

STATE OF MICHIGAN

MICHIGAN NATIONAL GUARD - AGENCY,

vs.

ADVERSE ACTION APPEAL

JOSEPH L. SMOCK,

Appellant.

_____ /

MILITARY HEARING

BEFORE COLONEL KEVIN K. DAWKINS, HEARING EXAMINER

Camp Grayling, Michigan - Wednesday, October 8, 2014

Appearances:

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Also Present: Joseph L. Smock
SSG Steven Schultz, Assist. CPT Bedells
LTC Alice Niedergall
MAJ Allyn Johnson, Labor Relations
Specialist
James Sweat, President 2132 Local
Ja'net Vallotton, 2nd Chair to Mr. Banchs

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EXHIBITS:

MARKED:

None

1 Grayling, Michigan

2 Wednesday, October 8, 2014 - At about 8:04 a.m.

3 COURT RECORDER: We are on the record. Today's
4 date is October 8th, 2014. The time is now 8:04 a.m.

5 THE HEARING EXAMINER: Could you raise your right
6 hand, please? Do you swear or affirm that the testimony
7 that you are about to give in this case is the truth, the
8 whole truth and nothing but the truth, so help you God?

9 MASTER SERGEANT COOPER: I do.

10 THE HEARING EXAMINER: And further, you are
11 advised that you are assured the freedom from restraint,
12 interference, discrimination, coercion or reprisal for
13 testifying in this case.

14 THE WITNESS: Yes, sir.

15 THE HEARING EXAMINER: You can have a seat,
16 please.

17 MASTER SERGEANT THAD CLINTON COOPER
18 (At 8:04 a.m., sworn as a witness, testified as follows)

19 MR. BANCHS: Sir, before we begin, I don't know
20 how to put this, but my notes are gone, and they were here
21 last night.

22 THE HEARING EXAMINER: Let's go off the record for
23 just a minute.

24 COURT RECORDER: We are going off the record.

25 (Off the record at about 8:05)

1 (On the record at about 8:05)

2 COURT RECORDER: We are back on the record.

3 THE HEARING EXAMINER: Go ahead.

4 CAPTAIN BEDELLS: Okay, sir. Thank you.

5 DIRECT EXAMINATION

6 BY CAPTAIN BEDELLS:

7 Q Sir, would you please state your full name for the record?

8 A **Thad Clinton Cooper.**

9 Q And you are a Master Sergeant in the Michigan Army National
10 Guard, right?

11 A **Yes.**

12 Q Master Sergeant, how are you--how are you currently
13 employed?

14 A **I'm still a full-time tech- --technician in the Ishpeming
15 Armory.**

16 Q Okay. How long have you been a technician at the Ishpeming
17 Armory?

18 A **Well, since May. I transferred in May, May 1st of--May 4th,
19 2014.**

20 Q Prior to working in Ishpeming, where did you work?

21 A **At the MATES.**

22 Q Would be--that would be here in Grayling?

23 A **Yes.**

24 Q And how long did you work at the MATES in Grayling?

25 A **Full time from February of '94 until 2000- --May of 2014.**

1 Q That was as a technician also?

2 A **Full time. I was a temporary from November '92 until**

3 **February '93.**

4 Q So it looks like about 20 years in Grayling, correct?

5 A **Yes.**

6 Q Okay. And can you describe for the Hearing Examiner what

7 your duties were while you were a technician in Grayling.

8 Why don't--why don't we start with the most--your most

9 current duties, because I understand they might have

10 changed.

11 A **They actually--**

12 Q When you--before you left Ishpeming, what were you doing?

13 A **I was a quality con- --Quality Control Inspector in the**

14 **quality control section.**

15 Q Okay. How long did you do that?

16 A **Oh, roughly eight years. 2006, I think I was hired as a**

17 **tech- --as an inspector.**

18 Q Okay. And as a--is it a QC Inspector; is that what it's

19 called?

20 A **Yes.**

21 Q As a QC Inspector, what--what were some of your duties?

22 A **VCI equipment, managed the GSA NTV fleet, worked on safety**

23 **of use messages, MWO's, special projects, vehicle**

24 **inspections.**

25 Q Okay. Prior to that, so prior to 2006, what did--what were

1 your duties at the MATES facility?

2 **A I was an MLRS repairman, and also the--it's called EFD, was**
3 **an electronic test shop that tested components on the MLRS.**
4 **I did that for 13-plus years.**

5 Q Okay. It sounds as if--it sounds as if that's what you
6 started at MATES with, that--that job description--

7 **A Yes.**

8 Q --is that fair to say?

9 **A Yes.**

10 Q Okay. During--during any portion of that 20 years you spent
11 at MATES, did you have occasion to work with Mr. Smock?

12 **A Yes.**

13 Q Okay. Would it be during the whole 20 years or some--

14 **A Yes. Absolutely.**

15 Q Okay. At any point, did you hold similar positions? I note
16 you're--notice you're both Master Sergeants.

17 **A No. We worked in the--Joe was a mechanic in the north shop,**
18 **and I worked on the north shop, as well. So we were in the**
19 **same area for many, many years in the same bay--same--north**
20 **shop.**

21 Q When you say many, many years, would it--would it be the
22 last--

23 **A Actually, from 1993 to--until 2006, when I was an MLRS**
24 **mechanic, we worked--I worked in the north shop. And then**
25 **when I became an inspector, we still had almost daily**

1 **interaction with each other when he become the BII rep.**

2 Q Okay. So even when you were a QC Inspector and no longer
3 working in the--what did you say, the north shop?

4 A **Right.**

5 Q You still had daily interaction with Mr. Smock?

6 A **(Witness shakes head affirmatively)**

7 Q Okay. Now, I understand--

8 A **Sure.**

9 Q --you provided a sworn statement in connection with the 15-6
10 that brings us here today, cor- --

11 A **Yes.**

12 Q --is that--is that correct?

13 A **Yes.**

14 Q Okay. Were you also one of the--one of the personnel who
15 provided an audio interview?

16 A **I did.**

17 Q Okay. Do you recall if you provided more than one sworn
18 statement?

19 A **One sworn statement. I believe I had two interviews with
20 Colonel Doolittle, though.**

21 Q Okay. Okay. When you provided the--well, strike that. At
22 any point prior to Colonel Doolittle interviewing you,
23 whether or not you provided a sworn statement, were you a
24 member of the Union?

25 A **I was a member of the Union at the time I was interviewed,**

1 **yes.**

2 Q Okay. Did you request Union representation?

3 A **No, I did not. I--I specifically did not want Union**
4 **representation in the--in the room with me during the**
5 **interview.**

6 Q Okay. Why did you not want Union representation?

7 A **As the interview went on and people were returning from Camp**
8 **and the interview with Colonel Doolittle, Jim Sweat would--I**
9 **had--personally seen Jim Sweat come back and have closed-**
10 **door meetings with both Joe and Renee Reed after an**
11 **interview had taken place out at Camp. So it appeared to me**
12 **that the information was being almost back-briefed to Joe**
13 **and Renee. And--I mean, it was on several occasions and for**
14 **quite a great length of time, I mean, for hours, I would see**
15 **them in there in a closed door. So I didn't feel**
16 **comfortable with having Union representation there for them**
17 **to come back and give a back-brief on what was disclosed**
18 **during the interview with Colonel Doolittle.**

19 Q Okay. And you mentioned you--you had interviewed with
20 Colonel Doolittle on more than one occasion; is that right?

21 A **I--**

22 Q Okay.

23 A **--believe I did, yes.**

24 Q Okay. Did you provide a sworn statement during the first
25 interview, if you recall?

1 **A** **I do not believe I gave a sworn statement after the first**
2 **interview, no.**

3 **Q** Okay. So inasmuch as we do have the sworn statement, it
4 would be fair to say that you provided a sworn statement
5 after the second interview--

6 **A** **Yes.**

7 **Q** --is that correct?

8 **A** **Yes.**

9 **Q** Okay. Have you had an occasion to read the--the report of
10 investigation that Colonel Doolittle submitted in connection
11 with this--his investigation?

12 **A** **I've--I've read my statement, and I've also has--I have the**
13 **proposed adverse action letter, the response from Mr.**
14 **Banchs.**

15 **Q** Okay. So you did--you have not read the entire report that
16 was drafted by Colonel Doolittle; is that correct?

17 **A** **I don't believe I had access to it. I don't think I've seen**
18 **it.**

19 **Q** Okay. Did you request it at--at any point?

20 **A** **I don't--I'm not sure if I did.**

21 **Q** Okay. And you also mentioned that you provided an audio
22 interview; is that correct?

23 **A** **Yes.**

24 **Q** Did you--have you had occasion to listen to that audio
25 interview?

1 **A** **I did listen to pieces of it. I didn't listen to the entire**
2 **recording.**

3 **Q** **Okay. And is there anything in the audio that--at least**
4 **those portions you listened to, that you'd like to correct**
5 **here today or do you stand by everything that was said?**

6 **A** **I stand by everything I said. I will say that, from the**
7 **time I made my sworn statement--my interview until the time**
8 **I made my sworn statement, there was a lot of information**
9 **that I learned between that period of time. So it's pretty**
10 **obvious that my statements--my interview and my statement do**
11 **not match.**

12 **Q** **Okay. In what respect?**

13 **A** **Oh, there was just some things that I omitted in the**
14 **interview that I didn't--that I disclosed during my--my**
15 **written sworn statement.**

16 **Q** **Okay. And can you explain why that--why did you--was it**
17 **inadvertently omitting it or was it--**

18 **A** **I just--I don't know if I trusted in the entire process.**
19 **I'm not sure if I trusted Colonel Doolittle. I don't know--**
20 **I just don't--I don't know if I trusted the whole--the**
21 **entire investigation.**

22 **Q** **And I understand this might be difficult, Master Sergeant**
23 **Cooper, but what--as you sit here today, has that opinion of**
24 **whether you can trust the process changed at all?**

25 **A** **It has.**

1 Q In what respect?

2 A Well, there's been action taken against personnel that were
3 accused of wrongdoing. They were--I mean, ultimately they
4 were--they were terminated, so.

5 Q So is it fair to say that your mistrust lied in the
6 possibility that nothing would be done; is that--

7 A Sure.

8 Q --is that fair to say?

9 A Yes.

10 Q Okay.

11 A Just because of what's happened in the past at that
12 facility. I mean, there was other investigations in the
13 past, and there was really no outcome or the little guy got
14 burned versus, you know, the true perpetrator, so.

15 Q Okay. So you mention that you had a--you did have an
16 opportunity to actually review, I think you testified, to
17 the proposed adverse action notice; is that correct?

18 A I re- --I have it, yes.

19 Q Okay. And understanding that's distinct from the
20 termination letter or the original decision letter. Okay.
21 So do you understand that?

22 A Yes.

23 Q Okay. So the letter you've reviewed was authored by
24 Lieutenant Colonel Meyers, correct?

25 A I'm not sure if I've seen Colonel Meyers'--

- 1 Q Okay. Well, you have in front of you what's been marked in
2 this matter as Smock Exhibit Number 3.
- 3 A **Uh-huh.**
- 4 Q And I will call to your attention Tab G. Okay?
- 5 A **Uh-huh.**
- 6 Q And ask you to take a look, just review this document, this
7 three-page document, and tell me if that is actually the
8 document that you've seen previously. Take your time. We
9 have all day.
- 10 A **Okay.**
- 11 Q Okay. You've had an opportunity to read Exhibit G to--
- 12 A **Yes.**
- 13 Q --or I'm sorry--attachment G to Exhibit 3, correct?
- 14 A **Yes.**
- 15 Q Now, I'll ask you, Master Sergeant Cooper, is that the--is
16 that the document that you previously had viewed?
- 17 A **I don't believe I've ever seen this, actually.**
- 18 Q Okay. So when you say you've--you did receive--or you did
19 review some form of a proposed adverse action notice, it's
20 not--it's not what is--what is attachment G to Exhibit 3,
21 correct?
- 22 A **No.**
- 23 Q Okay.
- 24 A **No, it's not.**
- 25 Q Okay. Okay. Well, I'd like you to keep that document open

1 because we're going to go through that document.

2 **A Okay.**

3 Q And if you don't understand my question, you won't be the
4 first. So, please, just stop and say, "Hey, Captain
5 Bedells, I don't understand that question" or "Can you
6 rephrase it?" And if you don't know the answer, don't be
7 afraid to say "I don't know."

8 **A Okay.**

9 Q So we'll begin. You're aware that we're here because,
10 according to that letter, Master Sergeant Smock was
11 terminated for wrongfully removing or, in one case,
12 wrongfully installing some property that belonged to the
13 Federal Government, correct?

14 **A Yes.**

15 Q Okay. So what I'd like to do is walk through each of those
16 grounds for his termination to discover whether you have
17 personal knowledge or whether you had heard of some account
18 of this. Okay?

19 **A Okay.**

20 Q So we'll start with A. And I'm going to read along, just to
21 make sure that--that my document that I'm working from is
22 the same as yours. A says, "You wrongfully removed a flat
23 screen television from the MATES building." Is that how
24 yours reads?

25 **A Yes.**

1 Q That's how Exhibit G reads, correct? Okay. So my question,
2 Master Sergeant Cooper, is whether you have personal
3 knowledge or personally--let's--strike that. Did you
4 personally observe Master Sergeant Smock remove a flat
5 screen TV from the MATES facility?

6 A **No.**

7 Q Did you ever hear an account of Master Sergeant Smock
8 removing a flat screen television from the MATES facility?

9 A **No.**

10 Q Okay. So let's move down to B. And that reads, "You
11 wrongfully removed sheets of OSB board from the MATES
12 building." And I'm going to caveat that, because we heard
13 testimony yesterday, and it's testimony in evidence, that--
14 well--strike that. Let me ask you. Did you ever personally
15 observe Mr. Smock removing OSB board from the MATES
16 building?

17 A **Personally, no.**

18 Q Okay. Did you personally witness Mr. Smock removing plywood
19 from the MATES facility?

20 A **No.**

21 Q Okay. Did you ever--did you ever hear an account from
22 anyone else of Master Sergeant Smock removing either OSB or
23 plywood from the MATES facility?

24 A **Yes.**

25 Q Okay. From whom did you heard that?

1 **A** **Actually, I was told by Todd Witcher, Chief Witcher that**
2 **he had personally talked to a Staff Sergeant Cory Rock.**
3 **Cory Rock had personally seen Joe driving out of the MATES**
4 **compound with his POV on a weekend with OSB stacked as tall**
5 **as the cab, and driving out of the MATES compound.**

6 **Q** Okay. So--so just to be clear, this account came through
7 basically three people--or two people, correct?

8 **A** **Uh-huh.**

9 **Q** Todd Witcher had relayed to you that he had been told by a
10 Cory Rock--

11 **A** **Yes.**

12 **Q** --who had personally witnessed Mr. Smock driving out of the
13 MATES facility with OSB stacked on top of a pickup truck?

14 **A** **Right of the back of his--bed of his pickup, yes.**

15 **Q** Bed of--and when you say "his pickup," what--was the account
16 that you heard that it was actually Master Sergeant Smock's
17 private pickup truck?

18 **A** **Yes.**

19 **Q** Okay.

20 **A** **Yes.**

21 **Q** Did he give a des- --I don't know what his pickup truck is,
22 what color it is, what type it is or make, model. Did--did
23 you hear that in the account that Todd Witcher relayed to
24 you?

25 **A** **No. But I know what--I mean, I know what vehicle Joe**

1 **drives, so.**

2 Q Okay. Now, this Cory Rock, is--he was--that would be Staff
3 Sergeant Cory Rock?

4 A **Yes.**

5 Q Okay. He was on our witness list, but I understand he can't
6 appear.

7 So you would expect Todd Witcher to be able to recount
8 this--this account that he--

9 A **Absolutely.**

10 Q --relayed to you, correct?

11 A **Absolutely.**

12 Q Okay.

13 A **I would like to add, during our last meeting that I had with
14 you out here at Building 117 in the upstairs--**

15 A **Uh-huh.**

16 Q --with Sergeant Schultz, after that meeting, I returned to
17 MATES, and ended up talking to Cory Rock in the office. I
18 asked him to come in, close the door. We sat down, we
19 talked. And I said, "I want you to hear it from me that I
20 just came from Captain Bedells and Sergeant Schultz at Camp.
21 I named you as a firsthand witness. You seen Joe leaving
22 the compound with the OSB. And you're probably going to be
23 pulled in and questioned about what you seen." And I had
24 learned that Cory had written a statement on behalf of Joe,
25 which I didn't quite understand. But as Cory explained it

1 to me, he said, "Joe was relentless. He continued to badger
2 me. He called--"

3 MR. BANCHS: I object to this. This is almost
4 triple hearsay in a sense.

5 THE HEARING EXAMINER: Well, he's--

6 THE WITNESS: It's first hand. He--

7 CAPTAIN BEDELLS: Well, hold on.

8 MR. BANCHS: He's not--

9 THE WITNESS: Cory told me directly.

10 CAPTAIN BEDELLS: Master Sergeant Cooper, hold on
11 one second. Because what we do--this is--

12 THE WITNESS: Okay.

13 CAPTAIN BEDELLS: We're going to try to get
14 through this.

15 THE WITNESS: All right.

16 CAPTAIN BEDELLS: What happens is, from time to
17 time, Mr. Banchs might place an objection. And then the
18 Hearing Examiner, Colonel Dawkins here, will most likely
19 hear the objection, and then give me an opportunity to
20 respond. So just--all you have to do is sit there, and then
21 you'll get directions--

22 THE WITNESS: Okay.

23 CAPTAIN BEDELLS: --from the Hearing Examiner.
24 Fair, sir?

25 THE HEARING EXAMINER: Fair.

1 MR. BANCHS: Well, that's my objection, sir.

2 THE HEARING EXAMINER: Got it. But I want to hear
3 this.

4 Go ahead.

5 THE WITNESS: So I continued to talk to Cory. And
6 he was being called by Joe repeatedly. And eventually Joe
7 actually came to his house and personally said, you know,
8 "Cory, all you got to do is just sign this. All you got to
9 do is say 'I don't recall this.' And that's all you got to
10 do, nothing else. That's all you got to do. 'I have no
11 knowledge of this.'" So Cory continued to tell me he just
12 wouldn't leave him alone. And he was a good salesman. And
13 he wrote a statement that said "I have no knowledge of
14 this."

15 So, "Well, I'm just telling you, they're going to
16 call you out there, and they're going to ask you." I said,
17 "Why did you do this? Why would you do something like
18 that?" "Well, I didn't want to get involved. I'm a new
19 guy. I've got 20 years at least left here. And the
20 pressure was on me, and he wouldn't leave me alone, so I
21 wrote the statement."

22 BY CAPTAIN BEDELLS:

23 Q Okay. Did--at any point--

24 A So--

25 Q --during that conversation, Master Sergeant Cooper, did Cory

1 Rock--and understanding he can't testify here today because
2 he has a family emergency--did he actually concede that--
3 that this--that this account--

4 **A Absolutely.**

5 Q --occurred?

6 **A Yes.**

7 Q Okay. But explained away the fact that he can't provide
8 this--this--can't provide this--

9 **A He's--**

10 Q --account under oath because he has--

11 **A He's afraid of reprisal, and he's got a long career ahead of**
12 **him, and he--he wants--he doesn't want any marks against**
13 **him. So he wanted it to go away, and he came forward and**
14 **wrote the statement.**

15 Q Okay. Okay. Thank you for--now, my last question to you
16 was whether you had personally observed any--or Master
17 Sergeant Smock remove any OSB from the MATES building, and I
18 think your--your testimony was, no, you had not personally
19 observed it.

20 **A No.**

21 Q And then I went on to say whether you had heard any accounts
22 of Master Sergeant Smock removing OSB or plywood from the
23 MATES building. And you answered that you had heard this
24 account of Staff Sergeant Rock witnessing this through Todd
25 Whitcher, which--who in turn told you this, correct?

1 **A Yes.**

2 Q Okay. So let me par it down, the question more. Did you
3 ever--have you ever heard any account of Master Sergeant
4 Smock removing plywood from the MATES building?

5 **A Yes.**

6 Q From whom did you hear that?

7 **A Mr. Mack.**

8 Q And can you explain to the Hearing Examiner the account that
9 Mr. Mack told you?

10 **A Mr. Mack had told me that Joe was building a gazebo at his**
11 **home. And the only lumber that was at the MATES was treated**
12 **lumber, and he ended up using--having to use treated lumber**
13 **to build a gazebo.**

14 MR. BANCHS: I'm sorry, Captain. What was--what
15 was this item that we're talking about right now? The
16 plywood again?

17 CAPTAIN BEDELLES: Plywood, right.

18 MR. BANCHS: Okay.

19 CAPTAIN BEDELLES: Right.

20 BY CAPTAIN BEDELLES:

21 Q So when you--when you say that--when you say that Chief Mack
22 told you that Master Sergeant Smock had removed plywood--or--
23 -I'm sorry--treated lumber, you interpreted that to mean the
24 plywood, treated--

25 **A Well, there's actually--**

1 Q --would it be treated plywood?

2 A --treated--there's treated plywood, as well. There's

3 treated board--

4 Q Okay.

5 A --as well as--I mean, lumber, as well, but there's also

6 board sheets that are also treated.

7 Q Okay. But, again, you didn't personally observe that,

8 correct?

9 A No, I didn't.

10 Q Okay. Okay. Now, we'll move down to C.

11 A Uh-huh.

12 Q Did you ever personally observe Master Sergeant Smock

13 remove--now we're really broad--any form of wood from the

14 MATES facility?

15 A Remove, no. But, you know, tip-ups--Joe had a tip-up

16 business, and I had purchased probably 8 or 10 tip-ups from

17 him over the years.

18 Q Well, was wood used in the tip-ups?

19 A Wood's used in the tip-ups, yes, to make the tip-ups.

20 Q Okay. Did you pur- --now, you said you've--you purchased

21 tip-ups from him; is that correct?

22 A Yes. Yes, I have.

23 Q Did you--did you have to pay for those tip-ups?

24 A Absolutely did.

25 Q Okay. And did you have reason to believe that the--that the

1 tip-ups were actually constructed there at the MATES
2 facility?

3 **A Well, Joe has his own woodshop in the--the old paint bay,**
4 **which is a quite elaborate operation.**

5 Q Well, when you say "own woodshop," you mean it belonged to
6 him?

7 **A Well, he was the primary user of the woodshop.**

8 Q Okay. But it--but this is at the MATES facility?

9 **A At the MATES, yes.**

10 Q Okay. I'm thinking of a woodshop somewhere where he has a
11 bunch of tools. But, no, is that not the case?

12 **A Well, there's a lot of tools in the--in that bay. I mean,**
13 **it's his--**

14 Q But it's at MATES, correct?

15 **A At MATES.**

16 Q Okay. And--

17 **A Oh, yeah.**

18 Q And the tools belong to the--to the Government, correct?

19 **A Yes. Yes.**

20 Q And the wood belongs to the Government, correct?

21 **A Yes, they do.**

22 Q Okay. Just so we're clear on the record.

23 **A Yes.**

24 Q Okay. I'm sorry. So you--you purchased tip-ups from Mr.
25 Smock, correct?

1 **A** **Yes. Multiple occasions.**

2 **Q** Okay.

3 **A** **Along with many others from the shop. Anybody that fishes**
4 **in the winter, Dean Miller, Jim Piper, Jay Hawkins, Troy**
5 **Herblet, Tim Sheldon, Joel Mack. Anybody that fishes**
6 **typically would buy tip-ups from Joe.**

7 **Q** Okay. Did you purchase them--purchase those tip-ups from
8 Mr. Smock right there at the MATES facility?

9 **A** **Yes.**

10 **Q** And you paid him right there?

11 **A** **Yes.**

12 **Q** Okay. But, again, you never personally observed him making
13 the tip-ups in the woodshop?

14 **A** **The only time that I personally received wood from Joe for**
15 **the tip-up was probably about two winters ago. We were**
16 **needing a--myself and actually Dean Miller were needing a**
17 **modified tip-up to be built for lake trout, needed a longer**
18 **shaft to be built. And Joe ended up ripping the strip right**
19 **there at the shop, cutting the board at the shop.**

20 **Q** Okay. Did he charge you for that?

21 **A** **No. He had--already had charged me for the initial tip-up.**

22 **Q** Okay. Was it wood from the MATES facility?

23 **A** **I believe it was. I don't--it's--I don't know where else he**
24 **would have got it from. It was--happened right then and**
25 **there, so.**

1 Q It happened right there--

2 A **Right.**

3 Q --at the MATES facility?

4 A **Right. That--yeah, right, that day--**

5 Q Okay.

6 A **--he had cut it for me.**

7 Q Okay.

8 A **And Dean Miller.**

9 CAPTAIN BEDELLS: Sir, do they do ice fishing in
10 Idaho? Are you familiar with this concept of sitting on the
11 ice and--

12 THE HEARING EXAMINER: I am.

13 CAPTAIN BEDELLS: --fishing? Okay. I didn't know
14 if you needed any background on it, what a tip-up is.

15 BY CAPTAIN BEDELLS:

16 Q Okay. So, I'm sorry, Master Sergeant, you said--you said
17 that, in term of you personally observing Mr. Smock remove
18 wood or use wood from the MATES facility, you had personally
19 purchased tip-ups from him, correct?

20 A **Yes.**

21 Q Is there any inst- --any other instances in which you saw
22 Mr. Smock use wood from the MATES facility to build
23 anything?

24 A **I had heard that he had taken other--**

25 Q So the answer is no, you've not personally observed--

1 **A** **No.**

2 Q --anything else?

3 **A** **No.**

4 Q Okay.

5 **A** **Not personally.**

6 Q So let me--let me ask it another way. So have you ever
7 heard any accounts of Mr. Smock removing or using woods--
8 wood from the MATES facility--

9 **A** **Yes. Actually it's--**

10 Q --or something other than what we discussed?

11 **A** **--in the next line here of the luan.**

12 Q Okay. Okay. So just so we're clear, we're going to move
13 down to luan.

14 **A** **Uh-huh.**

15 Q Have you ever observed Mr. Smock remove luan from the MATES
16 building?

17 **A** **No.**

18 Q Okay. Have you ever heard an account of Mr. Smock removing
19 luan from the MATES building?

20 **A** **Yes, I have.**

21 Q Okay. And please explain to the Hearing Examiner what you
22 had heard.

23 **A** **I was personally told by Tim Sheldon--this is probably this**
24 **past winter. I believe it was actually during the**
25 **investigation--that Tim had--I think Tim was invited out to-**

1 -to see Joe's shed that he had built out at the cabin at his
2 father-in-law's place on Lake Margrethe, and noticed that
3 the inside of it was all lined with luan. And it kind of
4 struck Timmy kind of funny that it was lined with luan,
5 because he had just--he had just seen a stack of luan at the
6 shop just prior to that weekend, Friday at the shop. So he
7 seen the--the shed, nice--nice interior, all lined with
8 luan. On Monday morning he returned to the shop and ran out
9 to where that luan was stacked on Friday, and noticed that
10 the luan was no longer there.

11 So--

12 Q So is it fair to say that--

13 A --it's fair to say that he--the luan came from the shop to
14 line the inside of the shed.

15 Q According to Mr. Sheldon?

16 A Yes.

17 Q Because you had not observed the luan?

18 A No. No.

19 Q And you had not--had you ever observed the luan at Mr.
20 Smock's--

21 A No, I have not.

22 Q --place?

23 A No.

24 Q Which brings me to a point. When you were working at the
25 MATES facility, Master Sergeant Cooper, would you consider

1 Joe Smock and you as friends?

2 **A Sure. Absolutely.**

3 Q Go out drinking beers on occasion?

4 **A Well, on occasion, years ago. After--I mean, I had had a**

5 **lot of health issues, so I didn't--for the last probably**

6 **eight years, I hadn't really been out much with Joe. But**

7 **prior to that, we--we would fish together and have beers**

8 **together. I've been to his house and--**

9 Q Ice fish together?

10 **A Sure. Many occasions.**

11 Q Here on Lake Margrethe?

12 **A Yes.**

13 Q What kind of fish do they catch on Lake Margrethe?

14 **A None.**

15 Q Where's the good spot?

16 **A It's known no-fish lake for a reason.**

17 Q Where's the good spots? You're under oath, Master Sergeant

18 Cooper, where's the good spots?

19 **A I wish I knew. I can't help you with that. They call it**

20 **no-fish lake for a reason.**

21 Q Okay. Okay. So, as you testify here today, you believe

22 that Tim Sheldon--and it's Tim, correct, not Jim?

23 **A Tim.**

24 Q Okay. Tim Sheldon had deduced and told you that he had seen

25 luan on a Friday, just so I'm correct, he then went to Joe

1 Smock's--what--his--his garage? Is that what it was?

2 **A His--it was a shed that was built.**

3 Q Okay. So he went and observed luan in the shed. And came--

4 **A He was invited out to look at the final product of the shed**

5 **being built--**

6 Q Okay.

7 **A --and noticed that there was luan in--on the interior--lined**

8 **with luan.**

9 Q And then on Monday had returned to the place where he

10 observed luan--

11 **A Yes.**

12 Q --and it was gone?

13 **A Yes.**

14 Q And what is luan? I understand it to be thin wood; is that

15 correct?

16 **A It's just a thin wood. It's--yeah.**

17 Q Okay.

18 **A Sheeted--sheeted thin wood.**

19 Q Okay.

20 **A But Mr. Mack actually was also there to witness what Tim**

21 **Sheldon had told me, standing right there with me.**

22 Q Okay.

23 **A As a matter of fact, I think he closed the door and--that's**

24 **what Tim told us, so.**

25 Q Okay. So--

1 **A Excuse me.**

2 Q --so when Tim Sheldon provided this account of the luan,
3 it's your testimony that both Mr. Mack and--he told this
4 account to both you and Mr. Mack, correct?

5 **A Yes.**

6 Q Okay. Okay. Are they--are there any--any--and I mean
7 absolutely any other instances in which you were provided,
8 through someone else, an account of Mr. Smock removing wood
9 from the MATES facility or using wood at the MATES facility
10 for, you know, some other--and other than official purpose?

11 **A I was told by many people that Joe had taken wood to build**
12 **garages and fix interior--finish interior buildings and**
13 **garages at his residence.**

14 Q Okay. And you say "many people." Can you--can you provide--
15 --can you, as you sit--

16 **A Joe Mack, Todd Witcher--it was probably--it was almost**
17 **common knowledge that this is occurring.**

18 Q Since this investigation has concluded, have you and Mr.
19 Smock maintained any form of friendship, whatsoever?

20 **A No. We haven't talked at all since--actually since he was**
21 **terminated in February, I haven't--I hadn't spoken to him at**
22 **all, I don't believe.**

23 Q Okay. So let's move on down to--we've already discussed the
24 luan, correct?

25 **A Yes.**

1 Q Is there anything else you'd like to add with respect to
2 what we've discussed so far?

3 A **No, sir.**

4 Q Okay. Let's move down to E, then. "You wrongfully
5 installed Government-purchased tires on your son's truck."
6 Did--and my question to you, Master Sergeant Smock (sic), is
7 with the other allegations is did you personally observe Mr.
8 Smock install Government-purchased tires on his son's truck?

9 A **No, I did not.**

10 Q Okay. Have you ever heard an account of Mr. Smock doing
11 this?

12 A **Yes.**

13 Q Okay. From whom did you hear the account?

14 A **Tim Sheldon.**

15 Q Okay. Did you hear it from any other person?

16 A **I don't think so.**

17 Q Okay.

18 A **No.**

19 Q So like the luan, if--it's your testimony today that, like
20 the luan, Tim Sheldon is the person who told you that Mr.
21 Smock removed luan and installed Government-purchased tires
22 on his truck?

23 A **Yes.**

24 Q Is there any reason to believe that Mr. Sheldon won't affirm
25 your--your testimony here today?

1 **A Yes.**

2 Q Okay. And why--why do you believe that he won't--he won't
3 echo this account or these accounts, I should say?

4 **A Tim and Joe have been friends their entire lives. And I**
5 **don't think he will come forward and corroborate anything**
6 **that I have said or in my wit- --or sworn statement or**
7 **anybody else's for that matter.**

8 Q Well, you talked to Cory Rock about--about the--the OSB,
9 right?

10 **A Yes.**

11 Q Okay. Did you talk to Tim Sheldon about the tires and the
12 luan?

13 **A I'm not sure what you mean. Have I talked to him? Yes.**

14 Q Yeah. Have you--have you--well, you--

15 **A Since?**

16 Q --you talked--yeah. Let me back up so--I wasn't clear.

17 **A Okay.**

18 Q So you testified earlier today that--that you talked to Cory
19 Rock about--about his obligation to come forward and do the
20 right thing. And he--he explained why he found that
21 difficult, according to you. So my question is did--have
22 you talked to Tim Sheldon at any point during this con- --
23 during this investigation or after the investigation about,
24 "Hey, I'm telling you, Tim--" like you did with Cory Rock--
25 "--I'm going to go forward. I'm going to tell the truth and

1 what are you going to do?"

2 **A** **Yeah. I actually have talked to Tim before I left the shop**
3 **in--in May. I told him what I had put in my statement.**
4 **And, as a matter of fact, Tim had heard the recordings of my**
5 **interview with Colonel Doolittle and was actually quite**
6 **angry with me that I had disclosed that Tim had knowledge of**
7 **what was occurring with Joe. But he's going to stay loyal**
8 **to Joe, and is--as of right now, as of yesterday, Tim's**
9 **going to leave the technician program, and he plans on going**
10 **to work for DTE because of this.**

11 **Q** Well, okay. He told you that yesterday?

12 **A** **Yes.**

13 **Q** Okay. Okay. And I believe you testified that that's the
14 only person who's ever relayed any account of Mr. Smock
15 putting Government tires on his truck, correct?

16 **A** **That's correct.**

17 **Q** You're--we did meet in August before we were supposed to
18 have the original hearing on this matter. I do remember
19 that. And I asked everyone who I interviewed whether they
20 were raised in Grayling. You were one of the people who was
21 raised in Grayling, correct?

22 **A** **I was not raised in Grayling.**

23 **Q** Okay.

24 **A** **Originally from the Upper Peninsula.**

25 **Q** Okay. So you were one of the few, right? Most of--most of

1 the folks that are, at least, witnesses here are from the
2 Grayling area, right?

3 **A Absolutely, yes.**

4 **Q** And I don't mean, like, just work--just recently worked
5 here, like raised as children, right?

6 **A Right.**

7 **Q** Okay. Okay. Let's move down to the next one. F, "You
8 wrongfully removed heaters from buildings at Camp Grayling."
9 Again, my question to you, Master Sergeant Cooper, is did
10 you personally observe Mr. Smock remove heaters from
11 buildings at Camp Grayling?

12 **A No.**

13 **Q** Okay. Did you ever hear an account of Mr. Smock removing
14 heaters from the buildings at Camp Grayling?

15 **A I'm not sure if he was removing them. I know he had gotten**
16 **his hands on some heaters from Camp Grayling that were**
17 **coming out of buildings that were being torn down or**
18 **refurbished, whatever.**

19 **Q** How do you know that? In other words, from whom did you
20 hear it?

21 **A Well, actually, Todd Whitcher was on Craig's List at the**
22 **shop, maybe during a break, looking at Craig's List. And he**
23 **ended up pulling up this picture of heaters, hanging heaters**
24 **out of a building that you put in a garage or an**
25 **outbuilding. He--and he called me over and he says, "Isn't**

1 this Joe's number?" And I come over, and I said, "Yeah,
2 that is Joe's number."

3 Q What do you mean number, you mean telephone number?

4 A His telephone number. It was--

5 Q Okay.

6 A --Joe's telephone number listed on the Craig's List ad. And
7 at that point, I don't know, 10, 15 minutes later, ended up--
8 -I went to my supervisor, Colonel McNamara, and said--I kind
9 of pulled him off to the side and said, "Hey, I'm not sure
10 what Joe's got going on with these heaters, but he's got
11 them selling--he's selling them on Craig's List. So you may
12 want to go down and talk to him and see what--what he's up
13 to."

14 So he, in turn, did. He went down and talked to Joe.
15 And he come back and told me that he got them from--I'm
16 really not even sure what the story was. But he got them
17 from his father-in-law or he got them from somebody, and he
18 was just selling them or trying to get rid of them. And
19 shortly thereafter, the ad was removed off of Craig's List.
20 So I'm not sure where he got them. I was told that he got
21 them at Camp Grayling.

22 Q Okay.

23 A And he had also told Todd Witcher--because Witcher was
24 talking about buying one for his garage. And Joe had told
25 him, "Don't--don't go buy one. I'll get you one from Camp

1 **Grayling. I can get all kinds of them out there." So**
2 **Whitcher never ended up buying one because Joe had told him**
3 **he'd get him one.**

4 Q Okay.

5 MR. BANCHS: I'll object to this, as well, because
6 it's not in the record as previously objected to--

7 THE HEARING EXAMINER: And we can talk to Chief
8 Whitcher when he's here.

9 MR. BANCHS: --in testimony.

10 BY CAPTAIN BEDELLS:

11 Q Do you recall approximately when--when this viewing of the
12 Craig's List occurred?

13 A **A couple years ago. I'm not really certain exactly how long**
14 **it's been. It's--**

15 Q Okay. Okay. So you--your testimony is you, after viewing
16 this Craig's List ad, went to Lieutenant Colonel McNamara?

17 A **He's my supervisor, yes.**

18 Q And why did you do that? If you didn't know they were from
19 Camp Grayling, you just had reason to be- --you just thought
20 they--

21 A **I'm--**

22 Q --were from Camp Grayling?

23 A **Absolutely.**

24 Q Okay. Did you view the Craig's List posting yourself?

25 A **I did. I seen the snapshot of the--on the computer.**

1 Q Okay. And you recognized them as heaters that we use at
2 Camp Grayling?

3 A **Yes. Hanging heaters. We have them at the shop, at the**
4 **MATES. They're in the buildings out here at Camp. It's a**
5 **common heater, a hanging heater.**

6 Q Okay. Do you remember the price on them?

7 A **I do not.**

8 Q Did you buy one yourself?

9 A **No, but I did want one.**

10 Q Did you ever get one?

11 A **No.**

12 Q Can you put that type of heater in an ice shanty out on Lake
13 Margrethe?

14 A **No. No.**

15 Q Okay. Any other--any other--did you hear from anyone else
16 about Mr. Smock removing heaters from buildings at Camp
17 Grayling?

18 A **I don't believe so.**

19 Q Okay. Let's move on down to G, which reads, "You wrongfully
20 removed equipment parts from the air-to-ground range." Did
21 you--did you personally observe Mr. Smock remove equipment
22 parts?

23 A **No.**

24 Q We're learning that that's a term of art here. So you
25 didn't--you didn't personally observe him remove any

1 equipment parts from the air-to-ground range, correct?

2 **A That's correct. I didn't.**

3 **Q** Did you ever hear an account of Mr. Smock removing equipment
4 parts from the air-to-ground range?

5 **A Yes.**

6 **Q** Can you explain to the Hearing Examiner what you heard in
7 the way of Mr. Smock removing equipment parts from the air-
8 to-ground range?

