

Faridi Declaration Ex. 6

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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SUHAIL NAJIM ABDULLAH AL      :   Civil Action No.:
SHIMARI, et al.,              :   1:08-cv-827
      Plaintiffs,              :
      versus                    :   Tuesday, April 16, 2024
      :                         :   Alexandria, Virginia
CACI PREMIER TECHNOLOGY,      :   Volume II - A.M. session
INC,                           :   Pages 1-100
      Defendant.              :
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The above-entitled jury trial was heard before the Honorable Leonie M. Brinkema, United States District Judge. This proceeding commenced at 9:44 a.m.

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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Admitted

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MISCELLANY

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P R O C E E D I N G S

1
2 THE DEPUTY CLERK: Civil Action Number
3 1:08-cv-827, Suhail Najim Abdullah Al Shimari, et al. versus
4 CACI Premier Technology, Inc.

5 Will counsel please note their appearance for the
6 record, beginning with the plaintiff.

7 MR. FARIDI: Good morning, Your Honor.
8 Muhammad Faridi from Patterson Belknap. I'm joined by my
9 colleagues Bonita Robinson and Scott Kim.

10 THE COURT: Good morning.

11 MR. O'CONNOR: Good morning, Your Honor.
12 John O'Connor, Linda Bailey and Nina Ginsberg for CACI.

13 THE COURT: Very good. And of course Northern
14 Virginia traffic is what's holding us up this morning, but
15 all the jurors are now here, so we'll bring them in.

16 And we're going to start with one of the
17 plaintiffs; is that correct?

18 MR. FARIDI: That's correct, Your Honor.

19 THE COURT: All right. So we have our interpreter
20 in the box.

21 THE INTERPRETER: Yes.

22 THE COURT: With his colleague. Right. And just
23 for the record, let's -- well, let's get the jury in, and
24 then we'll have him affirmed.

25 THE CSO: Yes, Judge.

1 MR. FARIDI: Your Honor, I don't think this
2 interpreter has been sworn in yet.

3 THE COURT: That's what I'm saying, we have to do
4 that, but I want to do it in front of the jury.

5 THE CSO: Rise for the jury.

6 (Jury present at 9:46 a.m.)

7 THE COURT: Ladies and gentlemen, thank you for
8 being here. I know that there were traffic issues this
9 morning, which is why -- I think some of you must have left
10 quite early because we had some folks here well before 9:00.
11 Do your best to try to always be here by 9:30. And I
12 understand about traffic.

13 But we're ready to get started, and we're going to
14 begin by having one of the plaintiffs, Mr. Al-Zuba'e, who
15 will be testifying remotely from Iraq. This will be live
16 testimony but brought via video.

17 And the first thing we're going to do is have our
18 second translator affirmed. If you'll stand, sir, and take
19 the affirmation.

20 (Interpreter sworn in open court.)

21 THE DEPUTY CLERK: Thank you.

22 THE COURT: And your name for the record please.

23 THE INTERPRETER: Ali Kadhim, Arabic interpreter.

24 THE COURT: Thank you. And your colleague was
25 affirmed yesterday, and she'll be assisting. All right.

1 THE INTERPRETER: Yes, Your Honor.

2 THE COURT: All right. Very good. Are we ready
3 to sign on?

4 MR. FARIDI: Yes, Your Honor. Before we call
5 Mr. Asa'ad Al-Zuba'e to the witness stand, I did want to
6 read three paragraphs in the parties' stipulation before the
7 jury. The parties have stipulated as follows:

8 Paragraph 13: Plaintiff Asa'ad Hamza Hanfoosh
9 Al-Zuba'e was taken into custody by the U.S. military in
10 early November 2003.

11 Paragraph 14: Mr. Al-Zuba'e was detained at Abu
12 Ghraib until mid 2004.

13 Paragraph 15: Mr. Al-Zuba'e was assigned
14 ISN152529.

15 Your Honor, plaintiffs call Asa'ad Al-Zuba'e. And
16 at this time I'm going to request that the individuals --
17 that counsel who are in the room with him exit the room and
18 close the door, which they're doing.

19 THE COURT: All right. Now, the first thing is
20 I'll have my courtroom deputy affirm the witness.

21 **Thereupon,**

22 ASA'AD HAMZA HANFOOSH AL-ZUBA'E,
23 having been called as a witness on behalf of the plaintiffs
24 and having been first duly sworn by the Deputy Clerk, was
25 examined and testified as follows:

1 (Time noted: 9:48 a.m.)

2 MR. KIM: Good morning, Your Honor. I also have
3 witness binders for the Court.

4 THE COURT: All right.

5 DIRECT EXAMINATION

6 BY MR. KIM:

7 Q Good morning, Asa'ad.

8 Can you please state your full name for the Court.

9 A Asa'ad Hamza Hanfoosh.

10 Q And how old are you, sir?

11 A I was born on the 1st of July, 1973.

12 Q And where do you live?

13 A Abu Ghraib, Baghdad.

14 Q And, Asa'ad, do you have any children?

15 A Yes, I do.

16 Q And do you have any grandchildren?

17 A Yes, I do.

18 Q And what is your religion?

19 A Muslim.

20 Q And what is the highest level of school you've
21 completed?

22 A Elementary.

23 Q And, Asa'ad, what do you do for a living?

24 A I have a shop for vegetables.

25 Q And bringing you back to 2003, what did you do for a

1 living in 2003?

2 A I was a taxi driver.

3 Q And so still focusing on 2003, more specifically
4 November 1st, 2003, what happened to you on this day?

5 A I was outside working, and I found my neighbor broken
6 down, and I took him home.

7 Q And were you also arrested on November 1st, 2003?

8 A Yes. On November 1st, 2003.

9 Q And after you were arrested, were you taken to a
10 prison?

11 A Yes. They took me to Abu Ghraib.

12 Q And, in total, approximately how long were you held at
13 Abu Ghraib prison?

14 A One year.

15 Q And, Asa'ad, when you first arrived at Abu Ghraib
16 prison, what was the first room that you were brought to?

17 A They put me in the computer room.

18 Q And upon arriving to this computer room, who was there?

19 A There were civilians, personnel.

20 Q And how could you tell they were civilians?

21 A From their clothes.

22 Q And upon first arriving to this computer room, did you
23 go through an intake process?

24 A No. It wasn't on the first day; it was on the second
25 day.

1 Q Okay. And were you assigned a number on that second
2 day? Okay. I'm going to reask my question. I think it
3 looks like he's back.

4 On this day in the computer room, Asa'ad, were you
5 assigned a number?

6 A No, they did not. They assigned me a number.

7 Q Were you ever provided a wristband?

8 A No.

9 Q And how long were you held in this computer room,
10 Asa'ad?

11 A Three days.

12 Q And were you mistreated while you were being held in
13 this computer room?

14 A Yes.

15 Q And how were you mistreated?

16 A They undressed me, they told me to play with your
17 penis.

18 Q And did anything else happen, Asa'ad?

19 A They started taking pictures of me.

20 Q And who was inside this room during this incident?

21 A Civilian people.

22 Q And when they instructed you, these civilian people, to
23 touch your penis, what did you do, sir?

24 A I started playing with it and -- until I jerked off.

25 Q And did anyone else inside this room touch you on your

1 genitals?

2 A Yes.

3 Q And how did they touch you?

4 A They started playing with my penis.

5 Q Could you tell who was touching you?

6 A One of the civilians was holding me from my penis.

7 Q Okay. And aside from the civilians inside the room
8 with you, could anyone else see what was happening to you?

9 A No. Only the civilians.

10 Q Okay. And were some of the civilians female?

11 A They were male and female.

12 Q And can you describe to the jury just how this all made
13 you feel?

14 A I was heavily embarrassed. I was heavily embarrassed,
15 I was crying, I was screaming.

16 Q Okay. And I'd like to now show you a photograph that
17 has been marked as Plaintiffs' Exhibit 168.

18 THE COURT: Is there an objection to 168?

19 MR. KIM: We're providing them the binder right
20 now.

21 THE COURT: All right. Hold on one second.

22 I'm asking if there's any objection.

23 MS. BAILEY: Relevance.

24 MR. KIM: Your Honor, he's going to testify that
25 this is similar to the incident that he's just described,

1 that this happened to him.

2 THE COURT: I'm going to permit it.

3 (Plaintiffs' Exhibit Number 168 admitted into evidence.)

4 THE COURT: The jury should understand, this is
5 not a picture of this plaintiff with anybody, but I'm
6 allowing it in as a demonstrative, essentially.

7 Go ahead.

8 MR. KIM: Thank you, Your Honor.

9 BY MR. KIM:

10 Q Now, Asa'ad, is this an accurate representation -- is
11 this an accurate representation of what happened to you
12 inside this room?

13 A Yes.

14 Q Okay. And, Asa'ad, at the end of this incident inside
15 the computer room, where did you go next?

16 A So they put a wristband on my hand, and then after
17 that, they took me to the cellblock.

18 Q Okay. And how were you transported there, Asa'ad?

19 A They put me in a jumpsuit, and they put a bag over my
20 head.

21 Q And did you walk to the cellblock, or were you
22 transported there in a vehicle?

23 A I was put in a -- I was placed in a vehicle.

24 Q And how were you removed from this vehicle?

25 A They placed a leash over my neck, and I was dragged to

1 the cellblock with hitting and screaming.

2 Q And how long were you dragged by your neck for, Asa'ad?

3 A I don't remember the distance.

4 Q And was the bag still over your head as you were being
5 dragged?

6 A Yes.

7 Q And as you were being dragged to the cellblock, what
8 else was happening to you, if anything?

9 A Strikes, screaming, they choked my neck.

10 Q And was your hood eventually removed, Asa'ad?

11 A After my arrival, they undressed me.

12 MR. KIM: Okay. And I'd like to now move into
13 evidence Plaintiffs' Exhibit 206C, which was admitted at
14 General Fay's deposition.

15 THE COURT: There should not be any objection
16 then.

17 MS. BAILEY: No objection.

18 THE COURT: All right. It's in.

19 (Plaintiffs' Exhibit Number 206C admitted into evidence.)

20 MR. KIM: And can we please show this on the
21 screen.

22 THE DEPUTY CLERK: Which exhibit? I'm sorry.

23 MR. KIM: Can we please bring up Plaintiffs'
24 Exhibit 206C.

25 BY MR. KIM:

1 Q And so after your hood was removed, Asa'ad, is this
2 where you were?

3 A I was on the down floor. Yeah, the lower floor, not
4 the upper floor.

5 Q And did you have a name for this building, Asa'ad?

6 A They call it the cellblocks.

7 Q And so after your hood was removed, Asa'ad, could you
8 see who was present?

9 A They removed the bag in the morning out of my head.

10 Q Okay. And so when you were brought into this building
11 into the cells after you were brought there from the Hummer,
12 what happened next?

13 A They brought me, they undressed me, and they said they
14 were going to do with me the peakyteaky (phonetic).

15 THE COURT: I'm sorry, what was that?

16 THE INTERPRETER: He said peakyteaky.

17 THE WITNESS: Oh. They told me basically they
18 were going to F me.

19 BY MR. KIM:

20 Q What do you mean by "F you"?

21 A Having sex.

22 Q And who said this to you?

23 A I cannot recall. I had the bag over my head.

24 Q And did you believe them when they told you that they
25 were going to have sex with you?

1 A Yes, I did believe them. I started crying and
2 screaming.

3 Q And did anything else happen to you inside of this room
4 that you were now in?

5 A They started pouring cold water on me.

6 Q And how did -- this cold water, how did it feel on your
7 skin?

8 A The weather was cold, and I had gotten sick.

9 Q How -- what do you mean by you got sick?

10 A I had a strong flu.

11 Q And did -- these people inside of this room, did they
12 instruct you to do anything else?

13 A No.

14 Q Did you shower inside of this room?

15 A Yes.

16 Q And how long were you showering for?

17 A I used two bar of soaps.

18 Q And while you were using these two bars of soap, did
19 you ever try to leave the room?

20 A Yes.

21 Q And what happened when you tried to leave the room?

22 A I was pushed to get back under the water, and I was
23 told to get back under the water.

24 MR. KIM: Okay. We can bring down the exhibit
25 now.

1 BY MR. KIM:

2 Q And when you were finally allowed to leave this shower
3 room, Asa'ad, where were you brought next?

4 A They put a bag over my head, and they took me down.

5 MR. KIM: And I'd like to now move into evidence
6 Plaintiffs' Exhibit 206B which was admitted at General Fay's
7 deposition.

