten or the up guns or the turret guns went off.

20 A. That's correct.

21 Q. Now, are you absolutely sure as you sit here today that
22 Mr. Vargas communicated those three things to you before
23 anyone from Raven 23 fired?

24 A. I am 100 percent sure that Tommy Vargas yelled out on
25 the radio, Iraqi police are firing at us.

1 Q. And when he yelled it on the radio, he was not in your
2 vehicle, correct?

3 A. No, he was not.

4 Q. So how did you hear it? Through the internal coms?

5 A. I want to say it was on the internal coms that everyone
6 could hear.

7 Q. And those internal coms, those would have been coms that
8 everybody in Raven 23 would have had connected to their
9 hand-held and in their ears, correct?

10 A. They would have had -- they were supposed to have their
11 earbuds in.

12 Q. So assuming that the coms are functioning and assuming
13 that they've got those things in their ears, they would have
14 heard the same thing from Tommy Vargas that you say you
15 heard.

16 A. Yes.

17 Q. Okay. All right. And now let's talk about what you
18 said next. Now, you said today either Mr. Slatten or the
19 turret gunners opened fire. Do you, as you sit here today,
20 have a firm recollection as to which was first? Mr. Slatten
21 firing or the turret gunners?

22 A. No.

23 Q. Okay. And would you have -- when you were asked that
24 question in the grand jury, were you trying to be truthful?

25 A. During the grand jury I spoke nothing but the truth.

1 Q. Okay. So let me -- you don't have a recollection now.
2 Let me refer you to grand jury -- excuse me. I think I've
3 been saying May, but -- sorry. It's always been March.

4 A. March.

5 Q. March 14, 2013. And we go to page 110, line 2. You're
6 asked the question: So your recollection of the first
7 person who shot from vehicle number 3, your command vehicle,
8 was who? Answer: My recollection was Nick Slatten yelled
9 out, Contact, contact, and fired twice. But the first one
10 went off and then right after the second shot, the turret
11 guns opened up, all the turret guns. Right?

12 A. Uh-huh.

13 Q. Then you're also asked at page 114, line 14 through 21.
14 Question: Just so we're clear, it's your memory that
15 Slatten shot first before Slough, is that fair? Is that
16 you're clear recollection? Answer: I think that's fair. I
17 think that's fair, yes. Question: Do you have a strong
18 recollection or is it a weak recollection of Slatten firing
19 before Slough? Your answer is: I have a fairly strong
20 recollection of him shooting first.

21 And then at page 135, line 1. Question: And I
22 know it may be an impossible task, but when you say at the
23 beginning in your mind, in your head, in your timeline, what
24 are you referring to in the beginning? Your answer: In the
25 beginning I'm referring to Nick Slatten shooting once and

1 then shooting twice the sniper rifle. You know, the second
2 shot there was like maybe a slight pause, and then all the
3 guns to me seemed to just roar. I could feel the hot brass,
4 though. A lot of hot brass hitting me from Paul Slough's
5 gun.

6 Okay. Now, at the time that Mr. Slatten fired his
7 shots, where were you looking?

8 A. Say again.

9 Q. Yeah, sure. At the time that Mr. Slatten fired his
10 first shot, where were you looking, do you remember?

11 A. No, I do not.

12 Q. Line -- excuse me -- page 121, line 21 through 23.

13 Question: What was your sector? What were you viewing?

14 MR. CONNOLLY: If he wants to refresh --

15 THE COURT: The objection's overruled.

16 BY MR. MARTIN:

17 Q. Question: What was your sector, what were you viewing
18 at the time when you heard his first shot?

19 A. I'm sorry. Can you go back to what line you were
20 reading?

21 Q. Sure. We're on page 121, line 21. What was your
22 sector, what were you viewing at the time when you heard his
23 first shot? Answer: Down in my map and radios.

24 So when Mr. Slatten first fired his first shot,
25 were you looking down at your lap?

1 A. It's hard to recollect that at this time.

2 Q. Where was your map, to the best of your recollection?

3 Where would you keep that?

4 A. My map would have been in front of me on my lap.

5 Q. You also referenced radios. Your radios are in front of
6 you?

7 A. One of them is. One of them is on me.

8 Q. All right. Now, in terms of those two shots, is
9 Mr. Slatten -- do you know where he is aiming at the time he
10 takes the first shot?

11 A. No, I do not.

12 Q. Do you know if he was still in this configuration, still
13 facing generally south? I say "generally" because you're
14 not sure exactly where.

15 A. Well, I'm sure that the port side of the vehicle, the
16 left side of the vehicle was facing south so that means he
17 would be facing south.

18 Q. After that first shot, do you look at him?

19 A. Seems like I glanced back, maybe.

20 Q. When you glanced back, did you see that he was firing
21 out of one of these three portholes?

22 A. I'm not sure which one, but he was probably firing out
23 of a porthole.

24 Q. How long between the first and second shot that
25 Mr. Slatten fired?

1 A. He fired once, and then another one maybe a second or
2 two after that. I'm not sure.

3 Q. Within the command vehicle itself, are you able to hear
4 him fire that weapon?

5 A. Yes, I am.

6 Q. What does it sound like?

7 A. It's fairly loud.

8 Q. Loud enough so it could get your attention?

9 A. Yes, sir.

10 Q. Even past the-- for lack of a better term -- earmuffs?

11 A. Yes, sir.

12 Q. And then there's some pause. Are you able to say is it
13 seconds or not even seconds before the second shot goes off?

14 A. It was very rhythmic. So retort and then retort. So a
15 couple seconds.

16 Q. Are you saying retort as in R-E-T-O-R-T?

17 A. I'm saying like a gun shot.

18 Q. The sound it makes.

19 A. Yes.

20 Q. Then is it at that time, at least given your grand jury
21 testimony, that you then heard the turret guns go off?

22 A. I believe now today I think that both of them went off
23 around the same time, simultaneously.

24 Q. But assuming that you were trying to be as accurate as
25 possible in the grand jury -- and we already went through

1 those portions of the grand jury -- the turret guns go off,
2 correct?

3 A. The turret guns do go off.

4 Q. And you know the turret gun in the command vehicle is
5 going off why?

6 A. The turret -- well, I'm sorry. What's the question?

7 Q. You know that the turret gun, Mr. Slough's gun, is going
8 off why?

9 A. I'm not sure.

10 Q. Do you know why -- how can you tell it's going off?

11 A. If it was going off, then brass would be hitting me.

12 Q. Was that happening?

13 A. When are you speaking of? I'm sorry. I don't know if
14 you're going to a different episode or during that day or
15 right -- I don't know --

16 Q. I'm still on September 16 --

17 A. I know that, but what --

18 Q. Okay. Right after Mr. Slatten fires his gun twice,
19 Mr. Slough and other turret guns go off, is that correct?

20 A. Yes. I think shortly after Slatten fires maybe Slough
21 did.

22 Q. Okay. And you know that Mr. Slough is firing from the
23 turret how? How do you know he's firing?

24 A. Some hot brass comes down and you can just tell by the
25 vibration of the truck.

Attachment P

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
Paul Alvin Slough,)
Evan Shawn Liberty,)
Dustin Laurent Heard,)
)
Defendants.)

File No: CR 08-360

Date: August 11, 2014
Time: 1:54 p.m.

----- DAY 36 - P.M. Session

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
Vs.)
)
Nicholas Abram Slatten,)
)
Defendant.)

File No: CR 14-107

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter: Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 Q. Okay. But am I correct in saying that in the grand jury
2 back in January of 2008 some months after the incident you
3 were asked: Okay. You mentioned something about something
4 happening to the command vehicle. And your answer was:
5 Yeah. Actually before he had his door open -- I do remember
6 seeing -- I believe it was before that -- I do remember
7 seeing rounds hitting the side of -- I saw a couple rounds
8 impact the side of the truck. Correct?

9 A. That's correct.

10 Q. Okay. And just to be clear, you've talked about the
11 fact that at some point before this, before you see the
12 command door vehicle (sic) open and before you see the
13 rounds impacting the left side of the vehicle, you
14 repositioned your truck, correct?

15 A. Correct.

16 Q. And when you repositioned your truck, is it -- am I
17 correct that it gives you a good view of that left side of
18 the command vehicle?

19 A. That's correct.

20 Q. And it gives you good enough view of the left side of
21 the command vehicle so you can see the door open up,
22 correct?

23 A. Well, I saw it opened. I didn't see it actually open
24 up.

25 Q. But you saw it open.

1 A. Correct.

2 Q. So when you're looking at the left side, you can see the
3 left door --

4 A. Yes.

5 Q. -- of that command vehicle open?

6 A. Yes, sir.

7 Q. And that is also the position your vehicle is in when
8 you see these rounds impacting off the left side of the
9 command vehicle, correct?

10 A. I believe so, yeah.

11 Q. And just -- could you describe that for us? What did
12 you see when you tell us that you saw rounds hitting the
13 left side of the command vehicle? The best that you could
14 describe it to the rest of us who weren't there.

15 A. It almost looks like little puffs of smoke hitting the
16 side of the vehicle. It's real thick armor, thick steel, so
17 when something hits it, it kind of disintegrates. It's
18 going that fast. Looks like little, small, round puffs of
19 smoke hitting it. Like what rounds look like.

20 Q. Did you see kind of paint chipping off?

21 A. Yes, sir.

22 Q. And when you see this, do you believe that these are
23 bullet rounds that are striking the command vehicle?

24 A. Yes, sir.

25 Q. Now, you testified that at some point earlier you hear

1 four explosions.

2 A. Correct.

3 Q. That you think are M-203 grenades, correct?

4 A. Yes, sir.

5 Q. Now, when you're seeing the rounds impact the left side
6 of the command vehicle, there are no explosions going on at
7 that point in time, correct?

8 A. That's correct.

9 Q. Those explosions occurred well before.

10 A. Yes, sir.

11 Q. So based on what you're seeing and hearing, those dents,
12 those dings that are in the command vehicle where you see
13 the rounds impacting, couldn't have been caused by an M-203
14 explosion.