9 **A Well, Mr. Mack had told me that Joe had taken some Kubota**
10 **engines from the air-to-ground range. And also Tim Sheldon**
11 **had built a log splitter. And the engine for the log**
12 **splitter somehow was taken off the range. Joe got it for**
13 **him off the range.**

14 **Q** That was Sheldon that built a log splitter?

15 **A Yes.**

16 **Q** Okay. With respect to Chief Mack telling you that Mr. Smock
17 had removed equipment parts from the air-to-ground range, do
18 you recall approximately when that occurred?

19 **A I do not.**

20 **Q** Okay. Do you recall if anyone else was present when Mr.
21 Mack told you this?

22 **A I do not.**

23 **Q** Okay. With respect to Mr. Sheldon's receipt of some sort of
24 motor or engine for a log splitter, do you recall when that
25 account--or when that was relayed to you?

1 **A** I ended up using the log splitter that Tim had built
2 probably three years ago at my residence. I went out to his
3 house and picked it up. And so it was at least probably
4 three years ago.

5 **Q** Okay. And so would it be fair to say that, when you went to
6 get the log splitter, that's when Tim Sheldon explained to
7 you, "Hey, the motor in that log splitter came from the air-
8 to-ground range"?

9 **A** I had talked to Tim at the shop previously that week and
10 asked him if I could--I had some wood that I needed to--I
11 couldn't bust up with a maul, so I ended up--I needed a
12 splitter to do it. And Tim had--was just finishing up and
13 had built--he built this splitter on his own. And he told
14 me that the engine was--had come off the range.

15 **Q** Was anyone else present when--when Mr. Sheldon told you
16 this?

17 **A** I don't think so.

18 CAPTAIN BEDELLS: Sir, are you familiar with a log
19 splitter?

20 THE HEARING EXAMINER: I am.

21 BY CAPTAIN BEDELLS:

22 **Q** Okay. Any other--understanding you never personally
23 observed Mr. Smock remove any equipment parts from the air-
24 to-ground range, any other accounts of people telling you
25 that Mr. Smock had removed equipment parts from the air-to-

1 ground range?

2 **A No.**

3 **Q** Okay. Move on down to H, then, which reads, "You wrongfully
4 removed diesel fuel from the MATES building." And my
5 question to you, Master Sergeant Smock (sic), once again, is
6 did you ever personally observe Mr. Smock remove diesel fuel
7 from the MATES building?

8 **A No.**

9 **Q** Has anyone ever relayed to you that Mr. Smock had removed
10 diesel fuel from the MATES building?

11 **A Yes.**

12 **Q** Who?

13 **A** Master Sergeant Herblet, Troy Herblet, has told me at least
14 a dozen times of when Joe was seen driving out of the
15 compound with 55-gallon drums of diesel in the back of a
16 pickup. And he was approached by Colonel Golnick and--

17 **Q** When you say "he," who was approached?

18 **A** Troy was approached by Colonel Golnick as to why Joe was
19 driving out the front gate with diesel fuel in the back of a
20 pickup, 55-gallon drums in the back of a pickup. Troy had
21 no knowledge of it. And he said, "I don't know, sir. I
22 don't know why he's driving out. Did you stop him? Did you
23 ask him?" And that was the end of the story.

24 **Q** Okay.

25 **A** Nothing was said after that.

1 Q Okay. So let's--let's boil that down a little bit further
2 if we can, Master Sergeant. So it was, according to your
3 testimony, Troy Herblet--he's a Master Sergeant, as well,
4 right?

5 A **Yes.**

6 Q Master Sergeant Herblet who observed Mr. Smock taking 55-
7 gallon drums out of MATES, correct?

8 A **Colonel Golnick witnessed him taking--driving out the
9 compound with the diesel fuel in the back of a pickup. Troy
10 was his super- --Joe's supervisor at the time.**

11 Q Okay.

12 A **So Colonel Golnick approached--walked down the hall and
13 approached Troy and asked him why he was driving out the
14 gate with diesel fuel. Troy had no knowledge of it and
15 said, "I don't know, sir. I don't know why he's driving out
16 with it."**

17 Q Okay.

18 A **"Did you stop him?"**

19 Q But this account was relayed to you by Troy Herblet?

20 A **Absolutely.**

21 Q Did Lieutenant Colonel Golnick ever tell you this?

22 A **No.**

23 Q Okay.

24 A **But I've heard the story probably a dozen times--a dozen
25 different times over the years from Troy.**

1 Q Okay. Was anyone else present when--when--at any--at any
2 time when Mr. Herblet relayed this story to you?

3 A I think Mr.--or Troy had talked to my--me and actually Todd
4 Whitcher in the inspection office probably within the last--
5 well, during the investigation actually. So January,
6 February of this year--

7 Q Okay.

8 A --was probably the last time I heard him tell--tell the
9 story.

10 Q Did--now, I understand at some point you and Mr. Smock were--
11 -had a friendship of some sort. Did you--do you ever
12 confront him about any of this stuff, like, "Hey, Joe, what
13 are you doing here?"

14 A No. I didn't. Joe had a pretty close relationship with
15 Colonel Golnick. And you just--I think you just learn that
16 you didn't--you weren't going to--you weren't going to rock
17 the boat with those two. They were tight. They spent a lot
18 of time together on councils and back and forth, trips to
19 Lansing, had fished together, had known each other for
20 years. And although Joe wasn't a supervisor, he, I think,
21 had a lot of input and decision making for the shop, for the
22 MATES.

23 Q Do you wish you maybe had confronted him?

24 A I don't know if it would have changed anything. It's--you
25 know, I--looking back, I don't know if--if it would have

1 **impacted anything or not.**

2 Q Okay.

3 A **Other than--I just don't think it would have impacted**
4 **anything.**

5 Q Okay. Now, the 15-6, which I think you've indicated you've
6 not read the entire file, correct?

7 A **Correct.**

8 Q The report that Colonel--Colonel Doolittle furnished.

9 A **Right.**

10 Q But I will tell you that at various--in various portions of
11 that--that report, there are allegations of Mr. Smock
12 building what's characterized as display boxes or fly boxes
13 out of wood. And it generally arises in the con- --when the
14 tip-ups. So my question to you is did you ever personally
15 observe Mr. Smock building fly boxes at the MATES facility?

16 A **I don't know if I ever personally witnessed them, but I--now**
17 **that you bring it up, yes, I have seen many of the products**
18 **that Joe had built, display cases for flies that--you know,**
19 **his dad was a world-famous fly tier. And they--Joe had put**
20 **together a box of the top fly makers, the fly tiers in**
21 **Crawford County. And he had a lot of the products that he**
22 **built at MATES at the shop. I'd seen him--I'm thinking**
23 **that--he actually had one on his wall at the shop that he**
24 **had built, with an article that the local paper had done on**
25 **his father. Again, he was a world-famous fly tier from**

1 **Grayling. And all the other famous or infamous fly tiers in**
2 **the Craw- --in Crawford County were also in this display**
3 **case that he had, you know, built on--I'm not even sure how**
4 **many he built.**

5 Q How do you become a world-famous fly tower--fly tier when
6 there's no fish to be caught anywhere?

7 A **This is in the Au Sable--**

8 Q Yeah.

9 A **--not Lake Margrethe.**

10 Q Okay. But do you--do you know that those display boxes or
11 fly boxes were actually built at MATES using MATES' wood, as
12 you testify here today?

13 A **Do I know if they were made out of wood from the shop? I**
14 **don't know that. I--I'm fairly certain that some of them--**
15 **some of the boxes were built or, you know, parts of it**
16 **ripped on the--on the table saw. I'm quite certain that**
17 **they were.**

18 Q Are you a fly fisherman?

19 A **No. Joe actually tried to get me fly fishing years ago, and**
20 **I actually suck at it, so I lost interest rather quickly.**

21 Q You lose a lot of flies when you suck at it, don't you? So-
22 --so you wouldn't have purchased any fly boxes?

23 A **No.**

24 Q Okay. Let's move on down to I in that--in that Exhibit in
25 front of you. It says, "You wrongfully appropriated a

1 chainsaw purchased with Government funds to your own use."
2 Okay. Now, what do you even--what do you even understand
3 that sentence to mean?

4 **A Well, the way I understand it is the shop purchased the**
5 **chainsaw. It actually--ultimately it was in Joe's cage that**
6 **the chainsaw was kept. And I'm not even sure if it was Tim**
7 **Sheldon who told me or if it--it may have just been common**
8 **knowledge that Joe had purchased a Husqvarna through the**
9 **shop and ended up taking the new saw, the newly-purchased**
10 **saw for the shop, he took that home, and, in turn, brought**
11 **one of his older abused and used, same-model saws back to**
12 **the shop in place of it.**

13 **Q Okay. So that's how--that's what you understand that**
14 **allegation to be.**

15 **A Uh-huh.**

16 **Q So my question, then, to you is did you have any personal**
17 **observation of Mr. Smock removing a--**

18 **A No.**

19 **Q --chainsaw from a cage?**

20 **A No.**

21 **Q Okay. But you believe you heard of this account through Tim**
22 **Sheldon?**

23 **A Joel Mack, Tim Sheldon, maybe both of them.**

24 **Q Have you ever observed a chainsaw in what used to be Mr.**
25 **Smock's cage?**

1 **A** **Yes.**

2 Q The chainsaw you observed, was it the new chainsaw, do you
3 believe?

4 **A** **No. No. It was actually prior to the shop purchasing a new
5 saw. I was--it was still the--the older saw that was there.**

6 Q Okay. So--so you never had occasion to view any chainsaw in
7 what used to be Mr. Smock's cage after the new chainsaw was
8 purchased?

9 **A** **No.**

10 Q Okay.

11 **A** **But the new saw was returned. See, once--once information
12 was disclosed to Colonel Doolittle about this chainsaw being
13 taken from MATES, the--out of Joe's cage--excuse me--Joe was
14 informed, I'm sure, by somebody that was--disclosed it
15 during the Doolittle investigation. And once Joe was privy
16 to that information, he returned the new saw back to the
17 shop.**

18 Q Well, how do you--how do you know that?

19 **A** **Because the new saw is back at the shop.**

20 Q But you said--you just testified you never observed--you
21 didn't personally observe the new shop--new saw at the shop,
22 you were just told--

23 **A** **Uh-huh.**

24 Q --that the new--and who told you that the new saw's back at
25 the shop?

1 **A** **Tim, Joel, Jay Hawkins.**

2 Q Okay.

3 **A** **People that would have--I mean, that were right there in--**
4 **near the cage or have access to that cage.**

5 MR. BANCHS: I'm going to renew my objection,
6 because this is definitely after the investigation took
7 place now, this testimony.

8 THE HEARING EXAMINER: Noted.

9 MR. BANCHS: This is all new testimony.

10 THE HEARING EXAMINER: Noted.

11 BY CAPTAIN BEDELLS:

12 Q You ever been out to Mr. Smock's residence?

13 **A** **Yes. Yes.**

14 Q Did you ever observe this gazebo that you testified to
15 earlier?

16 **A** **Have I seen it? Yes.**

17 Q Okay. You've seen it. And the gaz- --is there just one--to
18 your knowledge, is there only a single gazebo at Mr. Smock's
19 residence?

20 **A** **Yes.**

21 Q Okay.

22 **A** **That's I recall is just one.**

23 Q Okay. When you observed that gazebo, could you tell whether
24 it was constructed using--with pressure-treated or--pressure
25 -treated lumber?

1 **A Absolutely.**

2 Q Okay. And, again, it was--it was Mr.--you didn't personally
3 observe Mr. Smock take the wood from the MATES facility that
4 was ultimately used in constructing the gazebo, correct?

5 **A No.**

6 Q It was Mr. Mack who told you that, correct?

7 **A Yes.**

8 Q Okay. And I didn't--I didn't touch on this earlier, but
9 when Mr. Mack told you this, was anyone else present to your
10 knowledge?

11 **A I don't recall that.**

12 Q Okay. Do you recall approximately when it was--when it was
13 Mr. Mack told you?

14 **A I don't--I'd have--I don't know.**

15 Q Okay. And, again, when did you--when did you leave MATES?

16 **A My last day of work was April 29th this year, 2014. I moved**
17 **to the U.P. My first day of work there was May 5th--May**
18 **6th.**

19 CAPTAIN BEDELLS: Okay. Okay. I have--I've no
20 further questions for you, Master Sergeant Cooper. Thanks--
21 thanks for--no, you're not excused yet. Thanks for your
22 patience yesterday. This has been a long process.

23 Now, Mr. Banchs is going to be able to--is going
24 to submit some questions. We haven't had an opportunity to
25 speak since--since we talked in August, really, about the

1 process here. So he'll have an opportunity to ask
2 questions. I might place an objection. The same rules kind
3 of apply. The Hearing Examiner will--will rule on it. So
4 if I--if I place an objection, just stand fast until you get
5 a ruling from the Hearing Examiner. And the same goes, if
6 you don't understand a question from Mr. Banchs, feel free
7 to ask him to rephrase it. And if you don't know, just say,
8 "I don't know."

9 THE WITNESS: Okay.

10 THE HEARING EXAMINER: Mr. Banchs, you may cross.

11 MR. BANCHS: Roger that. Thank you, sir.

12 CROSS-EXAMINATION

13 BY MR. BANCHS:

14 Q Sergeant Cooper, I want to discuss with you--I would like
15 for you to explain--I think--I think you might have
16 explained it once already. But I would like to--instead of
17 going through each item, between your verbal interview and
18 your written statement that was different, because clearly
19 they were different.

20 A Uh-huh.

21 Q They were very different, in fact. During your interview
22 you pretty much alleged to a lot of the questions that were
23 asked today in regards to wood theft, diesel theft,
24 whatever, that you had no knowledge of. And that was
25 beginning of October. And then a month later, when you

1 provided your written statement, not only did you have
2 knowledge, but you claimed firsthand or direct knowledge of
3 some of these things.

4 **A Uh-huh.**

5 **Q** Can you explain the difference in your testimony, you know,
6 between 30 days?

7 **A Sure. After the sit-down interview with Colonel Doolittle,**
8 **and as other employees returned from Camp Grayling to be**
9 **questioned, there was a bunch of information being shared by**
10 **a whole lot of people. So I learned many things from the**
11 **time I interviewed until the time I wrote my sworn**
12 **statement.**

13 **Q** When you say you learned--because when I hear you say you
14 learned, it tells me that, when you spoke with Colonel
15 Doolittle in the beginning of October, that you didn't have
16 any knowledge of these things, and then you learned
17 knowledge through other people.

18 **A Not everything.**

19 **Q** Okay.

20 **A I mean, there's some things that I learned; some things I**
21 **didn't disclose to Colonel Doolittle.**

22 **Q** Okay. So can you tell us which things you actually knew--
23 let me finish--which things--and let's just--we'll stick
24 with the charges in this case. Out of those nine different
25 charges that you were asked about and you--and you provided-

1 -it wasn't testimony, but you--you spoke to Colonel
2 Doolittle about in his interview, out of those nine charges,
3 the ones that you claimed you didn't have knowledge to in
4 October, and then you claimed direct knowledge to in
5 November, which one of those did you--did you--I don't want
6 to say lie. Which ones did you not disclose at first?

7 CAPTAIN BEDELLS: Well--

8 THE WITNESS: You're going to have to be more
9 specific.

10 BY MR. BANCHS:

11 Q Okay. Let's go down the line then. When you claimed that
12 you had no direct knowledge or--I'm sorry. And I'll pull up
13 your--let's pull up your actual testimony here. Not your
14 testimony, your--your interview.

15 THE HEARING EXAMINER: To be clear, Ben, you're
16 talking about the 5 November interview?

17 MR. BANCHS: Yes, sir.

18 THE HEARING EXAMINER: Okay.

19 MR. BANCHS: And thanks for correcting me, sir.
20 It was actually early November that he--that he met with
21 Colonel Doolittle.

22 BY MR. BANCHS:

23 Q If you go to your--yeah, thank you. It's going to be the
24 last. If you turn to the third, it's second-to-the-last
25 pages of your--of your testimony--of your--of your

1 interview. This is where--the things that I want to talk to
2 you about first are located. In fact, go to the second-to-
3 the-last page. All the way to the bottom, it says, "Not too
4 long ago there was allegations that diesel fuel was missing.
5 Did you know anything about that?" You say, "No. I didn't
6 know anything about that." And then you explain an incident
7 or an--or some--something at the 1071st where you have--
8 where you know of fuel missing. But it's not at the MATES
9 necessarily. But you unequivocally said, "No. I didn't
10 know anything about that."

11 In your sworn statement you indicate--and let me get
12 the days straight here. On December--your sworn statement
13 of December 10th, so it is a month later, now you say--

14 **A I have it right here.**

15 **Q --"Joe Smock has--"**

16 **A Okay.**

17 **Q "Joe Smock has been seen taking 55-gallon drums of diesel
18 fuel from the shop right now--oh, right out the front gate
19 during duty hours." So that's clearly a change in your--**

20 **A Uh-huh.**

21 **Q --in your story, in your testimony.**

22 **A Uh-huh.**

23 **Q Can you tell us what the diff- --did--when you interviewed
24 with Colonel Doolittle in the beginning of November in your
25 verbal interview and you said that you had no--that you**

1 didn't know anything about that, a month later now you say
2 that you have knowledge of him taking 55-gallon drums of
3 fuel. Were you just not forthcoming at first or did you
4 learn about that in that month time, in that month
5 timeframe?

6 **A Troy Herblet had told me the story on multiple occasions.**

7 Q Okay. But--but you testified earlier that he had told you
8 that story about a dozen times.

9 **A Uh-huh.**

10 Q So did you tell you that story a dozen times between the
11 November 5th interview and January of this year or had he
12 told you that story before November 5th of last year when
13 you interviewed--

14 **A I don't know.**

15 Q --with Colonel Doolittle?

16 **A I don't really recall.**

17 Q Okay. So is it fair to say that you actually did not have
18 any knowledge of Joe Smock allegedly stealing fuel on
19 November 5th, when you first talked to Colonel Doolittle,
20 and that your allegations that you heard him taking 55-
21 gallon drums, you discovered that information after your
22 interview with Colonel Doolittle and before you provided
23 your--your sworn statement?

24 **A I wouldn't say that would be true.**

25 Q Well, I'm asking you, sir. Which one is true? Did you know

1 about the fuel being taken before you first spoke with
2 Colonel Doolittle?

3 **A I'm not--I'm not really sure if I knew about it. I know**
4 **I've heard the story from Troy many times. And I don't**
5 **think there's a reason for him to fabricate or lie to me,**
6 **so.**

7 Q Okay. Fair enough. Let's talk about the--if you flip the
8 page, sir, on your testimony--I'm sorry. They changed the
9 page on you, huh? You're going to have to go back to the
10 front. Here. I have it right here. You can--you don't
11 have to--or--

12 MR. BANCHS: What tab is it, ma'am?

13 THE WITNESS: I've got it right here.

14 BY MR. BANCHS:

15 Q This is going to be the last page of your test- --of your--
16 of your interview. I'm sorry.

17 **A Okay.**

18 Q After--after he asks you the question about allegations the
19 diesel fuel was missing, he was more specific. He said,
20 "How about 5-gallon cans of diesel or 55-gallon drums?" And
21 you specifically say, "I have no knowledge of that." Again,
22 is there a reason that that answer changed a month later?

23 **A You have to go back. What are we talking about again?**

24 Q I'm sorry. Here. The very next question that he asks you,
25 specifically he mentioned 5-gallon cans of diesel and 55-

1 gallon drums making their way out of MATES. You say, "I
2 have no knowledge of that." And a month later in your
3 written statement you do claim--you don't claim direct
4 knowledge, but you say that you heard that his--Joe has been
5 seen taking. And that it occurred between 2007 and 2009.

6 **A Right.**

7 Q So did you hear--was that story related to you after your--
8 your verbal interview with Colonel Doolittle?

9 **A I don't recall. But again, Troy Herblet had told me this**
10 **story on multiple occasions, so.**

11 Q Okay. But that's what I'm trying to establish, sir.

12 THE HEARING EXAMINER: I have a question. Is it
13 possible, on November 5th, when you interviewed with Colonel
14 Doolittle, that you knew something about fuel being stolen?

15 THE WITNESS: Sure. Yes, sir.

16 THE HEARING EXAMINER: Okay. Then my follow-up
17 question is can you tell me why--and you've already
18 testified to some degree to this--but can you tell me just
19 briefly why it's possible that you knew but didn't tell
20 Colonel Doolittle during that initial interview?

21 THE WITNESS: It's quite possible that I didn't--I
22 didn't trust Colonel Doolittle.

23 THE HEARING EXAMINER: Okay. Okay. Thanks.

24 BY MR. BANCHS:

25 Q At what point in time did you start trusting Colonel

1 Doolittle enough to provide your sworn statement a month
2 later?

3 **A** Actually Mr. Mack had--he had been in contact with--with
4 Colonel Doolittle on multiple occasions during the
5 investigation, because of how the--the few that had come
6 forward were being treated. And Colonel Doolittle
7 emphasized that, you know, he would--he would support us.
8 That we would have the support of the State by disclosing
9 what we knew. So through interaction with Mr. Mack and
10 conversation with Mr. Mack, I think we all started feeling a
11 bit more comfortable with Colonel Doolittle and him having--
12 him supporting us. So we--we started--I personally started
13 earning--or gaining his trust.

14 **Q** So is your--is your testimony here that--that at least you
15 and Mr. Mack actively spoke about this investigation outside
16 of the interview of Colonel Doolittle; is that your
17 testimony?

18 **A** Everybody at that shop talked about this interview.

19 **Q** Okay. Were you--were you advised not to speak about your
20 interview or the contents of the investigation by Colonel
21 Doolittle when you were interviewed by him? Do you recall?

22 **A** I don't--I think he told us we shouldn't talk specifically
23 about the questions we were asked. But everyone talked
24 about what was--what was going on, and who was being charged
25 with what, and what Joe had done. And there was a lot of

1 **information being passed around.**

2 Q So was this general conversation or was it specific to the
3 investigation? Were y'all discussing specific questions
4 that Colonel Doolittle was asking people in the interviews?

5 A **Were we--were we discussing specific questions?**

6 Q Yes, sir. Were you and Mr. Mack discussing specific
7 questions?

8 A **I don't--I don't recall that.**

9 Q Okay. Can you--if you don't mind, sir, can you flip to the
10 tab right before that, and you're going to go to page 15,
11 which is Mr. Mack's interview. Page 15. Very bottom,
12 there's a question that Colonel Doolittle asks Mr. Mack. He
13 says, "You had some issues you wanted to talk about, medical
14 issues?" And Mr. Mack replies, "I want to answer a question
15 you asked the other guys. There's a roll of copper. You
16 asked Cooper." Do you recall having that conversation
17 outside of the interview room with Mr. Mack?

18 A **Uh-huh.**

19 Q Okay. The second-to-the-last sentence in that same
20 paragraph, it says--this is Mr. Mack's reply to Colonel
21 Doolittle--"When Cooper said that to me, I was, like, are
22 they referring to that roll of copper that was supposed to
23 be put out at the motor pool?" So, again, sir, I ask you,
24 was your conversations with Mr. Mack and, perhaps, other
25 witnesses, strictly general conversations or were they

1 specifically related to the questions that were being asked
2 by Colonel Doolittle in the investigation room?

3 **A I don't recall.**

4 Q Okay. Sir, do you have--did you or do you have--I'm sorry.
5 You don't work at the MATES anymore. When you worked at the
6 MATES, you said your position was what?

7 **A Quality Control Inspector.**

8 Q Did you have keys to the--to the MATES facility?

9 **A I did.**

10 Q Did you have access to every part of the MATES facility?

11 **A No.**

12 Q Which parts did you not have access to?

13 **A The vault, Joe's cage, the COMMO cage, probably the cages in**
14 **the back there, the yellow cages--or the yellow containers**
15 **where all the aerosols and RTV AT- --or--**

16 Q The chemical locker?

17 **A Yeah. Thank you. Yep. Chemical lockers. Right.**

18 Q Did you have access to the wood storage facilities?

19 **A No. No. That would be Building 1404. Joe had an area down**
20 **on the north end of that building that I had--didn't have**
21 **access to.**

22 Q It's not disputed that Mr. Smock definitely worked on wood
23 products at the MATES. And in your interview, when Mr.--
24 when Colonel Doolittle asked you if the number of job orders
25 consistent--is the number of job orders--and he meant wood--

1 consistent with the amount of wood that's going out. And
2 on--in your 5 November interview, you say, "Not even close."

3 **A Uh-huh.**

4 Q You said, "I don't know what any one person would do with it
5 unless they're building a garage or something."

6 **A Uh-huh.**

7 Q Did you build a garage at your Whirlpool Road home within
8 the last few years?

9 **A The last few years?**

10 Q Anytime maybe with the last five years?

11 CAPTAIN BEDELLS: I'm going to--

12 THE WITNESS: No.

13 CAPTAIN BEDELLS: Sir, I'm going to place an
14 objection. I don't know where we're going with--

15 THE WITNESS: No, it wasn't over the last five
16 years, though.

17 CAPTAIN BEDELLS: I--

18 THE HEARING EXAMINER: Hold on.

19 CAPTAIN BEDELLS: I don't know where--I don't know
20 where we're going with whether Mr. Cooper built a garage or
21 not. He's not been--he's not the subject of this
22 investigation. I just don't know where we're going to go
23 with this.

24 MR. BANCHS: Well, his testi- --his--his interview
25 with Colonel Doolittle said that the amount of wood that was

1 leaving the MATES facility--it says, "I don't know what any
2 one person would do with it unless they're building a garage
3 or something." I'm just asking if he happened to build a
4 garage at his--at his residence.

5 CAPTAIN BEDELLS: How is it relevant to whether or
6 not Mr. Smock committed the offenses that bring us here
7 today? I guess I don't understand that.

8 MR. BANCHS: Can he answer whether he built a
9 garage at his house or not? I mean, I'm not accusing him of
10 it. I'm just asking him if he built a garage. If I accuse
11 him of building a garage with the MATES wood, then you can
12 object.

13 CAPTAIN BEDELLS: I can--

14 THE HEARING EXAMINER: I assume you've got--

15 CAPTAIN BEDELLS: I can object whenever I want,
16 and I'm going to object now because I don't--I don't know
17 where we're going. We've been--I don't know where we're
18 going with--with this. We did this with Chief Mack last
19 night, too.

20 THE HEARING EXAMINER: Go ahead and answer that
21 question.

22 THE WITNESS: Have I built a garage in the last
23 five years? No.

24 MR. BANCHS: Okay. See how easy that was?

25 BY MR. BANCHS:

1 Q So you say that the amount of wood that was going out of the
2 woodshop wasn't even close to the job orders, but I'm going
3 to ask you this: Have you ever--have you--have you or
4 anyone else ever asked Joe to build anything around the
5 shop?

6 A **Yes.**

7 Q Okay. Can you tell me what you have asked Joe to build--I'm
8 not talking about your tip-ups.

9 A **Uh-huh.**

10 Q I'm talking about stuff for the MATES facility. What have
11 you asked Joe to build?

12 A **Actually, I had a ceiling tile dedicated to me that was in**
13 **the NCO club on the ceiling. All the tiles were made up**
14 **dedicated to whoever. Units would dedicate these tiles to**
15 **whoever. I actually--when they tore the NCO club ceiling**
16 **out, I got that tile, and I wanted it to be protected**
17 **somewhat. So I asked Joe to build a frame for it to protect**
18 **it.**

19 Q And you asked him to do that at MATES with Government wood
20 or do you know what wood he used?

21 A **I don't know what wood he used.**

22 Q But he did build it for you at MATES?

23 A **He did.**

24 Q Okay. And you didn't see anything wrong--

25 A **Well, I don't know if he built it at MATES. I--I just**

1 remember him--I got it from Joe. I mean, he built it for
2 me. I don't know where it was. It could have been at his
3 home. Could have been at the shop. I'm not sure.

4 Q All right. So it's fair to say--but you didn't have a
5 problem with that? I mean, you didn't think there was
6 anything wrong with asking him to build that for you; is
7 that correct?

8 A **No.**

9 Q Okay. Even if--if you had knowledge that he actually built
10 it at the MATES, would you see anything wrong with that?

11 A **I guess, in this case, no, because it was a military item.**
12 **And--**

13 Q But was it officially sanctioned?

14 A **Sanctioned?**

15 Q Was it offic- --was it something that was officially put a
16 work order in for that was for the benefit of the
17 Government?

18 A **No.**

19 Q Okay.

20 A **Of course not.**

21 Q But it--but it was for--you know, it was in your honor, per
22 se, and it was going to be at the NCO club, so that's
23 something that's related to work, would you agree with that?

24 A **Sure.**

25 Q And would that be the same case if he's building map cases,

1 and if he's building shadow boxes that are to be displayed
2 throughout the MATES facility?

3 **A Shadow boxes displayed at the MATES facility?**

4 Q Map cases, Iraqi map cases?

5 **A I don't--well--**

6 Q Is there an Iraqi map case in the break room at the MATES?

7 **A There is.**

8 Q That Joe built?

9 **A I--I believe he did build it.**

10 Q Okay. So--so if he were to use wood for those purposes,
11 would those be okay, in a sense, because it is a work-
12 related issue, as commemorating, I'm assuming, a deployment
13 to Iraq?

14 **A Sure.**

15 Q Okay. Do you know of anybody else at the MATES who has
16 asked Joe to build any manner of wood structure or item for-
17 -for work?

18 **A I don't recall. No.**

19 Q Have you ever known or heard anybody to ask Joe to build
20 bookshelves for work, desk shelves?

21 **A (Witness shakes head negatively)**

22 CAPTAIN BEDELLS: Master Sergeant Cooper, you have
23 to answer in the affirmative, because the record won't pick
24 up. So if it's no--

25 THE WITNESS: I understand.

1 CAPTAIN BEDELLS: --you have to say no.

2 THE WITNESS: The first question you asked?

3 BY MR. BANCHS:

4 Q Bookshelves?

5 A **Bookshelves? Maybe--maybe bookshelves. Maybe Colonel
6 McNamara had him build a bookshelf for his office.**

7 Q And they're wooden bookshelves, correct?

8 A **Yes.**

9 Q Okay. How about desk shelves, wooden desk shelves?

10 A **Desk shelves? Help me out with that. I'm not sure what you
11 mean by desk shelves.**

12 Q Wooden backs on desks--just wooden items for a desk? You
13 can say--if you don't know, you can say--

14 A **I don't know. I don't know--**

15 Q Okay.

16 A **--what you're really talking about, so.**

17 Q How about new bench tops, I'm assuming for--for the--for a
18 toolbox or a work bench?

19 A **I don't know.**

20 Q Wood decking on trailers?

21 A **Wood decking on trailers? You're asking me if Joe--**

22 Q Yes, sir.

23 A **--built them?**

24 Q Or if he repaired them or he used Government-purchased wood
25 for any of these--

1 **A** **I don't--**

2 **Q** --work-related issues?

3 **A** **I don't--**

4 THE HEARING EXAMINER: Ben, let me make sure I
5 understand what you're asking. You're talking specifically-
6 --everything that you're asking right now is for work-related
7 trailers, offices on post?

8 MR. BANCHS: And here's where I'm going with this,
9 sir--yeah. I mean, the accusations are being levied against
10 Mr. Smock that he used Government wood for illegal purposes.

11 THE HEARING EXAMINER: Per- --well, specifically
12 for personal use.

13 MR. BANCHS: For personal use, yes.

14 THE HEARING EXAMINER: Right.

15 MR. BANCHS: But the point that I'm trying to make
16 is that there was wood flying out of the woodshop in certain
17 areas--

18 THE HEARING EXAMINER: Gotcha. Okay.

19 MR. BANCHS: --because he was building BII boxes--

20 THE HEARING EXAMINER: Okay.

21 MR. BANCHS: --and he was, you know, doing odds
22 and ends around the MATES facility with wood, which is a
23 consumable product. It's--

24 THE HEARING EXAMINER: Go ahead.

25 MR. BANCHS: Yeah.

1 BY MR. BANCHS:

2 Q You don't have any knowledge of these, but have you seen
3 these types of wood items at the MATES? The benches and
4 stuff like that? So if wood was being used to--to either
5 fix a work bench or make bookshelves and stuff like that,
6 there would be a reason for wood to be ordered and for wood
7 to be used at the woodshop; would that be correct?

8 A **There--yes.**

9 Q Okay.

10 A **There would be. Correct.**

11 Q Thank you.

12 A **Not at the volume that we were ordering and using wood, but,
13 yes, there would be a need to have wood there. Yes.**

14 Q How much volume exactly are we talking about that doesn't
15 correlate with what you would think would need to be used?

16 A **Well, I just know that, after the mobilization of units
17 started to draw down quite a bit, there was no need for Joe
18 to build BII or MO boxes anymore. And that the CSMS
19 absorbed that entire mission. So I--I can't even tell you
20 the last time Joe built a BII box or a MO box for a
21 mobilizing unit.**

22 Q But should you have this knowledge?

23 A **Well--**

24 Q I mean, does Joe report to you?

25 A **No, absolutely not.**

1 Q So if Joe was building BII boxes, even though deployments
2 were being ramped down, would you necessarily know or not
3 know about this?

4 A Typically I would. You have to remember I work in the QC
5 office. And we're kind of the hub of information or we
6 were--at least, we were supposed to be. And Colonel
7 McNamara was my supervisor and also Joe's supervisor. So
8 there was a lot of information that even the whole part--the
9 whole team did that I would have knowledge of.

10 Q Do you know exactly how much wood was being ordered or used
11 every month? And let's--I'll narrow it down to just, you
12 know, the period between the time events--the events--the
13 investigation started or maybe just the 12 months preceding
14 that? So if--

15 A Do I have knowledge? No.

16 Q August 2013 to August 2012, do you know how much wood was
17 ordered and used?

18 A I do not.

19 Q So--so your speculation that there was more wood going out
20 that should have is based on what, if you don't know how
21 much wood was ordered?

22 A Based on accounts of individuals from the shop.

23 Q So these--these--these are--these are hearsay accounts,
24 then? You don't have any direct knowledge?

25 A Hearsay? I don't know if there's a read for anybody to lie

1 **to me about what was being taken from the shop.**

2 Q Okay. So based on your conversations with these other
3 people about how much wood was being purchased and was going
4 out the door? Well, would you make an educated guess as to
5 how much that amount of money was, per se? How much wood
6 was being purchased, in other words? Do you have any idea?

7 A **I have no idea.**

8 Q Okay. You don't want to take a shot at it?

9 A **No.**

10 Q Okay. What if I told you that, between November of 2012 and
11 August of 2013, that it was \$4,000 worth of wood purchases?
12 Would that jar your memory or would that make sense?

13 A **No. I actually--it seems actually kind of excessive,
14 because there's really no need to--there's no need to have
15 that lumber at the shop, the need to have that volume of
16 lumber at the shop. We weren't building anything.**

17 Q Okay. Do you know how much wood is still at building--or--
18 by the time you left, which you left in May, do you know how
19 much wood was actually in Building 1404?

20 A **No. I don't. Didn't have access to it.**

21 Q So you don't actually know if wood actually was missing;
22 you're just going off of what these other people are telling
23 you, correct?

24 A **That's correct. I did not have access to the building.**

25 Q Okay. Now, I'm going to ask you some questions related to

1 the questions that Captain Bedells asked you. Captain
2 Bedells asked you if you were a Union member and if you had
3 asked for Union representation during these interviews, and
4 you unequivocally said no. And you were concerned. And the
5 reason that you--you said you didn't ask for Union
6 representation was because, after certain interviews, you
7 had observed--you allegedly observed Sergeant--Mr. Jim Sweat
8 and Mr. Smock go in closed-door meetings with people after
9 the interviews. He said--you said some of them lasted for
10 hours. So--so you were bothered by the fact, I'm assuming--

11 **A I was.**

12 **Q --that they were discussing the interviews with other
13 people; is that correct?**

14 **A That's correct. And I quickly realized that--and I made a--
15 a decision right then and there that I could no longer be a
16 part of an organization that protected criminals and
17 concealed the theft of Government property. So I
18 immediately tried to remove myself from the Union at that
19 time, which I was told I couldn't because the only time I
20 could do that was in September, which I took advantage of
21 that in September, along with quite a few other employees
22 from--from MATES.**

23 **Q Okay. So--I want to phrase--I don't want to be
24 disrespectful, because I know Mr.--Captain Bedells is going
25 to object. But I'm wondering why--**

1 CAPTAIN BEDELLS: Then don't ask it if I'm going
2 to object.

3 BY MR. BANCHS:

4 Q --I'm wondering why you had such a problem with Mr. Sweat
5 and Mr. Smock discussing--potentially discussing, because
6 you don't know what actually happened behind closed doors,
7 do you?

8 A **That's--I do not.**

9 Q But your assumption was that they were discussing the
10 interviews with other employees or what had happened behind
11 closed doors with other employees?

12 A **Yeah.**

13 Q Yet you have already testified that you openly discussed
14 your interview with Mr. Mack and with other employees?

15 A **Not the entire investigation.**

16 Q Okay. Well, Mr. Mack testified--I'm sorry. He didn't
17 testify. He told Colonel Doolittle basically that y'all had
18 discussed the interview.

19 A **Yeah. We did--we talked about the interview. We didn't
20 discuss the entire--the entire interview.**

21 Q Okay. So--but--humor me here. Why is the standard
22 different for you than it is for them? Why is it okay for
23 you to discuss your interview--

24 A **Why would the Union have the ability to sit in on an
25 interview with Colonel Doolittle and then come back and back**

1 **brief the accused? I'm not sure I'll--I don't understand**
2 **that part.**

3 Q But you just told me that you don't know exactly what the
4 conversations were behind closed doors. You're--

5 A **Of course I--**

6 Q --assuming, correct?

7 A **I don't--well, it's--you don't have to be a rocket scientist**
8 **to figure out what they were discussing for hours on end**
9 **after they left Camp Grayling during an interview.**

10 Q But, again, you're sitting here and you're speculating what
11 was going on behind closed doors. But we have--in the
12 record, we have, not testimony, but narratives that clearly
13 indicate that you and Mr. Mack were talking actively about
14 the investigation. But you--you want us to overlook that,
15 and you want us to highlight what the Union was doing.

16 CAPTAIN BEDELLS: I don't--

17 THE HEARING EXAMINER: It's established--it's
18 established for the record.

19 CAPTAIN BEDELLS: And I'm going to object to the
20 characterization. He's not--he's not asked you to overlook
21 anything. He's--he's--

22 THE HEARING EXAMINER: It's--

23 MR. BANCHS: --he's answered more than once that
24 he had a conversation with Chief Mack.

25 MR. BANCHS: Okay. I'll ask it--

1 CAPTAIN BEDELLS: You don't--you don't like the
2 answer, but--

3 MR. BANCHS: I'll ask it a different--

4 THE HEARING EXAMINER: Let--let--

5 CAPTAIN BEDELLS: --he's--he's--

6 MR. BANCHS: I'll ask it a different--

7 THE HEARING EXAMINER: Hold on. Let me interject.
8 It's established for the record that Sergeant Cooper made a
9 personal decision not to discuss or bring the Union in as
10 far as his involvement--

11 MR. BANCHS: Right.

12 THE HEARING EXAMINER: --with the investigation.
13 It's also established for the record that, yes, in fact, he
14 talked--

15 MR. BANCHS: Okay.

16 THE HEARING EXAMINER: --to folks that he felt
17 comfortable with about the investigation while the
18 investigation was ongoing.