8 MS. BAILEY: No objection.

9 THE COURT: All right. It's in.

10 (Plaintiffs' Exhibit Number 206B admitted into evidence.)

11 MR. KIM: Can we please bring that up. B, as in
12 boy.

13 BY MR. KIM:

14 Q Is this where you now were located, Asa'ad?

15 A Yes.

16 Q And what happened here, Asa'ad, after the shower room
17 incident?

18 A I started crawling on my arms and legs.

19 Q And why were you crawling on your arms and legs,
20 Asa'ad?

21 A That's what I was told to do.

22 Q Could you tell who instructed you to do this?

23 A Them. They were standing by me.

24 Q And are you able to describe who you mean by "them,"
25 that were instructing you to do this?

1 A I couldn't see them. I had the bag over my head.

2 Q And were you clothed as you were being made to crawl on
3 your stomach?

4 A No, I was naked.

5 Q And how long were you made to crawl on your stomach
6 for?

7 A For a long time. It was the middle of the night.

8 Q And was anything else happening to you as you were
9 being made to crawl up and down the hallway, Asa'ad?

10 A They told me to put your hand over your head, stand on
11 one leg.

12 Q And what condition was your body in at this point?

13 A I was bleeding from my legs and my body.

14 Q And were you ever made to pose in any specific way
15 during this incident, Asa'ad?

16 A Yes. They told me to stand up with your hand over your
17 head.

18 Q And were you ever made to -- withdrawn.

19 I'd like to now show you a picture that's been
20 marked as Plaintiffs' Exhibit 161D, as in dog.

21 THE COURT: Is there any objection?

22 MS. BAILEY: There are multiple pictures.

23 MR. KIM: We're going to try to move in both.

24 MS. BAILEY: Objection, Your Honor. This is a
25 completely unrelated incident that is inflammatory for other

1 reasons.

2 THE COURT: I'm going to overrule the objection
3 because I think it is relevant to the case. But, again, my
4 understanding is most likely this is not of this particular
5 plaintiff.

6 MR. KIM: Correct, Your Honor. We will not be
7 showing, to be clear, any photos today that are actually of
8 Asa'ad. We will not be arguing that.

9 THE COURT: All right. I'm going to permit it.
10 Overruled.

11 (Plaintiffs' Exhibit Number 161D admitted into evidence.)

12 MR. KIM: And can we please bring that up on the
13 screen.

14 BY MR. KIM:

15 Q And, Asa'ad, during this incident in the hallway, were
16 you made to pose in a similar manner to what is being shown
17 in these photographs?

18 A Yes.

19 Q And can you describe to the jury how it made you feel
20 to pose in such a manner?

21 A I was crying, screaming, and I was living in fear and
22 terror.

23 MR. KIM: Okay. And we can bring this down now.

24 BY MR. KIM:

25 Q And again, Asa'ad, still focusing on this first

1 incident that's in the hallway, were you ever made to stand
2 on anything?

3 A They told me to stand over boxes of food with my hands
4 over my head squatting.

5 MR. KIM: Your Honor, I'd like to now move into
6 evidence Plaintiffs' Exhibit 161C, which was previously
7 admitted at Sergeant Frederick's deposition.

8 MS. BAILEY: No objection.

9 THE COURT: All right. It's in.

10 (Plaintiffs' Exhibit Number 161C admitted into evidence.)

11 MR. KIM: And if we could please bring that up on
12 the screen.

13 BY MR. KIM:

14 Q Asa'ad, is this similar to how you were made to pose
15 during this incident on top of food boxes?

16 A Yes.

17 Q And did this cause you any physical discomfort?

18 A Yes.

19 MR. KIM: Okay. And we can bring this down now.

20 BY MR. KIM:

21 Q And so, Asa'ad, after this incident in the hallway was
22 finally over, were you then placed in a cell?

23 A Yes.

24 MR. KIM: And I'd like to now move into evidence
25 Plaintiffs' Exhibit 206E, which was admitted at General

1 Fay's deposition.

2 MS. BAILEY: No objection.

3 THE COURT: It's in.

4 (Plaintiffs' Exhibit Number 206E admitted into evidence.)

5 MR. KIM: And are we able to zoom out the photo a
6 little bit so it can all be displayed?

7 BY MR. KIM:

8 Q And, Asa'ad, is this the cell you were then placed in?

9 A Yes.

10 Q And can you describe to the jury what it was that
11 happened to you inside of here?

12 A They placed me in that cellblock with -- handcuffed,
13 and they were pouring water on me in that cellblock.

14 Q And, Asa'ad, were you clothed while you were inside of
15 here?

16 A No. I was naked. Naked.

17 Q Was there anything on your head?

18 A The bag.

19 THE COURT: I'm sorry, what was the answer?

20 THE INTERPRETER: The bag.

21 THE COURT: The bag.

22 BY MR. KIM:

23 Q And how long were you held in here, Asa'ad?

24 A They placed me there until the morning.

25 Q And were you naked the entire time?

1 A Yes.

2 Q Did you have the bag over your head the entire time?

3 A Yes.

4 Q And were you handcuffed the entire time?

5 A Yes.

6 Q Did you have any idea how long you would be held in
7 here?

8 A No, I don't remember how long. They didn't take it off
9 until the morning.

10 Q Okay. And you said they threw water on you.

11 How did that feel on you as you were inside of
12 here naked with the hood on your head and having water
13 thrown on you?

14 A I was screaming, crying, and I was very afraid.

15 Q Were you able to breathe properly with this bag over
16 your head and water being thrown on you?

17 A No. It was hard for me to breathe.

18 Q And, Asa'ad, was there a toilet in this room?

19 A No, it did not have any.

20 Q Did you ever urinate while you were being held inside
21 of here?

22 A On myself.

23 Q And did you ever have to defecate while you were inside
24 of this room?

25 A No, I wasn't able to.

1 Q When you said you weren't able to, what do you mean by
2 that?

3 A There was no toilet bowl in there.

4 Q I'm sorry?

5 A There was no toilet bowl in there.

6 Q Did you ever ask for help while you were being held
7 here overnight?

8 A Yes.

9 Q And what happened when you asked for help?

10 A They did not do anything. I was crying, screaming, and
11 nobody provided me anything.

12 MR. KIM: Okay. We can take this photo down now.

13 BY MR. KIM:

14 Q Asa'ad, after you were finally released from this room,
15 were you taken to a different cell?

16 A Yes.

17 MR. KIM: And I'd like -- I'd now like to move
18 into evidence, Your Honor, Plaintiffs' Exhibit 206B, as in
19 boy, which was admitted at General Fay's deposition.

20 MS. BAILEY: No objection.

21 THE COURT: It's in.

22 (Plaintiffs' Exhibit Number 206B admitted into evidence.)

23 BY MR. KIM:

24 Q And, Asa'ad, is this one of the cells you were moved
25 to?

1 A Yes.

2 Q Okay. And while being held in a -- in one of the cells
3 here, Asa'ad, were you ever brought to any interrogations?

4 A They left me from the morning until the evening, then
5 they took me for interrogation.

6 Q And how were you brought to your first interrogation?

7 A They placed a bag over my head with handcuffs, and then
8 they took me to the interrogation room.

9 Q Who was inside this interrogation room?

10 A Three people. Three personnel.

11 Q And what were they wearing?

12 A Civilian.

13 Q And how long did this interrogation last?

14 A I don't remember. It was a while.

15 Q And during the interrogation, where was the guard who
16 brought you there?

17 A The person who was in charge of the cellblocks.

18 Q And so a guard -- did a guard bring you to the
19 interrogation, Asa'ad?

20 A Yes.

21 Q And where was he during the interrogation?

22 A The guard?

23 Q Yes.

24 A Outside of the interrogation room.

25 Q Okay. And when the civilian interrogators were done

1 asking you questions, did you see them interact with anyone
2 else?

3 A No. They called the guard, and he took me.

4 Q And where did the guard take you at the end of your
5 interrogation?

6 A To my cellblock.

7 Q Okay. And what happened after he brought you back to
8 your cell?

9 A After I was brought back to my cellblock, they -- he
10 asked me to turn around, and they dropped me down, and I
11 started crying and screaming.

12 Q And when you say you were dropped down, did the guard
13 hit you?

14 A Yes. He struck me against the wall.

15 MR. KIM: We can bring the photo down, by the way.

16 BY MR. KIM:

17 Q And did that cause you any injuries, Asa'ad?

18 A Yes. I was -- my face was swollen.

19 Q And after he hit you, did the guard do anything else to
20 you?

21 A Yes. He handcuffed me to the -- to my bed inside the
22 cell.

23 Q And can you demonstrate again what you just did,
24 Asa'ad? Why were you raising your arms above your head?

25 A I was placed like this.

1 MR. KIM: And just for the record, when he's
2 saying "like this," Asa'ad is raising his hands above his
3 head.

4 BY MR. KIM:

5 Q And were you handcuffed, Asa'ad?

6 A Yes.

7 Q What were you handcuffed to?

8 A To the bed.

9 Q And so as you were handcuffed with your hands above
10 your head to the bed, where were your feet?

11 A I was -- my feet was barely touching the floor.

12 Q And how long were you held in this position with your
13 hands handcuffed above your head and your feet barely able
14 to touch the floor?

15 A They left me until the evening of the next day.

16 Q And so after you were left like this for a full day,
17 were you ever asking for help?

18 A Yes. I was screaming, crying, I asked to go to the
19 restroom, and the guards, they told me they're not taking me
20 anywhere.

21 Q And so when you were asking to use the restroom and
22 they refused to allow you, did you use the restroom some
23 other way?

24 A Yes.

25 Q And so where did you end up using the restroom?

1 A On myself.

2 Q And, again, as you were being handcuffed with your
3 hands above your head for this entire day, were you provided
4 any food?

5 A No.

6 Q Were you provided any water?

7 A No.

8 Q And after you were finally uncuffed the next day, were
9 you interrogated again?

10 THE INTERPRETER: I asked him to repeat.

11 THE WITNESS: After four days, then they
12 interrogated me.

13 BY MR. KIM:

14 Q And how were you brought for this second interrogation?
15 How were you brought there?

16 A They placed a bag over my head, and I was struck left
17 and right, and then they brought me to the interrogation
18 room.

19 Q And who was inside this interrogation room?

20 A Three civilians.

21 Q And do you recall how long this interrogation lasted?

22 A No. I swear, I don't remember.

23 Q And so during this second interrogation, Asa'ad, where
24 was the guard who brought you there?

25 MR. KIM: Can you ask if he can hear us now?

1 THE INTERPRETER: He wants you to repeat the
2 question.

3 MR. KIM: Of course.

4 BY MR. KIM:

5 Q So during this second interrogation, where was the
6 guard who brought you there?

7 A Outside of the room.

8 Q Okay. So at the end of this second interrogation, did
9 you see the civilian interrogators interact with anyone
10 else?

11 A They just spoke with the guards. I don't remember.

12 Q And so after the interrogator spoke with the guard,
13 were you brought back to your cell?

14 A Yes.

15 Q And what happened upon you arriving back at your cell?

16 A They took all my items, to include my mattress, my
17 blanket, my clothes, and they did not leave me with
18 anything.

19 Q So was there anything left in your cell after the
20 second interrogation?

21 A Yes.

22 Q What was left inside your cell?

23 A Can you repeat the question?

24 Q Sure.

25 You said that all of your belongings were removed,

1 and so I'm just wondering if there was anything at all left
2 inside your cell.

3 A No. Nothing.

4 Q And you said they took your clothes.

5 Were you wearing anything on your body?

6 A Jumpsuit.

7 Q When they took your belongings, you said they removed
8 your clothing; did I hear that correctly?

9 A Yes. My clothes, my mattress, the blanket.

10 Everything.

11 Q And so were you naked?

12 A Yes.

13 Q And how long were you left naked and without anything
14 inside of your cell?

15 A Three days.

16 Q Were you able to sleep during those three days?

17 A I couldn't sleep. It was very cold.

18 Q What was the ground of your cell floor made of?

19 A Just regular concrete.

20 Q And how did it feel on your feet to be left there naked
21 with nothing to sleep on?

22 A My feet were swollen, I was crying and screaming, and I
23 was calling for help, and nothing was provided.

24 Q Did you ever -- did you have an understanding of when,
25 if ever, you would be given back your belongings?

1 Asa'ad, can you hear us now?

2 A I hear you now.

3 Q Okay. Did you have any understanding during those
4 three days when, if ever, you would be given your belongings
5 back?