15 A. No, sir.

16 Q. Based on the way the vehicles were configured, when you
17 see the rounds striking the command -- left side of the
18 command vehicle, can you tell what direction they're coming
19 from?

20 A. From the south.

21 Q. So that would be the same direction where Tommy Vargas
22 is announcing in realtime that he sees muzzle fire?

23 A. That's correct.

24 Q. To you at this point in time, is there any doubt that
25 your convoy is taking incoming fire based upon what you see

1 and hear?

2 MR. MARTIN: Objection. Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MR. SCHERTLER:

5 Q. Did you view the fact that there were incoming rounds
6 striking the command vehicle to be proof that there was
7 incoming fire?

8 MR. MARTIN: Objection, Your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: Yes.

11 BY MR. SCHERTLER:

12 Q. I think at this point there's -- you are able to then
13 actually see radiator fluid leaking out of the command
14 vehicle.

15 A. Some point after, yeah.

16 Q. Correct?

17 A. Correct.

18 Q. Just to --

19 May I approach, Your Honor?

20 If we're looking at Government Exhibit 330 -- and
21 I'll just use this as the command vehicle for a moment. But
22 you're looking at the left side of the command vehicle,
23 correct?

24 A. That's correct.

25 Q. And would you describe that when you see the radiator

1 fluid you actually see it leaking out the left side down the
2 road, correct?

3 A. Correct.

4 Q. And you then informed Tommy Vargas of this.

5 A. Yes, sir.

6 Q. And you hear Tommy Vargas call over the radio to the
7 command vehicle that their radiator's leaking.

8 A. Correct, something like that.

9 Q. And now at this point -- I want to take you back for a
10 moment before we get to -- we get to the point where the
11 command vehicle's down, right?

12 A. Yes, sir.

13 Q. And it can't move.

14 A. Correct.

15 Q. And that's when you're going to have to do the tow-out.

16 A. Yes, sir.

17 Q. Now, at the time the tow-out starts, am I correct that
18 the firing has died down?

19 A. Yes, sir.

20 Q. And it's become quiet?

21 A. That's correct.

22 Q. I want to take you back in time a little bit. The first
23 shots that you hear seem to be connected to that white car
24 that is moving forward with a police officer pushing it or
25 just slightly before that.

1 A. That's correct.

2 MR. MARTIN: Your Honor, those are all the
3 questions I have.

4 THE COURT: You can step down. Next witness?
5 (Witness excused.)

6 MR. ASUNCION: The United States calls Franklin
7 Paul to the stand, Your Honor.

8 FRANKLIN PAUL,
9 after having been first duly
10 sworn upon oath, was examined
11 and testified as follows:

12 MR. ASUNCION: May I proceed Your Honor? Thank
13 you.

14 DIRECT EXAMINATION

15 BY MR. ASUNCION:

16 Q. Good afternoon, sir. Could you please introduce
17 yourself to the ladies and gentlemen of this jury by stating
18 your full name and spelling your name for the record?

19 A. Yes, sir. My name is Franklin W. Paul, Jr. Last name
20 spelled P-A-U-L.

21 Q. Sir, if you don't mind me asking, how old are you?

22 A. 55.

23 Q. Where is it that you grew up?

24 A. Gainesville, Georgia.

25 Q. Did you serve in the United States military?

1 And so I do remember telling my gunners not to
2 shoot until we positively ID'd where gunfire was coming
3 from. But it -- you could hear that there was an exchange
4 of gunfire. And there is a difference in between an AK
5 sound and an M-4 sound, and to me it sounded like a typical
6 gunfire fire fight.

7 MR. ASUNCION: May I approach the witness?

8 Q. Sir, I'm handing you your grand jury testimony. And,
9 sir, you remember testifying in this courthouse before a
10 grand jury on February 7 of 2008?

11 A. I remember coming here and testifying before a grand
12 jury, yes.

13 Q. And do you remember taking an oath identical to the oath
14 that you took before this jury this afternoon?

15 A. Yes, sir.

16 Q. And do you recall being asked this specific question and
17 giving this specific answer. Question: Could the gunfire
18 you heard --

19 MR. COFFIELD: Can we just -- can we see if it
20 refreshes the witness's recollection?

21 MR. ASUNCION: I'm impeaching. I'm not refreshing
22 any recollection.

23 THE COURT: Go ahead.

24 BY MR. ASUNCION:

25 Q. Referring counsel and you, sir, to page 17, line 6. Do

1 you see that? Question: Could the gunfire you heard been
2 outgoing gunfire from the team itself? Answer: It's
3 possible it could. But, I mean, it's hard to distinguish
4 exactly where it's coming from. I mean, you can hear from
5 the aircraft, you can hear gunfire 100 feet, 200 feet away.
6 But it's hard to tell which way it's going.

7 Do you see that?

8 A. Yes, sir.

9 Q. And so is it your testimony here today that you're not
10 sure whether it's incoming or outgoing gunfire? You could
11 not tell?

12 A. I mean, it's pretty much -- you can't tell whether it's
13 incoming or outgoing.

14 Q. And this reference to AK-47 that I believe I heard you
15 just say to this jury, did you refer to an AK-47 being fired
16 before the grand jury?

17 A. No.

18 Q. Is that a thought that just suddenly came to your mind
19 as you're sitting before this jury?

20 A. Well, no one asked me that question. They asked me if I
21 could tell whether it was incoming or outgoing.

22 Q. You understand that the purpose of the grand jury at
23 that point was to understand the facts of what occurred on
24 Nisur Square September 16, 2007.

25 A. Yes, sir.

1 Q. And you understand -- or do you have an understanding
2 that it would be an important fact for the grand jury to
3 have known whether, in fact, there was fire aimed at the
4 convoy?

5 MR. COFFIELD: Objection, Your Honor. He was not
6 asked the question.

7 BY MR. ASUNCION:

8 Q. And you spent time before that grand jury talking about
9 your recollection of what occurred on September 16, 2007.

10 A. Yes, sir.

11 Q. And, in fact, at least for this portion I read to you,
12 you were talking about your impression or your perception of
13 gunfire, right?

14 A. Yes. I was asked if I could tell it was outgoing or
15 incoming. And I still -- I mean, my answer's still the
16 same. You can't really tell whether it's incoming or
17 outgoing gunfire.

18 Q. Oh, I understand that. But I want to make sure I
19 understand what you've just represented to this jury about
20 this AK-47. Do you believe that you heard an AK-47 on
21 September 16, 2007?

22 A. Yes.

23 Q. Okay. But when you're talking about -- and is it fair
24 to say if you truly heard an AK-47 on September 16, 2007,
25 you would have told the grand jury that it was your belief

1 that that was fire aimed at the convoy? Or incoming fire,
2 right?

3 A. I was asked if it was incoming or outgoing, and I
4 answered it. The question was: Could the gunfire you heard
5 been outgoing gunfire from the team itself? And I said it's
6 possible, but from that altitude and that air speed it's
7 hard -- you can't tell whether it's incoming or outgoing
8 gunfire.

9 Q. Sir, is it fair to say that this is the very first day,
10 the very first moment, just a few moments ago, that you ever
11 represent at least to anyone from the United States
12 Department of Justice that you heard an AK-47 on September
13 16, 2007?

14 A. I've said I heard two different sounds. I heard a
15 gun --

16 Q. Sir, my question -- go ahead.

17 A. I heard a fire fight at Nisur Square.

18 Q. My question is this: Up until a few moments ago, is it
19 the very first time -- and you understand that we are from
20 the Department of Justice.

21 A. Yes, sir.

22 Q. And I just want to make sure. You've never told -- up
23 until a few minutes ago -- you've never told a member of the
24 United States Department of Justice that you heard AK-47
25 fire on September 16, 2007.

1 A. No, sir. The only time I was questioned was what's on
2 paper here.

3 Q. After this second -- well, let me ask you this: You
4 were asked repeatedly in your grand jury about whether you
5 saw or perceived any threat, didn't you?

6 A. Yes, sir.

7 Q. Okay. Wouldn't the firing of an AK-47, if you perceived
8 that, have been a threat that you perceived?

9 A. Yes, sir. There was no doubt that there was a bad
10 situation going on.

11 Q. Sir, did you report to Chalk-1 or the TOC or anyone else
12 that you had heard AK-47 fire when you were over the circle?

13 A. Well, I don't recall my exact radio transmissions to the
14 lead aircraft. I do recall when the fire fight broke out
15 calling back to the lead aircraft and telling them
16 definitely we're not bringing the convoy that route.

17 Q. Oh, I understand that.

18 A. Okay.

19 Q. But did you tell Abe Bronn, the pilot -- he was the lead
20 pilot in Chalk-1, wasn't he?

21 A. Yes.

22 Q. And Abe is someone you knew? That you'd worked with
23 before?

24 A. Yes, sir. Worked with him on several --

25 Q. Didn't you think it was important for him to know what

1 threats, if any, you perceived when you were making these
2 observations?

3 A. Well, when I reported a fire fight at Nisur Square,
4 that's pretty self-explanatory to Abe Bronn.

5 Q. Did you report to Abe Bronn that you perceived AK-47
6 fire?

7 A. No, sir.

8 Q. Did you report to your gunners that you perceived AK-47
9 fire?

10 A. My gunners were in the aircraft. I remember --

11 Q. I understand that.

12 A. I specifically remember telling my gunners until we
13 positively ID'd where it was coming from, not to shoot. Why
14 would I tell my gunners to positively ID before shooting if
15 I felt like there wasn't any AK fire?

16 Q. Okay. I just want to be clear on what it is you recall
17 today sitting before this jury. What, if anything, you said
18 about AK-47 fire to Abe Bronn or your gunners or anyone who
19 was in that area.

20 MR. COFFIELD: Asked and answered, Your Honor.

21 THE COURT: Overruled.

22 THE WITNESS: It's not something that I would have
23 to tell Abe Bronn or my gunners. The gunners are trained to
24 abide by a set of rules of engagement.

25 BY MR. ASUNCION:

Attachment Q

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
Paul Alvin Slough,)
Evan Shawn Liberty,)
Dustin Laurent Heard,)
)
Defendants.)