19 MR. BANCHS: Right.

20 THE HEARING EXAMINER: So I just want to establish
21 that those--those two things are on the record.

22 MR. BANCHS: Right. But what I want to establish
23 is that the Union has a legal right to speak to the
24 employees, where he was advised not to.

25 CAPTAIN BEDELLS: We'll stipulate to it.

1 MR. BANCHS: Great. Thank you.

2 THE HEARING EXAMINER: He was advised not to what?

3 MR. BANCHS: That--well, each person that was
4 interviewed in the investigation was advised not to talk
5 about it.

6 THE HEARING EXAMINER: Oh.

7 MR. BANCHS: Yes, sir.

8 THE HEARING EXAMINER: Check.

9 THE WITNESS: Well, we were also advised not to go
10 out to Camp Grayling without Union representation.

11 MR. BANCHS: Do you mind if I explore this?

12 CAPTAIN BEDELLS: No. He's offered it up, so.

13 MR. BANCHS: Okay.

14 BY MR. BANCHS:

15 Q What do you mean?

16 **A I mean that, when the investigation started--took place, Joe
17 and Jim Sweat almost insisted that anybody going out to Camp
18 Grayling should have Union representation there.**

19 Q You were a member of the Union at that time, correct?

20 **A I was.**

21 Q Well, do you--are you familiar with what the role of the
22 Union is in the workplace legally?

23 **A Well--**

24 Q Not that we're corrupt or anything, but our legal obligation
25 to the employees is what?

1 **A** **I'm not really sure, because no one reached out to me during**
2 **this investigation like they did and wanted to represent**
3 **Joe.**

4 **Q** But you just said that the Union briefed y'all and advised--
5 and really advised y'all to have representation during the
6 interviews.

7 **A** **Because they wanted to know what was being said in--during**
8 **the interviews.**

9 **Q** Is that what they said? Did they come out and say "We want
10 to be in the interviews because we want to--we want to know
11 what's being said"?

12 **A** **They say that? I don't think so.**

13 **Q** Wasn't it more like you don't have to testify if it's
14 hearsay?

15 **A** **No. They just advised us not to go out there--basically**
16 **don't go out there and participate in this investigation.**

17 **Q** So the Union was actively telling you not to cooperate with
18 the investigation is your testimony?

19 **A** **Pretty much, yes.**

20 **Q** Is that what they said?

21 **A** **If you read in between the lines, yes--**

22 **Q** Not in between the lines--

23 **A** **--that's what they said.**

24 **Q** --sir. This is--this is--

25 **A** **They insinuated that you shouldn't cooperate with this**

1 **investigation.**

2 Q Okay.

3 A **And if you did, and if you ever wanted to be hired at Camp**

4 **Grayling, you would never be hired at Camp Grayling if you**

5 **participate in this investigation.**

6 Q Is that exactly what they said or is that--was that--

7 A **That's exactly what--I think, Joe--Joe said.**

8 Q That--so now you're new--you have new testimony now that

9 this is what Joe Smock said during the investigations?

10 A **During the investigations from--from probably November**

11 **until, well, April.**

12 Q And he was acting in his Union capacity?

13 A **I'm not sure what capacity he was--**

14 Q Well, he was a Union--

15 A **--acting in.**

16 Q --President at the time?

17 A **He was.**

18 Q Did you notify anybody at Human Resources that this was

19 taking place, because that would be a natural unfair labor

20 practice charge that the Agency could take against the

21 Union?

22 A **Did I contact anybody? No.**

23 Q You didn't feel--

24 A **Who do you trust?**

25 Q You didn't--well, at that time, you said that you would--you

1 began to trust Colonel Doolittle, and you began to trust the
2 process. So you either trusted the process or you didn't.

3 **A I gained--I earned--I started--I started to trust Colonel**
4 **Doolittle, but outside of that, I still don't--I don't trust**
5 **anybody at--**

6 Q Was--

7 **A --HRO or--**

8 Q Was the Union trying to hide their--their advised employ- --
9 their advice to employees? What I'm trying--let me rephrase
10 it another way. Was the Union secretive in their advice to
11 employees?

12 CAPTAIN BEDELLS: I don't understand--I guess--

13 THE WITNESS: I don't--I don't understand the
14 question.

15 CAPTAIN BEDELLS: --I don't understand that
16 question.

17 BY MR. BANCHS:

18 Q I think--well, the Union advising employees to avail
19 themselves of--of Union representation, was that being done
20 behind closed doors or was this something that the Union was
21 putting out there to all employees, whether they were Union
22 members or not?

23 **A They put it--Jim Sweat wrote his name on the--the board in**
24 **the break room. If you want Union representation--you**
25 **shouldn't go out to Camp Grayling unless you have Union**

1 **representation, put it that way.**

2 Q Okay. Let's see, if you don't mind, sir--

3 MR. BANCHS: Ma'am, what's the FaceBook--my
4 FaceBook post tab in the 15-6? I think it's--I think it's
5 the second-to-last one. There was go.

6 LIEUTENANT COLONEL NIEDERGALL: H.

7 MR. BANCHS: Right here.

8 LIEUTENANT COLONEL NIEDERGALL: H. Yeah.

9 CAPTAIN BEDELLS: What's the point of this line of
10 questioning now? I understand he--we're going down this--

11 MR. BANCHS: Well, he opened the door.

12 CAPTAIN BEDELLS: Yeah, in some respects. But
13 we're--what's the end result--

14 MR. BANCHS: Well, now he--

15 CAPTAIN BEDELLS: --of where we're going?

16 MR. BANCHS: You know, as--as--as with the
17 previous new testimony, now there's new testimony that, not
18 only was Joe stealing--and I know he's not being accused of
19 this--but now he was coercing him not to cooperate with the
20 investigation.

21 THE WITNESS: Coercing everybody.

22 MR. BANCHS: Okay. So I just want to--I just
23 want--I want to put out there exactly what the Union was
24 briefing employees. And I'll just briefly read it and we
25 can move on.

1 CAPTAIN BEDELLS: Okay.

2 BY MR. BANCHS:

3 Q This is a post that I posted on FaceBook as a National Union
4 Rep, okay. "Attention technicians of the Michigan Army
5 National Guard. Senior leaders have authorized a 15-6
6 investigation that involves a large number of witnesses,
7 most of them in the Grayling area. The investigation--the
8 investigator is Colonel Scotty Doolittle. He is an M-Day
9 soldier who is a full-time law enforcement officer in the
10 civilian world, and he is conducting his investigation in a
11 very aggressive and confrontational manner. We do not agree
12 with the subject, conduct, questions or intent of the
13 investigation, but we cannot legally stop it. The sense
14 that we get is that this is a witch hunt, plain and simple.
15 But as Federal employees, you are required to cooperate and
16 answer truthfully, unless the investigation becomes
17 criminal. To make sure that your rights are not violated,
18 we can provide you with representation."

19 Now, does that sound along the lines of what Mr. Smock
20 and Mr. Sweat were briefly you guys?

21 CAPTAIN BEDELLS: Well, I'm going to object. The
22 first question you should ask him is has he seen that
23 FaceBook posting before today.

24 BY MR. BANCHS:

25 Q Have you seen this FaceBook posting before today?

1 **A No.**

2 CAPTAIN BEDELLS: Okay. So then I'll object to
3 any questions because it's immaterial to what happened
4 during the course of the investigation.

5 MR. BANCHS: Well, I think it is material.

6 CAPTAIN BEDELLS: He's not seen it until today.

7 MR. BANCHS: Okay. Now that he's had a chance to
8 see it--

9 BY MR. BANCHS:

10 Q --does it--does it coincide with what Mr. Joe--Mr. Smock and
11 Mr. Sweat were telling you guys?

12 **A Yeah. It does actually. Yeah.**

13 Q Okay.

14 **A I'd say that. Sure.**

15 MR. BANCHS: Can I take about 30 seconds real
16 quick?

17 THE HEARING EXAMINER: Off the record or--

18 MR. BANCHS: Oh, just right here. I've got to
19 talk to somebody.

20 THE HEARING EXAMINER: Go ahead.

21 LIEUTENANT COLONEL NIEDERGALL: You want a water?

22 CAPTAIN BEDELLS: No, I'm good.

23 LIEUTENANT COLONEL NIEDERGALL: Do you want
24 coffee?

25 CAPTAIN BEDELLS: Thank you.

1 LIEUTENANT COLONEL NIEDERGALL: It opens at 10:00-
2 -9:00 o'clock.

3 HEARING EXAMINER: Sure.

4 LIEUTENANT COLONEL NIEDERGALL: You--

5 CAPTAIN BEDELLS: No, thank you, ma'am.

6 BY MR. BANCHS:

7 Q All right. All right. Sergeant Cooper, all right, again,
8 I'm just going to go over the--the questions that Captain
9 Bedells asked you. The TV, again, I just want to verify,
10 you had no firsthand knowledge nor did you hear about it--
11 Joe's alleged theft of a TV?

12 **A No.**

13 Q Okay. Concerning the OSB and plywood, again, no firsthand
14 knowledge. So the question that I have on this one, sir,
15 is, when you put in your written statement that you had
16 direct knowledge, what--what does direct knowledge mean to
17 you?

18 **A It was a bad choice of word.**

19 Q Okay. So--so you do not have any direct knowledge?

20 **A I have--no.**

21 Q Okay. Good.

22 **A No.**

23 Q Just--just for--just for my edification, because I'm not
24 from up here, so I don't--I don't go ice fishing. I don't
25 have tip-ups or anything like that. But--and we don't have

1 one here, I don't think.

2 MAJOR JOHNSON: Yes, we do.

3 BY MR. BANCHS:

4 Q You know, the tip-up that you purchased or whatever the
5 little arms that Joe built for you, exactly how big are they
6 or what are--what are the dimensions? If you could just
7 maybe hold your hands out and--

8 THE HEARING EXAMINER: You're referring to the
9 shaft?

10 MR. BANCHS: The shaft, yeah.

11 THE WITNESS: Traditional ones are probably 18
12 inches.

13 BY MR. BANCHS:

14 Q In length--how wide--what are the--18 by what?

15 **A Probably 3-quarter by 3-quarter inch.**

16 Q So we're talking about maybe sticks, for the lack of a
17 better word, about this long?

18 **A Sure.**

19 Q Okay. Could those be made out of scrap wood? It wouldn't
20 take much wood to make one, would it?

21 **A No.**

22 Q Okay. So it wouldn't take a whole bunk of plywood to make a
23 tip-up?

24 **A You wouldn't make it out of plywood.**

25 Q What would you make it out of?

1 **A Lumber.**

2 Q What kind of lumber? Luan? OSB?

3 **A No. Oak, plank boards.**

4 Q Are those the type of wood that MATES usually would order or
5 anybody in the Government would order?

6 **A I don't do the ordering at the shop. I don't know.**

7 Q Okay. But the only thing that--that we have heard so far
8 that was ordered at the MATES was luan, OSB and plywood.
9 And none of those three types of wood are used to make tip-
10 up arms or--

11 **A No.**

12 Q Okay.

13 **A No.**

14 Q So then, when you were asked by Captain Bedells specifically
15 about the tip-ups--

16 **A Uh-huh.**

17 Q --when you purchased the tip-ups from him and he asked you
18 if it was Government wood, you--you said--if this is
19 correct--I might be wrong--you said that all the wood
20 belongs to the Government. So, in this case, in reference
21 to the tip-ups, then it couldn't have been Government wood?

22 **A I don't know. I don't do the ordering at the shop, like I**
23 **said.**

24 Q Okay.

25 **A I don't order the wood there.**

1 Q Okay. Thank you.

2 CAPTAIN BEDELLS: And I don't recall him answer- -
3 -answering that all the wood belongs to the Government
4 either. So we--

5 MR. BANCHS: Well, that's what I wrote here, so.

6 CAPTAIN BEDELLS: Yeah. We can go back and look
7 at the transcript. I'll place an objection.

8 MR. BANCHS: That's--I'm fine with--with the
9 answer.

10 CAPTAIN BEDELLS: Okay.

11 BY MR. BANCHS:

12 Q Concerning the luan, again, it was hearsay from Tim Sheldon
13 that this past winter--and you're talking about this winter,
14 correct? Is that when you heard it from him--

15 A **Yes.**

16 Q --that he was invited to go see the cabin and noticed that
17 the inside was lined with luan. Do you remember what day he
18 was invited to go see the cabin?

19 A **No.**

20 Q Was it Saturday, Sunday?

21 A **I have no idea.**

22 Q Okay. And it struck him because luan was there on Friday,
23 and now it was no longer there?

24 A **Uh-huh.**

25 Q Did he tell you how much luan exactly he took?

1 **A** **No.**

2 **Q** Or allegedly Joe took?

3 **A** **There was a pile of luan, that's all he--**

4 **Q** What--how big is a pile of luan exactly, because I'm not a
5 wood guy either?

6 CAPTAIN BEDELLS: Well, I'll object, because
7 apparently it was Tim Sheldon who told him it was a pile of
8 luan. So how he would know what Tim Sheldon means by a pile
9 of luan--

10 THE WITNESS: Right.

11 CAPTAIN BEDELLS: --I don't know. We're going to
12 call Tim Sheldon, right? He--right? Right.

13 BY MR. BANCHS:

14 **Q** Well, how would you interpret a pile--you know, what was
15 your--your--how can I rephrase this? What was your
16 impression--

17 THE HEARING EXAMINER: I don't know that it's
18 relevant what he thinks about how much wood was there.
19 It's--

20 MR. BANCHS: Well, it's relevant to--to whether he
21 believed Tim Sheldon or not, and here's why: Because the
22 wood was there on Friday and now it's gone on Monday.

23 THE HEARING EXAMINER: Yeah.

24 MR. BANCHS: So between Friday and Monday I want
25 to know how much wood Joe allegedly stole and put in his

1 shed.

2 BY MR. BANCHS:

3 Q And what was your impression of that?

4 CAPTAIN BEDELLS: I'll place the same objection.

5 He doesn't know. Because he--his previous testimony was not
6 that he personally observed the pile on Friday or Monday or
7 much less observed it at Joe Smock's place. He says he
8 heard it from Tim Sheldon. So he's not going to know the
9 size of the pile. He's not going to know the dimensions of
10 the luan. He's not going to know any of it because he's not
11 provided any testimony to that effect.

12 BY MR. BANCHS:

13 Q Well, were you--okay. Well, then I'll ask this: Were you
14 inclined to believe Tim Sheldon?

15 A **Absolutely.**

16 Q Okay. Why?

17 A **He has no reason to lie to me.**

18 Q You didn't--you didn't feel the need to ask him how much he
19 took?

20 A **No.**

21 Q So it could have been one sheet; it could have been the
22 whole stack?

23 A **It was enough to sheet the inside of his shed.**

24 Q And Joel Mack was with you when this tale was told to you
25 guys, right?

1 **A** **Tale?**

2 **Q** Account.

3 **A** **Yes, he was.**

4 **Q** Tires on the truck, no firsthand knowledge. You heard it
5 from Tim Sheldon, as well. And Tim will be here later.

6 **A** **Yes.**

7 **Q** Okay. Now, this one is interesting to me, because now you
8 have told us--and--and this--that Tim will not repeat his
9 allegation because he and Joe have been friends their entire
10 lives. Now, is that speculation or did Tim tell you this?

11 **A** **Mr. Mack had actually talked to Tim recently about this**
12 **hearing that was coming up. And with Tim contemplating**
13 **leaving this facility, leaving the shop and working for DTE,**
14 **I think he just pretty much assumed that Tim was not going**
15 **to disclose what he knows during the hearing.**

16 **Q** So Mr. Mack told you that he is assuming that Tim Sheldon
17 is--is, according to you guys, not going to tell the truth
18 today?

19 **A** **I don't think he'll come forward--I don't think he'll**
20 **disclose what he knows.**

21 **Q** But that's based on your conversation with Mr. Mack?

22 **A** **Well, and Tim Sheldon yesterday about leaving the shop and**
23 **going to work at DTE.**

24 **Q** So you spoke with Tim Sheldon yesterday?

25 **A** **I did.**

- 1 Q And did he tell you that he wasn't going to testify
2 truthfully today?
- 3 A **No.**
- 4 Q Did you talk about your testimony today at all with him--or
5 him with you?
- 6 A **No, very little. No. We talked about him leaving the shop
7 and going to work for DTE.**
- 8 Q Okay. As far as heaters, you claim no firsthand knowledge.
9 You said that you heard--you heard that Mr. Smock got his
10 hands on heaters. And this was from Todd Witcher.
- 11 A **We seen them on Craig's List, so.**
- 12 Q Yeah. You seen them on Craig's List. Yeah. Now, you
13 describe the heaters as being just regular hanging heaters--
- 14 A **Uh-huh.**
- 15 Q --that you could pretty--pretty much pick up anywhere,
16 correct? This is what you said--
- 17 A **Pretty much anywhere?**
- 18 Q --you said they were hanging heaters, common, but you don't--
19 they were common, but you don't remember the price.
- 20 A **They were common for Camp Grayling or in--you know, MATES
21 has heaters. Camp Grayling has the same type heaters,
22 hanging heaters.**
- 23 Q This is in Smock. Do these--does this look like one of the
24 heaters that was on the Craig's List?
- 25 A **I don't know. I'm not really sure.**

1 Q How about this one right here?

2 A **It might be.**

3 Q Is that something--

4 A **It's possible.**

5 Q --that the Government usually purchases?

6 A **They have them in buildings for heat, yes.**

7 Q But are those type--and I'm going show you a couple more

8 before I ask you my next question. How about this--this one

9 here? Does that look familiar?

10 A **It looks like a heater that you'd hang on a ceiling.**

11 Q So these are common, just ceiling heaters or hanging

12 heaters, correct?

13 A **It could be a--**

14 Q I guess what I'm trying to get at is--

15 A **--hanging heater yes.**

16 Q --they don't make--they don't make Government-specific

17 heaters?

18 A **I don't know. I'm not--I'm not a heater manufacturer or--**

19 Q Okay.

20 A **--purchaser. I don't know.**

21 Q So it's your testimony that you spoke with Colonel McNamara

22 about the fact that Joe had some heaters on Craig's List?

23 A **Yes, I did.**

24 Q And that Colonel McNamara subsequently went and spoke with

25 Mr. Smock?

1 **A** **Yes, he did.**

2 **Q** Were you there for that conversation?

3 **A** **I was not.**

4 **Q** Okay. Mr.--and Colonel McNamara came back and related to
5 you what he said to Mr. Smock?

6 **A** **He just--you know, I don't specifically remember. He went**
7 **and talked to him. He came back and he told me the**
8 **explanation that Joe gave him as to what the heaters were**
9 **from or where he got them.**

10 **Q** Is it possible that the heaters that Joe Smock was
11 advertising on Craig's List, if he even advertised heaters
12 on Craig's List--

13 **A** **If he?**

14 **Q** If--

15 **A** **I seen it on Craig's List myself.**

16 **Q** Do you have a snapshot of the screen?

17 **A** **No, I don't have a snapshot of the screen.**

18 **Q** Okay. But is it possible that, if he did advertise heaters
19 on Craig's List, that maybe they were his own personal
20 heaters?

21 **A** **I--it's--it's doubtful.**

22 **Q** And why is that?

23 **A** **Because of what Joe had told Todd Witcher about having**
24 **heaters--getting heaters from Camp Grayling.**

25 **Q** Okay.

1 **A And that, "Don't go out and buy one. I'll get you a**
2 **heater."**

3 Q Where specifically on Camp Grayling would he have--did he
4 supposedly retrieve those heaters from?

5 **A I was just--I don't know.**

6 Q Does the 600 area sound familiar to you?

7 CAPTAIN BEDELLS: He's--he's testified he doesn't
8 know. He's testified he didn't personally observe him
9 remove the heaters, that he heard it through other people.
10 So I don't know how--I don't know how he would know where
11 they're removed from, so.

12 MR. BANCHS: I just asked him if he--if the 600
13 area sounded familiar to him.

14 THE WITNESS: Yeah. I think I even actually
15 mentioned that in my--my statement possibly about the 600
16 area was--

17 BY MR. BANCHS:

18 Q Sure. Can you show us where?

19 **A I'm--well, I'm looking. I don't see it. I'm not sure where**
20 **he got them.**

21 Q In your testimony you said that "There are also other
22 instances when Joe Smock would steal old heaters from
23 buildings that were torn down at Camp Grayling."

24 CAPTAIN BEDELLS: Can you point to where that is
25 in his testimony?

1 MR. BANCHS: It's going to be 2 Delta 1 at the
2 very end.

3 THE WITNESS: Yeah. Joe had--Joe knows a lot of
4 people.

5 BY MR. BANCHS:

6 Q Okay.

7 A I mean, Joe grew up in the--he knows everybody at Camp. He
8 knows everybody in the community. He's got friends. He's
9 got connections. I mean, he's well-established here. He--
10 he's--he can get his hands on anything.

11 Q And all these people are willing to lie for him?

12 A I cannot testify what people--

13 Q Well, let me show you a--

14 THE HEARING EXAMINER: Let--let me ask a specific
15 question here. You made the statement that--that Mr. Banchs
16 just read. When you made that statement on November 5th--

17 MR. BANCHS: On December 10th, sir.

18 THE HEARING EXAMINER: That's right. This is the
19 sworn statement. December 10th, did you make that statement
20 based upon direct knowledge that he stole heaters from
21 buildings that were torn down at CG, and sold them on
22 Craig's List, direct knowledge?

23 THE WITNESS: Direct knowledge, no. I seen them
24 on Craig's List for sale.

25 THE HEARING EXAMINER: Okay. So it--would it be

1 fair to say that--that you said that based on a conversation
2 you had with Witcher, where Witcher indicated Joe told him
3 he could get him a heater--

4 THE WITNESS: Yes.

5 THE HEARING EXAMINER: --number one? And, number
6 two, you saw heaters on Craig's List with Joe's phone
7 number?

8 THE WITNESS: Yes.

9 THE HEARING EXAMINER: Any--any other reason you
10 would have made that statement on the 10 of December?

11 THE WITNESS: No.

12 THE HEARING EXAMINER: Okay. Thank you.

13 BY MR. BANCHS:

14 Q Can you--this is in the Smock Exhibit--this is just--if you
15 could read this letter from Mr. Jim Shirky.

16 **A I've already read it actually.**

17 Q Okay. Great. Would that give you any reason to believe
18 that maybe the heaters did belong to Joe, and he didn't get
19 them from the Camp Grayling--

20 **A No.**

21 Q --area? And--

22 CAPTAIN BEDELLS: What is that--excuse me. What
23 is it--what did you just show him?

24 MR. BANCHS: Oh, it's Jim Shirky's letters and--

25 CAPTAIN BEDELLS: And unsworn letter?

1 MR. BANCHS: It is unsworn, but it--
2 CAPTAIN BEDELLS: Okay.
3 MR. BANCHS: --is a letter.
4 CAPTAIN BEDELLS: Okay.
5 MR. BANCHS: Yes.
6 THE HEARING EXAMINER: Is Jim Shirky a witness?
7 CAPTAIN BEDELLS: He's not our witness, sir.
8 MR. BANCHS: No, sir.
9 THE HEARING EXAMINER: Okay.
10 MR. BANCHS: No, sir. He can be.
11 THE HEARING EXAMINER: We can talk about it.
12 MR. BANCHS: We didn't feel it was important since
13 we had letters, but we can certainly produce these people.
14 BY MR. BANCHS:
15 Q I'm almost done. I just want to confirm the parts from the
16 air-to-ground range. Again, you had no firsthand knowledge
17 of it?
18 A **That's correct.**
19 Q And you heard it from Mack--from Joel Mack that Joe took
20 engines from Kubota tractors?
21 A **Mack and Tim Sheldon.**
22 Q And Tim Sheldon. Okay.
23 A **Yes.**
24 Q And on the diesel, again, you claim no firsthand knowledge.
25 And it--when you were first interviewed by Colonel

1 Doolittle, you claimed no knowledge of it; a month later you
2 had knowledge of it, correct?

3 **A Sure.**

4 **Q** Okay. We're almost wrapping up here. When was the last
5 time that you actually visited or were at Joe's property, at
6 his house?

7 **A** Probably a couple years ago. I was having--actually, I was
8 repairing a tip-up that I had purchased from Joe. And the
9 trigger, the AWAB hose that he used was coming out of the--
10 of the--of the wood. And I needed--he had the specific
11 staple gun that I needed to repair it. So he told me to
12 just go over there to the garage. It's on this shelf and
13 help yourself. Go in there and grab it.

14 **Q** Okay. And, at that time, you saw the gazebo?

15 **A** Sure.

16 **Q** But you don't remember exactly what year you were there?
17 Was it before--

18 **A** See--just give me a minute here.

19 **Q** Okay. I'm sorry.

20 **A** I'm going to try to put this together for you. I'm going to
21 say 2012.

22 **Q** Okay. And you said it was built with treated lumber?

23 **A** Uh-huh.

24 **Q** What--what makes you believe, other than--if you saw it--I'm
25 sorry. Let--let me put this together. When did you hear

1 that Joe built the gaze- --from--from--you testified that
2 you heard from Joel Mack that--that--that Joe told him he
3 built the gazebo using Government wood.

4 **A Uh-huh.**

5 Q Okay. Was that before or after you saw the gazebo?

6 **A I don't know. I don't know. I don't--**

7 Q Did you--did you--were you up close to the gazebo? Because
8 the gazebo's about what? 50 yards from the house?

9 **A Sure. I--I don't know how far it's from the house.**

10 Q So did you see the gazebo just from the house 50 yards away
11 or were you right up close to the gazebo?

12 **A Quite a distance. I mean, I was on his driveway.**

13 Q So there's no--so--well, how do you know that it was treated
14 lumber other than Joel Mack told you?

15 **A You--you can--you can tell when you're looking at a piece of
16 treated lumber. You know the difference between treated
17 lumber and non-treated lumber.**

18 Q Okay. But were there any special markings, maybe, on the
19 lumber that might have led you to believe there was--

20 **A I don't think I focused on the gazebo.**

21 Q It is possible--is it possible that Joel Mack is not being
22 completely truthful, and that Joe actually purchased the
23 wood? Is that a possibility?

24 **A I don't believe it's a possibility.**

25 Q Is MATES the only source of wood in Grayling?

1 **A No.**

2 Q Have--and you have seen--

3 **A What do you mean MATES--MATES is the only source of wood?**

4 **Camp Grayling has wood, as well.**

5 Q I'm talking for the town of Grayling.

6 **A Oh. No. No, there's vendors.**

7 Q So there is a possibility that Joe actually went and

8 purchased the wood, correct?

9 **A No. Because he told Joel Mack that he had got all the wood**

10 **from MATES to build a gazebo.**

11 Q Assuming that Joel Mack is telling the truth, correct?

12 **A There would be no reason for Joel Mack to--to say otherwise.**

13 Q And you have--have you seen all the documents in--in this

14 file--in this fold- --

15 MR. BANCHS: --has he seen this?

16 CAPTAIN BEDELLS: What--what is "this"?

17 MR. BANCHS: The Smock Exhibit. Has he seen it?

18 CAPTAIN BEDELLS: I've not shown it to him.

19 MR. BANCHS: Okay. Because he said he had seen

20 the letter from Jim Shirky, so I wasn't sure how he saw

21 that.

22 CAPTAIN BEDELLS: I don't--I don't know either,

23 but I haven't shown it to him.

24 THE HEARING EXAMINER: He also testified he saw

25 your rebuttal, and I think that's what you're referring to.

1 CAPTAIN BEDELLS: Yeah.

2 MR. BANCHS: Oh, yeah. The rebuttal did have all-
3 -so he has seen this. Okay.

4 CAPTAIN BEDELLS: Well, I don't--I didn't show it
5 to him, so I--I don't know.

6 Master Sergeant Cooper, have you seen the--those
7 documents before in the Smock file, Smock Case File?

8 THE WITNESS: I think so.

9 CAPTAIN BEDELLS: Okay.

10 BY MR. BANCHS:

11 Q Okay. Would this make you, you know, maybe rethink your
12 thinking on whether Joel Mack is telling the truth or maybe
13 that Joe has actually purchased, when we have letters from
14 Preston Feather Building Centers saying that Joe's been a
15 customer, a loyal customer since 1990 purchasing wood. We
16 have numerous invoices here of Joe actually purchasing wood.

17 A **That doesn't--no, that doesn't change my opinion at all.**

18 Q It wouldn't change it? Okay.

19 A **No. Not at all.**

20 MR. BANCHS: Let me see what you got.

21 MR. SMOCK: Nothing.

22 MR. BANCHS: Nothing. Okay.

23 MR. SMOCK: I'm good.

24 MR. BANCHS: No more questions at this time, sir.

25 THE HEARING EXAMINER: Redirect?

1 CAPTAIN BEDELLS: I want to go back to this
2 alleged no-fish lake.

3 THE HEARING EXAMINER: Objection.

4 CAPTAIN BEDELLS: I have no further questions.

5 THE WITNESS: Well, matter of fact the last time I
6 think I was on no-fish lake was with Joe and Jay Hawkins.
7 And we were out there from 6:00 o'clock in the morning until
8 6:00 o'clock at night with--

9 MR. SMOCK: Zero.

10 THE WITNESS: --nine tip-ups, and never had a
11 flag, so.

12 CAPTAIN BEDELLS: You're under oath, Master
13 Sergeant Cooper.

14 THE WITNESS: I am.

15 MR. SMOCK: He's telling the truth.

16 THE WITNESS: I'm telling you, it happened.

17 CAPTAIN BEDELLS: Okay. No further questions.

18 THE HEARING EXAMINER: I--I do have--I have one
19 question. For the record, and I remind you that you're
20 under oath.

21 EXAMINATION

22 BY THE HEARING EXAMINER:

23 Q Have there been any witnesses to this proceeding that have
24 told you--not that you have a reason to believe--but have
25 specifically told you that they do not intend to tell the

1 truth during this hearing?

2 **A Have they told me? No, sir.**

3 THE HEARING EXAMINER: Okay. Thank you.

4 Let me--hang on just one second.

5 I remind you that you remain under oath and that
6 you are subject to recall to this hearing until such time
7 that it's been adjourned.

8 Again, I'll remind you not to discuss your
9 testimony with anyone. And I thank you for your time here
10 today.

11 THE WITNESS: Thank you, sir.

12 (At about 10:03, witness released)

13 THE HEARING EXAMINER: We'll go off the record.

14 COURT RECORDER: We are going off the record. The
15 time is 10:03.

16 (Off the record)

17 (On the record)

18 COURT RECORDER: We are back on the record. The
19 time is 10:33.

20 THE HEARING EXAMINER: Raise your right hand,
21 please. Do you swear or affirm that the testimony that you
22 are about to give in this case is the truth, the whole truth
23 and nothing but the truth, so help you God?

24 MASTER SERGEANT HERBLET: I do.

25 THE HEARING EXAMINER: Further, you are advised

1 that you are assured the freedom from restraint,
2 interference, discrimination, coercion or reprisal for
3 testifying in this case.

4 Go ahead and have a seat, please.

5 Captain Bedells?

6 CAPTAIN BEDELLS: Thank you, sir.

7 MASTER SERGEANT TROY DON HERBLET

8 (At 10:33 a.m., sworn as a witness, testified as follows)

9 DIRECT EXAMINATION

10 BY CAPTAIN BEDELLS:

11 Q Sir, will you please state your full name for the record?

12 A **Troy Don Herblet.**

13 Q And--

14 MR. BANCHS: I'm sorry, sir. You're good.

15 BY CAPTAIN BEDELLS:

16 Q Mr. Herblet, you're currently a member of the Michigan Army
17 National Guard, correct?

18 A **Yes, sir.**

19 Q You're a Master Sergeant?

20 A **Yes, sir.**

21 Q How are you currently employed?

22 A **MATES shop.**

23 Q Okay. Are you a Federal technician?

24 A **Yes, sir.**

25 Q How long have you been employed at the MATES facility?

1 **A** **Since '91.**

2 Q Is that here in Grayling?

3 **A** **Yes.**

4 Q So almost 25 years, huh?

5 **A** **Yes, sir.**

6 Q Prior to working at the--well, 1991. So how long have you
7 been in the Army?

8 **A** **Almost 31 years.**

9 Q Okay. Prior to 1991, how were you employed?

10 **A** **I was active duty. Then I went to college for 3-and-a-half**
11 **years. And then I got a temporary job in Lansing, and then**
12 **Ypsilanti, and then I got full-time job up here.**

13 Q Okay. So you've been at the MATES facility in Grayling
14 since 1991?

15 **A** **Yes, sir.**

16 Q Are you originally from Grayling?

17 **A** **No, sir.**

18 Q No. What do--what--what is your position description at the
19 MATES facility right now?

20 **A** **Surface Maintenance Supervisor.**

21 Q How long have you held that position?

22 **A** **Since 2006.**

23 Q How many--you're a supervisor, correct?

24 **A** **Yes, sir.**

25 Q How many employees do you supervise?

1 **A Right now I believe about 18.**

2 Q Was Mr. Smock one of the employees you supervised?

3 **A Yeah. Quite--I don't know when it changed. He was for**
4 **awhile. But then it changed after that.**

5 Q Okay. What timeframe do you believe you supervised Mr.
6 Smock?

7 MR. SMOCK: You want me to answer that?

8 THE WITNESS: I don't--it's been--

9 MR. BANCHS: No. Not right now.

10 THE WITNESS: It's been two--two or three years
11 ago, probably. Just a guess. I could look it up, but.

12 BY CAPTAIN BEDELLS:

13 Q Okay. So you might have ceased being his supervisor around
14 2012?

15 **A Yeah. About that.**

16 Q Okay. When did you--do you recall when you might have began
17 supervising him?

18 **A I think it was when Colonel Golnick come back from**
19 **deployment, I think. 2007, was it?**

20 Q Okay. And who was--who is your--who currently is your
21 supervisor?

22 **A The interim supervisor out there is Major Austhof.**

23 Q Okay. When did he begin as his--as being the interim
24 supervisor?

25 **A March timeframe, February, March.**

1 Q Okay. And prior to that, who was your supervisor?

2 A **Lieutenant Colonel Chris Golnick.**

3 Q And how long was Lieutenant Colonel Golnick your supervisor?

4 A **Officially--when I got supervisor was 2006, so since then.**

5 Q Okay. So obviously you have occa- --you've had occasion as
6 Mr. Smock's supervisor at least from 2007 to 2012 to work
7 alongside him, correct

8 A **Yeah, a little bit.**

9 Q And--and what was his position, if you recall, while you
10 served as his supervisor?

11 A **He did building maintenance and a bunch of other stuff, OEM,
12 BII stuff.**

13 Q Okay. Well, let's--let's--I understand there's a lot of
14 stuff. Let's--so building maintenance, was that his
15 position description?

16 A **I don't believe it was. It was--well it change around quite
17 a bit there. Originally they come with a PD as a seamstress
18 or something. I remember that. But I don't know--other
19 than that it was facilities--it changed a couple, three,
20 four times his title did, because he ended up at Camp as a
21 facility manager or something like that.**

22 Q At Camp Grayling instead of MATES?

23 A **Well, he wasn't at Camp, but it was, like, his position was,
24 like, at Camp, but he was working at MATES. I--as far as I
25 can remember.**

1 Q Okay. Well, explain to me, because I--and forgive me,
2 because I'm kind of new to the Army and the Guard. So--so
3 he's at MATES, but at some point his job responsibilities
4 are here at Camp Grayling?

5 A **No. That's as far as on paper where that--his job title**
6 **from the description of his job. That's the only place it**
7 **fit that they was working at MATES. As far as I understand.**
8 **If I'm wrong--**

9 Q Okay. Well, I'm asking you the questions--

10 A **Right.**

11 Q --Master Sergeant Herblet.

12 A **Yep. Yes, sir.**

13 Q So, you know, if you--if you don't understand my question--

14 A **Yeah. I just don't know--**

15 Q --you can--you can look to me--

16 A **Yep.**

17 Q Let me just finish.

18 A **Okay.**

19 Q This is how this works, sir. You already know we've been
20 here a long time.

21 A **Yes, sir.**

22 Q So I'm going to ask questions of you. You're my witness.

23 A **Okay, sir.**

24 Q I've named you as a witness. If you don't understand my
25 question, you can look to me and say, "I don't understand

1 that, Captain Bedells." There's no need to look over--

2 **A Yeah.**

3 Q --they're not going to help you out. Okay?

4 **A Yes, sir.**

5 Q You might--what they might do is object to the form of my

6 question, okay, or the manner in which it's phrased. So if

7 they object to--to the question, then you can pause and the

8 Hearing Examiner, Colonel Dawkins, will issue a ruling. In

9 other words--

10 **A Okay.**

11 Q --"You know what, you can't ask that Captain Bedells," or

12 "Go ahead, I'm interested in the answer."

13 **A All right, sir.**

14 Q Tracking?

15 **A Yep.**

16 Q Okay. So at some point his position description is

17 seamstress; is that right?

18 **A As far as I remember, yes, sir.**

19 Q Okay. In that--what--what--what would he do as a seamstress

20 at the MATES facility?

21 **A There wasn't anything like that there, so--there was no**

22 **position like that there for as far as that goes. They were**

23 **trying to find a PD for him, the way I remember it, to fit**

24 **into his job.**

25 Q Who's "they"? When you say who's they--who's trying to find

1 him--

2 **A Well, I would assume Colonel Golnick.**

3 **Q** Okay. So--so the position description is at MATES, but he
4 actually works over at Camp Grayling?

5 **A No.**

6 MR. BANCHS: Can I object to this? What--where's
7 he going with this?

8 THE HEARING EXAMINER: Yeah. I agree. What's--

9 CAPTAIN BEDELLS: I want to know what relationship
10 that Master Sergeant's had with Joe Smock--

11 MR. BANCHS: Well, he said he was--

12 CAPTAIN BEDELLS: --when they worked together.

13 MR. BANCHS: --his supervisor from '07 to '12, I
14 believe.

15 CAPTAIN BEDELLS: Yeah.

16 MR. BANCHS: And then--

17 CAPTAIN BEDELLS: Well, I want to explore exactly
18 what--I mean, Master Sergeant Smock is the subject of this
19 hearing. I want to know exactly what he's doing. And who
20 better to ask than his immediate supervisor. I mean, every
21 witness we've had until now couldn't answer these questions.
22 That's why Master Sergeant Herblet's here. He's his
23 supervisor.

24 MR. BANCHS: Which--which questions exactly,
25 though? What--

1 THE HEARING EXAMINER: Let me ask this:

2 CAPTAIN BEDELLS: What he's doing.

3 THE HEARING EXAMINER: Between 20- -2007 and 2012,
4 do you know what PD Joe Smock was assigned to when he worked
5 for you directly?