6 A No, I did not have any understanding.

7 Q Okay. And so after you were finally given your
8 belongings back at the end of these three days, were you
9 taken someplace else?

10 A They left me there, and then after ten days, they took
11 me for the third interrogation.

12 Q And who brought you to this third interrogation?

13 A The guards.

14 MR. KIM: I'm sorry. I didn't hear.

15 THE INTERPRETER: The guards.

16 BY MR. KIM:

17 Q And could you tell who was there for this third
18 interrogation?

19 A The same three.

20 Q And by the same three, do you mean civilian
21 interrogators?

22 A Yes.

23 Q What was the temperature like during this third
24 interrogation?

25 A It was cold, windy, and it was raining.

1 Q And could you tell where you were for this third
2 interrogation?

3 A A jumpsuit.

4 THE COURT: I'm sorry, what was the answer?

5 THE WITNESS: A jumpsuit.

6 BY MR. KIM:

7 Q Asa'ad, I think I asked a different question. You
8 might have misheard.

9 Could you tell where you were located for this
10 third interrogation?

11 A Outside. It was raining, and it was windy, and it was
12 cold.

13 Q Did this rain and cold weather, did it cause you any
14 pain?

15 A Yes. My stomach was hurting me, and I was having a bad
16 taste.

17 Q What do you mean you were having a bad taste?

18 A No, my stomach.

19 Q Could you describe a bit more what you mean by your
20 stomach was having a bad taste?

21 A I was having -- I felt like I was having diarrhea.

22 Q So at the conclusion of this interrogation, were you
23 brought back to your cell?

24 A Yes.

25 Q And were you interrogated a fourth time?

1 A Yes.

2 Q And where did this fourth interrogation take place?

3 A The second floor.

4 Q And how were you brought there?

5 A The same way. Bag placed over my head, struck left and
6 right, and then they brought me to them.

7 Q And who was present for this fourth interrogation?

8 A Three civilians.

9 Q And did these civilians make any threats during this
10 fourth interrogation?

11 A Yes.

12 Q What threats did they make?

13 A I was told that they will bring my family, they will
14 bring my wife and my kids, and they will do something to
15 them.

16 Q Did they say what -- did the civilians say what they
17 would do to your family?

18 A They wanted to rape her.

19 Q Did you believe that they would do that?

20 A Yes.

21 Q What effect did that have on you hearing this?

22 A I started crying, screaming.

23 Q Were you otherwise harmed during this interrogation,
24 Asa'ad?

25 A Yes.

1 Q In what way?

2 A He asked me to stand up and go against the wall.

3 Q And what happened next?

4 A He hit me against the wall.

5 Q Could you tell who did this to you?

6 A One of the civilians.

7 Q Did this cause you any physical injuries?

8 A Yes.

9 Q What injuries did it cause?

10 A My head still hurt until now, half of it.

11 Q And so at the conclusion of this interrogation, were
12 you brought back to your cell?

13 A Yes.

14 Q What happened upon arriving back to your cell?

15 A Nothing.

16 Q Okay. Do you recall ever being -- withdrawn.

17 Were you ever interrogated again while held inside
18 of the cells?

19 A No. After that one, they did not.

20 Q Okay. Asa'ad, were you ever mistreated with dogs?

21 A Yes.

22 Q How many times?

23 A Twice.

24 Q And can you describe to the jury how you were
25 mistreated with dogs on these two occasions?

1 A They undressed me, and they put my hand over my head,
2 and they had the dog biting me from my arms and legs.

3 Q Where were you when this happened?

4 A I was in the hallway.

5 Q Were you clothed?

6 A No, I was naked.

7 MR. KIM: I'd now like to show what has been
8 marked as Plaintiffs' Exhibit 32.

9 THE COURT: Any objection?

10 MS. BAILEY: Same relevance objection, Your Honor.

11 THE COURT: All right. Let me see. I'll permit
12 it. All right. It's in.

13 MR. KIM: It's in?

14 THE COURT: Yes.

15 (Plaintiffs' Exhibit Number 32 admitted into evidence.)

16 MR. KIM: I'd like to now move this into evidence.

17 BY MR. KIM:

18 Q Asa'ad, is this similar to how a bag was used on you in
19 the hallway inside the cells?

20 A Yes.

21 Q And can you describe to the jury what was going through
22 your mind during this incident?

23 A I was in fear, crying, screaming, and I was tired.

24 Q And, Asa'ad, I think you may have mentioned this, but
25 did one of the dogs bite you?

1 A Yes.

2 Q Where?

3 A On my arms and legs.

4 MR. KIM: Okay. We can bring this down now.

5 BY MR. KIM:

6 Q You mentioned there was a second occasion where dogs
7 were used on you?

8 A Yes.

9 Q And what happened on this second occasion?

10 A The second time they put handcuffs -- they handcuffed
11 me to the cell door, and they had the dog barking at me.

12 Q And when did this occur?

13 A I don't remember.

14 MR. KIM: Okay. I'd like to now move into
15 evidence Plaintiffs' Exhibit 161B, as in boy, which was
16 admitted at Sergeant Frederick's deposition.

17 MS. BAILEY: No objection.

18 THE COURT: It's in.

19 (Plaintiffs' Exhibit Number **161B** admitted into evidence.)

20 BY MR. KIM:

21 Q Asa'ad, is this similar to how you were handcuffed to
22 the bars of your cell as a dog was used on you?

23 A Both of them, not just one.

24 Q What do you mean by "both of them"?

25 A I meant both of my hands were handcuffed to the bar.

1 Q How close did the dogs get to you?

2 A I don't remember. I was in fear, I was crying and
3 screaming.

4 MR. KIM: Okay. We can bring this down now.

5 BY MR. KIM:

6 Q While inside of your cell, did you ever see other
7 detainees being abused, Asa'ad?

8 A Yes.

9 Q And what abuse did you see happen to other detainees
10 from inside your cell, Asa'ad?

11 A I remember seeing people on top of each other.

12 MR. KIM: I'd like to now move into evidence
13 Plaintiffs' Exhibit 36, which was admitted at General Fay's
14 deposition.

15 MS. BAILEY: No objection.

16 THE COURT: It's in.

17 (Plaintiffs' Exhibit Number 36 admitted into evidence.)

18 MR. KIM: Can we please bring that up. And can we
19 please zoom out a little bit.

20 BY MR. KIM:

21 Q Did you see this from inside your cell, Asa'ad?

22 A Yes.

23 Q Did you ever see detainees outside your cell in the
24 hallway naked other than this incident, Asa'ad?

25 A Yes.

1 MR. KIM: We can take this down.

2 And I'd now like to show what has been marked as
3 Plaintiffs' Exhibit 138 and 167.

4 THE COURT: Any objection?

5 MS. BAILEY: Same relevance objection. These are
6 unrelated incidents.

7 THE COURT: Let me take a look.

8 MS. BAILEY: Especially 167, which has nothing to
9 do with this detainee.

10 MR. KIM: Your Honor, he's going to testify --

11 THE COURT: Well, let's get a foundation.

12 BY MR. KIM:

13 Q Asa'ad, you mentioned that you saw other detainees
14 naked outside your cell.

15 In what positions did you see them naked outside
16 of your cell?

17 A Naked.

18 Q And were they posed in any specific ways, Asa'ad?

19 A I saw crawling and standing.

20 Q They were standing naked in front of your cell?

21 THE INTERPRETER: I asked him to repeat. I
22 couldn't hear.

23 BY MR. KIM:

24 Q Sure.

25 Were the naked detainees you saw outside your

1 cell, were they made to pose in any sexual positions?

2 A How?

3 THE COURT: All right. I'm going to -- I've
4 looked at these two. I'm going to sustain the defense
5 objection.

6 MR. KIM: Understood, Your Honor.

7 BY MR. KIM:

8 Q Asa'ad, did you ever see dogs used on other detainees
9 while inside your cell?

10 A Yes.

11 Q How were they -- how did you see dogs used on other
12 detainees?

13 A So what they do is they bring the dog, and they have
14 the dog bite the person, and then they start pulling on the
15 dog.

16 MR. KIM: I'd like to now move into evidence
17 Plaintiffs' Exhibit 199, which was admitted at General Fay's
18 deposition.

19 MS. BAILEY: No objection.

20 THE COURT: All right. It's in.

21 (Plaintiffs' Exhibit Number **199** admitted into evidence.)

22 BY MR. KIM:

23 Q And, Asa'ad, is this how you saw from inside your cell
24 dogs used on other detainees?

25 A Yes.

1 Q Okay. Asa'ad, we've discussed now quite a few things
2 that you saw from inside your cell.

3 Can you explain to the jury what effect seeing all
4 this had on you?

5 MR. KIM: And we can bring down the photo.

6 THE WITNESS: Fear, crying, my body was shivering.

7 BY MR. KIM:

8 Q And why was your body shivering?

9 A Of the fear that I'm seeing in front of me.

10 Q Were you afraid the things being done to these other
11 detainees might happen to you?

12 A Yes.

13 Q How long were you held inside of the cells at Abu
14 Ghraib?

15 A Two months.

16 Q And so after you were finally released from the cells,
17 Asa'ad, where were you taken next?

18 A To the tents.

19 Q Were you mistreated at the tents?

20 A It was a good treatment.

21 THE COURT: I'm sorry, it was what?

22 THE INTERPRETER: Good treatment, Your Honor.

23 BY MR. KIM:

24 Q How would you compare your time in the tents compared
25 to your time inside the cells?

1 MS. BAILEY: Objection. Relevance.

2 MR. KIM: Your Honor, they've been arguing all
3 along --

4 THE COURT: I think you've already got it in, so
5 I'm going to sustain the objection.

6 MR. KIM: Understood.

7 BY MR. KIM:

8 Q Other than Abu Ghraib, were you held in any other
9 prison?

10 A No.

11 Q Do you recall a Camp Bucca?

12 MS. BAILEY: Objection. Relevance.

13 THE COURT: I thought we had decided previously we
14 were not talking about any other places.

15 MR. KIM: As long as they're not going to argue he
16 was mistreated elsewhere, that's fine, as a manner of --

17 THE COURT: Why don't you wait and see. If that's
18 raised in cross, you can do it in redirect.

19 MR. KIM: Understood, Your Honor. Understood.

20 THE COURT: So objection sustained.

21 BY MR. KIM:

22 Q Do you have any lasting physical effects from your time
23 inside the cells at Abu Ghraib?

24 A Yes.

25 Q Can you describe those effects to the jury?

1 A My arm is still swollen from them, my interaction with
2 my family, it's hard.

3 Q And so in what ways is it now hard to interact with
4 your family since your time inside the cells at Abu Ghraib?

5 A I do not know how to handle things. I do not know how
6 to interact. As soon as something happens, I start
7 screaming and I start breaking stuff.

8 Q Has your relationship with your friends changed at all
9 since your time in the cells at Abu Ghraib?

10 A Yes.

11 Q In what ways?

12 A I cut the relationship completely.

13 Q And why did you do that, Asa'ad?

14 A Whenever they talk to me, I start getting a headache
15 and my head started hurting me.

16 Q And before Abu Ghraib, what was your relationship like
17 with your friends and family?

18 A It was good before.

19 Q And since your time inside the cells at Abu Ghraib,
20 Asa'ad, how do you sleep at night?

21 A Not comfortable. I go through nightmares.

22 Q And, Asa'ad, just one last question.

23 How has your experiences from inside the cells at
24 Abu Ghraib impacted your life?

25 A Very hard.

1 MR. KIM: Thank you.

2 THE COURT: Cross-examination?

3 MS. BAILEY: Yes, Your Honor.

4 THE COURT: Do the interpreters need to switch, or
5 are you doing all right?

6 THE INTERPRETER: I'm good, Your Honor.

7 THE COURT: Okay. All right.

8 MS. BAILEY: May I proceed?

9 THE COURT: Yes.

10 MS. BAILEY: Yes. And we have binders for the
11 Court.

12 THE COURT: All right.

13 CROSS-EXAMINATION

14 BY MS. BAILEY:

15 Q Good morning, Mr. Al-Zuba'e. My name is Linda Bailey,
16 and I represent CACI.

17 MS. BAILEY: Your Honor, at this time I'd like to
18 admit Defense Exhibit 30, which is Mr. Al-Zuba'e redacted
19 detainee files, which the parties have agreed is admissible.