File No: CR 08-360

Date: August 5, 2014
Time: 2:09 p.m.

----- DAY 33 - P.M. Session

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
Vs.)
)
Nicholas Abram Slatten,)
)
Defendant.)

File No: CR 14-107

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter: Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 A. I see that.

2 Q. You don't mention, at least in this passage of the
3 testimony, seeing that man with his hands on the vehicle as
4 you just described, correct?

5 A. Correct.

6 Q. Are you certain about what you just said or do you think
7 what you said back in the grand jury might be more accurate?

8 A. I'm certain. I have a distinct memory of him at the
9 side of that vehicle trying to stop it from rolling.

10 Q. So you saw that, but then you saw him quickly run away,
11 is that fair?

12 A. Yes, uh-huh.

13 Q. Now, I think you testified that by the time you saw the
14 vehicle, the car was slowing down and then it stopped
15 altogether, correct?

16 A. Correct.

17 Q. And because you were looking in the other direction
18 before you turned back over your shoulder, am I correct that
19 you can't say how fast the vehicle was going before you
20 looked at it?

21 A. Right.

22 Q. All right. Let me move you forward a little bit. Am I
23 right that at some point during this engagement you heard
24 what sounded like incoming small arms fire possibly from
25 AK-47s?

1 A. I'm sorry. Could you repeat that?

2 Q. Yes. Am I right that at some point during this incident
3 you heard what sounded like incoming small arms fire,
4 possibly from AK-47s?

5 A. Yes. I was -- I thought maybe -- that is something that
6 I could have heard.

7 Q. And that -- you recall that from -- during this
8 incident, correct?

9 A. Yes.

10 Q. Are you able to place when during the incident you heard
11 that incoming gunfire that may have been from an AK-47?

12 A. My memory is it would have been sometime after the
13 initial engagement started.

14 Q. I'm sorry. After --

15 A. After the initial -- after the initial engagement was
16 started, after the white car was engaged.

17 Q. Okay. I think you testified after the white car came to
18 a stop, you saw shooting move beyond the white Kia further
19 south, is that correct?

20 A. Correct.

21 Q. And it was around this time that you heard someone from
22 Raven 23 call out, Contact, over the radio, is that correct?

23 A. I think so, yes.

24 Q. And calling out, Contact, over the radio in your
25 experience meant that the convoy was being engaged by

1 incoming gunfire, correct?

2 A. Yes.

3 Q. And you remember, in fact, radio traffic in which team
4 members reported contact or incoming gunfire?

5 A. I do remember that.

6 Q. Am I right that in addition to hearing, Contact, you
7 heard specific threats called out over the internal team
8 frequency?

9 A. I'm not 100 percent sure.

10 Q. Do you remember -- and I can direct you to your grand
11 jury testimony in a moment. But do you remember hearing
12 radio traffic about a threat farther down this northbound
13 lane from a possible IP shack or position 100 meters or so
14 down the road?

15 A. Yes, I do remember that.

16 Q. Now, do you remember who it was who called out that
17 threat over the radio?

18 A. I don't particularly remember it right now.

19 Q. Do you remember if it was someone in the command or
20 follow vehicles? Or you're just completely unable to say?

21 A. I'm -- yeah. My memory telling me it would have to be
22 somebody from one of those two vehicles.

23 Q. You also remember somebody calling out muzzle flashes
24 from that IP shack 100 meters or so to the south?

25 A. I don't remember that at this time. That could be.

1 Q. Were you a member of the team that was involved in an
2 engagement at Amanant city hall?

3 A. Yes.

4 Q. Do you remember that taking place within about a week of
5 what happened in Nisur Square?

6 A. I think so, yes.

7 Q. And do you remember on that day that the command vehicle
8 sustained some damage?

9 A. I do.

10 Q. And without getting into great detail, can you just give
11 us a very short overview of what happened at Amanant city
12 hall just so we understand what caused the damage?

13 A. I think from what I remember of the damage that was
14 caused to that vehicle was fragmentation from a grenade.

15 Q. And that fragmentation from a grenade occurred as a
16 result of an incident in which the team was in a two-way
17 fire fight, correct?

18 A. That's the way I understood it, yes.

19 Q. With -- you believed insurgents?

20 A. Yes.

21 Q. Okay. And so the damage that the Bearcat vehicle
22 sustained on that day was caused by fragmentation, correct?

23 A. Yes.

24 Q. And that damage was located on the right side of the
25 command vehicle if you're facing forward, is that correct?

1 A. Yes.

2 Q. And you actually were able to observe that damage
3 personally?

4 A. I think so.

5 Q. All right. Can you describe what it looked like?

6 A. I can't remember it at this time.

7 Q. Do you remember describing it as just minor -- minor
8 marks, chinks, chipped paint in the side of the armor?

9 A. Yeah, I'm pretty sure that's the way it would have been.

10 Q. Now, taking us back to what happened in Nisur Square.

11 Do you want to add to that answer?

12 A. I'm sorry?

13 Q. Looked like you were about to add to that answer.

14 A. No. Sorry.

15 Q. Taking us back to Nisur Square and the immediate
16 aftermath. You had an opportunity, then, to examine the
17 command vehicle, correct?

18 A. Yes.

19 Q. And I think you testified that you accompanied the
20 vehicle to that maintenance pool and that's where you helped
21 clean it out and move some of the supplies to a new vehicle,
22 correct?

23 A. Yeah. I'm pretty sure we would have just left it hooked
24 up to the tow strap and pulled it right there.

25 Q. Okay. And you saw some damage to that vehicle on the

1 left side of the Bearcat or command vehicle, correct?

2 A. I did.

3 Q. And am I correct that you saw somewhere in the vicinity
4 of seven or eight impact marks on the truck?

5 A. I think so.

6 Q. And they appeared to you to be bullet impacts, correct?

7 A. Could have been, yes.

8 Q. Am I right that you did not -- you do not recall seeing
9 those marks on that side of the command vehicle before what
10 took place in Nisur Square?

11 A. Right. I wouldn't have had reason to look for such
12 marks. But, correct, I did not notice them before that.

13 MR. HEBERLIG: Court's indulgence.

14 (Pause.)

15 MR. HEBERLIG: That's all I have. Thank you very
16 much, sir.

17 THE COURT: Let's take our afternoon recess at
18 this time.

19 (Break in the proceedings at 3:23 p.m.)

20

21 (Upon resuming at 3:42 p.m.)

22 THE COURT: Mr. Coffield, you may proceed.

23 MR. COFFIELD: Thank you, Your Honor.

24

CROSS-EXAMINATION

25 BY MR. COFFIELD:

1 Q. Sir, do you expect this jury to believe that you didn't
2 tailgate for hours after a West Virginia football game?

3 A. After or before?

4 Q. You didn't see traffic at the end of the game. All you
5 saw were beers and chicken wings, right?

6 Mr. Martin asked you some questions about your
7 recollection of the number of rounds you believe that the
8 driver of the command vehicle fired. Do you remember that
9 questioning?

10 A. Yes.

11 Q. Okay. I'd ask you to look at page 53 of your grand jury
12 testimony. And I just want to make clear -- and please take
13 a look at that page. I want to make clear that your -- and
14 you call it speculation. Mr. Martin read this into the
15 record, and you actually said, I'm speculating. Correct?

16 A. Correct.

17 Q. So you were guessing, correct?

18 A. A guesstimation, yes.

19 Q. Right. And you made that clear in the grand jury. You
20 said, Look, I'm speculating, but here's the number. And you
21 said 25 to 30, correct?

22 A. I did.

23 Q. And that wasn't based on you seeing anything. What that
24 was based on was you saw a number of 556 rounds in the
25 command vehicle after you got back to the motor pool,

Attachment R

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 1, 2014
10:00 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 1, 2014
10:00 a.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
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anthony.asuncion@usdoj.gov

1 A. If anything, just to reiterate, if anything, I would
2 have been focused more towards the left because I knew Mealy
3 was facing straight ahead.

4 Q. Okay. And what you've just indicated there is you've
5 kind of got your left flank of your focus --

6 A. Yeah.

7 Q. -- and along that line out there somewhere is a, what
8 you perceived to be a machine gun nest?

9 A. Yes.

10 Q. And just describe that generally, what do you mean by
11 that?

12 A. It's a little bunker type thing on a rooftop with a
13 P.K. machine gun pointing out of it, you know, like a prepared
14 position with what looked like to be an Iraqi military guy
15 sitting behind it. He's watching, you know, he's looking
16 around, he's watching what's happening.

17 Q. Did that individual in that machine gun nest ever train
18 that weapon towards the convoy?

19 A. No, he did not.

20 Q. Did that individual, as far as you could tell, any
21 do -- ever do anything that was threatening to the convoy?

22 A. No, negative.

23 Q. You've also indicated, you know, a broader sector as
24 well. Did you see anything in between those two red lines,
25 your sector of viewing, if you will, that appear to you to be

1 threatening?

2 A. Never.

3 Q. Any men running around with guns trained on the convoy?

4 A. Absolutely not.

5 Q. And if you had seen something in that sector that was a
6 threat to your team, what would you have done?

7 A. I would have shot him.

8 Q. Now, after you turned back and assumed that original
9 sector, do you recall hearing any additional M-240 machine gun
10 fire behind you?

11 A. It seemed to have stopped pretty quickly right then.
12 Whether it had already stopped when I turned back, I think it
13 had stopped by that time, by the time looking back. I can't,
14 I can't put an exact, you know, reference to when it stopped
15 versus when I looked away.

16 Q. Got it. So as you sit here today, you're not sure
17 whether when you turned back to your sector there was
18 continuing M-240 machine gun fire behind you?

19 A. I can't say for certain, but it stopped, if it hadn't
20 already, it stopped pretty quickly after that.

21 Q. Then what happened?

22 A. So there was like a distinct lull where not much was
23 happening, and I heard, and this is -- I couldn't, you know, I
24 couldn't put a time, I couldn't say 30 seconds, a minute,
25 whatever, although it was probably much less than that. I

1 heard what sounded to me like AK fire coming from generally to
2 the left, kind of down, you know, down sort of by the
3 southwest direction.