6 THE WITNESS: No sir.

7 BY CAPTAIN BEDELLS:

8 Q Okay. So you're the immediate supervisor, and you don't
9 know the PD that he--that he holds?

10 A **No, sir.**

11 Q Do you know what he was doing?

12 A **He had a ton of different things he did. Building main- --**

13 Q Give me--give me an example of one of a ton.

14 A **Building maintenance, hazardous--**

15 Q All right. Hold on. Hold on. I already wrote down--

16 A **--communications--**

17 Q --building maintenance. Hold on. Building maintenance. So
18 what's involved in building maintenance?

19 A **Changing lights, fixing garage doors.**

20 Q At MATES?

21 A **Yes, sir**

22 Q Okay. Okay. Go on. You said there were a ton of them.
23 What's the next one?

24 A **There's hazardous waste.**

25 Q Okay. Hold on.

1 MR. BANCHS: Sir, can I--can I maybe help the
2 process. We did have Master Sergeant Smock's OPF file here
3 yesterday. That would--that would have an SF-50 in there
4 showing what job he was in during this time period.

5 THE HEARING EXAMINER: Captain Bedells, are you
6 specifically interested in the PDs he was--he's been
7 assigned to?

8 CAPTAIN BEDELLS: I'm specifically interest in,
9 sir, in what the supervisor knew of Mr. Smock while he was
10 supervising what he was doing. And he's answering my
11 questions.

12 THE HEARING EXAMINER: Okay.

13 CAPTAIN BEDELLS: And I don't--I think that's
14 it's--

15 THE HEARING EXAMINER: If we need to get the PDs,
16 we can. But go ahead with your questions.

17 CAPTAIN BEDELLS: Okay. I think it's a figure of
18 speech. I don't think there's going to be a ton. I think
19 we'll get to them.

20 BY CAPTAIN BEDELLS:

21 Q So--so at one point he's--his duties are hazardous waste?

22 A **He does--did all that stuff. Yeah.**

23 Q Okay. What is "all that stuff"? What did he do for
24 hazardous waste?

25 A **Well, we generate hazardous waste out there, and he got rid**

1 of it or disposed of it properly. And we had--he did
2 training classes for the stuff. And--

3 Q Okay. So we've got building maintenance and hazardous
4 waste. You said there were a ton. What other--are there
5 any other responsibilities?

6 A Yes, there was more. Oh, he did the--all the BII/OEM stuff
7 for all the track vehicles going in and out, and lot of the
8 wheeled vehicles. He had all the--the BII stuff that you
9 normally leave on the truck, we secured it, and he issued it
10 and turned it in and kept track of it.

11 MR. BANCHS: Can we clarify what BII and OEM stand
12 for?

13 THE WITNESS: Basic issue items.

14 MR. BANCHS: And OEM, sir?

15 THE WITNESS: Same thing but only different--
16 worded different.

17 MR. BANCHS: Okay.

18 THE WITNESS: I can't remember what it's called
19 though.

20 BY CAPTAIN BEDELLS:

21 Q Do you know what the words are in OEM?

22 A I could think of it, but--

23 Q Okay.

24 A --not at the top of my head right now.

25 Q Okay. Building maintenance, hazardous waste, BII, OEM.

1 Anything else?

2 **A Probably, but not that I can think of right now.**

3 Q So at least some of this--at--at least during some of this
4 point between 2007 and 2012, his PD rests at MATES, but he's
5 working at Camp Grayling; is that correct?

6 **A No, sir.**

7 Q No. His PD rests here at Camp Grayling--

8 **A It did--**

9 Q --and he's working at MATES?

10 **A It did for a short time, yes, sir.**

11 Q What time period would that be?

12 **A I'm not sure.**

13 Q Were you his supervisor then?

14 MR. BANCHS: Asked and answered.

15 THE WITNESS: Yeah, I don't--

16 CAPTAIN BEDELLS: Well, he's just testified he's
17 not sure what--

18 THE WITNESS: It changed--right. I'm telling--
19 what I'm trying to say, sir, is his PD changed three or four
20 times over the period of--

21 BY CAPTAIN BEDELLS:

22 Q From 2007 to 2012?

23 **A Yes, sir.**

24 Q So it was--it was during the period you were his supervisor
25 that--

- 1 **A** **I believe so.**
- 2 **Q** --that he--
- 3 **A** **Yes, sir.**
- 4 **Q** --that his PD rested here, but he was working at MATES?
- 5 **A** **Right. But I really, as far as the timeframe--because we**
- 6 **had--there was another person in there. Cindy Maddens was**
- 7 **in there. And I don't remember the timeframes when she was**
- 8 **there and when she left. And then I got tasked with doing**
- 9 **their--those people's time and attendance. And that was--**
- 10 **wasn't that much to it.**
- 11 **Q** Okay.
- 12 **A** **Because I didn't really--Colonel Golnick pretty much ran**
- 13 **them as far as tasking them out and stuff. And I didn't**
- 14 **really--wasn't much supervision involved there.**
- 15 **Q** Okay, Master Sergeant Herblet. Now, you provided testimony
- 16 in connection with this 15-6, correct?
- 17 **A** **Yes, sir.**
- 18 **Q** Now, notwithstanding the fact that you served as Mr. Smock's
- 19 supervisor from 2007 to 2012, would you consider him a
- 20 personal friend?
- 21 **A** **Yes, sir.**
- 22 **Q** Okay. You've known him since when?
- 23 **A** **Probably from the time I started at the shop.**
- 24 **Q** From 1991?
- 25 **A** **Probably, yeah.**

1 Q Okay. Well, I haven't had the opportunity to question Mr.
2 Smock, so I don't know when he began. But he--it's your
3 testimony he was working there in 1991, as well?

4 A **Yep.**

5 Q Okay.

6 A **Yes, sir.**

7 Q And in connection with the 15-6, which--which is in front of
8 you, did you--did you have occasion to provide a sworn
9 statement?

10 A **Yes, sir.**

11 Q Do you recall if you were provided an interview that was
12 recorded?

13 A **Yes, I was.**

14 Q Okay. Have you had an opportunity to--have you had an
15 opportunity to review your sworn statement at all?

16 A **No, I have not.**

17 Q Okay. No occasion to look at it before you came here today?

18 A **I didn't take the occasion, no, sir--**

19 Q Okay.

20 A **--as I deleted everything.**

21 Q How about the--how about the audiotape? Have you ever had
22 an opportunity to listen to your audiotape?

23 A **No, sir.**

24 MR. BANCHS: For the record, his--that--the notes
25 from his audiotape are not in--in the 15-6.

1 CAPTAIN BEDELLS: Okay.

2 BY CAPTAIN BEDELLS:

3 Q But you never listened to a disc of your audio interview,
4 correct?

5 A **No, sir.**

6 Q Okay. How many times did you speak with the investigating
7 officer Colonel Doolittle?

8 A **I believe twice.**

9 Q Twice. Did you provide a sworn statement after your--after
10 the first time you spoke with him?

11 A **I provided a sworn statement, yes.**

12 Q Okay. Did you provide--and you said you talked to him
13 twice, correct?

14 A **Yes.**

15 Q Did you provide a sworn statement after you spoke with him
16 on the second occasion?

17 A **I think that's when it was, the second one, yes, sir.**

18 Q Okay. So it was--it was after the second--second meeting
19 with Colonel Doolittle you provided a sworn statement,
20 correct?

21 A **Yes, sir.**

22 Q And after the--so it'd be your testimony that after the
23 first meeting you did not provide a sworn statement,
24 correct?

25 A **No, sir.**

1 Q Okay. Do you recall if Colonel Doolittle just--do you
2 recall if Colonel Doolittle just--if--do you know--do you
3 recall if he kept notes after your--during the course of
4 your interview in the first meeting?

5 A **Yes, he did.**

6 Q Okay. Did you ever have an occasion to take a look at those
7 notes?

8 A **No, sir.**

9 Q Okay. In front of you is--in front of you is an attachment
10 G to Exhibit 3 of this hearing, okay? Smock Exhibit 3.
11 It's labeled the case--or the Smock Case File.

12 A **Right.**

13 Q I want you to take a moment and take your time, okay, to
14 review the three pages that comprise Tab G.

15 A **Okay.**

16 Q Have you had an opportunity to review Tab G to Exhibit 3?

17 A **Yes, sir.**

18 Q Okay. Have you seen that document before today?

19 A **No, I have not.**

20 Q Okay. What do you understand this document to--to be, as
21 you--as you've had an opportunity to read it?

22 A **Basically all the charges--**

23 Q Okay. Against whom?

24 A **--or whatever you want to call it.**

25 Q Against whom?

1 **A Joe Smock.**

2 Q Okay. Now, what I'm going to do, Master Sergeant Herblet,
3 is we're going to walk through those charges.

4 **A Okay.**

5 Q Okay. And I'm going to ask you first whether you have any
6 personal knowledge. And, again, if you don't understand my
7 question, you can look to me and say, "I don't understand
8 your question, Captain Bedells." If you have no personal
9 knowledge, I'm going to ask you whether you've heard an
10 account of that allegation from any other person. Okay?

11 **A Okay, sir.**

12 Q I'm going to walk through them.

13 **A All right.**

14 Q The first one, A, "You wrongfully removed a flat screen
15 television from the MATES Building." Do you have any
16 personal knowledge of--let me just finish my question--do
17 you have any personal knowledge of Mr. Smock ever having
18 removed a flat screen TV from MATES?

19 **A No, I do not, sir.**

20 Q Have you ever heard an account from anyone else that he
21 removed a flat screen TV from MATES?

22 **A I heard that he removed Colonel Golnick's flat screen TV--**

23 Q Okay.

24 **A --that was delivered by truck there.**

25 Q Okay. From whom did you hear that?

1 **A** **I--I can't remember. It's just people talking about the**
2 **investigation and stuff is all I heard.**

3 **Q** Okay.

4 **A** **Because I never knew anything about it, sir.**

5 **Q** Okay. So I understand you have no personal knowledge, and
6 you didn't--

7 **A** **No, sir.**

8 **Q** You recall that you heard something to the effect that he
9 removed Lieutenant Colonel Golnick's television, but you
10 don't know from whom that you heard that?

11 **A** **No, I don't remember, sir.**

12 **Q** Okay. Next one, "You wrongfully removed sheets of OSB--"
13 which I understand to be oriented strand board "--from the
14 MATES building." My question to you is do you have any
15 personal knowledge of Mr. Smock removing OSB board from
16 MATES?

17 **A** **No, sir.**

18 **Q** My next question is do you have any knowledge--or did you
19 hear from any other source, any other person, whatsoever,
20 that Mr. Smock removed OSB from the MATES facility?

21 **A** **No, sir.**

22 **Q** Okay. Next question--oh, let me put it another way to you.

23 **A** **All right, sir.**

24 **Q** I've been told by Chief Mack, who testified here before you
25 under oath, stated that he had personally helped Mr. Smock

1 remove, not OSB, but plywood, okay, which is very similar, I
2 understand to OSB--

3 **A Okay.**

4 **Q**--sheets of it. So let me ask you this way: Did you ever
5 witness Mr. Smock remove plywood boards from the MATES
6 facility?

7 **A No, sir.**

8 **Q**Did you ever hear from anyone about Chief Mack's account of
9 he and Mr. Smock--

10 **A No.**

11 **Q**--removing plywood from MATES?

12 **A No, sir.**

13 **Q**Never heard that either?

14 **A No.**

15 **Q**Okay. Now, there's a more general sense of wood, of any
16 kind. Have you ever--ever witnessed Mr. Smock remove wood
17 from the MATES facility?

18 **A No, sir.**

19 **Q**Okay. Have you ever heard from anyone else an account of
20 Mr. Smock removing weight--wood of any sort from the MATES
21 building?

22 **A No, sir.**

23 **Q**Of any sort, whatsoever?

24 **A Not that I can--I mean, other than maybe in an ice fishing**
25 **thing or something. But he--**

1 Q Okay. Well, explain. What do you mean ice fishing thing?

2 A **He made tip-ups. But I mean I watched him carry the stuff**

3 **in the front door, so.**

4 Q Okay.

5 A **And he was trying to sell them.**

6 Q You watched--

7 A **He was trying to sell them--**

8 Q Okay. Stop.

9 A **Okay.**

10 Q Let me--let me--the only way this works--

11 A **Right, sir.**

12 Q --is if I ask the questions and then you answer. She--we

13 have a--we're getting a verbatim transcript, and we have a

14 court reporter here.

15 A **Okay, sir.**

16 Q So there's a method to the madness, trust me.

17 So you mentioned, other than--other than tip-ups; is

18 that right?

19 A **That's the only thing that I am personal witness of.**

20 Q Okay. So did you personally witness Mr. Smock with tip-ups

21 in the MATES facility?

22 A **Yes, sir.**

23 Q Did you purchase--

24 A **Yes, I did.**

25 Q --a tip-up from the MATES facility--

1 **A** **Yes, I did, sir.**

2 **Q** --or at--while at the MATES facility?

3 **A** **Yes, I did, sir.**

4 **Q** Did you pay Mr. Smock for the tip-up?

5 **A** **Yes.**

6 **Q** About how many tip-ups do you think you purchased?

7 **A** **I've only bought one.**

8 MR. BANCHS: I'll object. He's not charged with
9 selling stuff.

10 THE WITNESS: I only bought one tip-up, sir.

11 BY CAPTAIN BEDELLS:

12 **Q** Okay.

13 CAPTAIN BEDELLS: It's in the rec- --it's in the
14 record, sir, that tip-ups were--

15 THE HEARING EXAMINER: Go ahead.

16 CAPTAIN BEDELLS: --other people have testified
17 that he's built tip-ups at MATES. Okay.

18 MR. BANCHS: Well, you're asking him if he sold
19 it, not built it.

20 CAPTAIN BEDELLS: Okay.

21 BY CAPTAIN BEDELLS:

22 **Q** So you've witnessed these tip-ups inside the MATES facility,
23 correct?

24 **A** **Yes, sir.**

25 **Q** And you--and you mention that, why? Because my question

1 wasn't about tip-ups. It was about wood.

2 **A They're made of wood, sir.**

3 Q Okay. I'm not an ice fisherman, so--

4 **A Oh. Okay.**

5 Q --you have to forgive me.

6 **A All right.**

7 Q I don't know the first thing about it.

8 Okay. I'm sorry, I cut you off. About how many tip-
9 ups do you think you purchased?

10 **A I only bought one, sir.**

11 Q Just one?

12 **A Yeah.**

13 Q How much was it?

14 **A I don't--seems like 10 bucks or something. I don't know.**

15 Q \$10. What--what are they? I mean, what are we talking
16 about with a tip-up?

17 **A It's just a wooden cross with a reel on the bottom, fishing
18 line on it. And put your minnows down in the hole and--**

19 Q Is it made of--entirely of wood?

20 **A No.**

21 MR. BANCHS: I would--I would offer that we have
22 one here, if we want to bring it in and show it to people
23 physically.

24 CAPTAIN BEDELLS: I want his testimony as to what-
25 --what it is. So--I mean--

1 MR. BANCHS: All right.

2 THE WITNESS: It's for ice fishing, sir.

3 BY CAPTAIN BEDELLS:

4 Q Okay. Is it made entirely of wood?

5 A **No, sir.**

6 Q What--what other parts might be in there?

7 A **There a plastic reel on there, and a nail or something,**
8 **screw or something that holds the reel in, and the flag.**

9 Q Okay. What's the flag for?

10 A **Let you know when you got a fish on.**

11 Q Okay. Okay. Other than the--other than the tip-ups, is
12 there any other--any other wood that you've seen Mr. Smock
13 with at the MATES facility?

14 A **No, sir.**

15 Q Okay. And so, when you bought that tip-up, you walked out
16 the door of the MATES facility with that tip-up, right?

17 A **Yes, sir.**

18 Q You paid for it, it's yours and out the door you go, right?

19 A **Yes, sir.**

20 Q Okay. Okay. How about--we're moving down, so if you can
21 follow with me. On D, "You wrongfully removed sheets of
22 luan from the MATES building." Did you ever witness Mr.
23 Smock remove luan from the MATES building?

24 A **No, sir.**

25 Q Okay. Did you ever hear from anyone else, whatsoever,

1 whether they worked at MATES or didn't work at MATES, that
2 he removed luan from the MATES facility?

3 **A No, sir.**

4 Q Okay. You ever been to Mr. Smock's house?

5 **A Not in quite a few years.**

6 Q How many years?

7 **A Probably 8 or 10.**

8 Q Okay. Do you live here in Grayling?

9 **A Yes, sir.**

10 Q You still friends with Mr. Smock?

11 **A Yes, sir.**

12 Q Okay. You ever seen some sort of shed out at Mr. Smock's
13 house?

14 **A No, sir.**

15 Q Okay. Okay. E, "You wrongfully installed Government-
16 purchased tires on your son's truck." That's a pretty
17 specific allegation; is it not?

18 **A Yes, sir.**

19 Q Yeah. Did you ever witness Mr. Smock put Government-
20 purchased tires on his son's truck?

21 **A No, sir.**

22 Q Did you ever even see his son's truck at the MATES facility?

23 **A No, I have not.**

24 Q Did you ever hear from anyone else that he put Government-
25 purchased tires on his son's truck?

1 **A** **Only on this investigation is the only place I've ever seen**
2 **it.**

3 **Q** Okay. Well, you've seen it, but what I'm--

4 **A** **Yes.**

5 **Q** --saying is did you hear it from anyone else?

6 **A** **No, I did not.**

7 **Q** Okay. So what your testimony is is you're just reading it
8 for the first time?

9 **A** **Yes.**

10 **Q** Okay. But, perhaps, not the first time--

11 **A** **Not the first time. I've seen it before. But it's not--I**
12 **mean, it's not--**

13 **Q** But no one's ever told you, like, "Hey--"

14 **A** **No.**

15 **Q** "--Master Sergeant Herblet, I got to tell you about this one
16 time that I saw--"

17 **A** **No, sir.**

18 **Q** Okay. F, "You wrongfully removed heaters from buildings at
19 Camp Grayling." Did you personally observe Master--Mr.
20 Smock remove Government-purchased--or--I'm sorry--heaters
21 from buildings at Camp Grayling?

22 **A** **No, sir.**

23 **Q** Did you ever hear from anyone else an account of Mr. Smock
24 removing Government heaters?

25 **A** **No, sir.**

1 Q Never heard that from Chief Whitcher?

2 A **No, sir.**

3 Q Ever hear it from Master Sergeant Cooper?

4 A **No, sir.**

5 Q You ever hear it from Tim Sheldon?

6 A **No, sir.**

7 Q Ever hear it from Chief Mack?

8 A **No, sir.**

9 Q Okay. So no one. Okay. G, "You wrongfully removed
10 equipment parts from the air-to-ground range."

11 A **As far as that goes, I don't know what your definition of
12 "wrongfully" would be. Because I know he brought parts back
13 for the shop, like when we had the old fire trucks
14 transmissions, radiators and stuff like that we had for the
15 fire trucks. But I don't know of any wrongful stuff that we
16 didn't need.**

17 Q Okay. Yeah. I don't--I don't know that my definition of
18 "wrongful" really bears any significance here, but let's
19 explore what you just--what you just testified to.

20 A **Uh-huh.**

21 Q So you're testifying that he did bring some equipment or
22 parts from the air-to-ground range back to the MATES
23 facility; is that correct?

24 A **I know--I know equipment was brought back from the air-to-
25 ground range. That's normal practice for us, when we--**

1 because they got all those trucks up there. And, like, just
2 recently we went up there and took all the headlights
3 because we were out of headlights. And we had all the
4 people here doing training, and we didn't have any
5 headlights. We went up and took all the headlights out. I
6 don't remember who took them out, but we used them in
7 armory--Army vehicles.

8 Q Okay. What is--what--explain to me what this air-to-ground
9 range--

10 A They get a bunch of hard targets, vehicles and stuff, and
11 they strip them out so the oil and stuff don't leak out.
12 And then everything else is just thrown in a pile or
13 scrapped or--and if half the stuff's still good, the
14 engine's still running--if we needed an engine, we'd go get
15 an engine. Or if we needed a transmission to rebuild for
16 training for the component repair company that drills here
17 in Grayling, they'd bring engines back and tear them down
18 and--

19 Q Okay. Now, I want to be careful about your testimony. I
20 think you just testified that you know that equipment or
21 parts were brought from the air-to-ground range back to
22 MATES.

23 A Yes, sir.

24 Q But you didn't testify that it was Mr. Smock.

25 A I don't know who did it, sir. I was--

1 Q Okay. So--

2 A --never a part of it.

3 Q So you never personally observed Mr. Smock return from what

4 you surmise was the air-to-ground range with some of these

5 parts--

6 A No, sir.

7 Q --correct?

8 A No, sir.

9 Q Okay. Did you ever hear from anyone, including those

10 individuals I just mentioned, Sheldon, Witcher, Cooper,

11 Mack--did you ever hear from anyone that Mr. Smock had

12 removed equipment or parts from the air-to-ground range--

13 A To bring to MATES, sir?

14 Q Sure.

15 A Is that what you're talking about?

16 Q Sure. To bring to MATES.

17 A I mean, we--at one time, we brought a--there was a bucket-

18 loader that was up there that we brought back, and it's

19 still at the shop. We use it--

20 Q Okay.

21 A --all the time.

22 Q But it's particular to Mr. Smock. We've already crossed--

23 A I don't--I know James Brian was driving it, because I seen

24 him going down the road.

25 Q Okay.

1 **A** **And I don't know who was behind him or who was with him, so.**

2 **Q** **Yeah. Not interested in that.**

3 **A** **Okay.**

4 **Q** **My--**

5 **A** **Okay.**

6 **Q** **My question's very specific.**

7 **A** **All right.**

8 **Q** **Did you ever--**

9 **A** **I do not, sir.**

10 **Q** **You--and you never heard from any other person that Mr.**
11 **Smock had brought equipment from the air-to-ground range**
12 **back to MATES?**

13 **A** **Not to my knowledge, sir.**

14 **Q** **Is that a no or--**

15 **A** **No, sir.**

16 **Q** **--you don't recall?**

17 **A** **No, sir.**

18 **Q** **Okay. Okay. H, "You wrongfully removed diesel fuel from**
19 **the MATES building." Okay. Did you ever personally observe**
20 **Mr. Smock remove diesel fuel from the MATES facility?**

21 **A** **I never personally observed. I was asked one time--**

22 **Q** **Let me ask the--**

23 **A** **Okay.**

24 **Q** **Remember what--let me just ask the question.**

25 **A** **Okay, sir.**

1 Q So the follow-up is did you ever hear from anyone else an
2 account of Mr. Smock removing diesel fuel from the MATES
3 building?

4 A **No, sir.**

5 Q Okay. You never heard from anyone else?

6 A **No, sir.**

7 Q Now, you were about to--you were about to tell me something.
8 Go ahead and--now you can speak.

9 A **One time I was asked to verify what was in barrels--barrels
10 in the back of a truck. And when I went to verify it, they
11 were empty barrels. And that's the only thing.**

12 Q Okay. Who else--who asked you to verify what was in the--
13 what was in empty barrels--what you--you didn't know they
14 were empty until you sought to--

15 A **Right.**

16 Q --verify them, correct?

17 A **Exactly, sir.**

18 Q So who asked you to verify what was in a particular barrel?

19 A **Lieutenant Colonel Golnick.**

20 Q Do you recall approximately when this was?

21 A **I have--no. In fact, I got reminded of the fact because of
22 the people that were around the area, so.**

23 Q Where were you when Lieutenant Colonel Golnick asked you to
24 verify what was in--

25 A **I believe I was in the inspection office up front.**

1 Q Okay. Was anyone else present when Lieutenant Colonel
2 Golnick asked you--and tell me exactly in what form did he
3 ask you or did he order you? He's a Lieutenant Colonel--or
4 he's a supervisor there, right?

5 A **Yeah. I believe Thad Cooper was in the office. And he just**
6 **mentioned that--asked to go see what was in them barrels**
7 **that they just seen him pull in the gate with.**

8 Q Pull in the gate?

9 A **Yes.**

10 Q Okay. And when you say "him," you mean Mr. Smock?

11 A **It was--yes.**

12 Q Okay. Was anyone with Mr. Smock?

13 A **Yes. Joel Mack.**

14 Q Joel Mack was in the truck?

15 A **From--to my knowledge, yes.**

16 Q Okay.

17 A **That's what Colonel Golnick told me.**

18 Q Okay. But you didn't observe Joel Mack in the truck?

19 A **No.**

20 Q Did you even observe Mr. Smock in the truck?

21 A **No, I did not.**

22 Q Okay. So when you went to observe what was in the--or
23 verify was your word.

24 A **Yeah.**

25 Q When you went to verify what was in the barrels, no one was

1 in the truck?

2 **A No. It was parked, sir.**

3 Q Okay. So truck's parked. Do you remember what type of

4 truck it was?

5 **A It was a CUCV.**

6 Q I don't know what that--

7 **A Green camouflage. Chevy pickup. Military truck.**

8 Q MATES truck?

9 **A Yes.**

10 Q Okay. Not--not Mr. Smock's personal pickup truck?

11 **A No.**

12 Q Okay. So Lieutenant Colonel Golnick tells you in the where?

13 Inspec- --what do you--where were you?

14 **A Inspection office.**

15 Q Inspection office, with--yeah--with Coop- --Master Sergeant

16 Cooper's present, as well?

17 **A I believe so, sir, yes.**

18 Q He asks you, "Hey, Master Sergeant Herblet, can you go

19 verify what's in those barrels that just came in?"

20 **A Yes, sir.**

21 Q So how do--if you didn't observe Mr. Smock driving the

22 Government truck or Chief Mack in the truck, how do you know

23 they were in the truck?

24 **A That's what Colonel Golnick said.**

25 Q So Colonel Golnick told you that?

1 **A Yeah.**

2 Q Okay. Okay. So I presume you went to the truck--

3 **A Yeah.**

4 Q --to verify what was in the barrels?

5 **A Yes, sir.**

6 Q And tell me what--tell the Hearing Examiner what you

7 discovered?

8 **A They were all empty. There was--**

9 Q Okay.

10 **A --three--**

11 Q How many barrels?

12 **A Three.**

13 Q Three barrels?

14 **A Yep. That are empty.**

15 Q How big?

16 **A 55-gallon drums.**

17 Q Okay. And were they labeled, like, what should be in them?

18 **A I don't remember if there was a stencil on them or not.**

19 Q Right. Stencil. Right.

20 **A Right. They normally stencil them either empty or--**

21 Q What would typically be in a 55-gallon barrel at MATES?

22 **A It's hard to say. Normally oil.**

23 Q Okay. Oil?

24 **A Yeah.**

25 Q What did--what did you believe to be in those barrels?

1 **A** Well, I--I don't remember what they were stenciled, but I
2 thought they said used diesel or something on them.

3 **Q** Okay.

4 **A** Diesel or used diesel. I don't remember.

5 **Q** All three empty?

6 **A** Yes, sir.

7 **Q** Did you, like--how did you verify whether--that they were
8 empty?

9 **A** Grabbed them. Grabbed onto them. Grabbed them by the rim
10 so--try to roll them around, they're empty.

11 **Q** Oh, are they--how--oh. It's like--

12 **A** They were laying down.

13 **Q** How were they configured?

14 **A** They were laying down.

15 **Q** They were laying down?

16 **A** Yep.

17 **Q** Did you see--did you see the truck--and I'm not saying who
18 was driving--but did you see the truck leave with those
19 barrels earlier--

20 **A** No.

21 **Q** --in the day?

22 **A** No.

23 **Q** Okay.

24 **A** Did not.

25 **Q** Did anyone tell you when it--when that truck left or who was

1 driving--

2 **A No.**

3 Q --it--well, Lieutenant Colonel Golnick told you that Joe

4 Smock was driving, correct?

5 **A He--he just said--mentioned those two names.**

6 Q Okay.

7 **A He didn't--I didn't get who was driving.**

8 Q So it could have been Chief Mack driving for all we know?

9 **A Could have been.**

10 Q Because you didn't--you didn't see anyone?

11 **A I did not see it, no, sir.**

12 Q Okay. And do you recall--do you recall when this was

13 approximately? I'm not looking for 2000- --

14 **A It's a long--it was way back, 2006 or '07, maybe 2008. It**

15 **was a long time ago.**

16 Q Okay. If it was 2007, 2008--well, let me ask you another

17 way. At this--at this point, were you asked to go verify

18 what was in there because you were, in fact--

19 **A No, I was not. Cindy--**

20 Q --Mr. Smock's supervisor at that time?

21 **A Cindy Maddens was the supervisor at that time.**

22 Q Oh, at that time--

23 **A Whenever this was.**

24 Q So it probably wasn't 2007 or 2008?

25 **A Right. I'm not sure, sir. I know I was not the supervisor.**

1 Q So it probably was before 2007?

2 A Yes.

3 Q Okay. Why would--I mean, you've been there since 1991 at
4 MATES, right?

5 A Yes, sir.

6 Q Why would three 55-gallon drums of diesel fuel go off MATES
7 in the back of a truck, even if they were empty, okay--

8 MR. BANCHS: I object to this. The witness never
9 said that they actually left the facility. He just said the
10 truck was parked.

11 CAPTAIN BEDELLES: He testified that Lieutenant
12 Colonel Golnick say--said it came in. I think it's fair to
13 assume that it left at one point, because it came in the
14 gate.

15 MR. BANCHS: If I remember the witness' testimony
16 correctly, as I wrote it, he was asked to verify what was in
17 the barrels in the back of a truck.

18 CAPTAIN BEDELLES: We can read the transcript back.
19 I'm absolutely certain he said it came in the gate, and I
20 asked a question about it.

21 THE HEARING EXAMINER: He said it came in the
22 gate, and the reason he knew that was because Colonel
23 Golnick told him that.

24 CAPTAIN BEDELLES: Right.

25 MR. BANCHS: He never saw it--

1 THE HEARING EXAMINER: Are--are you asking from
2 the standpoint if he would be an expert on understanding
3 what--when barrels come in or don't come it?

4 CAPTAIN BEDELLS: He's been there since 1991. I
5 want to know why--why a 55-gallon drum of diesel--

6 THE HEARING EXAMINER: He would be speculating,
7 if--if he answers.

8 CAPTAIN BEDELLS: I under- --I understand that.
9 But I want to know if there's--if there's any reason why 55-
10 gallon drums of diesel fuel would--would leave the MATES
11 facility.

12 THE HEARING EXAMINER: I'll hear it.

13 THE WITNESS: Then--as far as--say that again,
14 sir?

15 BY CAPTAIN BEDELLS:

16 Q Is there any reason 55-gallon drums of diesel fuel would
17 leave the MATES facility?

18 A **Not that I'm aware of, sir. I--my point was as far as--**

19 Q Okay. You've answered the question.

20 A **Okay, sir.**

21 Q I just--I just want to know.

22 A **Right.**

23 Q So, as you sit here today--and you've worked there since
24 1991--there's no reason diesel fuel would leave the MATES
25 facility?

1 **A** **Not normally, sir.**

2 Q Okay. Why would diesel fuel exist at the MATES facility?

3 **A** **For the vehicles there, sir.**

4 Q Okay. Where do they--where--so they get dumped into a--

5 **A** **We got a--**

6 Q --pump of some sort, correct?

7 **A** **Yes, sir.**

8 Q Okay. Any other accounts of Mr. Smock removing diesel fuel

9 from the MATES facility?

10 **A** **No, sir.**

11 Q Okay. How about do you have any personal knowledge of Mr.

12 Smock--and this is I--this is not very artfully worded. So

13 what it reads is, "You wrongfully appropriated a chainsaw

14 purchased with Government funds to your own use." It sounds

15 like a lot of legalese. Let's just boil it down to this:

16 Did you ever witness Mr. Smock remove a--you know, take a

17 chainsaw home that belonged to the MATES facility?

18 **A** **No, sir.**

19 Q Okay. Did you ever hear an account from anyone else that

20 Mr. Smock had removed a chainsaw from the MATES facility--

21 **A** **No, sir.**

22 Q --for his own use?

23 **A** **No, sir.**

24 Q Okay.

25 CAPTAIN BEDELLS: Where's his sworn statement?

1 Where are these--just bear with me if you could for a
2 moment, Mr. Herblet.

3 Where are these questions, and where is that self-
4 returned stuff?

5 STAFF SERGEANT SCHULTZ: I don't know that we have
6 them.

7 CAPTAIN BEDELLS: Well, the questions are in here
8 somewhere. I thought they were, so.

9 BY CAPTAIN BEDELLS:

10 Q Master Sergeant Herblet, you ans- --you answered--you
11 answered in the--some written questions, did you not, in
12 connection with the 15-6?

13 A **I believe so, yes, sir.**

14 Q Okay. And to one of the--to one of the questions you
15 answered "I heard that they were building--" well, let me
16 show it to you. I'm--we're looking for the questions now.

17 A **Okay. Yep.**

18 Q Okay. I've highlighted this.

19 A **Yes, sir.**

20 Q And I want--and does that look familiar, because I can't
21 find that--I don't want to--I don't--

22 A **No, I--that's the only thing I heard anybody building was
23 out here at drill weekend they were building ice shanties to
24 raffle off for MWR is what I thought.**

25 Q Okay. But that was here at MATES--

1 **A** **No. It was here at Camp.**

2 Q --or it was here at Camp Grayling?

3 **A** **Yes, sir.**

4 Q And that wouldn't be Mr. Smock?

5 **A** **I don't know who did it. I knew they were raffling ice**

6 **shanties off, and--**

7 Q Okay. Okay.

8 **A** **--I had heard they built them down in the building where he**

9 **worked at, but I don't know if that was during the week or**

10 **when it was.**

11 Q Okay. And then--

12 CAPTAIN BEDELLS: --where are these?

13 BY CAPTAIN BEDELLS:

14 Q And I'm going to show you this again.

15 **A** **Okay.**

16 Q 23-H.

17 **A** **Uh-huh.**

18 Q It reads, "I have seen the fly boxes that Joe Smock makes,

19 but I was under the impression that he made those at home

20 and brought one in to show off."

21 **A** **Yeah. He had them--**

22 Q "This is some high-grade wood--"

23 **A** **Yeah.**

24 Q "--and there would be no reason for MATES to have it."

25 **A** **Yeah. It's all, like, furniture-grade finished wood.**

1 Q Okay. So you understood the fly boxes--

2 A **Yeah.**

3 Q --to be--

4 A **I wanted to buy one actually, because--**

5 Q Did you ever buy one?

6 A **No, I didn't.**

7 Q Oh. But--

8 A **I mean, I--**

9 Q --you saw the fly boxes at the MATES facility?

10 A **Yes, sir. At--**

11 Q But maybe he's bringing it in as a--as a display, like,

12 "Hey, this I what I can build at home," because I understand

13 he's a pretty talented woodworker.

14 A **Yes, sir.**

15 Q Okay. And maybe a fly tier, too.

16 MR. BANCHS: Would you like to see one of the fly
17 boxes?

18 CAPTAIN BEDELLS: I have--like you, I have three
19 kids now, and I don't have time to fly fish anymore. And I
20 wasn't good at--I was, like, Master Sergeant Cooper,
21 spending a fortune on flies and never catching anything.

22 BY CAPTAIN BEDELLS:

23 Q As you sit here today, Master Sergeant Herblet, do you
24 recall providing any--any testimony or any audio recording
25 or anything in the form of a sworn statement about a check

1 from a salvage place that was written to Mr. Smock?

2 **A Yes, sir.**

3 Q Okay. Is that in the 15-6, because I'm having difficulty
4 find- --

5 **A I--I believe so.**

6 Q --finding it. Tell--tell the Hearing Examiner the account
7 of--your account of what that--

8 MR. BANCHS: Can I object to this? He--what does--
9 --what does this relate--which charge does it relate to?

10 CAPTAIN BEDELLS: Well, it's in the 15-6, so--

11 THE HEARING EXAMINER: Right.

12 CAPTAIN BEDELLS: I mean, if we're going to--

13 THE HEARING EXAMINER: How does it relate to the
14 charges here?

15 CAPTAIN BEDELLS: Okay, well, I suppose it
16 doesn't. But if we're going to strictly adhere to these--to
17 these nine charges, then I'm going to start objecting to
18 anything outside of the nine charges, as well.

19 MR. BANCHS: Well--

20 CAPTAIN BEDELLS: It's actually in the 15-6.

21 THE HEARING EXAMINER: I'm just trying to
22 understand. I mean, you're asking the question. I'm just
23 trying to understand where you're going with it.

24 CAPTAIN BEDELLS: Well, I'll withdraw--I'll
25 withdraw the question. I--

1 MR. BANCHS: With all due respect, may I remind
2 the Captain that he has objected to my question and if it
3 veered anywhere off those charges in the past. So he can--
4 he can't have it both ways. I'm more willing to explore the
5 entire 15-6.

6 CAPTAIN BEDELLS: I'll withdraw--I'll withdraw the
7 question.

8 MR. BANCHS: Okay.

9 CAPTAIN BEDELLS: I can't find it anyway.

10 BY CAPTAIN BEDELLS:

11 Q Okay. Master Sergeant Herblet, we've--we've gone over a
12 television, OSB, plywood, wood of any nature, luan, tires,
13 heaters, equipment parts from the air-to-ground range,
14 diesel fuel and a chainsaw. And if I understand your
15 testimony correctly--and you've worked with Mr. Smock at the
16 MATES since 1991--the only thing you've observed--or you've
17 observed nothing personally beyond being asked by Lieutenant
18 Colonel Golnick, go see what's in the back of those--what
19 you subsequently discovered as empty diesel--55-gallon
20 diesel cans--

21 A Yes, sir.

22 Q --drums, correct?

23 A Yes, sir.

24 Q Okay. And we did--we did elicit some testimony from you
25 with respect to equipment from the air-to-ground range, but

1 you could never--you couldn't say for certain that it ever
2 Mr. Smock who retrieved anything from the air-to-ground
3 range. It was just you knew that that stuff returned to
4 MATES from the air-to-ground range--

5 **A Yes, sir.**

6 **Q --correct?**

7 **A Yep.**

8 **Q You did, however, observe fly boxes at MATES--**

9 **A Yes, sir.**

10 **Q --correct?**

11 **A Yes, sir.**

12 **Q But you believe those to be made offsite?**

13 **A I'm sure he carried them in, because it was, like, first**
14 **thing in the morning when he brought them in. And he come**
15 **in at 8:00 o'clock, so.**

16 **Q Okay. And it sat there as a display?**

17 **A It did.**

18 **Q You wanted to buy one?**

19 **A Yeah. They're pretty nice.**

20 **Q Why didn't you ever buy one?**

21 **A I don't know, sir.**

22 CAPTAIN BEDELLS: Okay. I have no further
23 questions.

24 THE HEARING EXAMINER: Mr. Banchs?

25 MR. BANCHS: I don't know--sir, I need to take a

1 restroom break real quick.