20 THE COURT: All right. Defense 30 is in.

21 (Defense Exhibit Number 30 admitted into evidence.)

22 BY MS. BAILEY:

23 Q Mr. Al-Zuba'e, I'd like to show you a document that was
24 produced by the U.S. government and confirm some information
25 from it with you.

1 MS. BAILEY: Could we please bring up Defense
2 Exhibit 30 and go to page 2.

3 BY MS. BAILEY:

4 Q Mr. Al-Zuba'e, is that a picture of you from around the
5 time when you were detained?

6 A Maybe. My vision is weak.

7 Q Okay. Let's go to page 15.

8 Are you able to see it now that it's been zoomed
9 in?

10 A I cannot focus. My vision is weak.

11 Q Understood. Let's go to page 15.

12 MS. BAILEY: Yes. Thank you very much.

13 BY MS. BAILEY:

14 Q Mr. Al-Zuba'e, is that your name at the top of the page
15 on the left-hand column?

16 A I don't speak English. I do not read or write.

17 Q I'm going to ask the interpreter to read to you the
18 name at the top left-hand column.

19 That's your name; correct?

20 A Yes.

21 Q Okay. Great.

22 And let's go down to the --

23 A Yes.

24 Q Okay. Let's go to the right column where it says
25 "capture data." And this originally -- this shows you were

1 originally detained by U.S. forces on November 1st, 2003; is
2 that correct?

3 MS. BAILEY: And if the interpreter would read
4 that information to him so we could confirm it.

5 THE DEPUTY CLERK: We actually lost the
6 connection. I'm sorry. Oh, okay.

7 THE COURT: Well, this is cumulative. We should
8 move this along. All right. This is cross-examination; we
9 don't need to hear it twice.

10 BY MS. BAILEY:

11 Q Mr. Al-Zuba'e, would you look at the box, second down
12 on the left, that says "status." And if you look at that, I
13 know the words are redacted, but do you see that there's a
14 checkmark next to the redaction that says "Group 1"?

15 THE COURT: Counsel, the evidence is in, so you've
16 got -- it says what it says. All right. Move on.

17 BY MS. BAILEY:

18 Q Mr. Al-Zuba'e, you gave a statement in January of 2004;
19 correct?

20 MS. BAILEY: We can take this exhibit down,
21 please.

22 THE DEPUTY CLERK: He's having some technical
23 difficulties. We may have to get someone to come help him.

24 MR. WHETSTONE: Mr. Asa'ad, are you able to press
25 unmute?

1 MS. BAILEY: He appears to be frozen.

2 MR. FARIDI: Could we ask the translator to
3 translate that into Arabic, Your Honor, to press unmute.

4 BY MS. BAILEY:

5 Q All right. Let me ask my question again,
6 Mr. Al-Zuba'e.

7 You gave a statement in January 2004 to
8 investigators who were looking at detainee abuse at Abu
9 Ghraib; is that correct?

10 THE DEPUTY CLERK: Counsel, he's still muted. Can
11 you ask him one more time to unmute, if he can push the
12 button on his screen?

13 MR. KIM: Your Honor, we could also ask our
14 representative Connor from FTI, he should be able to unmute
15 it for him.

16 THE DEPUTY CLERK: I'm messaging him, yes. He
17 just can't get in touch with him.

18 MR. WHETSTONE: This is Connor from FTI. His
19 connection was lost and I'm unable to remote into his
20 screen. But, yes, he would need to hit unmute on the bottom
21 left-hand corner in Zoom.

22 MR. KIM: Your Honor, there are technical
23 assistants also with him in Iraq. We might want to ask him
24 to go get one of them just to --

25 THE COURT: All right. What we're going to do

1 then -- I don't want to have the jury to have to sit here.
2 Let's get it set. All right.

3 So, folks, you'll have a -- let me give you right
4 now, we're going to recess until quarter after. By then it
5 should be set, and that should be our morning break before
6 the lunch break. All right. We'll recess court.

7 (Jury not present at 11:05 a.m.)

8 THE COURT: Let's bring the jury in.

9 THE CSO: Yes, Judge.

10 Rise for the jury.

11 (Jury present at 11:19 a.m.)

12 THE COURT: All right.

13 MS. BAILEY: May I proceed?

14 THE COURT: Yes. The connection is all set;
15 correct?

16 MS. BAILEY: Thank you, Your Honor.

17 Your Honor, at this time I'd like to admit
18 Plaintiffs' Exhibit 20, which has been consented to by both
19 parties.

20 THE COURT: All right. It's in.

21 (Plaintiffs' Exhibit Number 20 admitted into evidence.)

22 MS. BAILEY: I'd like to publish it to the jury,
23 please and to the witness. And if we could go to page 2.
24 Thank you.

25 BY MS. BAILEY:

1 Q Mr. Al-Zuba'e, this is a statement you gave
2 investigators who were looking into detainee abuse at Abu
3 Ghraib; correct?

4 A I do not remember.

5 Q Isn't that your signature at the bottom, sir?

6 A Possibly it is my signature.

7 Q Okay. So in this statement, it describes some of the
8 treatment that you received at Abu Ghraib.

9 MS. BAILEY: If we could go to page 1, please.

10 BY MS. BAILEY:

11 Q We're going to turn, sir, to the verified translation
12 of this station -- or this statement that's in English.

13 At this time I'd like to read the statement.

14 THE COURT: Is there any objection?

15 MR. KIM: No, Your Honor.

16 THE COURT: All right.

17 BY MS. BAILEY:

18 Q Sir, this is what you said. It says one, but I suspect
19 it's on the date of November 5th, 2003 when the U.S. forces
20 transferred to isolation when they took me out of the car,
21 an American soldier hit me with his hand on my face. And
22 then they stripped me naked and they took me under the
23 water, and then he made me crawl the hallway until I was
24 bleeding from my chest to my knees. And after that, he put
25 me back into the cell, and an hour later he took me out from

1 the cell the second time to the shower room under cold
2 water. And then he made me get up on a box naked and he hit
3 me on my manhood I don't know with what. And then I fell
4 down on the ground. He made me crawl on the ground, and
5 then he tied my hands in my cell naked until morning time
6 until Joyner showed up and released my hands and took me
7 back to my room and gave me my clothes back.

8 About two days later, my interrogation came up.
9 When it was done, a white soldier wearing glasses picked me
10 up from the room I was in. He grabbed my head and hit it
11 against the wall and then tied my hand to the bed until noon
12 the next day. And then two days later, the same soldier,
13 and he took all my clothes and my mattress, and, he didn't
14 give me anything so I could sleep on except my jumpsuit for
15 three days. Then Joyner came and gave me a blanket and my
16 clothes a second time.

17 MS. BAILEY: Okay. And if the interpreter would
18 read the date at the second line from the top to the
19 witness.

20 THE INTERPRETER: Yes, ma'am, I did.

21 MS. BAILEY: You read the date?

22 THE INTERPRETER: Yes.

23 MS. BAILEY: Okay. Thank you.

24 BY MS. BAILEY:

25 Q This statement was taken on January 17th, 2004;

1 correct?

2 A I don't remember. I started forgetting.

3 Q Okay.

4 THE COURT: Well, do you remember making a written
5 statement to somebody about what happened to you at Abu
6 Ghraib?

7 THE WITNESS: You mean in the prison?

8 THE COURT: While you were there.

9 THE WITNESS: Yes. They -- I remember they came
10 in, but I don't remember when exactly.

11 BY MS. BAILEY:

12 Q Sir, do you have any reason to dispute the date on this
13 statement, which is January 17th, 2004?

14 A I don't remember.

15 Q All right. So assuming that the date on the document
16 is correct, that was right after the mistreatment you told
17 us about today?

18 A After the torture, you mean?

19 Q After the treatment you described today.

20 A I swear, I did not remember.

21 Q You don't know if January 17th, 2004 was after the
22 events that you described today?

23 A I don't remember. It has been 20 years since it
24 happened.

25 Q Okay. If you were giving a statement to investigators

1 who were looking into abuses at Abu Ghraib, you knew it was
2 important to be honest; correct?

3 A Yes.

4 Q And you knew it was important to describe everything
5 that happened to you?

6 A Like what I have spoke about.

7 Q So the first thing you mentioned in this statement is
8 when U.S. forces transferred you to isolation on
9 November 5th.

10 Is that the cellblocks that you talked about
11 earlier?

12 A I do not understand what you are saying.

13 Q When you were transferred on November 5th, were you
14 transferred to the cellblocks at Abu Ghraib?

15 A Yes.

16 Q Okay. Before you went to the cellblocks, you were in a
17 building with computers, as you said on direct; correct?

18 MS. BAILEY: I think he's frozen.

19 THE DEPUTY CLERK: I think he's back.

20 BY MS. BAILEY:

21 Q Are you back, Mr. Al-Zuba'e?

22 A Yes.

23 Q All right. On November 5th -- or, I'm sorry.

24 Before you went to the cellblocks at Abu Ghraib,
25 you were kept in a building with computers; correct?

1 A Yes, I was in the computer room.

2 Q And you gave us a very visceral description of abuses
3 that happened to you there today.

4 A Yes.

5 Q But you don't say anything about anything happening in
6 the computer building in this statement; do you?

7 A They took me and they do private stuff.

8 Q Sir, I'm not asking about what happened -- that you say
9 happened in the computer building; I'm saying, you didn't
10 mention anything about abuse happening to you in the
11 computer building in this statement; did you?

12 A I started forgetting. My brain is not gathering
13 everything.

14 Q Okay. You didn't tell Dr. Xenakis that you were
15 mistreated at the computer building when he examined you in
16 2013; did you?

17 A When was that?

18 Q In 2013.

19 A I don't remember.

20 Q Okay. You didn't tell Dr. Payne-James that you were
21 mistreated there when he examined you in February of this
22 year in Malaysia; did you?

23 A He did not ask me.

24 Q Did Dr. Payne-James ask you about all of the
25 mistreatment that happened to you at the Abu Ghraib prison?

1 A He just asked me about how the dog was biting me and
2 what was happening with my hand.

3 Q In fact, when you were examined in Malaysia this
4 February, didn't you say that you were laughing and joking
5 around when you were being kept in the computer building?

6 A No, I did not mention anything like that.

7 Q Okay. In your January 2004 statement, which is still
8 on the screen, you say that when you got to the hard -- or
9 to the cellblock, the soldiers took you out of the car and
10 an American soldier hit you with his hand on your face.

11 MS. BAILEY: Could you read that statement to him
12 when you translate?

13 THE WITNESS: Yes.

14 BY MS. BAILEY:

15 Q But you don't mention being kicked.

16 A They did kick me.

17 Q But you don't say that anyone kicked you in this
18 statement; did you? The only thing you say is when they
19 took me out of the car, an American soldier hit me with his
20 hand on my face, and that's all.

21 MS. BAILEY: He's frozen.

22 Do you need to translate it again?

23 THE INTERPRETER: He can hear me now.

24 MS. BAILEY: Okay. Do you want me to repeat the
25 question?

1 THE INTERPRETER: No, you don't have to.

2 MS. BAILEY: Okay.

3 THE WITNESS: When was that?

4 BY MS. BAILEY:

5 Q In the statement on the screen, the only thing you say
6 happened when you were transferred to the cellblock is that
7 an American soldier hit you with his hand on your face.

8 A Yes. Yes.

9 Q You don't say anything about someone putting a leash on
10 you.

11 A Nobody asked me that question.

12 Q You don't know if CACI had anything to do with you
13 being hit when you got out of the Hummer when you arrived at
14 the cellblock; do you?

15 A I don't know.

16 Q After you were taken out of the Hummer, you saw a whole
17 group of soldiers; is that right?

18 A Where?

19 Q After you got out of the Hummer when you first arrived
20 at the cellblock.

21 A I was unable to see. I had the bag over my head.

22 Q Okay. Sir, do you remember taking a deposition in
23 2017?

24 A Yes, I remember.

25 Q Okay. And at that deposition, you took an oath, and

1 you swore to tell the truth?