4 Q. Now, to be clear, had you heard AK-47 fire before?

5 A. I had not, I mean, in my life? No.

6 Q. Sorry.

7 A. Not that day, no.

8 Q. But prior experience, you had heard AK-47 fire?

9 A. Yes, many, many times.

10 Q. In fact, correct me if I'm wrong, but when you were
11 being trained or at least when you went to the 22 day course,
12 you actually fired an AK-47 at that time?

13 A. Yes, that's true. I mean, I'd heard it, I've heard AK
14 fire many times.

15 Q. In your mind, is that distinct from the type of weapons
16 fired by the convoy, Raven 23 members?

17 A. It is distinct.

18 Q. How so, can you describe it?

19 A. To me, I've always -- it sounds like more of a
20 rattling, you know, the bolt on an AK going back and forth
21 sounds like it's slamming back and forth. There's a lot more
22 loose tolerance to how they're machined than there is with our
23 guns. And, you know, they kind of -- they're a little, just
24 looser and rattily.

25 Also, I mean, from the distance, it was just clear to

1 me that even if it hadn't been distinctly an AK, it was clear
2 to me that it was away from us.

3 Q. Okay. So you perceived that as being somebody firing a
4 weapon that was not the Blackwater Raven 23 convoy?

5 A. Yes.

6 Q. And describe the length, the perceived number of shots,
7 as far as you're able to tell?

8 A. It was very short, and it was either two quick bursts
9 of three or four, or could have been like a one 68 round
10 burst, something like that, not -- not long at all.

11 Q. How many seconds?

12 A. Two, if that. Yeah, two, two seconds, I guess.

13 Q. Did you have a sense based on hearing the two second
14 burst or combination of bursts where that was originating
15 from?

16 A. Other than a general direction, no. I mean, generally
17 off to the left, to the southwest, but saying exactly where it
18 was, no, no way.

19 Q. Now, if you were to estimate when you heard those in
20 comparison to -- or excuse me, let's withdraw that.

21 If you were to estimate when you heard the AK-47 rounds
22 go off or what you believed to be AK-47 rounds go off,
23 relative to the very first M-240 fire you heard, can you put a
24 timeframe on that?

25 A. My estimate would be like a minute, I mean, this is all

1 happening very quickly, but, you know, your recollection of
2 elapsed time is, you know, not really reliable.

3 Q. Okay. Do you recall being asked that question
4 generally in the Grand Jury a couple of months after this
5 event?

6 A. I remember it came up, I'm sure I was asked.

7 Q. Okay. Would it help to refresh your recollection as to
8 what your answer was then if I showed you a copy of that?

9 A. Sure, absolutely.

10 Q. And let me just ask you to read that to yourself and
11 when you're done, and I'm referring specifically to your Grand
12 Jury at page 32, line 9, and I think if you read line 9
13 through about 13, that should be sufficient, but when you're
14 done reading, if you can look up.

15 A. (Witness complies.) Sure, I say a few minutes into it.

16 Q. Okay. Did that help refresh your recollection?

17 A. Yes, it did. I mean, it's generally right in line with
18 what I'm saying now.

19 Q. Let me approach real quick. So, this did help refresh
20 your recollection as to what you told the Grand Jury back
21 then?

22 A. I don't think it really matters, to be honest with you,
23 sorry.

24 Q. But do you have -- well, do you have a better
25 recollection now or not, did that help?

1 A. I mean, whether it was a couple minutes or one to two
2 minutes, that's to me the same thing, more or less.

3 Q. And just to be clear, when you were asked, "Had you
4 heard any shots at that point?" Your answer in the Grand Jury
5 was, "I didn't, I can't remember exactly, I did distinctly
6 hear gun fire."

7 MR. SCHERTLER: Objection, Your Honor.

8 THE COURT: Overruled.

9 MR. MARTIN: I'll start at the beginning.

10 "Had you heard any shots at that point?

11 "Answer: I didn't. I can't remember
12 exactly. I -- I did distinctly hear gunfire.

13 A few minutes into this event, I heard gunfire
14 that wasn't coming from us."

15 THE WITNESS: Yes, that's true. It was after the
16 240 fire had stopped.

17 BY MR. MARTIN:

18 Q. Okay. And again, this is your -- many years after this
19 event and your Grand Jury [sic] testimony today; correct?

20 A. Yes.

21 Q. Okay. All right. Now, and I apologize for this, I
22 forgot your answer. But were you able to determine the
23 approximate location of where these shots that you perceived
24 to be AK-47 shots, where they were coming from?

25 A. Just generally to my left, which is about the

Attachment S

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 1, 2014
2:10 p.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
July 1, 2014
2:10 p.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
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1 vehicle all of a sudden won't run?

2 A I'm sorry, what about that?

3 Q You gave no thought to the fact that all of a sudden
4 the command vehicle is not running?

5 A Of course I did. I didn't give a thought to what the
6 cause was, whether it was mechanical. I have no idea.

7 Q And you, in order to hook up the tow line, I believe
8 that you talked about the reconfiguration of the vehicles,
9 correct?

10 A Yes.

11 Q Your vehicle, the ERV, moves a little bit further back
12 closer to number three?

13 A Yes.

14 Q So you can hook up the tow line, correct?

15 A Yes.

16 Q And vehicle number one comes to the left side of you
17 all to cover you?

18 A That's correct.

19 Q Because of the fear that there could be incoming fire
20 when your teammates get out to hook up the tow line,
21 correct?

22 A This is standard operating procedure. That's how we
23 did that every single time.

24 Q Right, but you're doing it because there's a fear of
25 incoming fire? Because you're going to have people exposed

1 out there who are going to hook up that tow line?

2 A And that makes it sound like there's an acute fear
3 right then. It's just how we did that every single time.

4 Q Do you remember Adam Frost, was he one of the guys that
5 got out of the ERV vehicle?

6 A I believe he was, yeah.

7 Q And do you remember Adam Frost saying please don't let
8 me get shot?

9 A No, I do not remember that one little bit. That
10 doesn't -- that, that's not an Adam Frost type of thing to
11 say, I'll put it that way. He's a former special forces
12 soldier, combat deployment, he's not saying things like
13 that.

14 Q You don't recall Adam Frost saying that?

15 A No, maybe in a joking way.

16 Q When you got back to the Green Zone, you've described
17 about what occurred. But you also specifically stated that
18 when you got back to the Green Zone, there was a point in
19 time when you were able to look at the command vehicle. Do
20 you recall that?

21 A Yes, there was.

22 Q And I think that you said that you were actually
23 looking at the command vehicle with Mr. Slatten?

24 A That's correct.

25 Q And when you looked at the command vehicle, you noticed

1 that there were dings or holes on the left side of the
2 vehicle?

3 A Not holes, but impacts.

4 Q I'm sorry, but impacts, on the left side of the
5 vehicle, correct?

6 A Yes.

7 Q And the left side of the vehicle, of the command
8 vehicle, would have been the side that was exposed to the
9 southern portion of Nisur Square when you were there
10 September 16th, 2007?

11 A That's correct.

12 Q And I think your testimony was that at the time you
13 were somewhat dismissive about what caused these particular,
14 just call them dings, in the side of the command vehicle
15 because you're kind of in a -- you were upset?

16 A No, not because I was upset. Because I had seen Paul
17 Slough firing grenades right near it.

18 Q Okay. And you drew some conclusions kind of based on
19 your state of mind at that time, correct?

20 A Not based on my state of mind, no. I just answered
21 that that question.

22 Q Isn't it true that after the, after some time passed,
23 that looking at those dings in the command vehicle, you came
24 to conclude that they were actually caused by incoming
25 gunfire?

1 A It seems to be a reasonable explanation.

2 Q So that would be -- so when you looked at it, that
3 would be the explanation that you would give? That was your
4 conclusion, correct?

5 A Certainly wasn't at the time. But I think it's a
6 reasonable conclusion. I don't know honestly. I have no
7 idea to this day.

8 Q Okay.

9 A Presumably someone knows.

10 MR. SCHERTLER: Your Honor, may I approach the
11 witness?

12 THE COURT: Yes.

13 BY MR. SCHERTLER:

14 Q Could I just show these to you? I'll show them to you
15 first. First of all, this is Defense Exhibit 0103-A. Do
16 you recognize this?

17 A Seems to be -- yeah, sure.

18 Q Okay. And this shows the ding marks on the command
19 vehicle, correct?

20 A Shows ding marks on a BearCat.

21 Q Okay. And if you look at Defense Exhibit 0103-B, do
22 you recognize this?

23 A Presumably the same thing.

24 Q Okay. And finally, 0103-C?

25 A Sure.

1 Q Okay.

2 MR. SCHERTLER: Your Honor, I'd ask to introduce
3 these three exhibits into evidence.

4 MR. MARTIN: Your Honor, we need to approach on
5 this. And if we can bring the exhibits over, please.

6 [Bench conference.]

7 MR. MARTIN: No objection to the photos coming in,
8 but this language should never come in. That's not a part
9 of the photo, that's part of their commentary. So if they
10 want the photos in, we understand. But the language should
11 not come in. That's an argument.

12 THE COURT: Sustained.

13 MR. MARTIN: You've got it on every one.

14 THE COURT: Do you have something that can mask
15 it?

16 MR. SCHERTLER: I think we can find something
17 here.

18 [Open court.]

19 THE COURT: They will be received, as they are
20 going to be displayed to the jury.

21 [Thereupon, Defendant's Exhibit Nos. 0103-A, B and
22 C admitted into evidence.]

23 MR. SCHERTLER: Court's indulgence for just one
24 moment.

25 THE COURT: Fine. Let the government see them

1 again.

2 [Brief pause.]

3 MR. SCHERTLER: Your Honor, we'll have that
4 redacted from the final exhibits that we introduce to the
5 jury.

6 BY MR. SCHERTLER:

7 Q So, can I ask you to come down?

8 A [Witness complies.]

9 Q So just looking at this, these are the impact marks,
10 impact marks on the left side of the BearCat command vehicle
11 that you observed when you came back to the Green Zone?