2 THE HEARING EXAMINER: Okay. Let's go off the
3 record for five minutes.

4 COURT RECORDER: We are going off the record. The
5 time is 11:16.

6 (Off the record)

7 (On the record)

8 COURT RECORDER: We are back on the record. The
9 time is 11:21.

10 THE HEARING EXAMINER: Mr. Banchs, you may cross-
11 examine.

12 MR. BANCHS: Thank you, sir.

13 CROSS-EXAMINATION

14 BY MR. BANCHS:

15 Q Sergeant Her-blai (phonetic), is--that is how you pronounce
16 your name?

17 A Yes, sir.

18 Q Okay. Thank you. You testified that Mr. Smock was your--
19 your--you were his direct supervisor for maybe a period of
20 about 5 years?

21 A Yes, sir.

22 Q Was he a--can you describe the type of employee that he was
23 or to your--the best of your knowledge? Was he a
24 disciplinary problem? Did he come in late, leave early, any
25 of those kind of normal supervisory issues?

1 **A** **He was a hard worker. Liked to come in late every now and**
2 **then.**

3 **Q** Go ahead, sir. Keep going.

4 **A** **Thought I answered the question.**

5 **Q** He was just--he was a hard worker?

6 **A** **Yeah. He was a hard worker. Did have--come in late**
7 **sometimes, but it was normally kid-related, school or**
8 **something.**

9 **Q** So just normal issues?

10 **A** **Yes, sir.**

11 **Q** Okay. But you had never had any occasion to write him up,
12 whether it was informally or formally?

13 **A** **No, sir.**

14 **Q** Okay. You pretty much testified that you had no knowledge
15 of--of the charges--no firsthand, and in some occasions you
16 didn't even have hearsay knowledge of most of the charges
17 against Mr. Smock, so I'm not going to waste any time going
18 all over those.

19 But I do want to explore a couple of things. As far as
20 the--as far as Mr. Smock building tip-ups and knowing--being
21 known for building tip-ups and just general woodworking, and
22 bringing tip-ups to work and selling them, did you see
23 anything wrong with that?

24 **A** **I was under the understanding they came from his house, so--**

25 **Q** So you never saw Mr. Smock build tip-ups at work--

1 **A** **No, sir.**

2 **Q** --or anything for personal gain--

3 **A** **No, sir.**

4 **Q** --using wood?

5 **A** **Nope. No, sir. And--and, for an example, where that would**

6 **take place at is no where's near where I work, so I wouldn't**

7 **know anyhow.**

8 **Q** And from your testimony and previous witnesses, numerous

9 people had bought tip-ups from Mr. Smock?

10 **A** **Yes.**

11 **Q** Okay. Did he--did it ever interfere with his duties?

12 **A** **Not that I'm aware of.**

13 **Q** Was there any--any--was there ever any kind of a barter

14 situation, where he would tell somebody, "I'll build you--"

15 "--I'll build you a tip-up if you do this for me or that"--

16 **A** **No. Not that I'm aware of.**

17 **Q** --for his personal gain at work?

18 **A** **Not that I'm aware of, sir.**

19 **Q** Concerning the parts from the air-to-ground range, you

20 testified that--that--and I have to admit, this is--you

21 know, this is informative for me, as well--that you folks on

22 a regular basis will go and ca-ball parts, for the lack of a

23 better--cannibalize parts--

24 **A** **Yes.**

25 **Q** --from--from--I'm trying to get this in my head. The air-

1 to-ground range, is it exactly that? I mean, it's a range
2 out there for, what, helicopters or aircraft?

3 **A Every- --both.**

4 Q For everything?

5 **A Yep.**

6 Q And so these are old junk trucks or whatever?

7 **A Hard targets them call them. Yeah.**

8 Q Okay. And these hard targets have to be drained of all POL.

9 **A Yep.**

10 Q And do tires have to come off?

11 **A Not that I'm aware of, no.**

12 Q Do--do the engines--

13 **A As long as they can--**

14 Q --come out?

15 **A Yeah. Most times the engines, transmissions come--come out.**

16 Q Okay. And what about any other equipment that's of value,
17 maybe electronics or anything like that? Do they--do those
18 come out?

19 **A I don't believe those go out there with the trucks.**

20 Q Okay. And then, when you say that it's normal practice for
21 us--I'm assuming you mean MATES personnel--to go out there
22 and maybe grab headlights and stuff--

23 **A Yes, sir.**

24 Q --how long has that been going on for?

25 **A As long as I can remember.**

1 Q And you've been there since '91, so as far as your
2 recollection goes?

3 A **Yep.**

4 Q Now, when you say that, for example, the headlights was the
5 last item that you recall sending people out there to get--

6 A **Yes, sir.**

7 Q --where are--are the headlights still on the vehicle or
8 they're piled up somewhere?

9 A **They were on the vehicles.**

10 Q On the vehicles?

11 A **We took them out. Yeah.**

12 Q And this is accepted practice?

13 A **Yes. It's--actually the glass breaking and everything else
14 out there, it's actually more of a hindrance for them, so
15 they don't mind us taking the headlights out.**

16 Q Does this practice save the Michigan National Guard money?

17 A **Yes.**

18 Q In what way?

19 A **Well, at the time when the last field exercise was going on--
20 -I can't remember what it was called--XCTC--we had no
21 headlights, and people were getting stopped by the MPs. And
22 so we called up there to the ground range to see if they had
23 any, and they told us we could come up and get them, so.**

24 Q And these headlights are put on--are they put on GSAs, NTVs
25 or--

1 **A** **No.**

2 Q --tactical vehicles?

3 **A** **Just tactical vehicles.**

4 Q Really? Okay. Tactical vehicles. Who runs the air-to-

5 ground range?

6 **A** **Air Force out of Selfr- --or out of Alpena, I believe.**

7 Q So before you guys go on the range, you obviously have to

8 get permission--

9 **A** **Yes.**

10 Q --from--from the Air Force to go on there--

11 **A** **Yes.**

12 Q --and remove these parts?

13 **A** **Yes, sir.**

14 Q So the--so the people that own and run the range are aware

15 that--

16 **A** **Uh-huh.**

17 Q --you folks are actually out there cannibalizing parts?

18 **A** **Yes, sir.**

19 Q Okay. Do you guys have an SOP for this, anywhere a written

20 procedure or is this just something that you guys have been

21 doing for years?

22 **A** **Just been doing it, sir.**

23 Q Okay. And this is done with knowledge of higher

24 headquarters or this is just something here at MATES?

25 **A** **I--far as--I don't know if anybody has knowledge of that at**

1 **all.**

2 Q Okay. All right. Now, pay--bringing your attention to
3 the diesel--and before I ask you these questions, I will
4 tell you that there's been previous testimony by Mr. Joel
5 Mack and Mr. Thad Cooper that Colonel Golnick specifically
6 told you to go and--and--I'm sorry. You know, before--
7 before I say that, let me--let me go to the actual
8 testimony.

9 MR. BANCHS: And this is--this is not going to be
10 verbatim, because I just took notes while he was testifying.

11 BY MR. BANCHS:

12 Q Master Sergeant Cooper testified that he had no firsthand
13 knowledge of this incident, but that you told him a dozen
14 times, and he couldn't exactly remember the timeframe, but
15 he said over the last whenever, that Mr. Smock was seen
16 leaving the MATES facility with 55-gallon drums out of the
17 front gate. And that Lieutenant Colonel Golnick asked you
18 why that was happening. And that you relayed that story to
19 Master Sergeant Cooper in front of Thad Whitcher in the
20 inspection office either January or February of this year.

21 A **Okay.**

22 Q Does that sound familiar? Does that sound accurate?

23 A **I don't remember anything about going out. I mean, they was**
24 **seen coming in with empty barrels is the only thing--**

25 Q Okay. And--

1 **A** --that I might have said.

2 **Q** And you real- --

3 **A** **I didn't say either way that they were full or empty. I**
4 **thought it was odd that I was supposed to go intervene, and**
5 **I wasn't the supervisor at the time.**

6 **Q** And when--so when did the--you testified that you don't
7 remember exactly when the event happened.

8 **A** **No.**

9 **Q** But you did relay this story to Master Sergeant Cooper at
10 some point in time?

11 **A** **I--I understood that they already knew about it.**

12 **Q** Okay. So when you told them, you were under the impression
13 that they knew about it already?

14 **A** **Right.**

15 **Q** Okay.

16 THE HEARING EXAMINER: Just to be clear, is this
17 the same--is this the same incident where you went out to
18 check the--the three barrels and they were empty?

19 THE WITNESS: Yes, sir.

20 THE HEARING EXAMINER: Okay. Thank you.

21 BY MR. BANCHS:

22 **Q** Would there be a reason for--for MATES personnel, whether
23 it's Mr. Smock or anybody else, to be driving around the
24 MATES facility with empty 55-gallon drums in the back of a
25 truck?

1 **A** Well, a bunch of lazy people, and when they get done with
2 the oil drums, they throw them in the back of a truck. And
3 they happen to be in the back of a truck, they do--I mean, I
4 can't say that that would happen. But I know--I got
5 batteries and--if you go out and look in the trucks right
6 now, there's batteries, and there's probably a couple
7 barrels in the back of the trucks now. Can't get the guys
8 to clean up after themselves, so.

9 **Q** So it's more of a housekeeping thing?

10 **A** Yeah.

11 **Q** And what--subsequently to you discovering these empty
12 barrels, was any other action taken?

13 **A** No, sir.

14 **Q** Were people made to put them back on the barrel rack or
15 anything like that?

16 **A** Nope. No, sir.

17 **Q** Okay. Was that--would that have been an offense of any
18 kind?

19 **A** No, sir.

20 **Q** Okay. That's all the questions that I have for you related
21 to the technical issues. And the only thing I would ask
22 about you, sir, is what--what are your feelings on--on--on
23 Mr. Smock being terminated for these charges and just your
24 feelings about Mr. Smock in general?

25 **A** I try not to have an opinion about anything lately. So

1 it's--I don't know. I try to stay out of other people's
2 business, I guess, but. Don't know. I mean, all the
3 allegations, I have no idea, so. If they happened or not,
4 I--I don't know that.

5 Q You try--so you try and remain neutral, in other words?

6 A **Yes, sir.**

7 Q If Sergeant Smock was to be reinstated, would you have any
8 particular feelings about that one way or another?

9 A **No, sir.**

10 MR. BANCHS: Okay. Thank you, very much, sir.

11 THE WITNESS: All right.

12 THE HEARING EXAMINER: Captain Bedells, redirect?

13 CAPTAIN BEDELLS: Thank you, sir. I want to
14 follow-up.

15 REDIRECT EXAMINATION

16 BY CAPTAIN BEDELLS:

17 Q So, Master Sergeant Herblet, I think on my direct you
18 testified that, although you haven't been to Mr. Smock's
19 house in a number of years, you consider him a friend,
20 correct?

21 A **Yes, sir.**

22 Q I mean, so it's understandable that--that--you know, in
23 response to Mr. Banchs' question, you said you want to be
24 neutral. I mean, in fact, he's a friend. Aren't you upset
25 that he's not at MATES anymore?

1 **A** Well, a little bit. I mean, it is quite an uncomfortable
2 situation.

3 **Q** Sure. And he's a friend and he's not there anymore?

4 **A** Right.

5 **Q** And then you also testified on cross there, that you don't
6 know whether these offenses happened or not. So you're
7 neutral. That's what you just said. You don't know that
8 they didn't happen, correct?

9 **A** Right.

10 **Q** Okay. Now, on direct, I forgot to--and it's my fault. I
11 forgot to ask you, after you went out and verified that the-
12 -verified for Lieutenant Colonel Golnick that these barrels
13 were empty, did you have--did you go back and report to him,
14 "Yeah, they're empty diesel barrels, sir"?

15 **A** No, I didn't. Dropped it right there.

16 **Q** So you just went out, noticed that--

17 **A** The question never come up again, neither, so I didn't--

18 **Q** But you did think it was odd because you weren't his
19 supervisor?

20 **A** Yes, sir.

21 **Q** Who--and you say--who was his supervisor?

22 **A** Cindy Maddens

23 CAPTAIN BEDELLS: Cindy Maddens. Is she on our
24 witness list? I don't think so.

25 Okay. I have no further questions.

1 THE HEARING EXAMINER: Mr. Banchs, do you want to
2 recross?

3 MR. BANCHS: Yes, sir. Just one thing, and it
4 goes to character.

5 RE-CROSS-EXAMINATION

6 BY MR. BANCHS:

7 Q And your--sir, you were testifying that you're kind of
8 neutral, and that you're sort of upset about the situation
9 with Sergeant Smock, and you don't necessary know whether
10 the allegations against him are true or not.

11 A Right.

12 Q In your 20-plus years of knowing him and having worked with
13 him and him having worked for you and you around him, do you
14 find the allegations to be plausible?

15 A I can't--I don't believe so.

16 MR. BANCHS: Okay. Thank you, very much.

17 THE HEARING EXAMINER: Okay. Sergeant Herblet, I
18 remind you that you remain under oath.

19 THE WITNESS: Yes, sir.

20 THE HEARING EXAMINER: And that you are subject to
21 recall to this hearing until such time that it has been
22 adjourned.

23 Again, I'll remind you not to discuss your
24 testimony with anyone.

25 THE WITNESS: Yes, sir.

1 THE HEARING EXAMINER: And, with that, I thank you
2 for your time.

3 THE WITNESS: All right.

4 (At about 11:32 a.m., witness released)

5 THE HEARING EXAMINER: Who's our next witness?

6 CAPTAIN BEDELLS: Chief Todd Whitcher.

7 THE HEARING EXAMINER: It's either warm or it's
8 hot. There's nothing in between.

9 MR. BANCHS: Well, I got the sun on me, sir.

10 MS. VALLOTTON: Do you want me to open the window,
11 sir, just to get a breeze or--

12 THE HEARING EXAMINER: I'm good. I'm fine.

13 (Off the record chatter/mumbling between Mr.
14 Smock/Mr. Banchs and Captain Bedells/LTC Niedergall while
15 waiting for witness to enter)

16 THE HEARING EXAMINER: Chief Whitcher, if you'd
17 remain standing, I'll swear you in. If you'd raise your
18 right hand, please.

19 Do you swear or affirm that the testimony that you
20 are about to give in this case is the truth, the whole truth
21 and nothing but the truth, so help you God?

22 CHIEF TODD WHITCHER: Yes, sir.

23 THE HEARING EXAMINER: You're also advised that
24 you are assured the freedom from restrain, interference,
25 discrimination, coercion or reprisal for testifying in this

1 case.

2 THE WITNESS: Yes, sir.

3 THE HEARING EXAMINER: Okay. You can have a seat,
4 please.

5 Captain Bedells?

6 CAPTAIN BEDELLS: Thank you, sir.

7 Just bear with me, Chief. I'm looking for your
8 questions.

9 CHIEF TODD DAVID WHITCHER

10 (At 11:35 a.m., sworn as a witness, testified as follows)

11 DIRECT EXAMINATION

12 BY CAPTAIN BEDELLS:

13 Q Sir, please state your full name for the record.

14 A **Todd David Whitcher.**

15 Q And do you mind if I call you Chief?

16 A **That's fine, sir.**

17 Q Okay. Chief, how are you currently employed?

18 A **At the MATES, Camp Grayling.**

19 Q Okay. How long have you been employed--well--strike that.

20 Are you a Federal technician?

21 A **Yes.**

22 Q How long have you been employed as a Federal technician?

23 A **Fourteen years.**

24 Q Would all of those 14 be years--14 years be at the MATES
25 facility?

1 **A Yes.**

2 Q Okay. So you started about 2000?

3 **A 2000.**

4 Q And what is your current job title or, I guess, we call it

5 PD?

6 **A Work--work in the quality control section as an Inspector.**

7 Q Quality Control Inspector?

8 **A Yes.**

9 Q To your knowledge, is that what Master Sergeant Cooper was

10 at one point, as well?

11 **A At one time, yes.**

12 Q Okay. And how long have you held the position of Quality

13 Control Inspector?

14 **A Two years this December.**

15 Q Great. Prior to that, what--what was your job title?

16 **A I've been a temporary wage leader, welder and a mechanic on**

17 **the floor.**

18 Q Okay. So you've been--you're currently a Quality Control

19 Inspector. You've been a temporary wage leader and a

20 mechanic--

21 **A Yes.**

22 Q --correct? Anything else?

23 **A Welder.**

24 Q Welder. Oh. Did you start off as a welder?

25 **A No. Started out as a mechanic--**

1 Q Started off as a mechanic.

2 A --then went to a welder.

3 Q Okay. So in any of those capacities, since 2000, have you

4 had occasion to work with Joe Smock?

5 A Several times, as a welder and--mostly probably as a welder

6 or as a mechanic.

7 Q Okay. Because I--I understand from previous testimony, Mr.

8 Smock was employed there prior to--to 2000?

9 A Yes.

10 Q As far as you know, that was correct?

11 A Yes.

12 Q Okay. And how, in your capacity as--let's start with--let's

13 start with the Quality Control Inspector, how would you

14 interact with Master Sergeant Smock, if--if you would?

15 A As a quality control, not a lot.

16 Q Okay. How about as a temporary wage leader?

17 A Sometimes with OEM equipment or BII equipment for vehicles.

18 Q Okay. About how as a welder?

19 A Just repair work, things around the shop being built or

20 repaired.

21 Q Okay. And finally, mechanic?

22 A Not much as a mechanic.

23 Q Okay. So over the course of the 14 years, it's varied, your

24 interact- --it's fair to say that your interaction with Joe

25 Smock has varied, correct?

1 **A** **Yes.**

2 Q Sometimes you have no interaction with him, and--

3 **A** **Sometimes, no.**

4 Q And then at other times you'd have some interaction?

5 **A** **Yes.**

6 Q Okay. So I'm interested in those instances in--in which you

7 did have interaction. Okay. How frequently would you

8 interact with him, say, on a weekly basis? How many times

9 per week?

10 **A** **Maybe once or twice.**

11 Q Okay. Now, I understand that you provided testimony in

12 connection with the 15-6 that brings us here today, correct?

13 **A** **Yes.**

14 Q Did you provide a sworn statement?

15 **A** **Yes, I did.**

16 Q How many sworn statements did you provide?

17 **A** **One.**

18 Q Okay. Were you interviewed in connection with this

19 investigation?

20 **A** **Yes.**

21 Q How many times were you interviewed?

22 **A** **Twice.**

23 Q Twice. And you were interviewed by whom?

24 **A** **Colonel Doolittle.**

25 Q On both occasions?

- 1 **A** **Yes.**
- 2 Q Did you provide a--well, to your knowledge, was your--was
- 3 one of your interviews or both of your interviewed
- 4 audiotaped?
- 5 **A** **First one.**
- 6 Q The first interview was audiotaped?
- 7 **A** **Yes.**
- 8 Q Have you had occasion to look at your--at the sworn
- 9 statement you provided in connection with this case?
- 10 **A** **Yes.**
- 11 Q Okay. You've reviewed it?
- 12 **A** **I have.**
- 13 Q As recently as when?
- 14 **A** **Friday--or last week.**
- 15 Q Okay. And have you had occasion to listen to the audio or
- 16 CD--I presume it was a CD--that recorded your interview?
- 17 **A** **No.**
- 18 Q Okay. Never? You've never--
- 19 **A** **Never.**
- 20 Q Okay. Before we--before I ask any, really, material
- 21 questions, is there anything that you testified to, either
- 22 in the sworn statement or on the audiotape, that, you know,
- 23 gives you pause, that you'd like to change your mind or--
- 24 **A** **(Witness shakes head negatively)**
- 25 Q So, in other words, you testified truthfully?

1 **A Yes.**

2 Q In both instances?

3 **A Both times.**

4 Q Okay. One sworn statement, one interview, correct--

5 **A Yes.**

6 Q --that was taped? Have you had occasion to read the 15-6

7 report that Colonel Doolittle authored?

8 **A No, not that whole thing.**

9 Q But you read excerpts of it?

10 **A I seen some of it that my wife had brought home.**

11 Q Okay. And I understand your wife is--the reason she might

12 have brought that home is she's a Federal technician, as

13 well--

14 **A Yes.**

15 Q --right? Okay. She didn't just get her hands on this

16 randomly?

17 **A No.**

18 Q Okay. Okay. So you took time to read some excerpts of it,

19 correct?

20 **A Yes.**

21 Q And you've reviewed your sworn statement as recently as last

22 week?

23 **A Yes.**

24 Q The entire sworn statement?

25 **A Read through it, yes.**

- 1 Q Okay. And don't wish to recant on anything, correct?
- 2 A **Nope.**
- 3 Q Or you don't change your mind on anything?
- 4 A **No.**
- 5 Q Okay. I'm going to--is that open to G? Right. Chief, take
6 a moment to--we've asked just about every witness to read
7 that. So take a moment to read what's marked as Attachment
8 G to Exhibit 3 to this hearing. Take your time. Everyone's
9 read that. Read it carefully now. I'm going to ask your
10 some questions about that--that relate to that document.
11 Have you had an opportunity to review the document?
- 12 A **Yes, sir.**
- 13 Q Okay. Have you seen that document before?
- 14 A **No, I have not.**
- 15 Q As you--as you had an opportunity to read that document,
16 what do you understand it to be?
- 17 A **It'd be the findings of the 15-6 investigation.**
- 18 Q Okay. And what is it--what's the subject on that document?
19 What does it--does it say--does it have a RE line or subject
20 line?
- 21 A **"Original Decision Removal."**
- 22 Q Okay. And who's it signed by?
- 23 A **It's signed by Colonel Gregory Durkac.**
- 24 Q Okay. Colonel Doolittle did the 15-6, right?
- 25 A **Yes.**

1 Q So what I will tell you is that's actually the original
2 decision that terminates the employment of Joe Smock. So
3 what I want you to do is turn to the second page of that
4 document and--yep. Right there. Second page. And what
5 we're going to do is we're going to walk through those--
6 those charges. And, Chief, what I'm going to do, as I've
7 done with the three or four previous witnesses, is I'm going
8 to ask you whether you have any personal knowledge with
9 respect to each of those allegations.

10 **A Okay.**

11 Q Okay. And you might answer in the affirmative; you might
12 answer it in the negative. But what you do need to do is--
13 because we have a court reporter here--and I should have
14 done this with all the other witnesses, but most of them
15 were good. So you have to state affirmatively, "Yes, I have
16 personal knowledge." "No." You can't--she's not going to
17 pick up the nod of a head or anything like that.

18 **A Okay.**

19 Q See, I was rusty from not doing this for awhile.

20 So, in any event, so you'll--you'll state whether you
21 have personal knowledge. If you don't, I'm then going to
22 ask you if you have heard any account of that allegation.
23 And then--then, if you have, you'll state affirmatively that
24 you have, and I'll ask you from whom you heard that, whether
25 others were present, so forth. Do you understand?

1 **A Yes.**

2 Q Okay. So let's--let's start with A. There's an allegation
3 there that--that Joe Smock "wrongfully removed a flat screen
4 television from the MATES building." So my first question
5 to you is do you have personal knowledge or did you
6 personally observe Joe Smock remove a flat screen television
7 from the MATES building?

8 **A I did not personally see it. No.**

9 Q Okay. Have you heard from any other person an account of
10 Joe Smock removing a television from the MATES facility?

11 **A Yes. I've heard.**

12 Q Okay. And from whom did you hear this?

13 **A Master Sergeant Cooper, my wife Warrant Officer 1 Whitcher.**

14 Q Okay. Did either of those persons tell you that they had
15 personal knowledge themselves of it or did they hear it from
16 someone else?

17 **A Both of them said they had personal knowledge.**

18 Q Okay. In other words, they had directly observed them
19 taking the television--

20 **A Yes.**

21 Q --taking the television? Okay. Let's--well, let's take
22 your wife, Chief Whitcher--I'm going to call her Chief.
23 Okay. We'll call her Chief Sharon Whitcher, for the record.
24 So did--when Chief Sharon Whitcher told you that she had--
25 and is it she had personally witnessed this?

1 **A** **Yes.**

2 Q Okay. So when she told you that she had person- --

3 personally witnessed this television being taken by Joe

4 Smock, was anyone else present?

5 **A** **I don't recall.**

6 Q Okay. Were--do you recall--well, this might answer the

7 question. Do you--

8 **A** **Said she was in the break room, saw--**

9 Q Okay.

10 **A** **--the break room in front of MATES, saw it out the window,**

11 **so.**

12 Q Okay. Well, let me ask you this quest- --I should have

13 asked this first, inasmuch as you're married to her--where

14 did she tell you this?

15 **A** **At home.**

16 Q Okay. Hence no one else would be present. Okay. Fair

17 enough. Now, the next one says, "You wrongfully removed

18 sheets of OSB from the MATES building." And understanding

19 that OSB is a--is a--defines a particular piece of wood--you

20 probably know this better than I do with your--with your

21 experience. But I'm going to ask first did you personally

22 observe Mr. Smock remove sheets of oriented strand board

23 from the MATES facility?

24 **A** **No, I did not.**

25 Q Okay. Did you hear from any others that they had observed

1 Mr. Smock remove OSB from the MATES facility?

2 **A Yes.**

3 Q From whom--

4 **A Cory Rock. Cory Rock told me that he saw it.**

5 Q Okay. And I understand Cory Rock--is he a technician?

6 **A Yes, he is a technician.**

7 Q Okay. So he's also in the Michigan Army National Guard,
8 correct?

9 **A He is.**

10 Q And I understand that to be Staff Sergeant Cory Rock; is
11 that correct?

12 **A Staff Sergeant Cory Rock, yes.**

13 Q Okay. And it's your testimony that he told you that he had
14 personally observed Mr. Smock remove OSB board from the
15 MATES building?

16 **A Saw him--said he saw him pulling out of the MATES parking
17 lot in a truck with it in the back.**

18 Q Okay. Do you recall when--and I'm going to call him Staff
19 Sergeant Rock. Do you recall when Staff Sergeant Rock told
20 you this?

21 **A Been the summer before the investigation started he told me
22 that.**

23 Q Before the investigation started?

24 **A Yes. Before the investigation started.**

25 Q Okay. Do you recall where you were when Staff Sergeant Rock

1 told you that he had seen Mr. Smock leave the MATES
2 facility?

3 **A On drill weekend, we were at the MATES.**

4 Q Okay. Was anyone else present when Staff Sergeant Rock told
5 you this?

6 **A There was other people there, but I don't recall who they
7 were at the time. I didn't--**

8 MR. BANCHS: I'm sorry, sir. I missed when he
9 said that he--that he had the conversation with Cory Rock.
10 What--

11 CAPTAIN BEDELLS: Yeah. I think he said where,
12 not when. So let me clarify.

13 BY CAPTAIN BEDELLS:

14 Q You said--you said you were at MATES during a drill weekend?

15 **A We are at the MATES on a drill weekend, yes.**

16 CAPTAIN BEDELLS: Yeah. He didn't--he didn't say--

17 -

18 MR. BANCHS: Okay.

19 CAPTAIN BEDELLS: --exactly when.

20 BY CAPTAIN BEDELLS:

21 Q So can you narrow it down to--narrow it down to a--

22 **A 2013, the summer before the--**

23 Q Okay. Before the investigation?

24 **A Yes.**

25 CAPTAIN BEDELLS: Yeah. He had already testified

1 to that. Yeah.

2 BY CAPTAIN BEDELLS:

3 Q Okay. And you said several--you just testified that several
4 other people were present when Staff Sergeant Rock told you
5 this?

6 A **There were two or three other people there.**

7 Q Okay. Two or three. But you do not recall who they were?

8 A **I don't recall who they were.**

9 Q Okay.

10 A **It was a drill weekend.**

11 Q Did Staff Sergeant Rock provide you any details beyond, "I
12 saw--" and I don't want to characterize your testimony. So
13 you tell me, did--

14 A **He said he was driving by on his way home, because he used
15 to live on Stephan Bridge Road. And he saw him pulling out
16 of there with OSB in the back of his truck.**

17 Q When you say "his truck," would it--did he explain whether
18 it was a work truck or--

19 A **Chevy pickup truck, personal truck.**

20 Q Okay. And Staff Sergeant Rock told you that it was his
21 personal truck?

22 A **Yes, because he seen it every day at work.**

23 Q Okay. But I mean, on that occasion, on drill weekend, he
24 said, "I saw Joe Smock leaving MATES with OSB in the back of
25 his personal truck"?

1 **A Yes.**

2 Q Roger. Okay. Okay. Any other instances of other people
3 telling you that they had witnessed Mr. Smock remove OSB
4 from the MATES building?

5 **A No other incidents.**

6 Q Okay. Now, I'm going--this is a little nuance, this change,
7 but it is a difference. We've had testimony about the
8 removal of not OSB, but plywood, which is very similar, I
9 understand--

10 **A Uh-huh.**

11 Q --to--to OSB. Have you--have you, yourself, ever personally
12 witnessed Mr. Smock removing plywood from the MATES
13 facility?

14 **A Nope. I have not.**

15 Q Okay. Have you ever heard from anyone else, whether at
16 MATES facility or wherever, Mr. Smock removing plywood from
17 the MATES facility?

18 **A From Master Sergeant Cooper and Chief Mack.**

19 Q Okay. Let's take Master Sergeant Cooper first. With as
20 much specificity, Chief--because you see where I'm going
21 with this, I need the who, what, where, when and why.

22 **A Yes.**

23 Q Do you understand that? So with respect to Master Sergeant
24 Cooper, please tell the Hearing Examiner what he told you
25 vis-a-vie his account of Master Sergeant Smock removing

1 plywood?

2 **A He told me that--that Master Sergeant Sheldon had told him**
3 **that he had seen luan at the shop. And then he had seen it**
4 **at Joe's shed that he built, and it was lining the walls.**
5 **And that he went back and looked, and the luan was gone from**
6 **the MATES.**

7 **Q** Okay. So--so if I understand correctly, Master Sergeant
8 Thad Cooper relayed an account that he heard from Tim
9 Sheldon?

10 **A Yes.**

11 **Q** Okay. Did Master Sergeant Cooper tell you, "Hey, Chief, I
12 actually witnessed this myself"?

13 **A No, he did not.**

14 **Q** Okay. So he explained to you that it was actually--this
15 account came from Tim Sheldon?

16 **A Yes.**

17 **Q** Okay. Do you recall where you were when Master Sergeant
18 Cooper told you this?

19 **A Sitting in the inspection office.**

20 **Q** Do you recall approximately when he told you this?

21 **A Over a year ago.**

22 **Q** Okay. Do you recall--

23 **A 2013 sometime.**

24 **Q** Okay. Do you recall who, if anyone else, was present?

25 **A Chief Mack was present.**

1 Q Chief Mack was present--

2 A **Who also--**

3 Q --when Master Sergeant Cooper told you this?

4 A **Yes.**

5 Q Okay. And, of course, my question went to plywood, but you
6 answered it was luan, which is further down the--down the
7 list. We're going to get there.

8 A **Right. Plywood, I've never heard of.**

9 Q Okay. Okay. Okay. So before I move on to--I believe you
10 said it was Master Sergeant Cooper and Chief Mack had told
11 you this, I want to clarify. When--when--my question dealt
12 with plywood, and your testimony is that you've never
13 personally observed Mr. Smock leave with plywood?

14 A **Never personally seen him leave with plywood, no.**

15 Q Okay. And how about--and so you answered that you had heard
16 from Master Sergeant Cooper and Chief Mack that he left with
17 plywood, but then you clarified and said actually it was
18 luan?

19 A **It was luan. That's what they said.**

20 Q Okay. Is that the same for Chief Mack, then? What he
21 actually told you was he--

22 A **With luan, yes.**

23 Q Okay. So explain for the Hearing Examiner's benefit what--
24 excuse me--Chief Mack told you in the way of--of Mr. Smock
25 leaving with luan?

1 **A** **He--he was together with Master Sergeant Cooper when Tim**
2 **Sheldon told him the story. So it was the same story. They**
3 **collaborated. They were together.**

4 **Q** Okay. Okay. Okay. Now--now, I'm going to move down to--
5 we've talked about a flat screen television. We've talked
6 about OSB and plywood, correct?

7 **A** **Yes.**

8 **Q** And now I want to move down the--that list to wood in a
9 general sense. You don't need to go back over the fact that
10 you didn't personally observe him with OSB, plywood or luan.
11 But my next question is did you personally observe Mr. Smock
12 remove any form of wood from the MATES facility?

13 **A** **Not from the MATES facility, no.**

14 **Q** Okay. From some other facility?

15 **A** **Not personally seen him remove it. He told me that he would**
16 **take, occasionally, wood from Camp Grayling.**

17 **Q** Okay.

18 **A** **Or building material.**

19 **Q** Mr. Smock told you that?

20 **A** **We were out here looking for an axle--**

21 **Q** Well, hold on. Just--you got to--

22 **A** **Yes.**

23 **Q** There you go. Okay. So--

24 MR. BANCHS: Can I object to this, as previous,
25 it's new--new facts in evidence here. It's not in his

1 previous testimony.

2 THE HEARING EXAMINER: You'll get a chance. I
3 want to hear it. You'll get a chance to cross.

4 BY CAPTAIN BEDELLS:

5 Q Okay. So you have to wait for my questions.

6 A Roger.

7 Q And then you did a good job, you waited for the Hearing
8 Examiner to rule on the objection.

9 So--so you answered, yes, that Joe Smock's told you
10 that he's removed wood--

11 A Building material.

12 Q Building material.

13 A Not wood in general, no.

14 Q Okay. Okay. And you're about to--the Hearing Examiner said
15 he wants to hear it, so go ahead.

16 A We were out here--I used--when I worked in the welding job
17 looking for an axle for a trailer for range control that I
18 was repairing. And I noticed that there was a pile of pipe
19 and guard rails. And I made the comment that that would be
20 good fencing material for my horse coral. And he said,
21 "Just do what I do. Come out here and load it up. Nobody
22 knows what's going on. Nobody's going to question it."

23 Q Okay. Was anyone else present when he told you this?

24 A Nope. Just the two of us.

25 Q Okay.

1 MR. BANCHS: I--can I--

2 BY CAPTAIN BEDELLS:

3 Q Did you, in fact--did you, in fact--

4 THE HEARING EXAMINER: Hold--

5 BY CAPTAIN BEDELLS:

6 Q --load the stuff up?

7 MR. BANCHS: I'd like to make a clarification.

8 THE WITNESS: Negative.

9 MR. BANCHS: He was not talking about wood, per
10 se; is that correct? Or was it wood or was it--

11 THE WITNESS: He didn't specify wood. He just
12 said building materials.

13 MR. BANCHS: And the pile of stuff that you saw
14 was pipe?

15 CAPTAIN BEDELLS: Yeah. What--

16 THE WITNESS: Yes.

17 CAPTAIN BEDELLS: I--yeah--

18 MR. BANCHS: Okay. I'm sorry.

19 THE WITNESS: I was talking about it.

20 MR. BANCHS: All right.

21 BY CAPTAIN BEDELLS:

22 Q Yeah. But what--just for clarification for the record, what
23 Mr. Smock was talking about was building--he said building
24 material. "I take building material"; is that correct?

25 A Yes.

1 Q That's what he told you?

2 A **Yes.**

3 Q Okay.

4 A **When he needed it.**

5 Q Which might have--might have included wood, correct?

6 A **Could have. That's building material.**

7 Q And might have included taking it from places--

8 MR. BANCHS: Can I object?

9 BY CAPTAIN BEDELLS:

10 Q --like MATES?

11 MR. BANCHS: He's speculating now?

12 CAPTAIN BEDELLS: Well, I'm not speculating. I'm

13 asking a question. He would be speculating. Yeah.

14 THE WITNESS: Could be build- --

15 CAPTAIN BEDELLS: He didn't answer the question.

16 THE WITNESS: --could be wood. Could be anything.

17 BY CAPTAIN BEDELLS:

18 Q Okay. Okay. Now, aside from Mr. Smock, himself, telling

19 you this, did you ever hear from any other person that Mr.

20 Smock had removed wood in any form from the MATES facility?

21 A **No--well, from Tim Sheldon.**

22 Q Okay.

23 A **And--**

24 Q So the answer is yes?

25 A **Yes.**

1 Q Okay. Now, I'll ask you who told you this?

2 A **Tim Sheldon.**

3 Q Okay. And can you re- --

4 A **Through--**

5 Q --explain to the Hearing Examiner--

6 A **He told Master Sergeant Cooper and Mr. Mack, and they told--**

7 **told it to me.**

8 Q Okay.

9 A **So it wasn't firsthand, no.**

10 Q Okay. Well, I understand. That was my--and my question was

11 not firsthand. It was had you heard it. So explain to the

12 Hearing Examiner what you had heard from Tim Sheldon?

13 A **Through Joel Mack--Joel Mack told me--what he told me was**

14 **that he had to use treated lumber to build his gazebo**

15 **because MATES was all out of white wood. That he had to rip**

16 **2 X 6s down to build it.**

17 Q Okay. So Joel Mack told you this--

18 A **Yes.**

19 Q --not Tim Sheldon? Okay. Now, where were you when Joel

20 Mack told you this?

21 A **At the MATES.**

22 Q Okay. Was anyone else present when Joel Mack told you this?

23 A **I don't think so, no.**

24 Q Do you recall approximately when Joel Mack told you this?

25 A **Late last fall.**

- 1 Q Okay. Was it prior to the investigation, as far as you
2 know?
- 3 A **Prior to the investigation.**
- 4 Q And no one else was present?
- 5 A **No one else was present.**
- 6 Q Okay. Okay. Have you ever--have you ever observed the
7 gazebo at--
- 8 A **Yes.**
- 9 Q --Mr. Smock's house?
- 10 A **Yeah.**
- 11 Q Have you been to Mr. Smock's house?
- 12 A **Yes, I have.**
- 13 Q Oh. As recently as when?
- 14 A **2011.**
- 15 Q Okay. What brought you there?
- 16 A **2011 or '12. We were doing river clean-up. Myself, Mr.**
17 **Fitzpatrick and Joe went to his house to get propane tanks**
18 **for the grills.**
- 19 Q Okay. Did you have occasion to observe that gazebo or a
20 gazebo?
- 21 A **He told us down to the river and showed us that he was**
22 **building it.**
- 23 Q Oh, no kidding. So it wasn't completely constructed when
24 you saw it?
- 25 A **No.**

1 Q What stage of construction was it, if you recall?

2 A **Three-quarter done.**

3 Q Do you recall what type of wood was--was there?

4 A **It's all treated plywood and 2 X 4s and--**

5 Q Was it just laying on the ground with a tarp on it or

6 something?

7 A **No. It was--the flooring was done. The walls were up.**

8 **Most of the roof was on, I believe.**

9 Q Did you comment, "Hey, that's a nice gazebo"?

10 A **Yeah. It was a nice gazebo.**

11 Q But that happened--but your observation of that gazebo was

12 prior to you learning through Joel Mack--

13 A **Yes.**

14 Q --that the lumber was from MATES?

15 A **Yes.**

16 Q Okay. So you wouldn't have any occasion to ask, like, "Hey,

17 you know, where did you get the lumber?"

18 A **No. It--I had no reason to.**

19 Q Have you ever confront- --I mean, you've testified now that

20 you've heard through--heard through a number of people that

21 Mr. Smock's removed wood. Have you ever had occasion to

22 confront him about this, like, "Hey, Joe, what are you

23 doing?"