2 A Yes.

3 Q Okay. And at that deposition when you were asked what
4 happened after you were brought out of the Hummer, you
5 described that they took you to a place where you stood up,
6 and you said when I stand up, they took the cover out of my
7 face, the bag out of my face, there was a whole group of
8 people standing up, soldiers.

9 A I don't remember.

10 MS. BAILEY: All right. If the interpreter could
11 turn to Defense Exhibit 49, it's just marked for
12 identification purposes.

13 BY MS. BAILEY:

14 Q Sir, I'm going to have the interpreter read to you
15 where you said that in your deposition.

16 MS. BAILEY: If you could go to page 52 and read
17 lines 2 to 5. Page 52, lines 2 to 5.

18 MR. KIM: Your Honor --

19 THE COURT: Yes.

20 MR. KIM: -- I did not believe this is an
21 inconsistent statement. If Your Honor could please rule on
22 that please before it's read into the record.

23 MS. BAILEY: Your Honor, he said that he was
24 unable to see who was around him because he had a bag over
25 his head, and he testified that the bag was taken off of his

1 head and he saw a whole group of people standing there,
2 soldiers.

3 THE COURT: I think it is sufficiently
4 inconsistent. It's permitted.

5 THE INTERPRETER: Want me to read? Okay.

6 I mentioned to him line Number 6, and his answer
7 was no, I don't know, and he told me that they --

8 MS. BAILEY: I'm sorry, I'm not done having you
9 read the lines to him.

10 And if you could also read the lines 18, 19 and
11 20.

12 THE COURT: This is not going anywhere. We need
13 to move on to another line of questioning. This is taking
14 the jury's -- too much time. Move on.

15 MS. BAILEY: Your Honor, I would like to move into
16 evidence the lines from his deposition that are inconsistent
17 with his testimony.

18 THE COURT: At this point, we're not going to
19 start doing that. So overruled. Let's move on.

20 BY MS. BAILEY:

21 Q The next thing you describe in your 2004 statement is
22 that soldiers stripped you and made you shower; correct?

23 A I do not know whether they were civilian or soldiers.
24 I had the bag over my head.

25 MS. BAILEY: Could we please bring up Plaintiffs'

1 Exhibit 20 again.

2 BY MS. BAILEY:

3 Q So, sir, do you see that it says they stripped me naked
4 and they took me under the water?

5 MS. BAILEY: If the interpreter could read that.

6 THE INTERPRETER: Could you repeat it, please?

7 MS. BAILEY: Could you please read they stripped
8 me and they took me under the water.

9 BY MS. BAILEY:

10 Q You didn't mention being punched; correct?

11 A I was struck after they took me down.

12 Q In that statement, you don't say that you were punched;
13 correct?

14 A When did they take this statement?

15 THE COURT: All right. Counsel, approach the
16 bench.

17 (Bench conference.)

18 THE COURT: You've done a really good job in this
19 case so far. This is bogging down. It's not getting you
20 anywhere. This statement is in evidence. You can argue
21 from the statement all you want, but it's not a complete
22 statement. It's not -- you've done a decent job of showing
23 some -- they don't need inconsistencies. He just said he
24 doesn't remember the statement. So you've done enough with
25 this. You've got it in evidence. You'll be able to argue

1 it to the jury, but you're not helping your case, and your
2 wasting everybody's time. So we need to --

3 MS. BAILEY: Your Honor, I understand and I take
4 your point. There are a lot of inconsistent statements in
5 his deposition that are wildly different than what he's
6 testified to here today.

7 THE COURT: Then go to that, but not to this
8 statement.

9 MS. BAILEY: My question is, is there a preference
10 for how I impeach him with those statements? Because that
11 is another thing that is bogging down the trial, and I would
12 be glad to do it in a way that doesn't, but --

13 THE COURT: Well, here's the problem. He has
14 said, for example, he was stripped naked. Either he doesn't
15 remember five times or four times, I don't think anything
16 you've done on this record is going to show that he wasn't
17 at least, at some point, naked.

18 I'm just saying, you're hurting your case by
19 focusing on these types of small details, especially when
20 you're going through translation. All right. So we need to
21 rethink where you're going with this. This is unnecessarily
22 taking up time, and I don't think it's helping your case.

23 MS. BAILEY: Do you have a preference for how to
24 proceed with impeachment?

25 THE COURT: I'm not going to tell you how to go,

1 but make sure it's working, because if it's not working, I'm
2 going to stop it; okay?

3 MS. BAILEY: Okay.

4 (Open court.)

5 BY MS. BAILEY:

6 Q Sir, it was a soldier who made you take off your
7 clothing to get in the shower; correct?

8 A There were soldiers, but I couldn't tell whether they
9 were soldiers or civilian. I do not know.

10 Q Sir, at your deposition, you were asked who told you to
11 take off your clothing. You said: Who said take off more?
12 Was it a soldier? And you said: Yes, military. Military
13 soldier.

14 Do you deny that?

15 A I couldn't tell. I had the bag over my head. I don't
16 know whether it was civilian or military.

17 Q Okay. So you deny saying that?

18 A I do not want to accuse anybody. I don't know. I had
19 the bag over my head.

20 Q Okay. You don't know if anyone ordered the soldier to
21 have you take off all your clothes; do you?

22 A I don't know.

23 Q You mentioned on direct that after that, you were
24 crawling in a hallway towards your cell; do you recall that?

25 A Yes, I remember.

1 Q Okay. And this was right after you were brought into
2 the hard site and -- or, excuse me, the cellblock and after
3 you shower, that same day?

4 A Yes.

5 Q Okay. And today you didn't mention any dogs being
6 present; did you?

7 A The dogs, they were not brought on the same day that I
8 arrived. It was after a couple of days.

9 Q Okay. In your deposition when you were questioned
10 about crawling in the hallway, you were asked what happened
11 next, and you said --

12 MS. BAILEY: Go ahead.

13 BY MS. BAILEY:

14 Q And you said: They brought the dog. He bit me on my
15 hand and on my legs. Yes. Yes. You also said: So someone
16 brought a dog and the dog bit you? And you said: Yes.
17 Yes.

18 Do you deny saying that?

19 A I don't remember me saying that.

20 Q You don't remember. Do you deny saying it?

21 A I am not denying. I don't remember.

22 Q Okay. And that's actually consistent with what you
23 claim happened to you, that dogs were brought to bite you
24 while you were crawling that day?

25 A When I mentioned the dogs, I said when I was standing;

1 not while I was crawling.

2 Q So it was when you were standing after you got up from
3 crawling?

4 A Possibly, yes.

5 Q Okay. And you don't remember anybody who wasn't a
6 guard with you when you were crawling; correct?

7 A I don't remember. The bag was over my head.

8 Q Okay. So you have no memory today of anyone except
9 soldiers being by you?

10 A I do not want to lie. I do not remember because the
11 bag was over my head.

12 Q Okay. Today you described being put in some poses
13 after you were done crawling; do you remember testifying to
14 that?

15 THE INTERPRETER: Could you please repeat that
16 again?

17 BY MS. BAILEY:

18 Q Today you described being put into poses after you were
19 done crawling; do you remember testifying to that?

20 THE INTERPRETER: He wants me to repeat the
21 question. I can go ahead and repeat it.

22 THE WITNESS: Yes.

23 BY MS. BAILEY:

24 Q You've never described that before in any statement or
25 testimony in this case?

1 A Maybe the way I express myself was different.

2 Q After you were done crawling, you were brought to a
3 cell where you stayed until the morning; is that correct?

4 A Yes.

5 Q You've never described guards throwing things at you
6 before; have you?

7 A No. I did mention they were using the food bags and
8 they placed stuff in it, and they will throw it at me.

9 Q So then it's not just the water you testified to today,
10 now it's food bags?

11 A No. It was the bags for the food to heat up the food,
12 the carbon bags.

13 Q And you could see that?

14 THE INTERPRETER: He said they explode inside the
15 cell when they throw it.

16 BY MS. BAILEY:

17 Q Okay. Could you see that?

18 A No, I couldn't see it. I was just yelling and crying.

19 Q Okay. Did you tell Dr. Payne-James that they threw
20 snakes and scorpions into the cell?

21 A It was my imagination. I thought it was snakes and
22 scorpions.

23 Q So the next day, a soldier brought you to another cell;
24 correct?

25 A Yes.

1 Q And he didn't mistreat you; did he?

2 A No.

3 Q And two days later you were interrogated for the first
4 time?

5 A No. It was within the same day in the evening.

6 Q So you're saying that the day that you got brought back
7 to a new cell is the day that you were interrogated?

8 A Yes.

9 Q All right.

10 A Approximately.

11 THE COURT: What was the last word you said?

12 THE INTERPRETER: Approximately, yes. He said.

13 THE COURT: Approximately. Thank you.

14 BY MS. BAILEY:

15 Q So direct examination, you said you were hooded when
16 you were brought to the examination?

17 A Yes.

18 Q But in your deposition when you were asked: Were you
19 hooded when they took you from the cell to the small room?
20 You said: No. No. There was none. No. No.

21 A No. Whenever they transferred me, they put the bag
22 over my head.

23 Q So you deny saying that?

24 A I do not refuse, but this is a reality. Whenever they
25 took me to the interrogator, they placed the bag over my

1 head.

2 Q At your first interrogation, you weren't mistreated at
3 all; were you?

4 A The first interrogation or second interrogation?

5 Q The first interrogation.

6 A On the way back I was pushed against the wall and I was
7 handcuffed to the bed.

8 Q I'm talking about when you were speaking with the
9 interrogators, nobody hurt you during that time; right?

10 A No. None of them hurt me.

11 THE COURT: And just so we're clear, was the head
12 covering on or off during the interrogation?

13 THE WITNESS: Upon arrival, they take it off.

14 THE COURT: And was that the case for every
15 interrogation, that the head covering was taken off for the
16 interrogation?

17 THE WITNESS: Yes.

18 THE COURT: Okay.

19 BY MS. BAILEY:

20 Q After the first interrogation, a white soldier with
21 glasses brought you back to your cell; correct?

22 A Yes.

23 Q And he hit your head against the wall, and he tied you
24 to your bed?

25 A Yes.

1 Q But you don't know of anyone telling him to do that?

2 A Whenever they take me back, they -- the interrogator
3 speaks with the guards, and I don't know what is he telling
4 him.

5 Q So you don't know whether he said anything to him at
6 all about how you would be treated?

7 A No, I don't know.

8 Q A couple days later, that same soldier with the glasses
9 came and took all your belongings; is that correct?

10 A Yes.

11 Q Okay. I was a little confused on cross-examination
12 [sic] because you testified that you were left with your
13 jumpsuit, but you also testified that you were naked.

14 Did you have your jumpsuit, or were you naked?

15 A The second -- after the second interrogation, they took
16 everything, to include the clothes I was wearing.

17 Q Did you have your jumpsuit?

18 A I was wearing it, yes.

19 Q So you were not naked?

20 A No. They left me naked. They took everything, to
21 include the blankets and everything else.

22 Q Perhaps I'm confused, Mr. Al-Zuba'e.

23 If you had your jumpsuit that you were wearing,
24 how were you naked?

25 A No. They removed the jumpsuit, to include the blanket

1 and the mattress.

2 MS. BAILEY: Okay. I'd like to admit what was
3 previously admitted in Mr. Stefanowicz's de bene esse
4 deposition, which is Plaintiffs' Exhibit 19.

5 MR. KIM: I don't have a copy of it yet, Your
6 Honor.

7 THE COURT: Well, it's in the record, so it's in.

8 MR. KIM: Understood, Your Honor.

9 (Plaintiffs' Exhibit Number 19 admitted into evidence.)

10 MS. BAILEY: If we could bring it up on the
11 screen.

12 BY MS. BAILEY:

13 Q Sir, this is a log the U.S. government produced that
14 was kept by military police in the cellblock.

15 THE INTERPRETER: What is it? I'm sorry.

16 MS. BAILEY: This is a log. Can you ...

17 BY MS. BAILEY:

18 Q That was kept by military police in the cellblock.

19 MR. KIM: Objection, Your Honor. There's --
20 there's no foundation yet that he's ever seen this or used
21 it or read anything.