12 A I'm sure they are. Take your word for it.

13 Q Do they appear to be the kinds of impact marks that you
14 observed on the BearCat vehicle that day?

15 A Sure.

16 Q And they are circled in red. And same thing for --
17 and, I'm sorry, that was Exhibit 0103-B.

18 This is 0103-A, same thing?

19 A Yes.

20 Q Shows the impact marks on the left side of the BearCat
21 command vehicle?

22 A Looks like it.

23 Q And that looks like what you saw on the command vehicle
24 September 16th, 2007, when you got back to the Green Zone?

25 A Yes.

1 Q And then finally for the sake of completeness, we've
2 got 0103-C. I believe this shows a picture of the yellow
3 sticky. And this shows another impact mark?

4 A It does.

5 Q On the command vehicle, correct?

6 A Yes.

7 Q Thank you.

8 A Yes, sir.

9 Q So I'd like to ask you some questions about this.

10 A Okay.

11 Q And you were in the marines for four years?

12 A Yes. Not in a support role, just to clarify.

13 Q What's that?

14 A Not in a support role, just to clarify.

15 Q You were in the marines for four years?

16 A Yes.

17 Q You were with Cochise for over a year?

18 A Yes.

19 Q Doing security?

20 A Yes.

21 Q Riding around in armored vehicles?

22 A Yes.

23 Q You were with Blackwater for a year?

24 A Yes.

25 Q Riding around in these armored vehicles?

1 A Yes.

2 Q Before this occasion in September 16th, 2007, had you
3 had the opportunity to see impact marks on vehicles before
4 that?

5 A Many, many times.

6 Q Many times. So you know what they look like?

7 A More or less. I mean, they all look different, but
8 sure.

9 Q And again, I want you to ask you that, you ultimately
10 came to the conclusion based upon on your experience, things
11 that -- what you had seen before in terms of impact mark on
12 vehicles, that you believed that these impact marks on the
13 command vehicle that day were caused by incoming fire,
14 correct?

15 A I had never seen impact marks on a BearCat, and, I
16 mean, they would have to be more or less directly on to make
17 a round -- to make a round impact like that with a bullet
18 they would pretty much have to be fired precisely directly
19 on to be so uniformed.

20 Q But you see -- but that's what you see there?

21 A Yeah.

22 Q So, but do you recall -- let me ask you this: Do you
23 recall testifying, again, same proceeding, back in October
24 of 2009?

25 A I do recalling testifying, yes.

1 Q And if I showed you your testimony, could it, might it
2 refresh your recollection about what you had said about
3 these?

4 A It could.

5 MR. MARTIN: Your Honor, I'm going to object.
6 There's no questions that has been asked as a predicate to
7 this witness prior to an attempt to refresh.

8 MR. SCHERTLER: Court's indulgence for just one
9 moment.

10 [Brief pause.]

11 BY MR. SCHERTLER:

12 Q Do you recall when you get back to the Green Zone, you
13 look at the command vehicle, correct?

14 A Yes.

15 Q And you see the marks on the command vehicle that we've
16 just looked at in those three photos, correct?

17 A Yes.

18 Q And you concluded and your belief is that those marks
19 were caused by incoming fire at the convoy during the Nisur
20 Square incident, correct?

21 A At that time I did not believe that, no.

22 Q You do believe that now, though?

23 A I believe it's a reasonable explanation, most likely.

24 Q Do you recall in 2009 you believed that was the
25 explanation?

1 A I believe it's the most likely explanation, but I don't
2 know. I certainly didn't believe it then.

3 Q But now you believe it's the most likely explanation,
4 correct?

5 A It's reasonable.

6 Q You talked a little bit about when you get back to the
7 Green Zone you refer to Jeremy Ridgeway. And I think you
8 said something about you hearing Mr. Ridgeway make a
9 comment, and I don't know if it was that day or some days
10 afterwards, about they took away his weapon of death?

11 A Yes.

12 Q Do you remember that?

13 A Yes, I do.

14 Q Okay. You talked yesterday a little bit about living
15 in the man camp?

16 A Yes.

17 Q And when you're not out on a mission, you're pretty
18 much confined to the man camp, correct?

19 A No, but, I mean, that's where we lived. You can go out
20 and do other stuff in the Green Zone. But we lived there.
21 We spent the majority of our time there.

22 Q And you spent the majority of your time with your team
23 members, the other guys on Raven 23, correct?

24 A Yes.

25 Q And you see a lot of these guys, right?

Attachment T

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FOR THE DISTRICT OF COLUMBIA

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Government,

CR No. 08-360

vs.

Washington, DC
July 15, 2014
10:10 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 21

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Government,

CR No. 14-107

vs.

Washington, DC
July 15, 2014
10:10 a.m.

NICHOLAS SLATTEN,
Defendant.

Day 21

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UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
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T. Patrick Martin, Esquire
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U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
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anthony.asuncion@usdoj.gov

1 Q. I believe you said you did not look thereafter to see
2 what had happened to that dark-colored vehicle?

3 A. Correct.

4 Q. And based on what you observed, you don't know whether
5 a driver of that vehicle was injured in any way?

6 A. I have no idea.

7 Q. You didn't see the driver at all, correct?

8 A. No, sir.

9 Q. Obviously you didn't see anyone get out of that
10 vehicle?

11 A. I did not, sir.

12 Q. All right. And that was the -- let me move you
13 forward. At some point the convoy was able to cross over and
14 head back to the Green Zone, correct?

15 A. Yes, sir.

16 Q. And I'd like to focus you on the point when you're back
17 in the parking lot and the event was over. Am I correct that
18 either then or shortly thereafter you had an opportunity to
19 inspect the Bearcat command vehicle?

20 A. Yes, sir.

21 Q. And do you know whether it was that day or the next
22 day?

23 A. I don't recall, it was close.

24 Q. Close. And it was before that vehicle was painted
25 over, correct?

1 A. Yes, sir.

2 Q. You testified that you saw bullet strikes on the
3 command vehicle, correct?

4 A. Yes, sir.

5 Q. They were on the left side of the vehicle, correct?

6 A. Yes, sir.

7 Q. That was the side of the vehicle during this engagement
8 that was facing to the south of the Nisur Square, correct?

9 A. Yes, sir.

10 Q. Facing generally toward the direction of the white car
11 and beyond?

12 A. Yes, sir.

13 Q. And there's no doubt in your mind that the command
14 vehicle received bullet strikes?

15 A. No doubt, sir.

16 Q. And there's no doubt that those bullet strikes occurred
17 on September 16th in your mind?

18 A. No doubt, sir.

19 Q. And from your experience in the Army and at Blackwater,
20 you had seen what marks caused by grenade fragmentation could
21 look like, correct?

22 A. Grenade fragmentation?

23 Q. Yes.

24 A. I wouldn't say that I'm an expert on that, sir, no.
25 I could tell you what a bullet strike looks like, but not a

1 grenade fragment.

2 Q. So, based on your experience in the Army and
3 Blackwater, you had seen bullet strikes to the side to the
4 side of armored vehicles before, correct?

5 A. Yes, sir.

6 Q. And these were bullet strikes?

7 A. Yes, sir.

8 Q. And your assessment at the time was that the convoy
9 took incoming gunfire during the incident, correct?

10 A. Yes, sir.

11 MR. HEBERLIG: Your Honor, those are all the
12 questions I have. Thank you, sir.

13 THE COURT: All right.

14 THE WITNESS: Yes, sir.

15 MR. KAVANAUGH: Your Honor, may we approach
16 briefly?

17 THE COURT: All right.

18 SIDEBAR DISCUSSION ON THE RECORD AS FOLLOWS:

19 MR. KAVANAUGH: Your Honor, with respect to
20 Mr. Heard, Mr. Frost has said on a couple of prior occasions,
21 I know at least one, that it was his opinion that Mr. Heard
22 should not have been indicted in this case.

23 MR. SCHERTLER: That was my first question.

24 MR. KAVANAUGH: We've never -- we're going to
25 object to that question for a variety of reasons.

Attachment U

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
August 6, 2014
10:11 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

Day 34 - AM Session

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
August 6, 2014
10:11 a.m.

NICHOLAS SLATTEN,
Defendant.

Day 34 - AM Session

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786
anthony.asuncion@usdoj.gov

1 crossed over the median, the team was able to make it back to
2 the Green Zone; correct?

3 A. Yes, sir.

4 Q. And focusing now on the entire incident, from when you
5 first pulled into the traffic circle to when you got back to
6 the Green Zone, okay. Did you personally see any person get
7 shot?

8 A. No, sir.

9 Q. You didn't see any bodies anywhere around the traffic
10 circle?

11 A. No, sir.

12 Q. And you didn't see any people who appeared to have been
13 injured?

14 A. No, sir.

15 Q. How about during the incident itself, did you witness
16 anything, any conduct by any of your teammates that you
17 thought was wrong?

18 A. No, sir.

19 Q. Then how about after you got back to the parking lot,
20 did you have an opportunity to examine the command vehicle?

21 A. Yes, sir.

22 Q. Now, you were asked on direct examination some
23 questions about whether you had seen damage to the lead
24 vehicle and the ERV vehicle. Do you remember those questions?

25 A. Yes, sir.

1 Q. You were not asked any questions about whether you saw
2 damage to the command vehicle; correct?

3 A. Yes, sir.

4 Q. Did you, in fact, see some damage to the command
5 vehicle when you got back?

6 A. Yes, sir.

7 Q. What do you recall seeing?

8 A. There were approximately four or five marks down the
9 sides -- the left side of the vehicle about maybe a foot, foot
10 and a half below the top of the vehicle itself.