24 A **I didn't--didn't want to be involved with it. Didn't want**

25 **to talk about it.**

1 Q Okay. Okay. Any other instances of other individuals
2 telling you, "Hey, I've heard or Joe's--or personally seen
3 Joe Smock remove wood from MATES"?

4 **A None that I can think of.**

5 Q Okay. Now, luan we've already covered, at least in one
6 instance. And, again, I think that was Joel Mack telling
7 you?

8 **A And--**

9 Q I'm not sure--

10 **A --Master Sergeant Cooper.**

11 Q I'm not certain. Okay. So both of them told you about the
12 luan?

13 **A Yes.**

14 Q Okay. And with respect to the luan, did Joel Mack tell you
15 he had firsthand knowledge of--and by firsthand, I mean--
16 well, strike that. Let me ask this question. When Joel
17 Mack claimed that--that Mr. Smock removed luan from the
18 MATES facility, did he tell you that he had personally
19 observed it?

20 **A No.**

21 Q Okay. So how did he know?

22 **A Through Tim Sheldon--**

23 Q Okay.

24 **A --told him.**

25 Q This is getting repetitious. Did I already cover this?

1 **A Yes.**

2 Q Is my assistant--okay. I'm going over the same question for
3 the fifth time now, so.

4 Okay.

5 MR. BANCHS: Are you looking for a different
6 answer?

7 CAPTAIN BEDELLS: What's that?

8 MR. BANCHS: Are you looking for a different
9 answer?

10 CAPTAIN BEDELLS: I--I welcome whatever. I want
11 the truth. Right? We can do the whole "A Few Good Men"
12 thing right here.

13 BY CAPTAIN BEDELLS:

14 Q Okay. So it was--it was--it was your previous testimony
15 that Tim Sheldon told Joel Mack about the luan, and Joel--

16 **A Joel Mack--**

17 Q --Mack, in turn--

18 **A --and Mr. Smock Cooper.**

19 Q --relayed it to you?

20 **A The two of them told me the story.**

21 Q Okay. Okay. Fair enough. Okay. So let's move on to
22 tires. The allegation is that Mr. Smock "wrongfully
23 installed Government-purchased tires on his son's truck,"
24 not that he removed tires, okay, that he installed
25 Government tires. Do you have personal knowledge, I mean,

1 did you observe Mr. Smock put tires purchased by the
2 Government on his son's truck?

3 **A No, I did not.**

4 Q Okay. Have you ever heard an account of Mr. Smock placing
5 Government-purchased tires on his son's truck?

6 **A I heard about it after the investigation started. That was
7 the first I'd ever heard of it.**

8 Q Okay. From whom did you heard it?

9 **A I don't even remember. I think it was either Joel Mack or
10 Master Sergeant Cooper, but--**

11 Q Okay. But don't have a specific recollection of it?

12 **A Do not have a specific recollection.**

13 Q Do you recall at least what they told you?

14 **A That, once again, Timmy Sheldon said he seen him coming out
15 of the road behind MATES with his son's truck with new tires
16 on it.**

17 Q Okay.

18 **A That's all that I heard.**

19 Q That's Tim Sheldon, not Jim Sheldon?

20 **A Tim, not Jim.**

21 Q Okay. We're going to speak to him later, I understand.

22 Okay. So that's the only thing you know about the
23 tires?

24 **A Yes.**

25 Q Okay. How about F, "You--" the allegation is that Mr. Smock

1 "wrongfully removed heaters from the buildings at Camp
2 Grayling." Did you personally observe Mr. Smock removing
3 heaters from any buildings at Camp Grayling or MATES?

4 **A Did not personally see him remove them, no.**

5 Q Okay. Has anyone--all right. Has anyone relayed to you an
6 account of Mr. Smock removing heaters from buildings at Camp
7 Grayling?

8 **A He--he told me he was going to remove some. They were
9 changing some out or tearing them down.**

10 Q Who's "he"?

11 **A Mr. Smock.**

12 Q So it's your testimony that Mr. Smock personally told you
13 he's going to remove heaters from--

14 **A They were changing them out, putting new ones up. They were
15 going to tear some down.**

16 Q Okay. When did he tell you this?

17 **A This has been probably 2012. At the MATES. We were working
18 at the MATES.**

19 Q Okay. Okay. So give me the when. So--and you were at
20 MATES--

21 **A Yes.**

22 Q --when he told you this? Was anyone else present when he
23 told you this?

24 **A No. We were just walking down the hallway. And I asked
25 him--I have hydronic heaters at home. And I asked him where**

1 could I-- "Where could I get one of those?" And he said,
2 "Don't buy any. We're tearing some down out at the Camp."

3 Q Okay.

4 A "And I'll let you know when." That's--that was the end of
5 it.

6 Q And no one else was present?

7 A No one else was present.

8 Q And you were at the MATES building?

9 A We were at MATES.

10 Q And it was 2012?

11 A Roughly.

12 Q Okay. Did you get one of those heaters?

13 A No.

14 Q Why not?

15 A Never had contact with him after that about them anyways.

16 Q Okay. Now, there's been some testimony in evidence already
17 about something to do with a Craig's List posting.

18 A I seen heaters on Craig's List.

19 Q Let me just ask the question.

20 A Yes.

21 Q Okay. Do you have any--can you provide any testimony with
22 respect to some--some--the allegation that these heaters
23 were posted on Craig's List?

24 A I seen them on Craig's List because I was looking--still
25 looking for a heater. And I recognized his number. And I

1 told Master Sergeant Cooper and Lieutenant Colonel McNamara,
2 as well as Chief Mack, said, "Hey, tell him if these are the
3 ones from Camp, that he needs to quit this." And I don't
4 know where it went from there.

5 Q Why didn't you tell him yourself?

6 A Probably not going to listen to me.

7 Q Okay. So who did you tell? Who did you say--I mean, who
8 is--who is he going to listen to?

9 A I figured Lieutenant Colonel McNamara would have had enough
10 pull--

11 Q Okay.

12 A --influence to--if that, in case, was the fact.

13 Q So did you personally tell Lieutenant Colonel McNamara,
14 "Hey, you better get him to stop" or did someone else?

15 A I personally told him.

16 Q Okay. To your knowledge, did anyone else tell him? Tell--
17 did anyone--did--strike that. To your knowledge, did anyone
18 else speak with Lieutenant Colonel McNamara about the
19 Craig's List posting?

20 A Master Sergeant Cooper also spoke with him.

21 Q Okay. And how do you know that?

22 A Because he told me.

23 Q Okay. And, of course, Lieutenant Colonel McNamara's not
24 here either.

25 Okay. So no--no--no--no personal knowledge of him

1 actually taking the heaters down?

2 **A No.**

3 Q But your testimony is that he--that Mr. Smock actually
4 personally discussed with you that he was going--

5 **A Yes, he did.**

6 Q --to use the heaters?

7 **A That he was going to take them down, yes.**

8 Q Okay. Well, I've looked at his--Chief, I've looked--well,
9 we've discussed with Master Sergeant Herblet what his
10 various duties were. I mean, what--was that the comment,
11 "I'm going to take these heaters down," because that was--
12 that might be part of his job description, right?

13 **A Said they were going to change them. Take some new--or old
14 ones down, put new ones up out at the Camp.**

15 Q Okay. Well, was that his--when--when he had this
16 conversation with you, did you understand that to mean, "I'm
17 going to take that heater for my own use" or "I have to take
18 these--"

19 **A Yes.**

20 Q "--heaters down--"

21 **A That's what I took it to--took it as is we're going--"we're
22 going to take them and people that need them, I'll give them
23 to them or sell them to them," is what--the intent was
24 relayed to me as.**

25 Q Okay. Not just "it's my job to take them down," as he had a

1 number of job descriptions, but--so you understood it to
2 mean, "I'm going to take them and--"

3 **A Yes.**

4 Q "--for personal use"? And then--and then you, in some
5 sense, affirm that by seeing it on Craig's List, correct?

6 **A Yes.**

7 Q And you recognized his phone number on the Craig's List
8 posting?

9 **A Yes.**

10 Q And you take it--Mr. Banchs might ask you this--but did you--
11 --do we have a snapshot of that Craig's List posting?

12 **A No, I do not.**

13 Q Okay. Because he--because Mr. Banchs is going to show you
14 some photographs of heaters, so.

15 **A Okay.**

16 Q Okay. Next--anything else with respect to the heaters?

17 **A No.**

18 Q Okay. Next is G, the allegation is that Mr. Smock
19 "wrongfully removed equipment parts from the air-to-ground
20 range." Okay. Did you personally observe Mr. Smock remove
21 equipment--I think what happened here is it should be
22 equipment or parts, because this doesn't make any sense,
23 equipment parts. But did you ever see him remove equipment
24 or parts from the air-to-ground range?

25 **A No, I did not.**

1 Q Did you--Chief, did you hear from any other source that Mr.
2 Smock had removed equipment or parts from the air-to-ground
3 range?

4 A **Well, we're always sending mechanics out there to remove
5 parts.**

6 Q Okay. So it's a yes or no?

7 A **No.**

8 Q So, no. So you've not heard any other account of Mr. Smock
9 removing equipment or parts from the air-to-ground range?

10 A **Yes, on parts.**

11 Q Oh.

12 A **Yes.**

13 Q So it's no on equipment?

14 A **Right.**

15 Q No on equipment and yes on parts?

16 A **Yes.**

17 Q Okay. Okay. Explain to the Hearing Examiner what--what was
18 relayed to you.

19 A **Occasionally we'll send people up to the air-to-ground range
20 to the junk equipment to remove parts that we can't get for
21 equipment at MATES. Now, whether or not that's what it was
22 used for, I have no--no idea.**

23 Q Okay. Well, my question's particular to Mr. Smock. Master
24 Sergeant Herblet already testified that people go up there
25 all--all the time. Was it--you--you heard that Master

1 Sergeant Smock had gone up there and removed parts--

2 **A No.**

3 Q --from the air-to-ground range?

4 **A Not him in particular, no.**

5 Q Oh, okay. Okay. Fair enough. Okay. So H, the

6 allegation's that Mr. Smock "wrongfully removed diesel fuel

7 from the MATES building." And my question is did you

8 personally observe Mr. Smock remove diesel fuel from the

9 MATES facility?

10 **A No, I did not.**

11 Q Did you ever hear of an account of another person alleging

12 that Mr. Smock had removed diesel fuel from the MATES

13 facility?

14 **A Yes, I did.**

15 Q Okay. More than once?

16 **A Just the one occasion--**

17 Q Okay.

18 **A --that was relayed to me.**

19 Q From whom did you hear that Mr. Smock had removed diesel

20 fuel?

21 **A Master Sergeant Herblet.**

22 Q Okay. And explain to the Hearing Examiner what Master (sic)

23 Herblet said to you with respect to Mr. Smock removing

24 diesel fuel from the MATES facility?

25 **A He said that Colonel Golnick came to him and had seen Mr.**

1 Smock leaving the MATES with 55-gallon drums of diesel fuel
2 in it, and wanted to know what he was doing--what he's going
3 to do about it. Master Sergeant Herblet said, "You saw him.
4 What are you going to do about it?"

5 Q And he--and you heard this account from Mr. Herblet?

6 A **Yes.**

7 Q Master Sergeant Herblet?

8 A **Master Sergeant Herblet, yes.**

9 Q Okay. Do you recall approximately when this occurred?

10 A **2011.**

11 Q Prior to the investigation?

12 A **Yes.**

13 Q Okay. Was anyone else present when Mr. Herblet relayed this
14 account to you?

15 A **No. We were standing in the hallway at MATES.**

16 Q Okay. In 2011?

17 A **Yes.**

18 Q Okay. What prompted this conversation? I mean, I'm
19 curious, how does this just arise?

20 A **He quite often would bitch and complain about Joe--**

21 Q Who's "he"?

22 A **Master Sergeant Herblet.**

23 Q Okay.

24 A **And the things that he would get away with or not having to
25 follow the authority.**

1 Q And what year was this?

2 A **2011.**

3 Q At that time, did you know who Mr. Smock's supervisor was?

4 A **I don't know who his supervisor was at that time, no.**

5 Q Okay. Would it surprise you if Mr.--Master Sergeant Herblet

6 testified he was his supervisor from--

7 A **He was at one time, yes.**

8 Q --2007--yeah--2007 to 2012. Okay. So, again, no firsthand

9 knowledge. You didn't witness this account--

10 A **No.**

11 Q --between Lieutenant Colonel Golnick and Master Sergeant

12 Herblet, correct?

13 A **No, I did not.**

14 Q It was just Master Sergeant Herblet in--

15 A **Venting.**

16 Q Okay. Now, you, yourself, Chief, when you learned of the

17 heaters being on Craig's List, confronted Lieutenant Colonel

18 McNamara, correct; that's your testimony?

19 A **I informed him, yes.**

20 Q Yeah. Yeah. Sorry. Bad choice of words. So you informed

21 Lieutenant Colonel McNamara of the Craig's--Craig's List

22 posting, correct. When you learned of any--any of this

23 other misconduct, did you--did you send it up the chain?

24 Did you talk to Lieutenant Colonel McNamara about any of

25 this other stuff?

1 **A Just the heaters.**

2 Q Okay. Okay. Finally, we'll get down to I. "You wrongfully
3 appropriated a chainsaw purchased with Government funds for
4 your own--" "--to your own use." Let me put it another way,
5 did you--did you ever personally observe Mr. Smock remove a
6 chainsaw from the MATES facility?

7 **A Did not personally observe it, no.**

8 Q Okay. Did you ever hear an account of Mr. Smock removing a
9 chainsaw from the MATES facility?

10 **A I heard of it, yes.**

11 Q From whom did you hear it?

12 **A I heard it from several people. Master Sergeant Cooper,
13 one, Chief Mack, I believe Master Sergeant Fouts.**

14 Q Okay. Did--was this a discussion amongst the four of you at
15 a single time or--

16 **A It was always--that kind of stuff was always common talk
17 around the shop.**

18 Q Okay. Well, with respect to Master--and, again, with
19 respect to Master Sergeant Cooper, was anyone else present
20 when he gave you this account of a chainsaw going missing?

21 **A I don't recall if there was. I don't remember.**

22 Q Okay. How about when Chief Mack discussed the--the
23 chainsaw?

24 **A I think it was just the two of us.**

25 Q Okay. And finally with Master Sergeant Fouts, anyone else

1 present?

2 **A No.**

3 Q Do you recall approximately when these conversations
4 occurred?

5 **A Probably around 2012, maybe early 2013.**

6 Q Do you recall if it was prior to the investigation or after
7 the investigation?

8 **A Prior to the investigation.**

9 Q Prior to the investigation. Now, I understand from previous
10 testimony that this chainsaw rests within a cage that
11 belonged to Mr. Smock. Do you have a similar understanding
12 or do you have no knowledge of this?

13 **A Yes. That's where that type of equipment was kept.**

14 Q Okay. Did you ever observe this chainsaw?

15 **A Only after the investigation started, then it--then it was
16 in the cage.**

17 Q Okay.

18 **A I seen it in the cage after the investigation started.**

19 Q But you--you're not in a position to run a serial number
20 check and go, "Oh, yeah. This is the--"

21 **A No.**

22 Q So you really don't have any personal knowledge of whether
23 this chainsaw that is alleged to have been taken by Mr.
24 Smock really was, in fact, taken, correct?

25 **A No way of knowing.**

1 Q Right. Let me just review your sworn statement if I might.
2 Did you speak to Cory Rock about this incident wherein he
3 witnessed Mr. Smock driving away from MATES in his POV
4 loaded with OSB? Have you spoken with Cory Rock about that?

5 A **I didn't speak with him about it after this investigation**
6 **started, no.**

7 CAPTAIN BEDELLS: Okay. I have no further
8 questions at this time.

9 THE HEARING EXAMINER: Mr. Banchs, you can go
10 ahead and cross.

11 MR. BANCHS: Sir, I'm going to have to take
12 another pee break.

13 THE HEARING EXAMINER: Let's go off the record.

14 COURT RECORDER: We are going off the record. The
15 time is 12:18.

16 (Off the record)

17 (On the record)

18 COURT RECORDER: We are back on the record. The
19 time is 12:28 p.m.

20 THE HEARING EXAMINER: Mr. Banchs, go ahead.

21 MR. BANCHS: Thank you, sir.

22 CROSS-EXAMINATION

23 BY MR. BANCHS:

24 Q Chief, I want to start with the diesel, if you don't mind.
25 We had Sergeant Herblet testify right before you did.

1 **A** **Okay.**

2 **Q** And he gave us his account of the--of what he recalled, as
3 far as what he told folks. And I'll just paraphrase it for
4 you, unless Captain Bedells has an objection. But Sergeant
5 Herblet's account of this was that he was asked to verify
6 what was in barrels in the back of a truck by Colonel
7 Golnick. He testified that he did not see the truck leave
8 the facility, that it was merely parked. He had heard that
9 Mr. Smock and Mr. Mack were in the vehicle, but that all he
10 did was--was asked by Colonel Golnick to go look at a truck
11 that was parked in the MATES facility that had three 55-
12 gallon drums sitting in the back. And that when he did--he
13 went and verified. He verified that they were empty. And
14 according to Master Sergeant Herblet's testimony, that was
15 the end of it. Nothing else was ever done about it.

16 So I was just wondering--because I know it was awhile
17 back. And according to your testimony you said that you
18 heard the story from Master Sergeant Herblet in 2011, but in
19 your written statement, you put the date to be back around
20 2008. You stated, "In about 2008, I was talking to Master
21 Sergeant Troy Herblet, and he told me that during my
22 deployment in 2007--" and you relate the Golnick exchange.

23 So there's a discrepancy, and I know it's been awhile.
24 So I'm just wondering--and I know this is not verbatim
25 testimony. But just--

- 1 **A** **Got the dates wrong doesn't mean it didn't happen.**
- 2 Q No, I'm not saying that it didn't happen. But perhaps it
3 didn't happen the way that you remember it.
- 4 **A** **He told me exactly the way I related it.**
- 5 Q Okay. To your--to the best of your knowledge or
6 recollection?
- 7 **A** **Yes.**
- 8 Q Okay. So--so what I'm trying to tell you is that--I'm just--
9 --I'm just telling you what his testimony was immediately
10 before you came here, that he was merely asked to check the--
11 -
- 12 **A** **I don't care what his testimony is. That's what he told me.**
- 13 Q So are you telling me that Master Sergeant Herblet was not
14 entirely truthful in his testimony?
- 15 **A** **Yes.**
- 16 Q Okay. And that's because, if his testimony's true, then
17 yours was--would not be accurate, then, right?
- 18 **A** **I'm telling you the truth the way I heard it.**
- 19 Q Okay. You've been knowing Joe for quite awhile?
- 20 **A** **Yes.**
- 21 Q How long have you been knowing Joe?
- 22 **A** **At least 30 years.**
- 23 Q Y'all went to high school together, correct?
- 24 **A** **Yes.**
- 25 Q Okay. In your time of knowing Joe, and when you started

1 hearing these allegations, do they seem plausible to you?

2 **A Yes.**

3 Q Why did they seem plausible to you?

4 **A It's the way he's done things his whole life.**

5 Q His whole life. So he's been a thief his whole life?

6 **A Yes.**

7 Q Oh, really? Okay. So at what point in time did you feel
8 that it was important to let somebody know that Joe was
9 stealing at least from the U.S. Government?

10 **A When we did this investigation, because prior to that, it
11 wouldn't have gone anywhere.**

12 Q Well, I just want to make sure. You been knowing him for 30
13 years, and he's been a thief the entire 30-year period that
14 you been knowing him. But until 2013, you didn't feel it
15 was important to come out and say the things that Joe was
16 doing?

17 **A We didn't hang around. He didn't have a lot of involvement
18 with me over--for the last 20 years.**

19 Q Okay. You do know that as a Federal employee you're
20 required to report any wrongdoing, whether you think it's
21 going to go anywhere or not?

22 **A Yes.**

23 Q And that if you don't, then you're just as complicit as the
24 person who's allegedly doing it? You are aware of that?

25 **A I'm aware.**

1 Q Okay. You testified concerning the alleged theft of a
2 television.

3 A **No, I did not. Not personal knowledge, no.**

4 Q I'm going to get there, sir. You did testify that you
5 didn't have any first-hand knowledge, but that you did hear
6 from Master Sergeant Cooper and your wife about it. And
7 that, in fact, your wife told you that she saw the incident
8 take place out of the break room window; is that accurate?

9 A **Yes.**

10 Q Okay. Is there any reason why your wife would not have--and
11 we're going to ask her--but when--you know, I'll rephrase.
12 When you did your wife tell you that, because I think--I
13 think Captain Bedells asked you, and do you recall when--
14 when she made that statement to you?

15 A **I don't recall what the timeframe was.**

16 Q Was it before or after the investigation?

17 A **Before the investigation.**

18 Q That was before the investigation. So were--would there be
19 any reason why she wouldn't have told that to Colonel
20 Doolittle?

21 A **I don't know.**

22 Q And she told you that she saw Smock and Golnick take a TV
23 out of the facility before the investigation?

24 A **Yes.**

25 Q Is there any reason why you didn't relay that to the

1 investigator when you were asked?

2 **A I didn't remember at the time.**

3 Q Okay. So when did you remember?

4 **A After the investigation began.**

5 Q After your--was it after you provided your sworn statement
6 or after you were interviewed?

7 **A After I provided the sworn statement.**

8 Q Concerning the OSB and the--the story that Cory Rock relayed
9 to you--I'm sorry, I wasn't paying attention. Did you--
10 where did Cory Rock tell you that he saw Sergeant Smock that
11 day with the OSB?

12 **A Pulling out of the MATES parking lot.**

13 Q Pulling out of the MATES parking lot. Okay. And it was
14 stacked to his--to the roof of the back of his cabin?

15 **A He didn't say he stacked it. He really didn't--**

16 Q He didn't say. Okay.

17 **A A stack of it in the back of his truck.**

18 Q All right. Concerning the wood, I just want to make sure,
19 just reading your--your testimony--I'll withdraw that
20 question. I'm sorry.

21 Concerning the wood in general, you--you claim no
22 firsthand knowledge of Mr. Smock stealing any wood in
23 general. However, you did say that Mr. Smock told you
24 personally that he removed wood from Camp--or--I'm sorry--it
25 was building materials from Camp Grayling, correct?

1 **A Yes.**

2 Q And what--when abouts was this?

3 **A 2012, 2013, in the summer. Been 20- --been 2012.**

4 Q He told you "Just do what I do. No one else knows about

5 this"?

6 **A "Nobody's going to question it. Nobody even knows what**

7 **you're doing."**

8 Q And nobody else was around to verify this conversation?

9 **A No, there wasn't.**

10 Q You testified that you were actually at Mr. Smock's house

11 sometime during 2011 when he was in the process of building

12 the gazebo.

13 **A Yes.**

14 Q And you were up close and personal to the gazebo?

15 **A Yes.**

16 Q Did you happen to look at the wood--

17 **A No, I did not.**

18 Q --the wood material?

19 **A I just seen it was treated lumber.**

20 Q It was treated. Did it have any markings on it?

21 **A I didn't look.**

22 Q No identifying marks; it was just regular treated lumber?

23 **A Yes.**

24 Q Was it treated lumber that you could buy at any lumber yard

25 or hardware store?

1 **A As it most treated lumber, yes.**

2 Q Okay. So what--what--what other than Mr. Mack telling you
3 that Joe took this wood, would lead you to believe that that
4 wood was anywhere--was Government-purchased wood?

5 **A That's all I heard is from Mr. Mack's story to me.**

6 Q So there's no chance that that wood was actually purchased
7 privately by Mr. Smock?

8 **A There could have been, yes.**

9 Q Okay. Thank you, very much.

10 Concerning the heaters that you saw on Craig's List,
11 you said it was around 2012?

12 **A Around there, yes.**

13 Q Do you remember the size, shape, output of the heaters?

14 **A They're about 2 foot square.**

15 Q Okay. And Captain Battles--Bedells told you that I was
16 going to show you pictures, so I don't want to disappoint
17 you. Here's a picture of a heater. Does that look
18 familiar?

19 **A It could be. It's not a very good picture. I can't really
20 tell.**

21 Q Well, I got a better quality picture if you'd like to see
22 it.

23 **A Yes.**

24 THE HEARING EXAMINER: For the record, Ben, would
25 you just declare what you're about to show him?

1 MR. BANCHS: I'm--I'm about to show him better
2 quality pictures of what's in Exhibit--what's the Smock
3 file?
4 THE HEARING EXAMINER: Three. Exhibit 3.
5 MR. BANCHS: Exhibit 3.
6 MR. SMOCK: That's not the same two.
7 MR. BANCHS: No, I know. I know.
8 MR. SMOCK: All right.
9 MR. BANCHS: I'm just putting all the heaters out.
10 MR. SMOCK: All right.
11 CAPTAIN BEDELLS: But they are the same
12 photographs, just better quality?
13 MR. BANCHS: Yeah. They're--
14 CAPTAIN BEDELLS: Correct?
15 MR. BANCHS: --you know, color.
16 THE HEARING EXAMINER: Can I see those first,
17 before you--
18 MR. BANCHS: Yes, sir.
19 THE HEARING EXAMINER: Please.
20 MR. BANCHS: Actually, you know, they're--look.
21 Here's a--here's a page with four on them.
22 MR. SMOCK: They're still not the same ones like--
23 MR. BANCHS: No, I know. I'm going to get to it.
24 Where are those, Joe?
25 MR. SMOCK: Right in that.

1 MR. BANCHS: In here?

2 MR. SMOCK: Yeah. Let me see this. Yeah. There
3 they are in back.

4 THE HEARING EXAMINER: Do you want to see them?
5 Here you go.

6 CAPTAIN BEDELLS: Oh, which--this--this looks--

7 MR. BANCHS: Show--

8 CAPTAIN BEDELLS: --I know that not to be a
9 heater.

10 MR. BANCHS: Show them to the--to the Hearing
11 Examiner, that one, too.

12 MR. SMOCK: Know what not to be a heater?

13 CAPTAIN BEDELLS: The transmission.

14 MR. SMOCK: Oh, yeah. You are--

15 CAPTAIN BEDELLS: You guys are trying to fool me?

16 MR. SMOCK: You are correct.

17 THE HEARING EXAMINER: Is it a fly? Is it--

18 CAPTAIN BEDELLS: I don't have any objection to
19 him viewing better quality photographs--

20 BY MR. BANCHS:

21 Q You can disregard--

22 CAPTAIN BEDELLS: --than what's in the Book.

23 BY MR. BANCHS:

24 Q You can just, for now, you can disregard pictures that
25 aren't the heaters. I'm just showing you the heaters for

1 now. But if you--can you tell me if any of these heaters
2 were the ones that you saw on Craig's List that day?
3 Whether it's this one, this one or that one? If any of
4 those look familiar?

5 **A No. These weren't familiar. They were sitting on a cement
6 floor in a garage with nothing in the background.**

7 Q How about one of these?

8 **A Those are hanging on the wall.**

9 Q Yeah.

10 **A They were sitting on a cement floor.**

11 Q So none of these were on Craig's List?

12 **A They don't look familiar, no.**

13 Q Do--do they look similar to that?

14 **A Similar, yes.**

15 Q So what would lead you to believe that the heaters that you
16 saw on Craig's List were specifically from the 600 area?

17 **A I don't know that they were from the 600 area.**

18 Q Okay. So what led you to believe that they Government-
19 purchased heaters that he was--

20 **A Other than he told me he was going to take them, that's it.**

21 Q So only that he told you that he was going to take them?

22 **A Yes.**

23 Q And did anybody else hear this exchange?

24 **A No.**

25 Q Okay.

1 MR. SMOCK: Can you get those pictures back?

2 MR. BANCHS: Oh.

3 BY MR. BANCHS:

4 Q Did you ever purchase a heater, sir? Just my curiosity.

5 A **No, I don't.**

6 Q Concerning removed parts from the air-to-ground range, you
7 testified that you had no firsthand knowledge of Mr. Smock
8 specifically removing parts or equipment. And I wanted to
9 make sure that--because you--you made a clear distinction
10 between parts and equipment. So can you just briefly, in
11 lay terms, what is--what is a part and what is equipment?

12 A **Equipment would be the whole vehicle or piece of equipment.**
13 **The parts would be just the parts off of it.**

14 Q Okay. And you did testify that you--you don't have any
15 firsthand knowledge nor have you heard of Mr. Smock actually
16 removing parts or equipment from the range, but that that is
17 something that happens on a regular basis here at MATES?

18 A **Yes.**

19 Q And that is for the purpose of what? What is that y'all do
20 with the parts and the equipment?

21 A **Put them on the equipment at MATES.**

22 Q And what's the reason for that?

23 A **They're parts that you can't procure anymore.**

24 Q Okay. So it's an accepted practice?

25 A **It's an accepted practice, yes.**

1 Q When you guys go to the range--who owns the range?

2 A **The Air--Air Guard.**

3 Q So when you go on the Air Guard's range, you have to get

4 their permission?

5 A **I--I haven't gone up there to get parts, but, yes, I**

6 **believe--**

7 Q Okay. So you haven't--

8 A **--you do.**

9 Q --you haven't gone, you just know of people going?

10 A **Yes.**

11 Q Okay. That's fair enough. And, really, sir, the last

12 question that I have for you is regarding the chainsaw. You

13 have no firsthand knowledge of Mr. Joe (sic) either swapping

14 or stealing a chainsaw; is that correct?

15 A **Not firsthand knowledge, no.**

16 Q But do you guys have a chainsaw at the MATES?

17 A **Yes, there's one there.**

18 Q And you've seen it?

19 A **Yes.**

20 Q You've heard, though, from several people, and you mentioned

21 Cooper, Mack and Fouts, that Mr. Smock either swapped or

22 stole a chainsaw?

23 A **Swapped it, yeah.**

24 Q Swapped it. And that was before or after the--the

25 investigation?

1 **A Before.**

2 Q Before the investigation. Have you had occasion to verify
3 that the chainsaw that's in the--in the cage right now is
4 the chainsaw that was actually purchased for the MATES?

5 **A I would have no way of knowing.**

6 MR. BANCHS: Okay. I don't have any more
7 questions, sir.

8 THE HEARING EXAMINER: Captain Bedells, do you
9 want to redirect?

10 CAPTAIN BEDELLS: No, sir.

11 THE HEARING EXAMINER: I have just a couple issues
12 I want to explore very, very briefly.

13 EXAMINATION

14 BY THE HEARING EXAMINER:

15 Q The pipe that--or the material that you saw, you
16 specifically saw pipe, and you said that would--that would
17 work good for a fence. Was that a--was that stuff that was
18 in stock or was that a scrap pile? What--

19 **A Up on the hill there's a storage yard, where they keep a lot
20 of material. And it's usually unlocked.**

21 Q Okay. So it's--it's stock material. Is it--

22 **A It is.**

23 Q --on an inventory somewhere that--

24 **A I don't know that.**

25 Q Okay. Second question, and you may have already covered

1 this, and forgive me if you did. Related to the TV, you
2 indicate your--your wife and Master Sergeant Cooper were the
3 two that told you--your only knowledge of the TV issue is
4 from those two?

5 **A Yes.**

6 Q And what specifically did Cooper say?

7 **A That they saw him carry--Master Sergeant Smock and Colonel
8 Golnick carry it out and put it in his vehicle.**

9 Q I see. So Cooper and your wife were in the same room,
10 looking out the window and saw--

11 **A I don't know where Cooper saw it at. I just know where my
12 wife said she was.**

13 Q Okay. And you heard directly from Cooper that--

14 **A Yes.**

15 Q --he saw it, he--he witnessed it occur?

16 **A Yes.**

17 THE HEARING EXAMINER: Okay. Thank you.

18 Any--any follow-up to my--

19 CAPTAIN BEDELLS: No.

20 THE HEARING EXAMINER: --questions?

21 MR. BANCHS: No, sir.

22 THE HEARING EXAMINER: Okay. Chief, I remind you
23 that remain under oath, and that you are subject to recall
24 to this hearing until such time that it has been adjourned.

25 Again, I'll remind you not to discuss your

1 testimony with anyone.

2 Thanks for your time here this morning--this
3 afternoon.

4 We'll go off the record.

5 COURT RECORDER: We are off the record. The time
6 is 12:43 p.m.

7 (Off the record)

8 (On the record)

9 COURT RECORDER: We are on the record. The time
10 is 1:49 p.m.

11 THE HEARING EXAMINER: Would you raise your right
12 hand, please?

13 Do you swear or affirm that the testimony that you
14 are about to give in this case is the truth, the whole truth
15 and nothing but the truth, so help you God?

16 CHIEF SHARON WHITCHER: I do.

17 THE HEARING EXAMINER: Further, you're advised
18 that you are assured the freedom from restraint,
19 interference, discrimination, coercion or reprisal for
20 testifying in this case.

21 You can have a seat, please.

22 Captain Bedells?

23 CAPTAIN BEDELLS: Thank you, sir.

24 CHIEF SHARON MAY WHITCHER

25 (At 1:49 p.m., sworn as a witness, testified as follows)

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DIRECT EXAMINATION

BY CAPTAIN BEDELLS:

Q Chief, would you please state your full name for the record?

A **Sharon May Whitcher.**

Q And do you have any problem if I call you Chief?

A **That's fine, sir.**

Q Okay. And I understand just from the outset, you are--you are currently married to Chief Warrant Officer Todd Whitcher, correct?

A **Yes, sir.**

Q Okay. And you're aware we just heard testimony from your husband, correct?

A **Yes, sir.**

Q Okay. Now, I understand that you are currently employed as a Federal technician; is that correct?

A **Yes.**

Q Okay. And where--where do you work as a Federal technician?

A **As of yesterday, I moved back from Building 8 out here to Camp, back out to the MATES facility.**

Q As of just yesterday?

A **As of just yesterday--or--**

Q Okay.

A **--I'm sorry--Monday.**

Q Okay. As of Monday. Okay. So as of Monday, you're a Federal technician back out at MATES, but prior to that you

1 were--I understood you to be a Federal technician right over
2 here, correct?

3 **A Correct. I moved out to Building 8 in December, sir. Be- -**
4 **-prior to December, I was out to the MATES as a Federal**
5 **technician.**

6 Q Okay. So December 2013 through just last week, you were
7 here at Camp Grayling--

8 **A Yes, sir.**

9 Q --correct?

10 **A Yes, sir.**

11 Q And you're--did you resume the same job that you had before
12 leaving MATES? Are you back in the same position?

13 **A It's a Surface Maintenance Mechanics position.**

14 Q Okay. What was your job description while you were here at
15 Camp Grayling?

16 **A Surface Maintenance Mechanic.**

17 Q Same position, just a different location, correct?

18 **A Correct, sir.**

19 Q And prior to December of 2013, were you also a Surface
20 Maintenance Mechanic then?

21 **A At that point, yes, sir.**

22 Q Okay. When did you first become a Surface Maintenance
23 Mechanic at the MATES facility?

24 **A I want to say I was put in that position during my**
25 **deployment. Prior to that, I was out to the MATES in a--in**

1 **a COMMO slot. So I come back from my deployment September**
2 **of '11.**

3 Q Okay. Through December of 2013?

4 A **Yes, sir.**

5 Q Okay. Prior to that deployment, what position did you hold
6 at the MATES facility?

7 A **A COMMO, electronics repair.**

8 Q And how long did you hold that position?

9 A **Oh, approximately eight years, I think, somewhere in there.**

10 Q So 2002, roughly, to 2010?

11 A **Something like that.**

12 Q That'd be right? Okay. Prior to 2002, did you work at
13 MATES?

14 A **I did, sir.**

15 Q Okay. And what position did you have there?

16 A **It was a heavy-mobile equipment repair.**

17 Q How long did you hold that position?

18 A **I started there May of 1990 as a temporary tech for a couple**
19 **years. And I got full time summer of '92.**

20 Q So about 10 years, 1992 to 2002; is that fair?

21 A **Sounds good. Yes, sir.**

22 Q Okay. Well, I want to make sure. Okay. So in--so it's
23 your testimony you first started in approximately 1992 full
24 time--

25 A **Full time.**

1 Q --at MATES? Okay. When you arrived at MATES, did you have
2 occasion to work with Joe Smock?
3 A **We worked on the same floor, sir.**
4 Q Okay.
5 A **We were both in the wheel shop.**
6 Q In the wheel shop?
7 A **Yes.**
8 Q What did you do there in the wheel shop?
9 A **I was a--equipment repair.**
10 Q Okay. Is that the same position Mr. Smock held?
11 A **Yes.**
12 Q Okay. And--and you did that for approximately 10 years,
13 correct?
14 A **Yes, sir.**
15 Q Okay. Did you work alongside Mr. Smock for that entire 10-
16 year period?
17 A **We--we worked in the same shop, but not necessarily the same**
18 **bay--**
19 Q Okay. Different bays--
20 A **--because it--**
21 Q --same shop?
22 A **Same shop.**
23 Q Did you have occasion to speak with Mr. Smock on, it seems
24 like, almost a daily basis, then? Wouldn't it be the case?
25 A **Yeah. Sure.**

1 Q Okay. For those 10 years?

2 A **Yeah.**

3 Q And then, in 2002 you become a COMMO electronics repair; is
4 that right?

5 A **I forget the--the position description name, but it was in
6 the COMMO room, and I repaired equipment, so.**

7 Q Okay. So are you still in the bay?

8 A **Electronics worker, I believe, is the actual position
9 description.**

10 Q Okay. Electronics worker. Okay. So while you're an
11 electronics worker from approximately 2002 to 2010, are you
12 still interacting with Mr. Smock in any capacity?

13 A **Yeah. We worked at the MATES facility together. I mean,
14 there was interaction--not daily.**

15 Q Okay.

16 A **But there was interaction.**

17 Q So while you were in the--while you were both in the--the
18 different bays of the same shop, it was daily interaction;
19 and then once you moved to your position as an electronics
20 worker, it wasn't daily but you would still see him on
21 occasion, correct?

22 A **Yes.**

23 Q And still speak to him. Was--when you became an electronic
24 worker, was he still in the--in the bays as a heavy
25 equipment mobile repair person or did he move to a different

1 position, as well?

2 **A About that same time, I--I want to say I believe he--he went**
3 **and moved into the carpenter's position.**

4 Q Okay.

5 **A Somewhere in that timeframe.**

6 Q Okay. And then I'm assuming in about 2010 you went on a
7 deployment, correct?

8 **A I did, sir.**

9 Q And when you returned in September of 2011, your new
10 position was Surface Maintenance Mechanic, correct, at
11 MATES?

12 **A Yes, sir.**

13 Q Okay. And explain for the benefit of the Hearing Examiner
14 what--what duties you have in your capacity as a surface
15 maintenance mechanic.