22 MS. BAILEY: Your Honor, I'm not impeaching him
23 with this evidence, I'm just confronting him with it.

24 THE COURT: Well, let's -- where are you going
25 with this? What is this supposed to show?

1 MS. BAILEY: This shows that there is a note that
2 specifically states that the property was taken and that he
3 was left with only a jumpsuit, which is contrary to what he
4 said. So I was going to confront him with that evidence and
5 ask him --

6 MR. KIM: Your Honor --

7 MS. BAILEY: -- about that.

8 MR. KIM: -- this is a hearsay statement within it
9 that what she's referring to. There's also no competence of
10 him to testify to this.

11 THE COURT: Just a second.

12 MS. BAILEY: It's at page 6.

13 THE COURT: I understand that. What entry?

14 MS. BAILEY: At 0230. It's just above the
15 hashmarks. It starts with 0230 civilian property.

16 THE COURT: Wait a minute.

17 I don't think this solves any issue. No. Move
18 on.

19 BY MS. BAILEY:

20 Q You don't know who employed the civilians you saw at
21 Abu Ghraib; correct?

22 A No, I don't know.

23 Q And at least as of 2017, you knew you had filed a suit
24 against a company and not the military, but you didn't know
25 anything about CACI?

1 A No, I don't know anything.

2 Q You've identified some soldiers who hurt you; is that
3 correct?

4 A What soldiers?

5 Q I'll withdraw the question.

6 A Just the guards, that they were around the cellblock.

7 Q Okay. You've testified that all of your interrogators
8 were civilians; do you remember saying that on direct?

9 A Yes.

10 MS. BAILEY: Okay. At this time, Your Honor, I'd
11 like to read into the record and for the witness a
12 stipulation of the parties of uncontested facts.

13 THE COURT: All right. What number?

14 MS. BAILEY: Sixteen, 17 and 18.

15 THE COURT: All right. Go ahead.

16 BY MS. BAILEY:

17 Q Sir, these are facts that are stipulated by both
18 parties.

19 According to the United States, on November 7th,
20 2003, Mr. Al-Zuba'e was interrogated by two soldiers, Army
21 Interrogator C and Army Interrogator F.

22 According to the United States, on November 18th,
23 2003, Mr. Al-Zuba'e was interrogated by two soldiers, Army
24 Interrogator D and Army Interrogator E.

25 And finally, according to the United States,

1 Mr. Al-Zuba'e was interrogated by a CACI employee, CACI
2 Interrogator G and Army Interrogator B.

3 MS. BAILEY: Would you like to read?

4 THE INTERPRETER: Yes, please.

5 MR. KIM: Your Honor, I don't think there's any
6 purpose of translating this and wasting further much of the
7 jury's time.

8 THE COURT: Well, it says what it says. It's --
9 it's stipulations. All right.

10 Wait. Wait. One second.

11 THE INTERPRETER: I'm sorry.

12 THE COURT: Is there any reason to translate that?
13 Are you going to ask a question about it?

14 MS. BAILEY: Yes.

15 THE COURT: Even though you've all agreed to it?

16 MS. BAILEY: I'm asking him why he identified all
17 of his interrogators as civilians and if he can explain the
18 discrepancy when some of them were --

19 THE COURT: All right. Well, just ask the
20 question.

21 MS. BAILEY: Okay.

22 THE COURT: All right.

23 BY MS. BAILEY:

24 Q Sir, the United States government has identified five
25 out of the six of your interrogators as soldiers.

1 How do you explain the fact that you described all
2 of them as civilians?

3 A Whenever I was brought for interrogation, only the
4 civilians were inside and the guards were outside.

5 Q Okay. So your understanding, based on what you saw,
6 was that your interrogators were all civilians?

7 A Yes.

8 Q So if the government is correct and five of the six
9 were, in fact, soldiers, then you -- that means you couldn't
10 tell the difference between military interrogators and
11 civilian interrogators?

12 MR. KIM: Objection, Your Honor.

13 THE COURT: Sustained as to the form of the
14 question. No. Sustained means no question.

15 BY MS. BAILEY:

16 Q If they were soldiers, would that mean you could not
17 tell the difference between military interrogators and
18 civilian interrogators?

19 MR. KIM: Objection, Your Honor.

20 THE COURT: Sustained.

21 BY MS. BAILEY:

22 Q We've discussed that you alleged abuse by soldiers.

23 Have you filed a lawsuit against any of them?

24 A How would I sue them?

25 Q Okay. Well, in fact, you did file a claim against the

1 U.S. government; didn't you?

2 A Not on coalition forces; only for the people who
3 tortured me.

4 MS. BAILEY: Let's go to Defendant's Exhibit 30
5 which is admitted at page 23.

6 MR. KIM: Where was this admitted?

7 MS. BAILEY: It was admitted at the start of my
8 cross-examination.

9 MR. KIM: PTZ30 or defendant's?

10 MS. BAILEY: Defendant's Exhibit 30.

11 THE COURT: This is the detention report.

12 MS. BAILEY: And if we could go to page 23.

13 BY MS. BAILEY:

14 Q Are you there, sir?

15 THE INTERPRETER: Do you want me to read the
16 Arabic part?

17 MS. BAILEY: No, sir.

18 BY MS. BAILEY:

19 Q The top two lines of this document asks you to give a
20 brief description of the incident on which you're making a
21 claim for damages; correct?

22 MS. BAILEY: And if he needs you to translate
23 that, will you translate it?

24 THE COURT: Hold on a second. Counsel, approach
25 the bench.

1 (Bench conference.)

2 THE COURT: Are you sure this is for this person?
3 Because this says he was arrested on January 11th, 2003.

4 MS. BAILEY: The month and the day are switched in
5 these documents. So it's November 1st, 2003.

6 THE COURT: All right. Well, you need to be
7 sure -- ask him the specifics. I mean, there's an easier
8 way. Just ask him, do you recall \$20,000 being taken from
9 him. All right. Get specific.

10 MS. BAILEY: Okay.

11 (Open court.)

12 BY MS. BAILEY:

13 Q Sir, do you recall making a claim for \$20,000 that you
14 said was taken from you when you were captured?

15 A First of November 2003.

16 Q That's when you were captured; correct?

17 A Yes.

18 Q And you claimed that when that happened, you had
19 \$20,000 with you that was confiscated?

20 A Yes.

21 Q Okay. And you made a claim against the United States
22 government for that?

23 A I don't remember.

24 Q Do you deny making a claim?

25 A I'm not denying, but I can't remember.

1 MS. BAILEY: Okay. Let's scroll to the bottom of
2 that page.

3 BY MS. BAILEY:

4 Q At the bottom, it says in writing that you were
5 tortured at Abu Ghraib and you were assigned an attorney by
6 the Pentagon.

7 MS. BAILEY: If you could translate that for him.

8 BY MS. BAILEY:

9 Q Did the government pay that claim?

10 THE INTERPRETER: Did the government what? I'm
11 sorry.

12 MS. BAILEY: Pay that claim.

13 THE WITNESS: What government?

14 BY MS. BAILEY:

15 Q Okay. Sir, the United States government.

16 A What about them?

17 Q Did they pay any claim to you?

18 A No.

19 Q Based on your -- withdrawn.

20 Sir, on direct examination you said you were
21 mistreated with dogs twice.

22 A Yes.

23 Q And during our discussion, we established that one of
24 the times was when you were standing after you crawled.

25 A I do not remember.

1 Q Okay. If you testified in your deposition that the
2 dogs were brought, that would have been an honest statement
3 by you; right?

4 MR. KIM: Objection, Your Honor. If? It's
5 published.

6 THE COURT: Sustained.

7 BY MS. BAILEY:

8 Q Sir, you testified in your deposition that the dogs
9 were brought and bit you on your hand and legs when you were
10 crawling.

11 Was that an accurate statement when you made it?

12 A Not while I was crawling; while I was standing.

13 Q So it was standing after you were crawling on that same
14 day?

15 MR. KIM: Objection, Your Honor. We've covered
16 all of this.

17 THE COURT: Sustained.

18 BY MS. BAILEY:

19 Q Okay. Sir, I'd like to --

20 MS. BAILEY: I'd like to admit, if it hasn't been
21 already, what's previously been admitted in Major General
22 Fay's de bene esse deposition, which is Plaintiffs'
23 Exhibit 23.

24 THE COURT: Well, it's a huge exhibit. We're not
25 going to have this whole thing going in.

1 the cellblocks.

2 THE COURT: I'm going to sustain the objection.

3 MS. BAILEY: Okay. No further questions.

4 THE COURT: All right. Is there any redirect?

5 MR. KIM: No, Your Honor.

6 THE COURT: No redirect? All right.

7 Mr. Al-Zuba'e, I want to thank you for your
8 testimony, but it's complete, and we're now going to sign
9 off.

10 THE WITNESS: Thank you.

11 THE COURT: All right. And thank you.

12 THE INTERPRETER: Thank you, Your Honor.

13 (Witness excused at 12:20 p.m.)

14 THE COURT: Call your next witness.

15 MR. FARIDI: Your Honor, the plaintiffs call Major
16 General Antonio Taguba.

17 THE COURT: Okay.

18 MR. FARIDI: I think they're getting him now, Your
19 Honor.

20 THE COURT: Okay. Ladies and gentlemen, it's a
21 bad sign when you see boxes being brought in.

22 THE CSO: Face the deputy clerk. Raise your right
23 hand.

24 Thereupon,

25 ANTONIO TAGUBA,

1 having been called as a witness on behalf of the plaintiffs
2 and having been first duly sworn by the Deputy Clerk, was
3 examined and testified as follows:

4 (Time noted: 12:22 p.m.)

5 THE DEPUTY CLERK: Thank you.

6 THE CSO: You may be seated.

7 DIRECT EXAMINATION

8 BY MR. FARIDI:

9 Q Good afternoon, General Taguba.

10 A Hi. How are you?

11 Q Good. I represent the plaintiffs in this lawsuit.

12 Can you please tell the members of the jury about
13 your educational background?

14 THE COURT: Wait. We should get for the record
15 the General's name.

16 BY MR. FARIDI:

17 Q Could you please give your name for the record?

18 A Happy to do so. My name is Antonio M. Taguba.

19 THE COURT: All right. General, you're going to
20 have to speak up much louder than that, please. That's the
21 microphone. All right.

22 THE WITNESS: All right. Can everybody hear me
23 now?

24 THE COURT: Yeah. Much better.

25 THE WITNESS: My name is Antonio M. Taguba, United

1 States Army, retired.

2 BY MR. FARIDI:

3 Q General Taguba, can you please tell the jury about your
4 educational background?

5 A I received my bachelor's of arts degree from Idaho
6 State University, and I have three master's degrees. One
7 from Southern Virginia, another from -- what's the name of
8 that -- Webster University, and another master's from the
9 United States Navy War College.

10 Q Okay. And how long did you serve in the military, sir?

11 A I served for 34 years.

12 Q And can you please provide a brief overview of your
13 military career?

14 A I entered active duty on November 1972 at Fort Knox.
15 My military occupational specialty was in armour, which is
16 tanks, primarily mechanized infantry. And I've served in
17 command since I was a captain in Germany, a tank battalion
18 command in Korea, a brigade mechanized command, a tank
19 mechanized brigade in Fort Cavazos, Texas. I've served in
20 the Pentagon as a deputy assistant secretary for reserve
21 affairs. Also in the Army staff as acting director of the
22 Army staff and other assignments.

23 Q When did you retire, sir, from the military?

24 A I retired on December 31, 2006.

25 Q Thank you for your service, sir.

1 A Thank you.

2 Q Have you received any decorations or honors for your
3 military service?

4 A Yes, I did.

5 Q Can you list the few that come to mind?

6 A I received the Distinct Army Distinguished Service
7 Medal twice. I received the Legion of Merit four times. I
8 received the Bronze Star Medal for my duty Operation Iraqi
9 Freedom in Iraq. I received the Meritorious Service Medal
10 six times and other decorations from there.

11 Q Were you appointed, sir, in January of 2004 to conduct
12 an investigation in Iraq?

13 A Correct.

14 Q And who appointed you to conduct the investigation?

15 A I was appointed by Lieutenant General David McKiernan,
16 who was then the commanding general for Army Central Command
17 and the Combined Forces Command that's operating in the
18 theater.