11 Q. So when you say below the top, they're close to the
12 turret; correct?

13 A. Yes, they were --

14 Q. You can get down if you want to point out on the
15 exhibit where you're talking about.

16 A. I call this the top.

17 Q. You just have to speak up a little.

18 A. This was the top I'm referring to. So I recall it was
19 down here somewhere (indicating).

20 Q. All right.

21 MR. HEBERLIG: So just so the record is clear.

22 Mr. Rhodes pointed to the command vehicle and sort of a line
23 maybe a foot or so down from the top of the vehicle.

24 BY MR. HEBERLIG:

25 Q. Is that fair, sir?

1 A. Yes, sir.

2 Q. And I think you said somewhere around four or five; is
3 that correct?

4 A. Yes, sir.

5 Q. And to you, these marks appeared to be bullet strikes;
6 correct?

7 A. Yes, sir.

8 Q. And am I correct that they were on the left side of the
9 vehicle?

10 A. Yes, sir.

11 Q. And that was the side of the vehicle that was facing to
12 the south of Nisur Square?

13 A. Yes, sir.

14 Q. And do you recall seeing any of these impact marks
15 prior to the team heading out to Nisur Square?

16 A. No, sir.

17 Q. Have you previous to this seen damage to convoy
18 vehicles caused by grenade fragmentation?

19 A. No, sir.

20 Q. Okay. So you don't recall whether you'd seen that
21 during your time with Blackwater?

22 A. No, not from grenades.

23 Q. But based on the experience that you'd had, your
24 perception was these were bullet strikes?

25 A. Yes, sir, they were symmetrical, they weren't irregular

1 shapes, it wasn't fragmentation.

2 MR. HEBERLIG: Court's indulgence.

3 Thank you very much, sir. That's all I have, Your
4 Honor.

5 THE COURT: Other counsel.

6 CROSS-EXAMINATION

7 BY MR. SCHERTLER:

8 Q. Mr. Rhodes, I just have a few questions for you. My
9 name is David Schertler, and as you know I represent Dustin
10 Heard; correct?

11 A. Yes, sir.

12 Q. You said that when you got back to the Green Zone after
13 the incident on September 16, 2007, you observed burn injuries
14 on Mr. Heard's arm; is that correct?

15 A. Yes, sir.

16 Q. And I think you described them as first degree burn
17 injuries; is that right?

18 A. Yes, sir.

19 Q. Now, you were also aware of the fact that at the time
20 of September 16th, when he was out there and when you saw him
21 back at the Green Zone, he had on a Nomex suit; correct?

22 A. Yes, sir.

23 Q. And that Nomex suit covered the area of his arm that
24 had the burn injury on it; correct?

25 A. Yes, sir.

Attachment V

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
Paul Alvin Slough,)
Evan Shawn Liberty,)
Dustin Laurent Heard,)
)
Defendants.)

File No: CR 08-360

Date: August 18, 2014
Time: 1:54 p.m.

----- DAY 40 - P.M. Session

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
Vs.)
)
Nicholas Abram Slatten,)
)
Defendant.)

File No: CR 14-107

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter: Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 A. No.

2 Q. And you don't know which direction they were firing.

3 A. No.

4 Q. You said as you were going north you see a couple
5 things. I think you first said you saw an Iraqi police
6 officer with an AK-47?

7 A. Not an AK-47. It was -- looked like a medium belt-fed
8 machine gun.

9 Q. So a little bigger than a AK-47 machine gun.

10 A. Yes.

11 Q. He's with a couple other Iraqi police officers, correct?

12 A. Correct.

13 Q. I think that you said that you did not -- someone kind
14 of ushered him to the side or told him to stand down and you
15 did not perceive him as a threat, correct?

16 A. Correct.

17 Q. And nobody shot at him to the best of your knowledge,
18 right?

19 A. To the best of my knowledge, no.

20 Q. After you went back to the Green Zone and you're in the
21 parking lot, did you have an opportunity to view the left
22 side of the command or the Bearcat vehicle?

23 A. Yes.

24 Q. And did you observe -- what did you observe?

25 A. It looked like four paint chips, dings, on the side of

1 the vehicle.

2 Q. And did you believe those at the time to be bullet
3 strikes to the command vehicle?

4 A. They looked consistent with that, yes.

5 Q. Consistent with bullet strikes? And would that have
6 been evidence to you that you were taking incoming fire --

7 MR. KAVANAUGH: Objection, Your Honor.

8 BY MR. SCHERTLER:

9 Q. -- at Nisur Square?

10 MR. KAVANAUGH: Objection.

11 THE COURT: Sustained.

12 BY MR. SCHERTLER:

13 Q. So I'd like to talk to you a little bit about, first of
14 all, the conversation with Cory Wainscott when you got back
15 to the Green Zone.

16 A. Okay.

17 Q. And I think if I am characterizing it correctly, after
18 you get back there he's the tactical lead commander and he
19 kind of chides you about not speaking to the higher ups at
20 Blackwater, is that right?

21 A. Yes.

22 Q. And you took some offense at that.

23 A. Yes.

24 Q. Is it fair that you took offense because you didn't feel
25 he needed to really tell you anything like that? That

Attachment W

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SEALED

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
August 11, 2014
10:10 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
August 11, 2014
10:10 a.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
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Criminal Division
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anthony.asuncion@usdoj.gov

1 Q Have you ever seen that be used?

2 A No.

3 MR. MARTIN: If we could go to --

4 BY MR. MARTIN:

5 Q Mr. Randall, you're there and Mr. Vargas is right there?

6 A Yes, sir.

7 Q And this was that port hole that is in the windshield; is
8 that correct?

9 A Correct.

10 Q And as you said, that's a Puma, the same model, you're
11 just not sure if that's the exact vehicle you were in that
12 day?

13 A Correct.

14 MR. MARTIN: Could we move on to 3038C?

15 BY MR. MARTIN:

16 Q Same vehicle, just the left side view?

17 A Yes, sir.

18 Q And that would actually be the passenger side because
19 you're driving on the right side; is that correct?

20 A Yes, sir, that would be Tommy's side.

21 Q More gun ports right here?

22 A Yes, sir.

23 Q But no gun port in Tommy Vargas's left window?

24 A No gun port.

25 MR. MARTIN: Can we go to 3038, please?

1 BY MR. MARTIN:

2 Q Same vehicle with the top turret position showing?

3 A Uh-huh.

4 Q Is that correct, sir?

5 A Yes, sir.

6 Q And what's this item right up here?

7 A That's an air conditioning unit.

8 Q And then some water bottles; correct?

9 A Yes, sir.

10 Q Now, are there any doors on that vehicle other than this
11 rear hatch?

12 A No, sir, there's not.

13 MR. MARTIN: If we could go back to the ELMO,
14 please.

15 BY MR. MARTIN:

16 Q So we're back here, and I've erased it, but generally
17 speaking, your sector of responsibility is up here; is that
18 right?

19 A Roughly, yes, sir.

20 Q And you had described that Mr. Slough, who was in the
21 turret position, you generally see him looking down the lane
22 here?

23 A As far as I can recall, yes.

24 Q As far as you can recall?

25 A Uh-huh.

1 Q While you're looking at your sector, are you seeing
2 threats or not?

3 A No, sir.

4 Q What is the first thing of significance you hear that
5 day?

6 A I heard, I heard some shots fired.

7 Q When you heard the shots fired, could you tell where they
8 were coming from?

9 A Sounded like they were coming from in front of me.

10 Q And more specifically, could you tell whether they were
11 coming from one of the vehicles in front of you?

12 A Not specifically, but if I had to throw a guess out
13 there, I'd say it was the command vehicles right in front of
14 me.

15 Q Well, we don't want you to guess.

16 A Specifically, it was in front of me. And then the
17 command vehicle was in front of me.

18 Q Okay. And just, are you sure of that as you sit here
19 today that it was the command vehicle from where those first
20 shots came from?

21 MR. SCHERTLER: Objection, he's already said he
22 doesn't know. He would be guessing.

23 THE COURT: Sustained.

24 BY MR. MARTIN:

25 Q Would a statement you gave two days after the event help

1 refresh your recollection if it addressed that topic?

2 A Sure.

3 MR. MARTIN: May I approach, Your Honor?

4 THE COURT: You may.

5 BY MR. MARTIN:

6 Q Mr. Randall, I'm approaching with Exhibit 499G, as in
7 gulf, and just to yourself, I want you to read from this
8 portion down to the "me."

9 A (Witness complies.)

10 Q Now, does that help to refresh your recollection as to
11 whether you had a clear idea of where the shots, those
12 initial shots were coming from two days after the event?

13 A As far as I -- what I read there, I heard it come from in
14 front of me. So I -- I didn't see it from the command
15 vehicle, I just heard it from up front.

16 Q Do you recall that day, though, telling somebody?

17 A Yeah.

18 Q That you heard shot fired from the command vehicle in
19 front of me?

20 A Yes, I do.

21 Q And is there any reason to believe as you sit here today
22 that you had given -- you had said that wrong to whoever you
23 gave the statement to?

24 A I could have been assuming it. I mean, I don't really --
25 I don't recall exactly. But I just recall hearing the shots

1 from in front of me.

2 Q Okay. As you sit here today?

3 A As I sit here today.

4 Q Now, back then when you gave that statement, did you give
5 that statement to a federal law enforcement agent?

6 A I assume so.

7 Q Was it somebody with the Department of State?

8 A I believe so.

9 Q Were you trying to be accurate?

10 A Yes, sir.

11 Q And when you made the comment of having heard the initial
12 shots come from the command vehicle in front of you, were you
13 trying to be truthful?

14 A Yes, sir.

15 Q Can you describe those shots that you heard?

16 A As far as I remember, it was just a few shots. It wasn't
17 very rapid succession.

18 Q Did you say it was not?

19 A I don't believe so.

20 Q Could you tell whether they were single shots in a
21 semi-automatic fashion or whether they were part of automatic
22 fire?

23 A It sounded more like semi-automatic.

24 Q Did those shots draw your attention to the left?

25 A Yes, sir.

1 Q And what did you see when you looked to the left?

2 A I don't think I saw anything initially.

3 Q Were you still able to see Mr. Slough in his turret
4 position?

5 A Yes, sir.

6 Q And was there anything in his appearance either his body
7 or otherwise that had suggested to you he had fired some
8 shots?