16 **A General equipment repair. Anything pretty much with wheels,**
17 **trucks, humvees, ASVs, HOTS, all the other acronyms for the**
18 **HIMARS, ALTAS, forklifts.**

19 Q Okay. Now, did you continue to have interaction with Mr.
20 Smock after you returned from this deployment?

21 **A Not so much.**

22 Q Okay.

23 **A It dwindled.**

24 Q Was he still working at the MATES facility, to your
25 knowledge?

1 **A He was, sir.**

2 Q Okay. And it dwindled why? You say it dwindled. Just
3 because you're not working in close proximity with one
4 another or you just don't seek out conversation anymore?

5 **A Both. I had--I had--when I come home from my deployment, I
6 filed an EEO complaint.**

7 Q Okay.

8 **A And that set a course for some--a lot of hard, hurt
9 feelings.**

10 Q Okay. And what was the--what was the basis for the EEO
11 complaint?

12 **A The basis for the EEO complaint, I was pretty much coerced
13 into applying for the Surface Maintenance Mechanics
14 position. I was told on multiple occasions that, if I did
15 not apply for it and get it, I would not have a job when I
16 come home from my deployment.**

17 Q Okay. Who--who told you that?

18 **A Different people in the shop. It came from Chris Golnick,
19 Joe Smock, Stevie Miller who was my wage leader at the time.
20 Because Chris had made it known that those positions were
21 going away.**

22 Q Okay.

23 **A But then it hit during my deployment.**

24 Q Okay. So you ultimately did take the Surface Maintenance
25 Mechanic position, though, correct?

1 **A** **I thought I had no choice in the matter, but, yes, I did**
2 **take it.**

3 **Q** Okay. And I'm presuming that the EEO complaint is resolved
4 in some form, correct?

5 **A** **Correct, sir.**

6 **Q** Okay. Fair enough. Okay. Now, you have--you provided, I
7 believe, both testimony and--in the form of an audiotape or
8 CD--

9 **A** **Correct, sir.**

10 **Q** --it captured your--an interview, and a sworn statement in
11 connection with this case, correct?

12 **A** **Correct, sir.**

13 **Q** How many times were you interviewed in connection with this
14 case?

15 **A** **Several times.**

16 **Q** Can--can you give me a--more than--more than two?

17 **A** **I would say probably at least four.**

18 **Q** Four times. And how many sworn statements did you provide?

19 **A** **One.**

20 **Q** Have you had--have you had an opportunity to review your
21 sworn statement--

22 **A** **I would--I would--**

23 **Q** --prior to giving testimony today?

24 **A** **I would like to read it again.**

25 **Q** Okay. Staff Sergeant Schultz is going to open up the 15-6

1 to your sworn statement, and feel free to take your time,
2 Chief, reading the sworn statement. We've been--as you
3 know, we've been here for two straight days, long days, so a
4 little bit more is not going to bother us.

5 **A This--**

6 Q Take your time, Chief, because we're going--we're going to
7 ask a number of questions that--that pertain to that sworn
8 statement. So--

9 **A Can I leave it right here in front of me?**

10 Q You absolutely can. And if--and if you need to refresh your
11 recollection in any respect, then feel free to consult that.

12 **A I think that's good for now, sir.**

13 Q You all set?

14 **A I think so.**

15 Q Okay. Now, as I said, if you--if you don't--you know, if
16 you're not sure of an answer and you want to look at your
17 sworn statement to refresh your recollection, all you need
18 to do is say "I need to look at my sworn statement." Okay.
19 Understood?

20 **A Understood.**

21 Q Okay. Now, I'm going to have you open--

22 CAPTAIN BEDELLS: --Sergeant Schultz, if you can--
23 it's Tab G, to that Smock Case File.

24 BY CAPTAIN BEDELLS:

25 Q I'd like you have--I'd like you to have a look at what's

1 been marked as Tab G to Exhibit 3 of this case. And take
2 your time and--take your time and read over that entire
3 document--

4 **A Oh, okay.**

5 Q --if you would, please. I just need you to actually read
6 the letter.

7 **A Oh, okay.**

8 Q Chief, as you--having had an opportunity to read that
9 document, have you seen it before today?

10 **A Not this one, sir.**

11 Q Okay. And when you say "this one," you mean Exhibit G to--
12 or--I'm sorry--Tab G to Exhibit 3, correct?

13 **A Yes, sir.**

14 Q Okay. So that you viewed it today for the first time?

15 **A Yes.**

16 Q What do you understand that document to be?

17 **A It's a--grounds for removal from the technician program.**

18 Q Okay. And during the course of your reading that, I gather
19 you under- --you saw a number of allegations, specifically
20 about nine allegations against Mr. Smock, correct?

21 **A Correct.**

22 Q Do you recall reading those?

23 **A Yeah.**

24 Q Okay. What we're going to do here is we're going to walk
25 through, as I've done with each of the previous witnesses,

1 each of the allegations listed there. I'm going to first
2 ask you whether you have any personal knowledge with respect
3 to each of those allegations. And then after you answer in
4 the affirmative or negative, I'm going to ask you if you--
5 additionally, if you've ever heard of any other accounts of
6 others who might have seen this form of misconduct that's
7 been alleged against Mr. Smock. Okay. So, if at any point
8 you don't understand my question or you're confused, just
9 stop and say, "Hey, Captain Bedells, I do not understand
10 that question." We can pause, and I'll rephrase it. Okay?

11 **A Thank you.**

12 **Q** Because that's happened a number of times, you might be
13 surprised, through the course of this investigation. Okay.
14 So we'll go very slow. We're not in any hurry.

15 **A Okay.**

16 **Q** The first allegations--if you have it open to the second
17 page, right?

18 **A I do.**

19 **Q** The first allegations reads, "You wrongfully removed a flat
20 screen television from the MATES building." You see that?

21 **A I did.**

22 **Q** Okay. So do you have personal knowledge of Mr. Smock
23 removing a flat screen television from the MATES building?

24 **A I do.**

25 **Q** Explain to the Hearing Examiner what your personal knowledge

1 is with respect to Mr. Smock removing a flat screen
2 television.

3 **A I watched Mr. Smock and Chris Golnick walking from the MATES**
4 **facility through the MATES parking lot and load in a TV into**
5 **their car.**

6 Q Do you recall approximately when you observed this?

7 **A It was spring/summer.**

8 Q Of what year?

9 **A Oh, goodness. I can't really answer that. It was--I have a**
10 **lot on my plate personally, so.**

11 Q I understand. I understand. Would it be safe to say that
12 it occurred prior to the investigation commencing?

13 **A Oh, yes. Definitely.**

14 Q Okay. And when do you understand the investigation to have
15 begun?

16 **A Let's see. It was before I went to Warrant Officer School.**
17 **So I went--I'm going to say, like, late summer/early fall-**
18 **ish last year.**

19 Q Okay. So you're--

20 **A Almost--almost--yeah, a little over a year ago.**

21 Q Okay. Your understanding is this--the investigation that's
22 culminating today, began in approximately late summer/early
23 fall of 2013--

24 **A Yes, sir.**

25 Q --fair? Okay. And you--your testimony is that your--your

1 observation of Mr. Smock and Lieutenant Colonel Golnick; is
2 that correct?

3 **A Yes, sir.**

4 Q Carrying a--carrying a television in, did you say the MATES
5 parking lot?

6 **A Through the MATES parking lot.**

7 Q Through the MATES parking lot occurred prior to the
8 investigation commencing?

9 **A Yes, sir.**

10 Q So do you believe it to be the summer of 2013, like, in
11 other words, it was close proximity, or was it the previous
12 year or even--

13 **A I--**

14 Q --previous years prior to that?

15 **A I would say it was at least year previous to the
16 investigation.**

17 Q So maybe summer of 2012?

18 **A Good possibility.**

19 Q Okay. When you observed this television being transported
20 by Mr. Smock and Lieutenant Colonel Golnick, was anyone else
21 present? I mean close to you? Was anyone else--let me--let
22 me ask you--strike that. Let me ask you where were you when
23 you made this observation?

24 **A In the break room.**

25 Q Okay. You were in the break room. Was anyone else in the

1 break room with you when you made this observation?

2 **A Well, I want to say it was probably about lunchtime or break**
3 **time, so there should have been more than--because there's**
4 **always more than just a couple people in the break room.**

5 Q Did you ask anyone, like, "Hey, what are Lieutenant Colonel
6 Golnick and Master Sergeant Smock doing with a television?"

7 **A I did not ask anyone that.**

8 Q Okay. Did you see whether anyone else made this
9 observation?

10 **A I'm sure several people made that observation, but some of**
11 **us are very hesitant to come forward and speak, because**
12 **we've been shot down on multiple occasions.**

13 Q Okay. So I--and that was going to go to one of my future
14 questions, but I'll ask it right now. Did you confront
15 Lieutenant Colonel Golnick or Master Sergeant Smock about,
16 "Hey, what are you guys doing with a TV in the MATES parking
17 lot?"

18 **A I did not.**

19 Q Okay. Now, you've testified that you personally observed
20 this. Have you heard any other--I mean, I guess in a manner
21 of speaking, you've already answered the question, because
22 as far as you know no one in the break room observed it.
23 But did you hear anyone else who might have observed this
24 from a different vantage point?

25 **A I believe Master Sergeant Fouts did.**

1 Q And why do you believe that Master Sergeant Fouts did?

2 A Because I remember having a vague conver- --oh--conversation
3 with her, because we had--the MATES had been in the process
4 of trying to do, like, an MWR funding thing to update some
5 of the TV equipment for either the break room and/or the
6 fitness room. And it was roughly around that same timeframe
7 that that episode happened.

8 Q Okay. And let me let you expound on it. When you said you
9 saw them taking the television across the parking lot, my
10 question was did you see them remove the flat screen from
11 the MATES building?

12 A Oh, yeah. They were going from the MATES building through
13 the parking lot to the car.

14 Q Did you see them load this television in the car?

15 A I did, sir.

16 Q What hap- --what happened after that? Did someone drive off
17 or did they just return back to the MATES building?

18 A I didn't stay in the break room to watch. I kind of see
19 things so far, and then I just have to go away.

20 Q Did it strike you as odd or is this something that's
21 relatively routine at the MATES facility, a television
22 getting loaded into a car?

23 A It is odd. But other equipment has left the MATES facility
24 throughout the years with nobody questioning it at that time
25 either, so.

- 1 Q Okay.
- 2 **A It seems--**
- 3 Q In your mind, as you made this observation, did you believe
4 that TV to be a television that belonged to the Government?
- 5 **A I believe it was, yes.**
- 6 Q Okay. And you were--I'm sorry. I cut you off. You were
7 testifying that you believe Master Sergeant Fouts had also
8 made a similar observation, correct?
- 9 **A I believe so, sir.**
- 10 Q To your knowledge was her observation about the same time
11 you observed it? In other words, the--what you each
12 observed was the same event?
- 13 **A Oh, I'm sure it was, sir.**
- 14 Q Okay. And, again, you think it was probably the year
15 before, the summer before--not the immediately-preceding
16 summer, but the summer prior to the investigation
17 commencing, correct?
- 18 **A I--I think so, but I--I can't say for certainty.**
- 19 Q Okay. You--you--do you know for certain whether that
20 television belonged to--belonged at the MATES facility as a
21 Government-purchased television?
- 22 **A Like I said earlier, we had been talking as a--as a group.
23 And there'd been stories about how we were trying to get one
24 for the facility through the MWR funds.**
- 25 Q Right.

1 **A** So my thought process at the time is that's where it came
2 **from.**

3 **Q** Okay.

4 **A** But I have no way to prove that.

5 **Q** Did you ever observe the tel- --the television you--that you
6 observed Mr. Smock and Lieutenant Colonel Golnick
7 transporting through the--through the parking lot, was it in
8 a box?

9 **A** It was in a box.

10 **Q** Okay. So it might have been brand new?

11 **A** I believe it was.

12 **Q** Okay. So you had never observed a similar TV affixed on the
13 wall in the break room, for instance?

14 **A** We always have a TV in the break room on a--on, like, a TV
15 stand.

16 **Q** Okay.

17 **A** It's like a home-made metal shelf rack in the--

18 **Q** But you were in the break room when you made the
19 observation, correct?

20 **A** Correct.

21 **Q** The--was the T- --

22 **A** And there was a TV in the room at the time.

23 **Q** Okay. So there--it's not as if there was a bracket with a
24 TV missing?

25 **A** No.

1 Q Okay. Fair enough. Now, I--and the reason I'm getting at
2 this, Chief, is the--Mr. Smock through Mr. Banchs has
3 submitted a reply to the--that original decision letter that
4 you just reviewed. And as part of that reply, they've
5 tendered both a bill of lading and a receipt for a flat
6 screen television that was purchased by Lieutenant Colonel
7 Golnick and delivered to the MATES facility. And when I say
8 purchased by Lieutenant Colonel Golnick, I mean using a
9 personal credit card.

10 Do you have any reason to dispute--and--and that--and
11 both the bill of lading and the credit card are dated about
12 the summer of 2012.

13 Would you have any reason to completely discount the
14 possibility that that television that was purchased by--or
15 the receipt that reflects the purchase of a television by
16 Lieutenant Colonel Golnick, along with the bill of lading,
17 actually relates to the TV that you saw being transported in
18 the--across the parking lot. Do you understand the
19 question?

20 A I--I really don't think I do.

21 Q That's a long question.

22 A I'm sorry.

23 Q Sounded perfect to me.

24 A I kind of--I--it sounds a little more like you're building
25 the clock to tell the time. And I'm--I kind of got

1 **overwhelmed there for a second.**

2 Q Okay.

3 **A Sorry.**

4 Q Okay. Well, I'll break it into pieces. So there--there--in
5 Mr. Smock's defense, Mr. Banchs has produced a credit card
6 receipt and a bill of lading, in other words a delivery, a
7 receipt of a delivery, showing that a--that Mr. Golnick--
8 Lieutenant Colonel Golnick purchased a flat screen TV from
9 Wal-Mart--

10 CAPTAIN BEDELLS: --or Sam's Club?

11 MR. BANCHS: Wal-Mart.

12 BY CAPTAIN BEDELLS:

13 Q Wal-Mart--from Wal-Mart and had that delivered to the MATES
14 facility in 2012. Okay. My question to you is would you
15 have any reason to dispute that the TV that you saw being
16 transported across the parking lot might possibly be that
17 television that Lieutenant Colonel Golnick had delivered
18 from Wal-Mart in the summer of 2012?

19 **A I--personally, I would say that would be a very slim to none
20 chance that that's the same TV.**

21 Q And why do you say that?

22 **A Most people do not deliver their home goods to their place
23 of work, and then have to deliver it through the parking
24 lot, to their truck just to take it home, when it'd be just
25 as easy to have it delivered right directly to their house.**

1 Q Okay. Fair enough. So you--with respect to--no--respect to
2 A--well, it's A on mine. Is it A on yours or is it 1?

3 **A The TV's A.**

4 Q Okay. A. So on A on mine, you--you personally observed Mr.
5 Smock and Lieutenant Colonel Golnick transport this
6 television. And you heard a similar account from Master
7 Sergeant Fouts, correct?

8 **A Correct, sir.**

9 Q Okay. Anything else with respect to the television?

10 **A None, sir.**

11 Q Okay. Now, let's move down to B. B reads, "You wrongfully
12 removed sheets of OSB board from the MATES facility." My
13 first question is do you understand what OSB is?

14 **A I know it's a type of wood. That's--**

15 Q Okay.

16 **A --about it.**

17 Q Okay. I've learned during the course of this investigation
18 it stands for oriented strand board. Okay. But you're
19 right. It is a type of wood. So my question is, as you
20 read paragraph B, do you have any personal knowledge of Mr.
21 Smock removing OSB sheets from the MATES building?

22 **A I--I have witnessed Mr. Smock on at least three occasions**
23 **leaving the MATES facility in his MATES pickup truck with**
24 **the wood loaded in the back, and the truck was squatting as**
25 **he was leaving--**

1 Q Okay

2 A --the MATES facility.

3 Q When you say--okay. Let's--three separate occasions; is
4 that correct?

5 A Yes.

6 MR. BANCHS: I object to this, because this is not
7 in the record. This is new testimony.

8 THE HEARING EXAMINER: It's in the 15-6.

9 MR. BANCHS: Not that she observed him personally.

10 CAPTAIN BEDELLS: Look, either way--

11 MR. BANCHS: She never claimed direct knowledge
12 before. In both her statements--it's the same--

13 CAPTAIN BEDELLS: Sir, I--sir--

14 MR. BANCHS: --objections that I've had to
15 previous, I mean--

16 THE HEARING EXAMINER: Yeah.

17 CAPTAIN BEDELLS: I understand--

18 THE HEARING EXAMINER: I note the objection, but
19 I'll--

20 CAPTAIN BEDELLS: I understand--

21 THE HEARING EXAMINER: --hear the answer.

22 MR. BANCHS: Okay.

23 THE HEARING EXAMINER: I'll hear the--

24 CAPTAIN BEDELLS: Yeah. Sir, this--

25 THE HEARING EXAMINER: --line of questioning.

1 CAPTAIN BEDELLS: --this goes to the very nature
2 of the offenses that are--that are listed here. So, thank
3 you.

4 BY CAPTAIN BEDELLS:

5 Q So, Chief, you've testified that on three separate
6 occasions--and I want to take them in order--you testified
7 on three separate occasions that you've seen Master Sergeant
8 Smock remove--now I want to be careful, because as you read--
9 --as you see down, there's also wood and also--also luan.
10 But let--let's just stick to the three separate occasions.
11 On those three separate occasions, was the wood the same or
12 could you even tell what type of wood it was?

13 A **They were sheets of wood. I--I don't know wood from wood,**
14 **really.**

15 Q Okay. When you say sheets of wood, like--

16 A **Like, they were--**

17 Q --approximate how big?

18 A **Like, big flat pieces.**

19 Q Okay.

20 A **Like, the width of the bed of the truck.**

21 Q Okay. Okay. With respect--we're going to take three
22 separate occasions, now. So with respect to--and I don't
23 care which order, the order in which you describe them, I
24 just want to separate them. Okay.

25 So your first observation of Mr. Smock removing OSB

1 board or wood of some form from MATES, do you recall where
2 you were?

3 **A There's--outside of the--it used to be the wheel shop. I'm**
4 **not sure what they call it now. It think it's Auto-2.**

5 Q Okay.

6 **A And then behind that building, there's 1404, where the parts**
7 **people. And there's that pavement area that's going along**
8 **the MATES. And then it goes to the main parking lot where**
9 **we all park our POVs. It was in that area right there.**

10 Q Okay. Were you with anyone else?

11 **A No.**

12 Q Do you recall approximately when--and we're talking about
13 the same instance here--do you recall approximately when
14 this occurred?

15 **A During the duty day.**

16 Q Okay. When in the course of the--during the duty day, but
17 when in the course of a year? Give me a month and year or a
18 season and a year, if you can remember.

19 **A It was, like, summer.**

20 Q Summer. A year?

21 **A No.**

22 Q Was it within the last five years?

23 **A I would say so, yes.**

24 Q Okay. But it was--did it occur within the last 12 months?

25 **A Oh, I haven't been around much in the last 12 months, so it**

1 **was previous to the 12 months.**

2 Q Okay. So--yeah. So previous to--arguably previous to the
3 investigation, correct?

4 A **Correct.**

5 Q Okay. So previous to the investigation, but within the last
6 five years, you observed at least one occasion where you
7 were, during the duty day, at the MATES facility. And where
8 were--I know you gave a description, but where would you say
9 you were located?

10 A **The north side--I guess you'd call it the north side of the
11 shop.**

12 Q Okay. The north side of the shop. Anyone else present?

13 A **(Witness shakes head negatively)**

14 Q Okay. What--you noted that--was it the case that on all
15 three occasions the truck was squatting?

16 A **Yes, sir.**

17 Q Okay. What--what kind of truck was it?

18 A **It was his--his work truck. I want--I--it wasn't the
19 commercial truck. It was more like the--I guess we'd call
20 it the NTV, like an old CUCV pickup truck.**

21 Q Okay. CUC--what are the--that's the second time I've heard
22 that.

23 A **Commercial utility cargo vehicle. It's a military acronym.**

24 MR. BANCHS: We're making--

25 CAPTAIN BEDELLS: Now he's making fun of the

1 military lawyers because we don't know the acronyms. Okay.
2 CUCV.

3 MR. BANCHS: CUC.

4 BY CAPTAIN BEDELLS:

5 Q Okay. Oh. I get it. Okay. Okay. And was anyone else in
6 the truck with him?

7 A **I don't recall.**

8 Q Okay. But you could clearly see Mr. Smock driving the
9 truck?

10 A **Yes. He's got distinct facial features.**

11 Q Okay. You're certain it was him?

12 A **Yes.**

13 Q Okay. So that's the first occasion, correct?

14 A **Yes.**

15 Q Any other details you can provide with respect to that
16 occasion?

17 A **I came back--it seemed like it wasn't--before the end of the
18 duty day, he'd come back and the truck was empty.**

19 Q Okay. Wasn't squatting anymore?

20 A **It wasn't squatting.**

21 Q How could you observe the wood in that pickup truck?

22 A **The tailgate was down.**

23 Q Okay. And as he drove by, was the wood actually extended
24 out of the bed of the pickup truck or was it completely
25 within the bed; if you recall?

- 1 **A** **It was--it was in the bed of the truck.**
- 2 Q Okay. But the tailgate was down?
- 3 **A** **Yes.**
- 4 Q Did you observe the wood as he drove away? I mean, is that
- 5 how--I mean, I'm just trying to get the vantage point to--
- 6 did he drive by this way or he was driving away from you
- 7 and, hence, you saw the wood?
- 8 **A** **Like, perpendicular.**
- 9 Q Okay.
- 10 **A** **Like, I was going this way, and he was driving that way.**
- 11 **All you had to do was turn your head--**
- 12 Q Okay.
- 13 **A** **--and you can see, you know, the inside of the rear of the**
- 14 **pickup truck.**
- 15 Q Okay. Did you believe that wood that was in the back of
- 16 his--is it CUCV? Is that right?
- 17 **A** **Work--work truck.**
- 18 Q Work truck. Let's call it a work truck.
- 19 MR. BANCHS: CUC.
- 20 BY CAPTAIN BEDELLS:
- 21 Q Did you believe the wood that was in the back of his work
- 22 truck to belong to the MATES facility?
- 23 **A** **I did, sir.**
- 24 Q Okay. And is that because it was in a work truck?
- 25 **A** **It was in a work truck, and the wood storage area out to the**

1 **MATES was in the--let's see. There's 1404, and then there's**
2 **the other building across the way. And in the back of that**
3 **was where the wood was always stored or in the woodshop, so.**
4 Q And he was coming from that direction--
5 A **And he was--**
6 Q --in the work truck?
7 A **--coming from that general area.**
8 Q Okay.
9 A **He was headed that way.**
10 Q And it's your testimony that this was during the duty day,
11 and you saw the truck leave with--can you estimate how many
12 sheets? I mean, I understand these sheets are, like, maybe
13 half-inch to three-quarter inch.
14 A **It made the truck squat.**
15 Q Okay.
16 A **I mean--**
17 Q Okay. Okay. Let's go to the second occasion, because you
18 testified there were three occasions. The second occasion,
19 was it--in terms of time, was it in close proximity to the
20 first occasion, like, the next day or was it a different
21 time altogether?
22 A **I--I--they weren't, like, consecutive days. But--**
23 Q Well, was it all within the same month, would you say?
24 A **I would say it was all within the same season, like the**
25 **summer months.**

1 Q Okay. Again, more than a year ago, but less than five years
2 ago?

3 A Yes.

4 Q Okay. So occasion number 2, where are you?

5 A This--the second time I was coming out of the--there's a
6 little man door. You got--you got bays, and then a man
7 door, and more bays.

8 Q Okay.

9 A But, again, you're headed in that same general direction
10 between the far bay and this where the wood was stored and
11 then the parts bays. I had some metal that I was taking out
12 to the metal bins.

13 Q Okay. So you're coming out--you're coming out of a man
14 door?

15 A Coming out of the side man door in the north shop.

16 Q Side man door, north shop. And you observe--you make a
17 second observation. Explain to the Hearing Examiner what
18 you see.

19 A It was pretty much the same thing all over again. There was
20 sheets of wood filling up the bed of the truck. The truck
21 was squatting, and he was driving out.

22 Q Okay. During the duty day?

23 A During the duty day. I'm--I'm not there usually after duty
24 hours, sir.

25 Q Okay. Understood. Was it--was it about the same time in

1 the duty day that you first observed--or at least your
2 account of the first observation?

3 **A I would--I would say mid-morning.**

4 Q Okay. And, again, was it in the work truck?

5 **A It was.**

6 Q Okay. In the work truck. And were you able to physically
7 see the wood?

8 **A Yes.**

9 Q Was there the same amount of wood--

10 **A Uh-huh.**

11 Q --more wood, less wood?

12 **A I would say all three occasions it was approximately the
13 same amount of wood.**

14 Q Because the truck was squatting?

15 **A The truck was squatting, and you can--I mean, it's not like
16 it was falling out over the top of the wheel wells, but it
17 was a decent stack both times.**

18 Q Okay. So maybe it was the maximum amount of wood you could
19 put in that work truck before it just squatted to the
20 ground, right?

21 **A I'm not sure what wood weighs, sir.**

22 Q Okay. Okay. Anyone else present during the second instance
23 in which you observed him leave with wood?

24 **A There--there was some people working outside. They had,
25 like, a tire going into one of the tire cages, where you**

1 **blow up the tires. But they were busy kind of with that**
2 **detail.**

3 Q Did you mention anything to them, like, "Hey, where's Joe
4 going with that work truck full of wood?"

5 A **I just kind of shook my head and shrugged my shoulders and**
6 **walked away.**

7 Q Okay. In terms of timeframe, we're talking about all within
8 the same season of the same year--

9 A **Yes.**

10 Q --is that correct? Okay. Anyone else in the truck on this
11 second occasion that you could observe?

12 A **No, sir.**

13 Q Are you certain it was Mr. Smock driving that truck that
14 day?

15 A **I am very certain.**

16 Q Okay. Did you ever confront him about it, like, "Hey, this
17 is the second time I've seen you leaving?"

18 A **No.**

19 Q Okay. And then, finally, the third occasion, tell the--if
20 you'd explain to the Hearing Examiner what you observed on
21 the third occasion? In other words, where--same questions:
22 Where were you? Was anyone else present? What you
23 observed.

24 A **the other time that I remember seeing it I was coming out of**
25 **the--the--trying to think. This is north, so that'd be**

- 1 east, like the east man doors, because there was the garbage
2 bins, the dumpsters, and I had some garbage with me. And it
3 was mid-day. The truck was squatting. He was driving by.
4 I was all by myself because I was--garbage. Usually, you
5 know, you don't get very many takers to help take the
6 garbage out. And the truck went by. And it had that canter
7 to it again. And so I just kind of looked, and I just shook
8 my head.
- 9 Q Okay. So this third occasion we're talking about the same--
10 roughly the same season of the same year, correct?
- 11 A Correct.
- 12 Q More than 12 months ago, but less than five years ago. And
13 you were taking the garage out--or the garbage out, no one
14 else around, correct. And you're certain Mr. Smock was
15 driving the truck?
- 16 A Certain.
- 17 Q And it was--was it the same work truck that you've
18 identified in the--
- 19 A Yes, sir.
- 20 Q --two previous instances?
- 21 A Yes, sir.
- 22 Q Okay. On this third occasion, did you observe anyone else
23 in the truck with Mr. Smock? You have to answer--
- 24 A No, sir.
- 25 Q --yes or no.

1 **A** **No, sir.**

2 **Q** Okay. Thank you. And I presume again, on this third
3 occasion, you didn't confront Mr. Smock about, "Hey, Joe,
4 where are you going with that wood in the wood (sic) truck?"

5 **A** **No, sir.**

6 **Q** Okay. On this third occasion, did you see Mr. Smock return
7 with the truck?

8 **A** **I did. It was probably a good couple hours later. It was**
9 **empty.**

10 **Q** Was it--the truck was empty. And I'm sorry. I don't recall
11 the second occasion.

12 **A** **The second time the truck came back before the end of the**
13 **duty day, and it was empty.**

14 **Q** Okay. Like the first occasion, correct?

15 **A** **Yes, sir.**

16 **Q** Okay. So on all three occasions you see Mr. Smock alone in
17 the work truck, also known as the CUCV. Right?

18 **A** **Yes. That cracks me up. Sorry.**

19 **Q** Yep. Leaving during the duty day, with enough wood to make
20 the back end of that truck squat, and he returns before the
21 end of the duty with the truck empty?

22 **A** **Yes.**

23 **Q** Correct? And you never confront him about it, correct?

24 **A** **(No audible answer)**

25 MR. BANCHS: Can she answer?

1 THE WITNESS: Oh, I said no. Oh. I'll speak up.

2 CAPTAIN BEDELLS: Yeah. She--

3 THE WITNESS: Sorry.

4 BY CAPTAIN BEDELLS:

5 Q You'll have to speak up, because there are microphones
6 picking up all the--all the testimony. Thanks.

7 And is it your testimony, Chief, that you believe, in
8 each instance, the wood that was in the back of that pickup
9 truck was wood from the MATES facility?

10 A **Wholeheartedly, sir.**

11 Q And you believe that because it was leaving in a work truck,
12 correct?

13 A **Yes, sir.**

14 Q Is there any reason for wood to be hauled off of MATES to
15 build something somewhere else, to your knowledge?

16 A **No, sir.**

17 Q Okay. And you've been there--you've been at MATES since
18 1992, correct?

19 A **Correct, sir.**

20 Q What about Camp Grayling? Do they have wood?

21 A **They have their own woodshop. They have their own State
22 worker that maintain the facilities.**

23 Q Okay. Okay. Okay. So those are--so we've answered that
24 you've actually personally observed Mr. Smock remove sheets
25 of OSB from the MATES building. My next question is--

1 **A** **Well, I know it's wood. I'm--sheets of wood. I don't--**
2 **Q** You know it's sheets of wood? In other words, it wasn't--it
3 wasn't wood to burn, like--
4 **A** **No. No.**
5 **Q** Yeah. Like logs, okay. So we've answered that. At least
6 on--is it just the three occasions you've observed?
7 **A** **Yes, sir.**
8 **Q** Okay. Now, have you heard from any other person an account
9 of Mr. Smock removing sheets of OSB from MATES?
10 **A** **I've heard discussions on it, yes.**
11 **Q** Okay. When you say you've heard--
12 **A** **A lot of hall- --a lot of hallway talk goes on.**
13 **Q** Okay. Well, when you say you've heard discussions, do you
14 mean you've overheard two other people talking about it or
15 someone else has approached you and said, "Hey, I have to
16 tell you what I saw"?
17 **A** **More--more just general discussions about the--the materials**
18 **that--there's a joke that, you know, when you take something**
19 **from the MATES, you just have to put it behind you. So that**
20 **always opens up the door for more conversations.**
21 **Q** Okay. Okay. Well, let me ask you this: Who have you heard
22 from regarding allegations that Mr. Smock removed OSB from
23 the MATES?
24 **A** **I don't know if I can actually give you names that were**
25 **factual. There's so many conversations you have with**

1 **everybody over the course of years. It's--I can't remember**
2 **every name to every conversation that you've ever had.**

3 Q Okay. You can't think of any off the top of your head? Any
4 one--

5 A **The wheel- --I would call them the wheel-shop folks, the**
6 **people that work in the wheel shop.**

7 Q The wheel-shop folks. Okay. Anyone in particular who told
8 you, "Hey, Chief Whitcher, I saw Joe Smock take OSB out of
9 the MATES facility"?

10 A **I can't put a face to it right now, no, sir. Sorry.**

11 Q Okay. Okay. Now, my questions were particular to B, which
12 is on your sheet, and involved OSB.

13 A **Correct.**

14 Q We've heard testimony earlier today, and it's testimony
15 that's in evidence, from, for instance, Chief Mack, who
16 distinguished OSB from plywood. And I--you've already
17 testified that you don't know necessarily the differences
18 between wood. Do you--do you distinguish OSB from plywood?

19 A **I don't think I'd know the difference, sir.**

20 Q Okay. Did--did Chief Mack ever discuss with you any
21 observations about Mr. Smock removing plywood from the MATES
22 facility?

23 A **I don't think I ever really talked to Mr. Mack particular on**
24 **that. He--he would know the difference. He is a builder,**
25 **so.**

1 Q Right. Okay. Okay. So let's move down to C, then. And C
2 talks about wood in a very general sense, right? It just
3 says wood.

4 A **Wood. Yes, sir.**

5 Q Okay. So I don't want to--I don't--what I don't want to do
6 is recaptured what we just discussed, those three instances
7 in which you observed Mr. Smock driving out of the MATES
8 facility in a work truck loaded with wood and then returning
9 the truck empty. Okay. So I don't want to discuss those.
10 Any personal observations of Mr. Smock removing any
11 form of wood, whatsoever, not necessarily limited to a
12 truck--it could be carried by hand or in some fashion--from
13 the MATES facility?

14 A **No.**

15 Q Okay. Did you ever see him build anything out of wood at
16 the MATES facility and remove it?

17 A **He built fly boxes--**

18 Q Okay.

19 A **--or shadow boxes or display boxes.**

20 Q Okay. Did you personally observe Mr. Smock build fly boxes?

21 A **Yes.**

22 Q Okay. Did you personally observe Mr. Smock build shadow
23 boxes?

24 A **They're--my--my definition's they're all the same.**

25 Q Okay.

1 **A** **So.**

2 **Q** Or display box. So you're talking about the same--

3 **A** **Yeah.**

4 **Q** --same--a box of wood. To your knowledge, in his

5 construction of those boxes--and they're all the same--was

6 he using--using wood from the MATES facility?

7 **A** **Yes, sir.**

8 **Q** Okay. And why do you say that?

9 **A** **The wood would be in the wood bay or the woodshop area. The**

10 **saws were back there. And he had built me a display for my**

11 **EEO display boxes. And he was using--**

12 **Q** I'm sorry? Your what?

13 **A** **The EEO display boxes, the Equal Opp- --Equal Employment**

14 **Opportunity, CDC--**

15 **Q** Oh. To post--

16 **A** **Like, my posters and treatments.**

17 **Q** Right. Okay.

18 **A** **And he had showed me how you run the wood over this saw, and**

19 **it cuts the groove, so that the Plexiglass slides in and**

20 **out. And that's what--how he was making those shadow boxes**

21 **or display boxes.**

22 **Q** A joiner? Is that the right tool?

23 **A** **It's a saw of some sort. I--**

24 **Q** Joiner?

25 **A** **I'm not a carpenter. I don't--**

1 Q I'm not either. I'm just trying to take a guess, gets some
2 points here. Okay.

3 So you saw him pur- --you saw him construct these
4 display boxes; you personally observed him--

5 **A Yes, sir.**

6 Q --okay--construct these? There's been some testimony that
7 people have had to purchase various things from Mr. Smock at
8 the--at the MATES facility. Have you ever purchased any--
9 any of these wood products that he constructed?

10 **A I didn't, no.**

11 Q So he--so that, at least this box--display box he gave you
12 for the EEO stuff, that's for the MATES facility, right?

13 **A It was hung on the wall at the MATES facility, yes.**

14 Q Okay. Okay. To your knowledge, did he ever sell any of
15 these display boxes to any other personnel within the MATES
16 facility?

17 **A I couldn't verify that, sir.**

18 Q Okay. Did you ever see him leave the MATES facility with a
19 display box, fly box or anything of that nature?

20 **A Yeah. He'd just walk and put it out in his car.**

21 Q Okay. Did that give you pause to ask why that box would be
22 leaving the MATES facility if it used MATES material and
23 MATES equipment to construct it?

24 **A I just shake my head, sir.**

25 Q Okay. Okay. So you've testified that you've personally

1 observed him construct these shadow, display boxes of some
2 sort. Did you ever hear from any other person an account of
3 Mr. Smock removing--as I said, it doesn't have to be wood in
4 a pickup truck. It could be wood of any sort, small pieces
5 of wood or little things that he constructed from the MATES
6 facility?

7 **A No, I don't think so, sir.**

8 Q Okay. There's been--and I ask, again, because there's been
9 testimony that Mr. Smock built both tip-ups at the MATES
10 facility--

11 **A Oh, yes. Yes. I forgot about those.**

12 Q Okay.

13 **A That was a seasonal item.**

14 Q Okay. Did you personally observe him--now that I've
15 refreshed your recollection--did you personally observe him
16 constructing tip-ups at the MATES facility?

17 **A Oh, yes.**

18 Q Okay. Yet, you've never purchased a tip-up from him?

19 **A No. I don't even know how to use a tip-up.**

20 Q Okay. That makes two of us. So do you believe that the
21 wood he used in the construction of those tip-ups was from
22 the MATES facility?

23 **A I do.**

24 Q And why do you believe that?

25 **A They're built right there. The wood's right there. The**

1 **tools were there that were being used. Just kind of adds**
2 **up.**

3 Q Okay. Now, I've already established earlier in this
4 questioning that you're married to Chief Todd Witcher,
5 correct?

6 A **Correct.**

7 Q Did--is your husband an ice fisherman?

8 A **Oh, once in a great while he'll go out.**

9 Q Okay. To your knowledge, did he ever buy any tip-ups from
10 Mr. Smock?

11 A **I don't think so.**

12 Q Okay. Do you know--do you know of any person who--who might
13 have purchased a tip-up from Mr. Smock, either--either
14 personally observing them say, "Hey, I want to buy that tip-
15 up," or alternatively saying, "You know, I just bought a
16 tip-up from Joe Smock"?

17 A **Well, I'm sure--I'm sure people have bought them. Like I**
18 **said, they were a seasonal item. And they always seemed to**
19 **be the top topic of the season. But I--I don't fish, so I**
20 **really don't know what any of that would even be worth or**
21 **how you'd go about it.**

22 Q Okay. Now, I want to move down to D. It says, "You
23 wrongfully removed sheets of luan from the MATES building."

24 A **I have no clue what luan is.**

25 Q Okay. So it'd be fair to say that the only time that you

1 observed Mr.--personally observed Mr. Smock remove wood of
2 any type from the MATES facility was--is limited to the
3 three instances that you testified to earlier, correct?

4 **A Other than the minor things, the tip-ups and the shadow**
5 **boxes.**

6 Q Yeah. Right. Yeah. I meant the--inasmuch as you don't
7 know what luan are--I said sheets of luan.

8 **A Yeah. I have--**

9 Q The only sheets you saw him remove are the three that you've
10 testified to--

11 **A Yes.**

12 Q --earlier today?

13 **A Yes.**

14 Q Okay. Fair enough. Did you hear anyone--so, inasmuch as
15 you know what luan is, you presumably didn't heard of anyone
16 else saying, "Hey, I saw Joe Smock remove luan from the
17 MATES facility;" is that fair to say?

18 **A That would be very fair to say.**

19 Q Okay. Okay. Let's move down to E, then. And that reads
20 that Mr.--it's alleged that Mr. Smock "wrongfully installed-
21 -" in other words, didn't remove, but he "--installed
22 Government-purchased tires on his son's truck." Chief, did
23 you ever personally observe Mr. Smock place Government-
24 purchased tires on his son's truck?