19 Q And upon completion of your investigation, did you
20 issue a report?

21 A Yes, I did.

22 Q And did you review that report in connection with
23 preparation for your testimony today?

24 A Yes.

25 Q And there's a binder in front of you, General. If you

1 can flip to the document that's behind the tab PTX137.

2 A Okay.

3 Q This is a redacted copy of your report based on the
4 Court's rulings.

5 A All right. Give me a couple of minutes here. All
6 redacted except --

7 Q Well, if you go to page 6 --

8 A Page 6.

9 Q -- that's where the unredacted portion begins.

10 A Okay.

11 THE COURT: And, ladies and gentlemen, the term
12 "redacted" means basically it's been blacked out so you
13 can't see it, and that's because portions of this report are
14 considered still to be classified.

15 THE WITNESS: Okay. I'm on page 6.

16 BY MR. FARIDI:

17 Q Do you recognize this document, sir?

18 A Yes.

19 Q And what is this document, generally speaking? Can you
20 describe it?

21 A It's the background on the report and the sequences of
22 which I was appointed to conduct the investigation.

23 MR. FARIDI: Your Honor, we offer PTX137 in its
24 redacted format.

25 THE COURT: Any objection?

1 MR. O'CONNOR: No, Your Honor.

2 THE COURT: All right. It's in.

3 (Plaintiffs' Exhibit Number **137** admitted into evidence.)

4 BY MR. FARIDI:

5 Q Can you describe your report -- we'll dive into the
6 specifics.

7 Can you describe your report at a high level for
8 the jury?

9 A In terms of just the description?

10 Q Yeah. Just a general description, sir.

11 A Well, I was ordered to do an investigation sometime in
12 mid January regarding the leadership, or lack thereof, and
13 conduct of the 800th MP Brigade during their operations in
14 Iraq.

15 Q At some point, sir, after you issued your report, did
16 you testify in Congress about it?

17 A Several times, yes.

18 Q I want to talk about what specifically you were asked
19 to investigate.

20 MR. FARIDI: And I'm going to ask my colleague to
21 pull up on the screen that's right next to you --

22 THE WITNESS: Okay.

23 MR. FARIDI: -- the bottom of page 6, and we'll
24 focus on paragraph 3A.

25 THE WITNESS: Okay.

1 BY MR. FARIDI:

2 Q Okay. And it's also highlighted in front of you on the
3 screen if you want to refer to that.

4 A Okay. I see it.

5 Q And can you describe for the jury, what was the first
6 thing that you were asked to investigate, sir?

7 A A is to investigate the circumstances of the conduct of
8 the MP Brigade regarding allegations of abuse of prisoners,
9 their training and overall conduct and experience on
10 detention operations.

11 Q And the beginning portion of Section 3 -- or paragraph
12 3 states: On 31 January 2004, the commander, CFLCC,
13 appointed Major General Antonio M. Taguba, deputy commanding
14 general support, CFLCC, to conduct this investigation.

15 First, what is CFLCC?

16 A CFLCC, that stands for Combined Forces Land Component
17 Command [sic].

18 Q And is it accurate that you were directed to conduct
19 this investigation on 31 January 2004?

20 A Yes, I was.

21 Q And, sir, do you recall whether this is before or after
22 the pictures from Abu Ghraib became public?

23 A I believe this was after.

24 Q Do you recall, sir, what year -- what month the
25 pictures actually became public?

1 A The picture was not made -- I'm sorry.

2 The picture was not made public, it was still
3 classified at the time, and it was shown to me to show the
4 extent of the level and effect of what I was about to
5 investigate.

6 Q At some point the pictures were made public to the
7 world at large; correct?

8 A Yes. After my investigation.

9 Q And can you describe the allegations of detainee abuse
10 at a high level that prompted the investigation?

11 A It was a sad situation of having seen the photographs
12 and videos that basically tantamount to illegal operations
13 in theater that I was not aware of at the time.

14 Q General, you reference photos and videos. The jury
15 certainly has seen some photographs.

16 What do you mean by videos?

17 A There were some videos that I was able to observe on a
18 disk that was shown to me by the military police
19 authorities.

20 Q Let's go to the next page. We'll go to paragraph 3C.
21 Can you describe, sir, what you were asked to investigate
22 under paragraph 3C, what your mandate was?

23 A As I state, the training standards employment command
24 policies and internal procedures of -- and command climate
25 in the 800th MP Brigade.

1 Q And what was your mandate, sir, under paragraph 3D, the
2 last thing that you were asked to investigate?

3 A To make specific findings and facts concerning all of
4 the aspects named on 3C, and to make correct -- corrective
5 actions as appropriate, factual determination.

6 Q Did you, in fact, sir, make factual findings?

7 A Absolutely.

8 Q Okay. We'll get to that in a moment. I want to talk
9 first about the process that you undertook in connection
10 with your investigation.

11 Were you assisted in your investigation by anyone?

12 A Yes, I was.

13 Q How many people?

14 A Around 20.

15 Q And can you describe, generally speaking, the
16 background of these individuals?

17 A We had -- I had three staff judge advocate lawyers, one
18 to include the command judge advocate general for CFLCC. I
19 had members of the MPs that I had requested for. I had
20 transcribers that was on my team, legal transcribers to take
21 notes of the interviews that we conducted. I had drivers
22 associated with that. I had one psychiatrist that I was
23 able to acquire.

24 Q Were you satisfied, sir, with the resources that our
25 country's military contributed to your investigation?

1 A At that time, that was all I could get.

2 Q Let me show you paragraph 5 from page 7 of your report.
3 And you talk here in this particular paragraph about
4 assembling subject matter experts, and you specifically name
5 from the provost marshal and also from the staff judge
6 advocate; do you see that?

7 A Yes.

8 Q Why did you find that important to obtain access to
9 subject matters from these two particular divisions for the
10 military?

11 A From advice of my commanding general and also the staff
12 judge advocate, that since I was to investigate -- my team
13 and I was to investigate the Military Police Brigade, that I
14 needed expertise in terms of conduct, in terms of their
15 professional skills, and on the unit as well.

16 Q And then the paragraph notes at the bottom that you
17 also enlisted the support of MP subject matter experts in
18 the areas of detention and internment operations.

19 Why was that important?

20 A Well, from our initial finding that MP Brigade was
21 conducting detention operations, among others, in Iraq.

22 Q Where were you, sir, when you received the mandate for
23 this investigation?

24 A I was in our headquarters in Kuwait.

25 Q And did you travel to Iraq from Kuwait in connection

1 with this investigation?

2 A Yes. Several times.

3 Q How many days, approximately, did you spend at Abu
4 Ghraib in connection with this investigation?

5 A I would say about three weeks.

6 Q Was that on a singular visit, or were there multiple
7 visits?

8 A There was multiple visits, to include the other three
9 detention camps.

10 Q Why did you visit Abu Ghraib these many times?

11 A Because we wanted to ensure that we had the capability
12 to investigate the conduct and the performance of the MP
13 Brigade who were actually assigned to all of the detention
14 centers that we visited.

15 Q Let's turn to page 12 of your report, and we've
16 highlighted some language here that I want to focus you on.

17 You say here that: My investigation team
18 immediately began an in-depth review of all available
19 documents regarding the 800th Military Brigade. You said:
20 We've reviewed, in detail, the voluminous CID investigation
21 regarding alleged detainee abuse at the detention facilities
22 in Iraq, particularly the Abu Ghraib detention facility.

23 What is the CID investigation regarding alleged
24 detainee abuse that you're referencing here?

25 A There had been a criminal investigation by the Army

1 Investigation Division, CID, prior to my own investigation,
2 and it was clear to us by advice of our lawyers that we
3 needed to at least have access to them.

4 Q And, General, you state here that you analyzed
5 approximately 50 witness statements from the military police
6 and military intelligence personnel, potential suspects and
7 detainees.

8 Did you also review statements by CACI employees,
9 C-A-C-I?

10 A No, just the statement from the military police. We
11 did not examine anything from CACI --

12 Q Okay.

13 A -- that I remember. That I can remember.

14 Q Let me see if I can help refresh your recollection on
15 the issue.

16 If you can turn with me to paragraph 11 on
17 page 48. We'll bring it up on the screen as well.

18 A Okay, page 48?

19 Q Yes.

20 A Same annex?

21 Q Paragraph 11 on page 48.

22 A Paragraph 11.

23 Q You see, General, here, you're making findings --
24 withdrawn.

25 You said you're talking here about Steven

1 Stefanowicz, a contract U.S. civilian investigator, CACI; do
2 you see that?

3 A Yes.

4 Q Does that help refresh your recollection as to whether
5 you analyzed information related to CACI in connection with
6 your investigation?

7 A I see. I stand corrected.

8 Yes. Refreshing my memory.

9 Q We'll come back to this issue in a moment, sir.

10 You say -- I want to go back to page 12, where we
11 were before. And the last sentence that I've highlighted on
12 the screen here states: We reviewed numerous photos and
13 videos of actual detainee abuse taken by detention facility
14 personnel; do you see that?

15 A Yes. Yes.

16 Q Approximately how many photos did you personally
17 review?

18 A There were hundreds of them. I don't remember how many
19 that I -- that I was provided as a part of our investigation
20 to review.

21 Q Do you recall, sir, the circumstances in which these
22 photos were taken?

23 A They were taken by several of the MPs and were being
24 used as screen savers on their laptops.

25 Q I'm sorry? Being used as?

1 A They were being used as screen savers posted on their
2 laptops, and they were also provided to Sergeant Darby at
3 the time, and then -- which was apparently acquired by CID
4 and provided to the provost marshal of the command.

5 Q I want to turn to page 15 of your report, sir. And you
6 see here, the only thing that's unredacted here is the
7 title: Regarding Part 1 of the investigation, I make the
8 following specific findings of fact; do you see that?

9 A Page 15, yes. The redacted copy.

10 Q Okay. And I want to focus now on some of the factual
11 findings that you made.

12 A Okay.

13 Q And if you skip to page 16, paragraph 5, and there's
14 some information that we've highlighted here. And I want to
15 focus on the first three sentences. Okay.

16 You write in the first sentence that between
17 October and December 2003 at Abu Ghraib confinement
18 facility, BCCF, numerous incidents of sadistic, blatant and
19 wanton criminal abuses were inflicted on several detainees.

20 Why did you use these words sadistic, blatant and
21 wanton?

22 A I used these words primarily because of what we heard
23 during our interviews, our investigation, and also what was
24 reflected on the photographs and videos.

25 Q The next sentence says: This systemic and illegal

1 abuse of detainees was intentionally perpetrated by several
2 members of the Military Police Guard Force, 372nd Military
3 Police Company, 320th Military Police Battalion, the 800th
4 MP Brigade and Tier Section 1A of the Abu Ghraib prison.

5 For those who don't understand the military
6 structure, can you describe the differences between a
7 brigade and a battalion and a company?

8 A Could you rephrase that question, please?

9 Q Sure.

10 Can you just describe the difference between what
11 a brigade is, a battalion and a company?

12 A Let me start with the company. The company typically
13 have about 100 to about 150 personnel. A battalion
14 basically have three or four companies in a battalion. And
15 a brigade could have up to five or six battalions in the
16 brigade. So the brigade is the top headquarters.

17 Q Why did you use the word "systemic" to describe the
18 abuse of detainees?

19 A The 320th and the 372nd Military Police Company of the
20 brigade were principally assigned at Abu Ghraib.

21 Q And you use the word "systemic" to describe the abuse.

22 Why use that word?

23 A From the references from the criminal investigation and
24 the -- that was provided to us. And from the interviews
25 that we conducted, it seemed like it had related mostly on

1 one company, 372nd, regarding the facility, and also within
2 the 37- -- 3 -- 320th Military Police Battalion.

3 Q And you used the word "illegal".

4 Why use that word?

5 A Because they were illegal in the sense that they were
6 basically abusing, mistreating the detainees that were
7 housed at the detention camp, specifically on the -- there
8 were three other camps there besides Tier 1A, and they were
9 not following proper procedure that they were supposed to be
10 following, and -- in terms of how to treat detainees in that
11 manner.

12 They did not have a specific set of standard
13 operating procedures that we discovered, there was a lack
14 thereof. And the battalion commander was absent most of the
15 time, and the company commander was also absent most of the
16 time during the processes of conducting detention
17 operations.