9 A I don't believe so.

10 Q Was he hunched over a weapon?

11 A I really can't remember exactly what his position was.

12 Q Well, were you trying to determine who in the command
13 vehicle was firing the shots?

14 A At that time, no, I was trying to look at what they were
15 shooting at, what was being shot at.

16 Q Did you see what had been shot?

17 A Initially, no, I don't think I did.

18 Q And how far south, or how far to your left -- let me take
19 this off for a second.

20 You're up here in this upper right-hand corner of the --
21 well, you're in the front right corner of the follow vehicle.
22 And your initial sector is here. How far to your left do you
23 scan to see what is being shot at?

24 A I believe I had to look through the front left window.
25 Like I had to look pretty far left to see down there.

1 Q So would that have been this as your left flank, if you
2 will?

3 A Well, I mean, it would have been, to look over there, it
4 would have been more like that.

5 Q And you've drawn a green line that is essentially going
6 right down the lane; is that correct?

7 A Yes, sir.

8 Q Now, were you able when, after you heard the initial
9 shots, were you able to see the same traffic you had seen
10 before when you initially entered the traffic circle?

11 A Yes, sir.

12 Q Was it still stopped as far as you could tell at that
13 point?

14 A As far as I could tell, it was still stopped.

15 Q Did you see any movement at all in that line of cars or
16 the rows behind it when you first looked at it after the
17 initial shots?

18 A I don't recall seeing anything moving.

19 Q What did you do after those initial shots, in viewing
20 that down the lane?

21 A After I had looked left?

22 Q Yes.

23 A I just went back to my sector up north.

24 Q So you went back to this area?

25 A Went back to my little area.

1 Q When you looked back there, did you see anything of
2 significance?

3 A No, sir.

4 Q Were you still looking for threats?

5 A Yes.

6 Q And were you able to scan your entire area?

7 A Yes, sir.

8 Q What's the next thing that happened?

9 A I believe, I believe I looked -- I looked left again.
10 And I believe I saw the white car moving. I saw the white
11 car coming towards the convoy.

12 Q Are you able to place generally on this diagram here
13 where you first observed what you described as a white
14 vehicle?

15 A I believe it was --

16 Q And it's kind of hard with that, so what I'm going to do,
17 I'm going to approach with 499A and ask you to make a couple
18 of additional markings.

19 If you could just mark on that exhibit where you first
20 observed the white car that you described as coming towards
21 the convoy?

22 A (Witness complies.)

23 MR. MARTIN: Your Honor, we move this in as 499A.

24 MR. SCHERTLER: No objection.

25

Attachment X

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
June 24, 2014
10:10 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
June 24, 2014
10:10 a.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786
anthony.asuncion@usdoj.gov

1 Q. Do you recall how many vehicles -- how many vehicles do
2 you remember seeing?

3 A. I saw three.

4 Q. Now, was there -- from where you were in the circle,
5 was there a car in front of you?

6 A. I did not understand the question, what do you mean by
7 cars?

8 Q. Okay, that's fair enough. Let me put it this way. The
9 three vehicles that you remember seeing, were those armored
10 vehicles?

11 A. Yes.

12 Q. At the time that you observed those armored vehicles,
13 where were you?

14 A. Our car was to a stop, we were at a stop because we
15 were stopped by the traffic policeman just before the square.

16 Q. Where you were stopped, did you see any other civilian
17 or non-armored cars in front of you?

18 A. No.

19 Q. What did Osama say at that point?

20 A. There was a car next to us on the right, the driver of
21 that car was pointing to the armored vehicles in a way telling
22 them that he's trying to turn. Osama told me then that if
23 this driver, this driver was able to turn around, I will do
24 the same thing. I will turn around as well.

25 Q. How far away were you from that car when you made that

1 observation?

2 A. It's about one meter.

3 Q. And what was it exactly that that driver was doing that
4 suggested that he was trying to communicate that he wanted to
5 turn around?

6 A. He was pointing this way (indicating) and that is what
7 I understood from this that he wanted to turn back.

8 MR. ASUNCION: And for the benefit of the record
9 the witness has raised one of his arms and made a swirling
10 motion.

11 THE COURT: All right.

12 BY MR. ASUNCION:

13 Q. What's the next thing after that that happens?

14 A. After this I heard the sound of gunfire.

15 Q. At that point did it sound like one gunshot or more
16 than one gunshot?

17 A. Just one shot.

18 Q. After you heard that first gunshot, what happened?

19 A. There was a car behind us that kind of bumped us
20 lightly.

21 Q. Okay. After you felt that bump, what did you do?

22 A. Because we were at this stop, I was curious why was
23 this bump happen because all traffic was stopped, so I turned
24 to look at it.

25 Q. Can you demonstrate for us where you're seated how you

1 turned?

2 A. I turned this way (indicating).

3 MR. ASUNCION: And for the record, the witness has
4 turned towards his left, looking over his shoulder.

5 BY MR. ASUNCION:

6 Q. When you turned that way, tell us what you observed?

7 A. I saw a white vehicle that was with a hole in it, and
8 there is a blood splattered on it, and there was a woman
9 during this time screaming, "yuboooh," which is -- roughly
10 means, oh, my father.

11 Q. Okay. The hole you referred to, where did you see that
12 hole?

13 A. It was on the front windshield right in front of the
14 driver.

15 Q. Did you see anyone approaching that car?

16 A. Yes.

17 Q. Who did you see approaching the car?

18 A. It's the same policeman, traffic policeman that stopped
19 us. As soon as I heard the scream, I saw him moving to
20 approach them.

21 Q. Do you recall what side of the car this particular
22 policeman you're talking about approached?

23 A. It's the driver's side.

24 Q. What did you personally observe that police officer
25 doing?

Attachment Y

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
June 24, 2014
2:05 p.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

UNITED STATES OF AMERICA,
Government,

CR No. 14-107

vs.

Washington, DC
June 24, 2014
2:05 p.m.

NICHOLAS SLATTEN,
Defendant.

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786

1 and he told him, gave them the sign that he wants to do a
2 U-turn.

3 Q And I was going to ask you some questions about that.
4 Why don't I do that. Did that car attempt its U-turn before
5 the shots were fired?

6 A Yes.

7 Q Okay. And I'm going to ask you more questions about
8 that in a minute.

9 Aside from that car, after the gunfire began, did
10 other cars around you try to turn around and get out of the
11 way?

12 A No, I did not see any. They were all stopped.

13 Q Okay. So you don't recall any other cars, aside from
14 that black car, trying to move out of the way?

15 A Yes.

16 Q Okay.

17 THE INTERPRETER: Can you just wait for the
18 change?

19 MR. HEBERLIG: Yes, of course. Are you ready,
20 sir?

21 THE INTERPRETER: Yes, I am.

22 BY MR. HEBERLIG:

23 Q Okay. So focusing you on those first gunshots, okay?

24 A Okay.

25 Q Am I correct you did not see who fired those first

1 gunshots?

2 A Yes.

3 Q And I believe you testified that around the time you
4 heard the first gunshots, you felt something bump your
5 truck; is that correct?

6 A Yes.

7 Q And you turned to look in that direction and that's
8 when you saw this white sedan?

9 A Yes.

10 Q And so, which window of your -- of the VW Caddy were
11 you looking at when you were able to see that?

12 A Both of them, my window and Osama's window as well.
13 Both open.

14 Q So you turned over your left shoulder, correct?

15 A Yes.

16 Q And perhaps I can show you a photograph that would
17 help.

18 MR. HEBERLIG: Government's Exhibit 532-B, which
19 is admitted. Just bear with me. That's not the right one.
20 Let's take that down. That's the one. I'm sorry, it was V,
21 as in Victor. I'm sorry, 532-V.

22 THE WITNESS: Okay.

23 BY MR. HEBERLIG:

24 Q So you were sitting in the passenger seat of the car,
25 correct?

1 A Yes, that's true.

2 Q And you turned over your left shoulder?

3 A Yes.

4 Q And my question is, which of these windows were you
5 able to see the white car out of?

6 A I did not understand what you mean. What car, what car
7 are you talking about?

8 Q When you looked over your shoulder you said you saw the
9 white sedan, correct?

10 A Yeah, I saw the white sedan car, but -- yeah, I don't
11 know from which window was this side [indicating] or that
12 side [indicating] because after they bumped us the car moved
13 a little bit slowly in front, forward.

14 Q Okay. And I'm going to ask you a few questions about
15 that.

16 You marked the window next to the driver, Osama.
17 That's the window you looked out of to see the white car?

18 A Yeah, I don't remember exactly. I think because the
19 vehicle moved, was moving, it was moving slowly, so I don't
20 know if I saw from this window [indicating] or the one
21 behind because I don't remember that. But I remember saw
22 the car moving slowly.

23 Q All right. Fair enough.

24 MR. HEBERLIG: We can take that down.

25

Attachment Z

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Government,

CR No. 08-360

vs.

Washington, DC
July 21, 2014
10:08 a.m.

PAUL SLOUGH,
EVAN LIBERTY,
DUSTIN HEARD,
Defendants.

DAY 24

UNITED STATES OF AMERICA,

Government,

CR No. 14-107

vs.

Washington, DC
July 21, 2014
10:08 a.m.

NICHOLAS SLATTEN,
Defendant.

DAY 24

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

Anthony Asuncion, Esquire
John D. Crabb, Jr., Esquire
T. Patrick Martin, Esquire
Christopher R. Kavanaugh, Esq.
David Joseph Mudd, Esquire
U.S. ATTORNEY'S OFFICE
Criminal Division
555 Fourth Street, NW
Washington, DC 20530
(202) 252-7786
anthony.asuncion@usdoj.gov

1 Q. And you said that was for approximately about a week?

2 A. Approximately a week.

3 Q. I'm not going to hold you to the exact time?

4 A. Sure.

5 Q. And the Knight's Armament is the manufacturer of the
6 SR-25 rifle, correct?

7 A. That's correct.

8 Q. And you spent a week as an armorer at the school,
9 correct?

10 A. Correct.

11 Q. And having spent a week at the Knight's Armament school
12 and given your skills as an armorer, even then you did not
13 feel comfortable changing the trigger mechanism on the SR-25,
14 correct?