18 Q The third sentence you say: The allegations of abuse
19 were substantiated by detailed witness statements and the
20 discovery of extremely graphic photographic evidence. We
21 spoke about the photographic evidence.

22 How did the witness statements substantiate the
23 abuse?

24 A Simply we read through that, all of us in my team read
25 through the whole processes and then collaborated during the

1 course of our interviews.

2 Q And what did that process reveal as to the abuse when
3 you analyzed the witness statements?

4 A There were improper procedures of -- and also illegal
5 and mistreatment of detainees at the facility.

6 Q And let's go to paragraph 6. This is at the bottom of
7 page 16 and top of page 17. Okay.

8 There's a number of bullet points here ranging --
9 starting from A all the way through M. I'm not going to ask
10 you to read any of that into the record.

11 Can you describe for the jury, generally speaking,
12 what is it that you're trying to convey in this paragraph?

13 A Based on the photographs and videos that we observed
14 at -- the listing here were determined to have been
15 conducted from the testimonies -- not testimonies, but
16 comments made by the ones that we personally interviewed.
17 Also I'll mention that there were punching, there were
18 kicking and stripping them of clothing during the course of
19 the time from October to December of 2003.

20 Q Let's go to paragraph 7 on page 17.

21 A Yes.

22 Q And you write here these findings are --

23 MR. ELLIOTT: Your Honor, may we please approach?

24 THE COURT: Yes.

25 (Bench conference.)

1 MR. ELLIOTT: He's using a version of this
2 document I don't think is publicly available. The one I'm
3 working off is the one that's on ECF and has all this stuff
4 redacted.

5 MR. FARIDI: Okay. We shared our exhibits with
6 the government, and you guys did not propose any redactions
7 to this particular exhibit, but we're happy to use a
8 publicly-available version.

9 MR. ELLIOTT: Okay.

10 MR. FARIDI: And the only thing I want to show is
11 there's two witnesses who were testifying, one is
12 Torin Nelson who testified yesterday, and the other is --
13 there's another witness, Your Honor, who's testified -- or
14 will testify. The third one, I think.

15 THE COURT: Who is it?

16 MR. FARIDI: I think it's Harman who's going to
17 testify later today.

18 MR. ELLIOTT: We don't have an objection to those
19 things.

20 THE COURT: In other words, you just want A
21 through N of seven redacted?

22 MR. ELLIOTT: Just the names of the military
23 personnel that have not been publicly made.

24 MR. FARIDI: Okay. What we'll do, Your Honor, is
25 we'll take it down from the screen, and I'll ask the General

1 to read the specific lines.

2 MR. ELLIOTT: That should be fine.

3 THE COURT: All right.

4 MR. ELLIOTT: But just cognizant of future
5 exhibits.

6 MR. FARIDI: Yeah.

7 MR. O'CONNOR: While we're here, Your Honor,
8 there's a related issue. This document doesn't follow the
9 Court's order on the -- the Court ruled that the findings, 1
10 through 13, they only -- they wanted an additional 11, which
11 is by Stefanowicz, and the Court said that 1 through 10 and
12 12 and 13 should be shown so that the jury could understand
13 that there were a lot of people accused of misconduct.
14 This -- the version --

15 THE COURT: Wait just a second.

16 THE CSO: Court is still in session. There's no
17 talking.

18 THE COURT: Thank you.

19 Go ahead.

20 MR. O'CONNOR: It's all blacked out, everybody
21 except for Stefanowicz, when Your Honor ruled that 1 through
22 10 and 12 and 13 should also be unredacted so that the jury
23 could see the number of people who were accused of
24 misconduct.

25 MR. FARIDI: Was that part of your

1 counter-designations?

2 MR. O'CONNOR: It was, yes. And that's what the
3 Court ruled.

4 MR. FARIDI: Okay. Okay.

5 THE COURT: It came through the deposition, or --
6 it did?

7 MR. O'CONNOR: No, Your Honor. This was in the
8 report. This is the Taguba report, and you ruled yesterday
9 that 7230 through 37 should all be unredacted, and they
10 didn't do it in this version.

11 MR. FARIDI: That's an error on our part, Your
12 Honor. I think the --

13 MR. O'CONNOR: It just needs to be fixed before
14 our cross, that's all.

15 MR. FARIDI: I think the version that our
16 paralegal has, unfortunately he did not update it to reflect
17 the designations that you ordered yesterday.

18 THE COURT: You have the lunch hour to fix it.

19 MR. FARIDI: Yes, we will.

20 THE COURT: All right. Okay. So we're all set.

21 MR. FARIDI: It should be fixed by their cross,
22 that's when it's the most relevant.

23 THE COURT: That's fine.

24 (Open court.)

25 BY MR. FARIDI:

1 Q General, if you'd just take a look at Section 7.

2 A Okay.

3 Q Let's not pull it up on the screen.

4 THE COURT: Wait. Wait. Wait. Do not put it up
5 on the screen. Do not put it up on the screen.

6 BY MR. FARIDI:

7 Q I just want -- the first sentence states: These
8 findings are amply supported by written confessions provided
9 by several of the suspects, written statements provided by
10 detainees and witness statements; do you see that?

11 A Yes.

12 Q Okay. And under 7B, you list Sabrina Harman; do you
13 see that?

14 A Yes.

15 Q Okay. And then 7H, you list Torin Nelson; do you see
16 that?

17 A Yes.

18 Q Why was it important for you to interview these two
19 individuals among the others that you list in this
20 paragraph?

21 A I don't believe I interviewed Harman and the others
22 that you mentioned. They already made their statements
23 through the CID.

24 Q Okay. Why was it important for you to review those
25 statements?

1 A We thought at the time that they added leverage to what
2 was going on at Abu Ghraib at the time, especially a
3 contractor.

4 Q Especially?

5 A The contractor.

6 Q The contract -- did you say the contract or the
7 contractor?

8 A The contractor.

9 Q And who was the -- we'll get to that in a moment.

10 Let's go to paragraph 8.

11 A Okay.

12 MR. FARIDI: Let's pull that up on the screen.

13 BY MR. FARIDI:

14 Q And can you describe to the jury, what is it, generally
15 speaking, sir, that you were trying to convey here, at a
16 high level?

17 A Your question again, please.

18 Q Can you describe for the jury what is it that you're
19 trying to convey in this paragraph at a high level?

20 A What we're trying to convey is that this seems like an
21 extraneous amount of activity that I would consider as not
22 legal in terms of treating detainees.

23 Q I just want to focus on H, using military working dogs
24 to frighten and intimidate detainees with threats of attack,
25 and, in one instance, actually biting a detainee; do you see

1 that?

2 A Yes.

3 Q Why is that problematic?

4 A We saw photographs of dogs being used on the detainees.
5 And we also interviewed, if I recall, the dog handlers that
6 they were not -- the dogs were not used to be for detention,
7 they were like bomb dogs or drug-sniffing dogs, and they
8 were falsely assigned to that particular facility.

9 Q When these dogs were used on the detainees in this
10 manner, were they muzzled or unmuzzled?

11 A I don't remember, but I do know that having a German
12 Shepherd in front of you was terrifying to say the least.

13 Q And let's focus on paragraph 9. And you say here: I
14 have carefully considered the statements provided by the
15 following detainees, which, under the circumstances, I find
16 credible based on the clarity of their statements and
17 supporting evidence provided by other witnesses. And then
18 in subparagraph I, you go on to list Asa'ad Hamza, Detainee
19 Number 152529; do you see that?

20 A Yes.

21 Q Did you or your staff interview this particular
22 individual?

23 A We did not interview any of the detainees. They were
24 already -- they provided their comments or testimonies to
25 the CID; however, my legal team and I considered that as

1 reliable.

2 Q I'm sorry. I missed that. You considered it ...

3 A As reliable in terms of their statements.

4 Q Why did you find the statements of these detainees --
5 and I'm going to focus on Asa'ad -- to be credible and
6 reliable?

7 A We thought it was believable enough based on what was
8 going on at Abu Ghraib to begin with.

9 MR. FARIDI: Let's go to paragraph 10 on page 18.

10 BY MR. FARIDI:

11 Q And in the middle I've highlighted some language on the
12 screen in front of you. You write here: Military
13 intelligence interrogators and other U.S. government
14 agency's interrogators actively requested that MP guards set
15 physical and mental conditions for favorable interrogation
16 of witnesses; do you see that?

17 A Yes.

18 Q What do you mean by "actively requesting"? How did
19 they actively request this?

20 A From the statements that we read, that's one piece of
21 evidence. And from the interviews -- in-person interviews,
22 which was basically collaborated, that they were getting
23 instructions from the MI and also from OGA, that's what they
24 mentioned, and specifically from CACI.

25 MR. FARIDI: Let's go to paragraph 12 on pages 19

1 and 20. Okay.

2 BY MR. FARIDI:

3 Q And you write here: That I find that prior to its
4 deployment to Iraq for Operation Iraqi Freedom, the 320th
5 Military Battalion and the 372nd Military Police had
6 received no training in detention and internee operations.
7 I also find that very little instruction or training was
8 provided to MP personnel on the applicable rules of the
9 Geneva Convention relative to the treatment of prisoners of
10 war. And you say: Moreover, I find that few, if any,
11 copies of the Geneva Convention were ever made available to
12 MP personnel or detainees; do you see that?

13 A Yes.

14 Q How did the lack of instruction and training
15 contribute, if at all, to the abuse of detainees at Abu
16 Ghraib?

17 A Detention operations is a very, you might say specific
18 mission. These companies, there's units who are not trained
19 on detention operations, they were basically what we
20 considered combat support units. Patrolling, traffic,
21 circulation, deliveries and manning POW camps and also
22 security to the locations.

23 Q You mentioned CACI earlier. I want to pick up on that.

24 MR. FARIDI: Let's go to paragraph 30 on page 26.

25 BY MR. FARIDI:

1 Q You write here, General: In general, U.S. civilian
2 contract personnel -- you named CACI here -- and then you
3 say: Third country nationals and local contractors do not
4 appear to be properly supervised within the detention
5 facility at Abu Ghraib. During our on-site inspection, they
6 wandered about with too much unsupervised free access in the
7 detainee area.

8 Can you speak to how CACI personnel had free
9 access in the detainee area?

10 A During the course of our in-person interview and
11 investigation, I remember several of them was mentioning
12 CACI, which we didn't know what that meant. We thought it
13 was K-H-A-K-I, khaki, until we discovered that it was a
14 government contractor.

15 Q Did that concern you, General?

16 A Yes, it did.

17 Q Why?

18 A For one, we didn't know -- my team and I did not know
19 that they were military -- I mean civilian contractors that
20 were conducting detention operations. I was not advised
21 that they were present at the time when I conducted the
22 investigation at Abu Ghraib.

23 MR. FARIDI: And let's go to paragraph 8 on
24 page 38.

25 BY MR. FARIDI:

1 Q It's a long paragraph. I'm not going to read the
2 entirety of it into the record. We'll begin on the first
3 line towards the tail end. You say: I find there was clear
4 friction and lack of effective communication between the
5 commander, 205th Military Brigade, who controlled the FOB
6 Abu Ghraib after 19 November 2003. And the commander, 800th
7 Military Brigade, who controlled detainee operations inside
8 the FOB.

9 Then you go on to say: There was no clear
10 delineation of responsibility between commands, little
11 coordination at the command level and no integration of the
12 two functions.

13 How did that contribute, if at all, to the abuse
14 of detainees at Abu Ghraib?

15 A When there's friction, there's no clear command and
16 control. Both commanders did not like each other, and they
17 basically mentioned that during our interview. And so
18 there's no, you might say harmonious relationship between
19 the two commanders.

20 Q Let's focus on Steve Stefanowicz.

21 MR. FARIDI: And, Your Honor, I'm about to focus
22 on a new area. I don't have much left, maybe about
23 ten minutes. So we can take a break now or we can proceed.

24 THE COURT: It's just about 1:00. I think we'll
25 take the hour lunch break, and we'll start up again promptly

1 at 2:00. Thank you.

2 (Proceedings adjourned at 1:00 p.m.)

3 -----

4 I certify that the foregoing is a true and accurate
5 transcription of my stenographic notes.

6

7

Stephanie Austin

8

Stephanie M. Austin, RPR, CRR

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