15 A. That's right. Nor did we have the capability. I
16 didn't have any of the components or parts for that weapon
17 system to actually do those types of repairs or replacements
18 or any of that stuff.

19 Q. So, you as an armorer did not have the capability?

20 A. I didn't have the capability in Baghdad, no.

21 Q. Okay. You were asked some questions about October 2nd,
22 2007, when individuals members of Raven 23 turned their
23 weapons into the armory, correct?

24 A. Correct.

25 Q. And your memory, I think refreshed by Mr. Martin, was

1 that you and Mr. Giorstano [sic] -- am I saying that --

2 A. Gernesto or -stano [sic], I'm not exactly sure how to
3 pronounce it.

4 Q. If I just say Casey --

5 A. Casey.

6 Q. You and Casey were the two armorers in the armory when
7 the weapons were turned in, correct?

8 A. That's correct.

9 Q. And you were both trying to do your best to record the
10 serial numbers of weapons being turned in?

11 A. That's correct.

12 Q. And you understood this was a fairly significant event,
13 correct?

14 A. Correct.

15 Q. And you wanted to do it right?

16 A. That's right.

17 Q. And you told us on direct examination that as the
18 weapons were turned in either you or Casey would do a function
19 test, correct?

20 A. That's correct.

21 Q. So, each of the weapons that were turned in to either
22 you or Casey, whose last name I cannot say, was function
23 tested that day?

24 A. That's correct.

25 Q. And so if any of the weapons operated in a way that was

1 inconsistent with the manufacturer's recommendation or
2 setting, you would have noticed that, correct?

3 A. We would typically notice it, yes.

4 Q. So, for example, for the SR-25, if the SR-25 was not
5 functioning in the way that the manufacturer designed it when
6 it was function tested on October 2nd, 2007, you would have
7 understood that that's the case, correct?

8 A. Right.

9 Q. Okay. Now, you were asked questions about a bit of a
10 time lag between you and Mr. Casey receiving the weapons,
11 function testing them, and there was no problem with any of
12 these weapons the way they functioned, correct?

13 A. No.

14 Q. And then just a matter of hours later, the Department
15 of State officials came and the weapons were there and this
16 process was done essentially again, correct?

17 A. Essentially, yes.

18 Q. In front of the Department of State officials, the
19 weapons were examined, their serial numbers were read off and
20 the Department of State officials wrote those serial numbers
21 on the chain of custody forms which you've seen that were just
22 admitted, correct?

23 A. As I recall, yeah. I don't recall who exactly was
24 writing the serial numbers, but I assume it was them.

25 Q. And there's no suggestion in your mind or your

1 testimony that by the -- between the time that you and Casey
2 received these weapons from these gentlemen and the time that
3 the Department of State a few hours later received those
4 weapons and wrote this down, that anything happened to those
5 weapons, correct?

6 A. No.

7 MR. CONNOLLY: Judge, may I have a brief
8 indulgence.

9 THE COURT: Sure.

10 MR. CONNOLLY: I told you it would be short. Thank
11 you, sir.

12 THE COURT: Any other counsel?

13 MR. HEBERLIG: No, Your Honor.

14 MR. COFFIELD: No.

15 MR. SCHERTLER: No.

16 THE COURT: Any redirect?

17 MR. MARTIN: Yes.

18 MR. MARTIN: May I approach, Your Honor?

19 THE COURT: Yes.

20 REDIRECT EXAMINATION

21 BY MR. MARTIN:

22 Q. Mr. Webb, if I can hand you the lower receiver of
23 Government's Exhibit 21D. Do you recognize what type of
24 weapon that lower receiver is from?

25 A. Yes, a Stoner rifle, SR-25.

Attachment AA

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA,)
)

Plaintiff,)

vs.)

File No: CR 08-360

Paul Alvin Slough,)

Evan Shawn Liberty,)

Dustin Laurent Heard,)

Defendants.)

Date: July 31, 2014

Time: 2:11 p.m.

----- DAY 31 - P.M. Session

THE UNITED STATES OF AMERICA,)

Plaintiff,)

Vs.)

File No: CR 14-107

Nicholas Abram Slatten,)

Defendant.)

TRANSCRIPT OF JURY TRIAL
HELD BEFORE
THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

Court Reporter: Vicki Eastvold, RMR, CRR
Official Court Reporter
U.S. Courthouse, Room 6722
333 Constitution Avenue, NW
Washington, DC 20001
202-354-3242

1 Nisur Square.

2 Q. And my question, sir, is didn't you understand going in
3 to that meeting that the way -- the only way -- you could
4 possibly avoid a criminal charge is by cooperating against
5 your former teammates?

6 A. As I mentioned before, sir, I don't remember what that
7 first meeting -- I don't remember.

8 Q. Well, in any event, after that first meeting, the
9 prosecutors didn't buy it, did they?

10 A. No, sir, they did not.

11 Q. They insisted that you plead guilty or face indictment.

12 A. Yes, sir.

13 Q. And you knew that meant you would face the 30-year
14 mandatory minimum charge if you didn't cut a deal.

15 A. I suspected that, yes, sir.

16 Q. So you cut the deal.

17 A. I agreed to plead guilty, yes, sir.

18 Q. And you ultimately did plead guilty only a few weeks
19 later. At least you executed your plea agreement a few
20 weeks later in mid November 2008, correct?

21 A. Sounds about right. Yes, sir.

22 Q. And that was only a few weeks after your first interview
23 with the prosecutors.

24 A. I believe so.

25 Q. All right. Now, before we get to your plea agreement I

1 want to talk to you about your arrest. The prosecutor asked
2 you some questions about the fact that you were arrested.

3 Do you remember that?

4 A. I do, sir.

5 Q. And it's true that at the time that you pled guilty you
6 were as a technical matter arrested, correct?

7 A. I'm sorry. Say again, sir?

8 Q. You were arrested, at least as a technical matter,
9 correct?

10 A. Oh, sir, I couldn't speculate. I was told I was under
11 arrest, so that's my understanding of it. So --

12 Q. Did that occur here in Washington, DC?

13 A. Yes, sir.

14 Q. You did not live in Washington, DC, at the time, did
15 you?

16 MR. ASUNCION: Objection, relevance, Your Honor.

17 THE COURT: Overruled.

18 BY MR. HEBERLIG:

19 Q. You did not live in Washington, DC, at the time, did
20 you?

21 A. No, sir.

22 Q. You lived in California?

23 A. Yes, sir.

24 Q. No one came to your home in California to arrest you?

25 A. No, I was not arrested in California, sir.

1 Q. You were told what date to appear for your plea hearing,
2 correct?

3 A. Sir, I was told to fly to -- I was asked to fly to
4 Washington, DC, on my own. I flew on my own. And at a
5 point I met with the prosecution and FBI agents and it was
6 my understanding I was under arrest.

7 Q. All right. So you flew to DC on a commercial flight,
8 correct?

9 A. Yes, sir.

10 Q. You were not transported by any federal officials?

11 A. No, sir.

12 Q. And when you got here you surrendered to the FBI and
13 they handed you an arrest warrant, is that correct?

14 A. Yes, I believe that's the way --

15 Q. Were you ever handcuffed?

16 A. No, but the agent dangled his handcuffs in front of me
17 and said, If you can behave yourself I will not put these on
18 you.

19 Q. Okay. So the answer is you were never handcuffed,
20 correct?

21 A. Yes, sir.

22 Q. Did they read you any of your Miranda rights when they
23 arrested you?

24 A. I don't remember if they did or not, sir.

25 Q. Were you ever locked in a cell?

1 A. No, sir, I was not.

2 Q. You were processed by the FBI and then you pled guilty
3 in court, correct?

4 A. Yes, sir.

5 Q. All on the same day?

6 A. I'm not sure, sir. I'm not sure of the process of it.

7 Q. And then after your guilty plea you were permitted to go
8 home, correct?

9 A. Yes, sir, I did go home.

10 Q. All right. Now, had they asked you to just voluntarily
11 appear for your plea hearing you would have done so,
12 wouldn't you?

13 A. I'm sorry. Could you repeat the question, please?

14 Q. Had they asked you to just arrive in court at 11 a.m.
15 whatever day it was, you would have just come to court and
16 entered your plea of guilty, correct?

17 MR. ASUNCION: Objection, relevance.

18 THE COURT: Overruled.

19 BY MR. HEBERLIG:

20 Q. I'll repeat the question. Had they asked you to just
21 show up at the appointed time and hour, you would have come
22 to court voluntarily of your own accord, correct?

23 A. Yes, sir.

24 Q. Because you wanted to plead guilty. That was your
25 intent at the time, correct?

1 A. Yes, sir.

2 Q. All right. I want to ask you some questions now about
3 your plea agreement.

4 MR. HEBERLIG: And Your Honor, this has been
5 admitted as a government exhibit. I have it marked in our
6 system just with a different number. It's 2292-R, defense
7 exhibit. And I'd ask if we could display it to the jury at
8 this time?

9 THE COURT: You may.

10 BY MR. HEBERLIG:

11 Q. All right. Let me see if I can highlight this for you
12 as we begin here. Sir, this is the document you were shown
13 during your direct examination that constitutes your plea
14 agreement, correct?

15 A. Yes, sir.

16 Q. It's a letter dated November 15, 2008, right?

17 A. Yes, sir.

18 Q. From the same U.S. Attorney's Office that had sent you
19 the target letter, correct?

20 A. Yes, sir.

21 Q. And addressed to the same lawyer who had written that
22 letter on your behalf that we looked at a moment ago,
23 correct?

24 A. Yes, sir.

25 Q. All right. If we could go to the last page, Andrej.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

NICHOLAS A. SLATTEN,

Defendant.

Crim. No. CR-14-107 (RCL)

Hon. Royce C. Lamberth

[PROPOSED] ORDER

Having reviewed the defendant Nicholas Slatten's motion for judgment of acquittal, all papers filed and arguments made by the parties related thereto, and having considered the evidence and the law, it is hereby

ORDERED that a judgment of acquittal shall be entered in this case as to Mr. Slatten on the single-count indictment pending against him.

Date:

SO ORDERED.

Hon. Royce C. Lamberth