25 **A No.**

1 Q Okay. Did you ever observe his son's truck at the MATES
2 facility in one of the maintenance bays?

3 A **No.**

4 Q Okay. Did you ever hear an account by anyone else--else to
5 the effect that Mr. Smock installed Government-purchased
6 tires on his son's truck?

7 A **I have heard stories of it, sir.**

8 Q Okay. From whom did you hear this account?

9 A **The hallway chitchat. You know, again, we--people tend to
10 discuss things. And I can't tell you who.**

11 Q Well, Chief, okay, so you don't have any particular
12 individual, but did--the hallway chitchat, do you believe
13 that you heard this during the course of the investigation
14 or after the investigation, which it probably wouldn't be
15 after the investigation because you haven't been over at
16 MATES, correct?

17 A **Correct. I was--**

18 Q Until recently.

19 A **Right.**

20 Q Or is--or would you say that this hallway chitchat occurred
21 prior to the investigation?

22 A **Prior to the investigation.**

23 Q Okay. But, again, no--no personal knowledge and you cannot
24 identify a single individual who might have given this
25 account?

1 **A No.**

2 Q Okay. Okay. The next one down, F, says, "You wrong- --" or
3 it's alleged that Mr. Smock "wrongfully removed heaters from
4 the buildings at Camp Grayling." Okay. Do you have any
5 personal knowledge of Mr. Smock removing heaters from
6 buildings at Camp Grayling?

7 **A No, sir.**

8 Q Okay. Have you ever heard from any other person an account
9 that Mr. Smock had removed heaters from buildings at Camp
10 Grayling?

11 **A Yes, sir.**

12 Q Okay. Can you point to a particular individual in this case
13 who told you that he had removed heaters from Camp Grayling?

14 **A It was hallway talk. They were supposedly going to be put
15 in his garage.**

16 MR. BANCHS: I'm going to--sir, if you don't mind,
17 and it was my bad because I didn't catch it with the
18 previous one, I'm going to object again to these, because
19 she did- --she never put in her testimony that she heard
20 anything about the tires or the heaters so far. So I'm
21 sorry I didn't catch the tires, but I'm objecting to the
22 heaters, as well.

23 CAPTAIN BEDELLS: Okay. Fair enough. She can
24 answer the question, though, I mean? It goes to the--

25 THE HEARING EXAMINER: I'll hear it.

1 CAPTAIN BEDELLS: Thank you, sir.

2 BY CAPTAIN BEDELLS:

3 Q So--I'm sorry. So again you said it's hallway chitchat
4 again?

5 A **Hallway chitchat.**

6 Q And--and you can't point to a particular individual who
7 said, "Chief Whitcher, you're not going to believe this, but
8 I think Joe Smock's removing heaters from Camp Grayling"?

9 A **No.**

10 Q Okay. And then we'll move down to G, where it's alleged
11 that Mr. Smock "wrongfully removed equipment parts from the
12 air-to-ground range." Do you know what equipment parts
13 mean?

14 A **No.**

15 Q Would it be clearer if--if it read equipment or parts from
16 the air-to-ground range, would that--

17 A **Yeah. That would--**

18 Q --would you better understand the term?

19 A **That would make it a little easier, yes.**

20 Q So it's possible that the word "or" was omitted in that
21 sentence.

22 A **Could be, yes.**

23 Q Okay. Well, let me ask it that way. Did you personally
24 observe him; Mr. Smock, that is; remove equipment or parts
25 from the air-to-ground range?

1 **A** **Yeah. He--he said himself that there was a couple good**
2 **transmissions and stuff out there. Now, whether or not he**
3 **actually went out there to take them, I don't know. But he**
4 **talked about the--**

5 **Q** **Okay. He talked about it to whom?**

6 **A** **--accessibility of--**

7 **Q** **Did he say it to you?**

8 **A** **Yeah.**

9 **Q** **Personally to you?**

10 **A** **It was just in passing, and you don't really think anything**
11 **of it. And I don't know if it ever happened.**

12 **Q** **Okay.**

13 **A** **But I do know he knew that the transmissions and stuff were**
14 **out there on the range.**

15 **Q** **Okay. So aside from Mr. Smock mentioning to you, just in**
16 **passing, "Hey, there's some good transmissions out at the**
17 **air-to-ground range," you don't have any personal knowledge**
18 **of him removing--**

19 **A** **No. No.**

20 **Q** **--anything from the air-to-ground range; is that fair to**
21 **say?**

22 **A** **That'd be fair to say.**

23 **Q** **Now, do you have--did you hear from any other person an**
24 **account of Mr. Smock removing equipment or parts from the**
25 **air-to-ground range?**

1 **A** **There was some hallway chitchat.**

2 Q Okay. Again, we don't--we don't know who it is?

3 **A** **Unh-unh.**

4 Q Okay. Well, let me--again, would that be--would this

5 hallway chitchat have occurred--

6 **A** **Prior to.**

7 Q --prior to the investigation?

8 **A** **Prior to.**

9 Q You're reading my mind, Chief. Reading my mind.

10 Okay. So, H, it's alleged that Mr. Smock "wrongfully

11 removed diesel fuel from the MATES building." Did you ever

12 personally observe Mr. Smock remove diesel fuel--

13 **A** **Not--**

14 Q --from MATES?

15 **A** **Not personally.**

16 Q Okay. Did you ever hear an account from any other person to

17 the effect that Mr. Smock had removed diesel fuel from the

18 MATES facility?

19 **A** **I have, sir.**

20 Q Okay. And from whom did you hear this?

21 **A** **Master Sergeant Herblet.**

22 Q Okay. Do you recall when Master Sergeant Herblet told you

23 that Mr. Smock had removed diesel fuel from the MATES

24 building?

25 **A** **It was shortly after I'd come back from my deployment. I'd**

1 heard some hallway chitchat about it. And I went and asked
2 Troy Her- --or Master Sergeant Herblet about it. And he
3 said, "Yeah. It was in a 55-gallon drum. And Joe took it
4 wherever." And he said that Chris knew about it. And Chris
5 had talked to him about it, and that nothing happened, so.
6 What Master Sergeant--and I asked Mr. Smock Herblet about it
7 on a couple different occasions. And he verified on every
8 occasion that, "Yes, Master Sergeant Smock had removed the
9 diesel fuel from the MATES facility."
10 Q Okay. So--so you--you personally sought out Master Sergeant
11 Herblet to what, clarify what you had heard in the--
12 A Yes, sir.
13 Q --hallway?
14 A Yes, sir.
15 Q And explain, if you can, to the Hearing Examiner, precisely
16 what Master Sergeant Herblet relayed to you. Would this be
17 about 2011 when you returned from your deployment?
18 A Yes. It was after I'd come home from my deployment.
19 Q Okay. So ex- --if you could explain precisely what you and
20 Master Sergeant Herblet discussed.
21 A The fact that it had been seen and talked about, the 55-
22 gallon drum being in the back of a pickup truck during the
23 work day with fuel in it, that left the facilities and came
24 back with no fuel in it. That came right from Master
25 Sergeant Herblet. He--he told me about the fuel.

1 Q Okay. And you indicate on more than one occasion; is that
2 right?

3 **A That I talked to him, yes.**

4 Q Okay. Okay. Okay. Any other instances in which someone's
5 relayed to you that, "Hey, Mr. Smock took diesel from the
6 MATES facility"?

7 **A There was a story about a personal tractor, but I never saw
8 the tractor there.**

9 Q Okay. Well, I didn't ask if you personally observed a
10 tractor. What--what is the account that was relayed to you
11 with respect--

12 **A He had--**

13 Q --to a tractor?

14 **A He had used the tractor with a York rake to do some work,
15 and he topped off the--the fuel.**

16 Q From whom did you hear this account?

17 **A I don't know. We were just all talking in the hallways.**

18 Q Okay. Do you remember approximately when this might have
19 occurred?

20 **A It was after I come back from my deployment. This would
21 have been, like, fall of 2011.**

22 Q Okay. And you don't recall any of the people who were in
23 the hallway in this particular instance?

24 **A No.**

25 Q Okay. And finally, I. I'm just going to paraphrase that

1 one. Did you ever personally observe Master Sergeant--or
2 Master Sergeant Smock remove a chainsaw--a Government
3 chainsaw from the MATES facility for his own use?

4 **A I didn't personally, no.**

5 Q Okay. Did you ever hear an account from any other person
6 that Mr. Smock had removed a Government chainsaw for his own
7 use?

8 **A No, I don't think so. No. I don't think so.**

9 Q Okay. Now, you've indicated with the--that--you testi- --
10 strike that. You testified prior that you didn't really
11 report much of this up the chain because you didn't think
12 much would happen; is that fair to say?

13 **A Very fair to say, sir.**

14 Q Okay. At--at any point prior to you going to Warrant
15 Officer Candidate School, was Mr. Smock in your chain of
16 command?

17 **A Not my immediate chain of command, no. Felt like he was,
18 but he wasn't.**

19 Q Did he--well, was he above you in rank prior to going to WOC
20 school?

21 **A We were--I don't remember when he got his Master Sergeant,
22 but I think we were both E7s at the time.**

23 Q Okay. And you left MATES prior to Major Austhof becoming
24 the interim supervisor; is that correct?

25 **A It was probably right about the same timeframe, because I**

1 left MATES in December to come out here. And I can't
2 remember exactly when Major Austhof come onboard out there.

3 Q Okay. But it's fair to say that, for the bulk of your
4 tenure, if you will, at MATES, Lieutenant Colonel Golnick
5 was the supervisor, correct?

6 A Oh, yes. Yes.

7 Q Okay. Did you ever think of--for instance, in the case of
8 the wood--reporting to Lieutenant Colonel Golnick, "Hey,
9 sir, I have to tell you this. I don't know whether it's
10 right or wrong, but you should be aware of it"? Did that
11 thought ever cross your mind?

12 A It did, but I didn't ever go to Master Sergeant--or
13 Lieutenant Colonel Golnick, because on several different
14 occasions when I'd had issues out there to the MATES, I
15 tried--my job was held over my head on at least three
16 different occasions out there. It was a very oppressive
17 situation. And I had no faith in taking any information to
18 Lieutenant Colonel Golnick at that time.

19 Q So you didn't?

20 A I did not.

21 CAPTAIN BEDELLS: Okay. I have no further
22 questions at this time, sir.

23 THE HEARING EXAMINER: Okay. Mr. Banchs, you may
24 cross.

25 MR. BANCHS: Thank you, sir.

1 THE HEARING EXAMINER: You don't have to go to the
2 bathroom?

3 MR. BANCHS: No, not this time.

4 MR. SMOCK: I have to go.

5 MR. BANCHS: You got to go? Do you really?

6 MR. SMOCK: Yeah.

7 MR. BANCHS: Oh, well, take a quick break, then, I
8 guess.

9 THE HEARING EXAMINER: Well, go off--off the
10 record for 5 minutes.

11 COURT RECORDER: We are going off the record. The
12 time is 2:51 p.m.

13 (Off the record)

14 (On the record)

15 COURT RECORDER: We are back on the record. The
16 time is 3:02 p.m.

17 THE HEARING EXAMINER: Captain Bedells has one
18 more question on direct.

19 BY CAPTAIN BEDELLS:

20 Q Chief--

21 CAPTAIN BEDELLS: Are we back on?

22 COURT RECORDER: Yes--

23 CAPTAIN BEDELLS: Okay. Thanks.

24 COURT RECORDER: --sir.

25 BY CAPTAIN BEDELLS:

1 Q Chief, I have one more follow-up question. And it relates
2 to--to the allegation in H, about diesel fuel.

3 A H.

4 Q At some point did--did Mr. Smock discuss with you the
5 ability to alter log books when it comes to diesel fuel?

6 A **The fuel reports, yes, he has, sir.**

7 Q Okay. Approximately when did that occur?

8 A **That was prior to my deployment.**

9 Q Okay. So it'd be prior to 2010, correct?

10 A **Correct.**

11 Q Okay.

12 A **And--**

13 Q Explain to the Hearing Examiner the circumstance of this.

14 A **It was a--it was a conversation that we'd had about the fuel
15 report, and how to make the fuel usage appear to match what
16 was on the--on the reading. You can add a zero. You can
17 add a 1. You can make a 5 look like a 15 or a 25. And all
18 it did was balance out the numbers of what was used and what
19 was recorded as being used.**

20 CAPTAIN BEDELLS: I have no further questions.

21 Thank you.

22 THE HEARING EXAMINER: Okay. Mr. Banchs?

23 MR. BANCHS: Thank you, sir.

24 CROSS-EXAMINATION

25 BY MR. BANCHS:

- 1 Q Chief, I'm sorry, refresh my memory. When--when or how long
2 have you been a--in the National Guard?
- 3 A **In the National Guard?**
- 4 Q Yes, ma'am, altogether.
- 5 A **I entered the National Guard in September--I want to say**
6 **September 17, 18 of 1989.**
- 7 Q 1989. And you've been a technician in whatever capacity how
8 long?
- 9 A **Since May of 1990.**
- 10 Q So you're into the Guard, you became a technician?
- 11 A **Yes, sir.**
- 12 Q Also, can you refresh my memory on the EEO complaint that
13 you filed? And just--you don't have to give me the whole
14 story, just how was it resolved, and was it resolved to your
15 liking or not?
- 16 A **It--no, it was not resolved to my liking, but it was**
17 **resolved.**
- 18 Q Okay. And if you can, briefly, describe what was your
19 proposed remedy or what was it that you didn't get that you
20 asked for in your EEO complaint?
- 21 A **My job back.**
- 22 Q You wanted your--your job back. And it wasn't resolved?
- 23 A **I had--**
- 24 Q So you did not get your job back?
- 25 A **It was resolved in the fact that I still have a job. And**

1 **they appeased themselves with the fact that I had a pay**
2 **raise with the job that I'm currently in.**

3 Q And this appeasement or settlement of the EEO claim, was
4 that done by Colonel Golnick or was that done by higher
5 headquarters?

6 A **We went through a remediation process.**

7 Q But who ultimately settled that EEO, you know, complaint
8 that you had with you? Was it the Michigan National Guard
9 or was it Colonel Golnick?

10 A **It kind of--a compendium of both. We--we had our meeting,**
11 **and it was just deemed that I still had a job and it was a**
12 **pay raise.**

13 Q So it's fair to say that that was done at a higher--higher
14 level than MATES, correct?

15 A **It'd be a fair assumption. Yes.**

16 Q Okay. Thank you. I'm going to ask you questions, ma'am,
17 related to your testimony today and what's in the record.
18 What we have in the record is you provided a sworn statement
19 to Colonel Doolittle, I believe, on 13 January of this year,
20 which is that one, I believe.

21 A **This one should be.**

22 Q Yes, ma'am. And then there's also a--a set of interview
23 questions and answers that were related to, I guess, your
24 verbal interview that occurred on 30 October that's earlier
25 in the record?

1 CAPTAIN BEDELLS: Okay. For the record, we're
2 referring to which Exhibit of Exhibit Number 1?

3 MR. BANCHS: I don't think it's actually in the
4 table of contents of the record. It's not there, but it is
5 in--in the 15-6.

6 CAPTAIN BEDELLS: Okay. Well, we have a table of
7 contents.

8 MR. BANCHS: Yeah.

9 CAPTAIN BEDELLS: It has to be in--it has to be a
10 part of the table of contents.

11 MR. BANCHS: Yeah. It's actually not--

12 CAPTAIN BEDELLS: So we're talking about E-7, her
13 sworn statement?

14 MR. BANCHS: Okay. It's actually--her--hers is
15 actually right before Colonel McNamara's transcript.

16 CAPTAIN BEDELLS: Okay. So we're talking--

17 MR. BANCHS: But it's not in the table of
18 contents.

19 CAPTAIN BEDELLS: Okay. So we're talking about
20 the transcript--

21 MR. BANCHS: B, Bravo. Let's see. Right here.

22 CAPTAIN BEDELLS: Okay. So we're talking about--

23 MR. BANCHS: It's not--you guys didn't tab it out.
24 And the reason you guys didn't tab it out is because it
25 wasn't part of the index, but it is in the--in the record.

1 CAPTAIN BEDELLS: Okay. So we're talking about
2 Exhibit 1--yeah, just Bravo, "Questions and Interviews," is
3 what we're talking about. And it's titled "Warrant Officer
4 Candidate Sharon Witcher Second Interview Questions,"
5 correct?

6 MR. BANCHS: Correct.

7 CAPTAIN BEDELLS: Okay. But--

8 MR. BANCHS: And it's dated 30 October 2013.

9 THE HEARING EXAMINER: Now, the sworn statement is
10 a separate document.

11 MR. BANCHS: Correct.

12 CAPTAIN BEDELLS: Correct. And it looks like her
13 answers are dated 30 October 2013, right.

14 MR. BANCHS: Correct.

15 CAPTAIN BEDELLS: Okay. Fair enough.

16 If you need an opportunity--you're reviewed your
17 sworn statement, I know. But if you want to take an
18 opportunity to review these.

19 THE WITNESS: I would like to.

20 CAPTAIN BEDELLS: Okay. Go ahead and review
21 those.

22 THE WITNESS: How far am I--I'm to the next set of
23 questions, so am I supposed to just go to the first set of
24 questions or, at least, the pages or is there more past this
25 next set of questions?

1 CAPTAIN BEDELLS: Well, I'd read your entire--take
2 the time to read everything that Mr. Banchs might question
3 you about, so I'd read the whole--whole account of your--of
4 the questions and the answers you provided.

5 THE WITNESS: Oh. Okay. Here. There is more.
6 Okay. I just wasn't sure where it was--

7 BY MR. BANCHS:

8 Q Well, ma'am, that--really once you get to this part right
9 here, "Inspection," everything else is just the questions
10 that you were answering. So you don't--I mean, unless you
11 want to read the questions that you provided answers to,
12 that's all that is. And I don't know why the investigator
13 put two sets of questions in there, but that's just the way
14 he provided the--

15 **A All right. So essentially what you're saying is up to**
16 **"Inspection"?**

17 Q Up to this--

18 **A Okay.**

19 Q --everything else is just questions again. And there's no
20 further answers that you provided, at least not in this tab.

21 CAPTAIN BEDELLS: Take your--take your time,
22 Chief.

23 THE WITNESS: I think I'm ready, sir.

24 BY MR. BANCHS:

25 Q Okay. I'm sorry to jump all over. I asked you how long you

1 been in the Guard, how long you been a technician. I asked
2 you about your EEO complaint. And the--the answers that you
3 see here that are labeled your answers to the second
4 interview, I'm assuming that's the second interview that you
5 conducted with Colonel Doolittle. And your sworn statement,
6 those all look correct to you, right? I mean, these--these
7 are your product, for the lack of a better word?

8 **A I believe so.**

9 Q Okay. When--when was your first interview with Colonel
10 Doolittle--and obviously it was before 30 October. Do you
11 recall? And you don't have to give the exact date.

12 **A I want to say it was prior to me leaving for WOCS.**

13 Q Which would be?

14 **A I left in--golly. I left November 8th, so it'd been**
15 **previous to that.**

16 Q Okay. But this is 30 October--oh, it was received 30
17 October. I'm sorry. Okay. So you--you physically met with
18 him twice with Colonel Doolittle for an interview?

19 **A Oh, at least twice, yes.**

20 Q At least twice.

21 CAPTAIN BEDELLES: I believe she testified four
22 times on direct.

23 MR. BANCHS: Four times. Okay. Thank you.

24 BY MR. BANCHS:

25 Q And you provided--and these are the only statements that you

1 provided? These two?

2 **A The written statements?**

3 Q Yes. Yes, ma'am.

4 **A I think so, yes.**

5 Q Okay. And, again, I hate to bounce all over the place. How
6 long have you personally known Mr. Smock?

7 **A I first met him in May of 1990 when I come through the**
8 **MATES.**

9 Q And were y'all close friends; were y'all just coworkers?

10 **A Coworkers.**

11 Q Okay. Because I believe that he introduced you and your
12 husband, correct, so were y'all friends at one time or is
13 that accurate?

14 **A Actually, we were friendly-ish, I guess.**

15 Q Friendly-ish. Okay.

16 **A When he very first introduced me to my husband, it was he**
17 **introduced me to him. And I remember thinking, "Oh, he's a**
18 **friend of Joe's, I don't want nothing to do with him." And**
19 **then that same day my dad passed away, and I did not**
20 **remember that episode. It wasn't until several months later**
21 **that it was brought to my attention that I had, indeed, met**
22 **my husband out to the MATES at that time.**

23 Q But it was definitely more than just a coworker
24 relationship; you guys did hang--what--not hang out. Did
25 y'all--did y'all interact socially?

1 **A** **Not after hours, no, sir.**

2 Q Not after hours. Okay. Fair enough. We'll go straight to
3 the--to the testimony. Captain Bedells asked you about--
4 about your knowledge of--of Mr. Smock allegedly removing a
5 TV from the MATES facility.

6 **A** **Yes, sir.**

7 Q And you testified that you did have--that you, indeed, did
8 have firsthand knowledge of that, that you actually observed
9 the--Mr. Smock and Colonel Golnick load a TV from MATES into
10 a car in spring or summer time of 2012; is that accurate?

11 **A** **Correct.**

12 Q And you also testified that that was before the
13 investigation, that was before you went to your training,
14 and that you were in the break room at lunchtime. And that
15 there sure had been other people around, but you don't
16 really remember who that--who it was--

17 **A** **Correct.**

18 Q --would that be accurate? Is there a reason that you didn't
19 mention this to the hearing--to the investigating officer
20 before on your numerous interactions with him?

21 **A** **Again, I had a lot of stuff on my plate when this was**
22 **kicking off. I was preparing to go to Warrant Officer**
23 **Candidate School. I have three family members that are**
24 **deemed terminal medically. I just have an awful lot on my**
25 **plate. And the goings on out to MATES did not receive a lot**

1 of my attention. It was an oppressive situation for me
2 after filing the EEO complaint. There was just a lot of--
3 there was a lot of stress and tension.

4 Q I completely understand stress and tension. I mean--and to
5 be fair, everybody who's involved with this case is under a
6 lot of stress and tension--

7 A Oh, I'm sure.

8 Q --including myself.

9 A I am sure.

10 Q Okay. So I can completely understand that you might not
11 have a full recollection of everything, whether it's now or
12 whether it was when you spoke to the hearing--to the
13 investigating officer on those several occasions. But I
14 just want to remind you that this is important that we
15 remember accurately because somebody's job is on the line.
16 Okay?

17 A Exactly.

18 Q So I'm just curious, so you're saying now that you just
19 didn't think about it--about the TV?

20 A I didn't think about that specific episode, no.

21 Q Okay. But you do remember it now?

22 A I do.

23 Q And what--do you recall what maybe jogged your memory
24 between the time of the investigation ended and now?

25 A It was right here in the sheets in front of me, right?

1 Q So when you--

2 **A "You wrongfully removed a flat screen television from the**
3 **MATES building." That's a trigger.**

4 Q So until today, when you read that--that allegation for
5 which Mr. Smock was terminated, you didn't remember actually
6 seeing him walk out of the building?

7 **A I don't even think I was ever even asked about that until**
8 **today.**

9 Q Okay. Now, Master Sergeant Fouts--and you do know who
10 Master Sergeant Fouts is?

11 **A I do.**

12 Q Master Sergeant Fouts did provide testimony in a sworn
13 statement that she did actually see Colonel Golnick and Mr.
14 Smock walking out of the facility with a TV. Do you recall
15 Master Sergeant Fouts being in the area with you when she
16 saw them?

17 **A I guess I'm not understanding what you're--**

18 Q Master Sergeant Fouts also saw the same event that you now
19 remember seeing.

20 **A Oh, okay.**

21 Q Do you recall seeing her in the area when the event took
22 place?

23 **A Again, it was--it was a lunchroom. And there's multiple**
24 **people in there.**

25 Q Okay. Well, now that--

1 **A** **It could be possible.**

2 **Q** Well, thank you, ma'am. Now that your memory's been, you
3 know, brought up to speed, do you remember the color of the
4 box that the TV was in?

5 **A** **No.**

6 **Q** Do you--how far away was Colonel Golnick and Mr. Smock from
7 you when you saw them?

8 **A** **Let's see. The break room's here. They were in the parking**
9 **lot.**

10 **Q** 50 yards, maybe, 50 feet?

11 **A** **Yards.**

12 **Q** 50 yards, okay. But so the only thing you can tell is that
13 it was a TV?

14 **A** **It was a big box, yes.**

15 **Q** It was a big box. Okay. Now, you testified that you
16 believed it was a U.S. Government TV. And when Captain
17 Bedells informed you that--that Colonel Golnick had provided
18 a receipt and a bill of lading for a TV being delivered that
19 he had actually purchased with his own money, you said that
20 the chances that it was actually his TV, that it was not
21 Government purchased, was slim to none, because it's easier
22 to have something delivered at home than it is at work; do
23 you remember that?

24 **A** **I do.**

25 **Q** But is it still possible to have something delivered to

1 work? Are there any restrictions on your purchasing
2 something off the internet and having it delivered to your
3 work--to MATES, for example?

4 **A There's no restrictions on it that I'm aware of.**

5 Q Okay. So it is possible that it was a personally-bought TV?

6 **A Slight.**

7 Q In regards to you--the questions that Captain Bedells asked
8 you concerning wood--and before I start asking you questions
9 about the wood, I'm just going to remind you of another
10 statement that you made. You said that you don't know the
11 difference between wood types, and that you don't know how
12 much wood weighs. Do you remember saying that?

13 **A I do.**

14 Q Okay. And, again, this is new testimony that you're
15 providing today concerning the fact that you, on three
16 separate occasions, you have firsthand knowledge or you
17 physically saw Mr. Smock and, according to you, driving out
18 of the MATES--well, you know what? Let me--let me get this--
19 -let me--you--you said that you witnessed Mr. Smock leaving
20 on three separate occasions the MATES facility in his MATES
21 truck, and the truck was loaded down. Do you remember
22 saying that?

23 **A Something similar, yeah.**

24 Q Okay. And it wasn't his personal vehicle, per se. It was
25 just a CUCV.

1 **A** **It was his work truck.**

2 Q But that--I guess he's the one who usually uses it?

3 **A** **Yeah.**

4 Q But it wasn't his personal vehicle?

5 **A** **Not his personal.**

6 Q Okay. The first time you saw it--do you have that--the
7 first time you saw him, you said it was outside the wheel
8 shop around Building 1404, which is where they store wood?

9 **A** **No. That's the parts building.**

10 Q The parts building. I'm sorry. But it was outside the
11 wheel shop, where--where you were standing?

12 **A** **Yeah. I mean, I might have the wrong building numbers, but-**
13 **-**

14 Q Okay. But you were on--but it was--it was in the north side
15 of the facility according--

16 **A** **North side.**

17 Q Okay. And, again, you weren't with anyone else, correct?

18 **A** **Correct.**

19 Q It was during the duty day. And when you were asked what
20 time it was, you said maybe around--you know, right before
21 or right during lunch. And it was sometime in the
22 summertime over the last five years, but not within the last
23 year.

24 **A** **Correct.**

25 Q Okay. And it was previous to the investigation. And your

1 testimony is that you saw him leaving, and that you then--
2 you then--did you see him actu- --I didn't get this one--did
3 you actually see him return before the duty day was--was
4 done or did you see him actually drive back in that same
5 vehicle and now it wasn't loaded with wood anymore or did
6 you just happen to see Mr. Smock in the facility sometime
7 later on the day?

8 **A He was in the facility. The truck was parked in its usual**
9 **spot, and it was empty.**

10 Q Okay. But you didn't actually see him return?

11 **A No.**

12 Q Okay. From your vantage point on the north side of the
13 facility, can you actually see the entrance or the exit to
14 MATES?

15 **A I guess I'm not understanding what you're talking about--**

16 Q Well--

17 **A --because there's several entrances and exits. From the**
18 **building--are you talking about the building or, like, the**
19 **actual MATES?**

20 Q I'm talking about the MATES property, the entire MATES
21 property.

22 **A Oh, so you're talking about where they drive in and out the-**
23 **-the main gate?**

24 Q Yes, ma'am. Did you actually see him drive off of the MATES
25 facility or did you just see him driving in the MATES

1 facility with something in the back of his truck--of the
2 truck?

3 **A The--I think it was the dumpster--when I was walking to the**
4 **dumpster, he was driving through that gate.**

5 Q Okay. Well, I haven't gotten to the dumpster yet, because
6 that was the second time that you claim seeing him. This is
7 just the first time when you're on the north side of the
8 building.

9 **A Oh. Okay.**

10 Q The first time that allege seeing Sergeant Smock in his CUCV
11 with the truck loaded down with wood, did you physically
12 observe him leaving the MATES facility, off the Government
13 property, onto public road and turning left or right?

14 **A No. Where I lost eye contact with him was when you come**
15 **around the building where the dumpster is, because I would**
16 **have been here, and then the building turns. So, no, I did**
17 **not physically see him leave the actual compound.**

18 Q So is it fair to say that the first time that you claim
19 having firsthand knowledge of him with wood in a vehicle was
20 on the MATES facility, and you didn't physically see him
21 leave the MATES facility? He was just driving around in a
22 truck with wood?

23 **A You could word it that way, I suppose.**

24 Q Well, I'm asking you--well, I'll ask it a different way.
25 Did you physically see Sergeant Smock leave Government

1 property that day with a truck full of wood?

2 **A No. But that is the direction that the truck was going.**

3 **And there's--in--in between there, there's a couple**

4 **dumpsters. There's the bottle building. And there's a**

5 **couple other small concrete buildings. There's nothing in**

6 **there that would require wood.**

7 Q There's--there's--there's nothing--there's nothing that he

8 would have any reason to have wood in a truck with--because

9 the MATES facility is pretty big, correct?

10 **A It is pretty big.**

11 Q And I mean, so, if you're going to transport wood from one

12 side of the facility to another, it would be prudent, maybe,

13 to load it in one vehicle and just move it from here to

14 there, correct?

15 **A But where he was going is all concrete buildings.**

16 Q So I'm asking you, though, ma'am, is it possible? Because

17 you just testified you didn't actually see him leave the

18 facility.

19 **A You're right. I did not actually see him leave the entire**

20 **facility.**

21 Q Okay. Good. You didn't see him leave. Now the second time

22 when you were by the dumpster, you said you were coming out

23 of the garage bays--oh, no. I'm sorry. This is not the

24 dumpster. This is the second time you said you were coming

25 out of the garage bays, again, on the north side of the

1 shop, and you describe the same scenario as before. It was
2 sometime during that same summertime period of about five
3 years ago, but not--but less than one year ago--or more than
4 one year ago. Again, from your vantage point that day, did
5 you actually see him drive off Government property that day?

6 **A No.**

7 **Q** Okay. And on the third occasion, where you were by the
8 garbage dumpster, did you have--

9 **A He went through the gate. Yes, he did.**

10 **Q** You--you actually saw him leave U.S. Government property
11 that day?

12 **A Yes.**

13 **Q** And drive off to a public road and go either left or right?

14 **A He went to the right.**

15 **Q** He went to the right. And what's to the right, if you go
16 out of MATES and go to the right?

17 **A It's North Down River Road. It's en route to any location
18 that's to the right of the MATES.**

19 **Q** Is--does that road lead to other Government facilities?

20 **A In a roundabout way. It comes out here to Camp, yes.**

21 **Q** So it's--is it possible that he was transporting something
22 from the MATES that day, in a Government vehicle, to another
23 Michigan-owned Government facility?

24 **A Well, if he's the building maintenance person for the MATES,
25 well, there's no reason to do building maintenance at**

1 **another facility. That doesn't make any sense.**

2 Q Well, I'm not asking you, ma'am, for a reason. I'm just
3 saying is it possible? Did you--I'll rephrase. Did you--do
4 you know for a fact that this date when you claim you saw
5 him for a third time, that he left MATES and went to his
6 house and dropped off the wood?

7 A **No, I cannot verify that.**

8 CAPTAIN BEDELLS: Well, I don't--I think--I don't
9 think she testified at any point that he went to his house.

10 MR. BANCHS: Well, he did say--she did say that he
11 loaded his truck and stole the wood. So he must have took
12 it--well, I'll--

13 CAPTAIN BEDELLS: I don't think she testified at
14 any point that she--that he took it to his house, so, that's
15 all--that's my objection.

16 MR. BANCHS: Okay. Well, the inference was there,
17 but I'll--I'll cede the point.

18 BY MR. BANCHS:

19 Q And just to recap, on all three occasions, nobody else was
20 around when this happened?

21 A **Well, the one occasion, like I said, there was some people
22 out by the--**

23 Q You're absolutely right. I'm sorry. People were working
24 outside by the tire--

25 A **By the tire cage.**

1 Q But you don't recall exactly who it was?

2 A **No.**

3 Q Okay. This is summertime. Is summertime hunting season?

4 A **Hunting season?**

5 Q Yes, ma'am?

6 A **I suppose there's something you can hunt in the summertime.**

7 **I'm not a hunter. I--**

8 Q And here's where I'm going with this, ma'am. The MATES
9 facility employs over 60 people at any given point in time.

10 A **Correct.**

11 Q And so, unless there's a massive deployment or unless you
12 have a mass sick-out or something like that, where even 20
13 percent of the facility's absent, you're still talking about
14 having 40 people around, worst case scenario, if 20 people
15 take off. And I--I'm just curious to know why it is that
16 around--especially around midday, lunch time or right before
17 lunch time, that you, on at least two occasions, were the
18 only person that happened to see Mr. Smock driving around
19 with a truckload of wood?

20 A **I'm quite possibly the only one that's speaking up about it.**

21 Q Okay. So--so is your testimony now that there were other
22 people around the first and third time?

23 A **I--I can't tell you if anybody else saw them. I can't tell
24 you if they looked out a window. I can't tell you who was
25 at the tire machine. But it is very possible that I am the**

1 **only one speaking up.**

2 Q Okay. On those three occasions, what was the closest
3 distance that you were from Mr. Smock as he was driving his
4 truck?

5 A **Less than the length of this building.**

6 Q Okay. So was he far away at first and then he came by you?
7 Because--because in your testimony--

8 A **No. You--twice I said I was on the north side.**

9 Q Right.

10 A **There's not even--boy, I'm bad with distances--maybe--**

11 Q Well--

12 A **--a hundred yards in between this building and the next
13 building. Here's the parking lot. Here's--here's the road
14 that you drive down. So I would say not even the length of
15 this room away from me.**

16 Q Not even the length of this room this way?

17 A **Correct.**

18 Q So maybe 30, 35 feet?

19 A **Possibly.**

20 Q Okay. So and you don't wear glasses or anything, do you?

21 A **No, sir.**

22 Q Okay. So you did recognize him and you said he's got a
23 distinct profile?

24 A **He does.**

25 Q Okay. Good. Now, not knowing the difference between wood

1 types and not knowing how much wood weighs, are you certain
2 that it was a wood product that was in the back of his
3 truck?

4 **A Yes, I am.**

5 Q What--and you said the tailgate was open?

6 **A Yes.**

7 Q Was the wood secured in any way?

8 **A Has--I don't know.**

9 Q Was it strapped down? Was it--maybe had heavier stuff on
10 top? Because it's difficult to drive, especially on a
11 public road, with wood and tailgate down and, you know,
12 going--stopping and going. And the wood could easily slide
13 out of the back of the truck. So was it secured in any way?

14 **A I can't answer that.**

15 Q Okay. Bringing your attention to Captain Bedells asked you
16 specifically about OSB, and I think you already testified
17 that you don't really know the different types of wood. But
18 concerning the theft or misuse of OSB or any kind of other
19 wood products, you said that you heard discussions and that
20 there was a joke. And the joke is that, to take something
21 from MATES, you put it behind you. What does--what does
22 that mean?

23 **A That's stemming from the investigation that happened years**
24 **ago. And, yeah, it's just a general joke. If you want to**
25 **take something from MATES, you put it behind you.**

1 Q Like physically behind you?

2 A **It's just a joke, sir.**

3 Q Okay.

4 A **You can take it however.**

5 Q I was just trying to wrap my head around it because maybe

6 I'm just--I don't have any sense of humor, but. You said

7 that perhaps the wheel shop folks could corroborate your--

8 your allegations of wood theft by Mr. Smock. Do you have

9 any--who works in the wheel--are you talking about the folks

10 that work in the wheel shop now or may be worked in the

11 wheel shop three, four, five, six years ago?

12 A **I'm talking about the--the people who worked in the wheel**

13 **shop prior to my deployment.**

14 Q And can you give us those names?

15 A **Not right off the top of my head. There's still some of the**

16 **same people that are there, but people moved around.**

17 Q Okay. Well, just maybe--

18 A **Some of them are even gone.**

19 Q --a couple of names?

20 A **Let's see, there's Thayer, Palmer, Herblet was the**

21 **supervisor. There's probably 10 or 12 of us that worked in**

22 **the shop at the time.**

23 Q Okay.

24 A **Now, you said that you--that when you read the charges, they**

25 **were--that were on that original decision letter, those**

1 charges--you reading those jogged your memory, and you--and
2 you recalled the TV.

3 **A Correct.**

4 Q So are you--is it your testimony today that--what was it
5 that you hadn't revealed to the Hearing Examiner (sic) on
6 your multiple occasions of speaking with him, about these
7 specific three instances of you seeing Mr. Smock driving
8 within the MATES facility with wood, because that's not in
9 your original testimony or your sworn statement?

10 **A I guess I'm not following your question, sir.**

11 Q Why did you not tell the Hearing Examiner (sic) that you had
12 firsthand knowledge of Mr. Smock--

13 **A I have a very big distrust in officers. And I don't feel
14 like my best interest was to spill all the beans, because I
15 still, to this day, feeling the repercussions of filing my
16 EEO complaint.**

17 Q Okay. So you said--I think Captain Bedells corrected me
18 earlier that you testified that you met with Colonel
19 Doolittle at least on four occasions.

20 **A Correct.**

21 Q And you're saying that on all four occasions--just the last
22 time you met with him, you still distrusted him enough that
23 you did not want to reveal these three incidences?

24 **A Sir, I--I have a lot of distrust in the uniform these days.**

25 Q Okay. So just--just to make this clear, you didn't remember

1 about the TV because you have a lot of stuff going on in
2 your life, and you didn't reveal the allegations about wood
3 because you distrust officers?

4 **A Not just that. It's--it's the whole scenario. I mean, if**
5 **you remember everything in your childhood, sometimes it**
6 **sparks--something will spark a memory. So maybe during**
7 **those interviews, if we weren't talking very specifically**
8 **and the questions were more vague, like they were, then**
9 **there's going to be cause for different memories to suffice**
10 **and to come to the surface at that time.**

11 Q Okay. That's fair enough. When you were discussing fly
12 boxes and shadow boxes, did you say that you had firsthand
13 knowledge of him building them at MATES?

14 **A Yes.**

15 Q Okay. And you said you saw him building it at MATES using
16 wood from MATES?

17 **A I said the wood was in the wood--in the wood room, yes.**

18 Q Right. And that's what I wanted to get to. You said that
19 wood was in the area and the equipment was back there. So
20 are you assuming that he was building it or did you
21 physically see him building these--

22 **A He was building--**

23 Q --wood products

24 **A He was building them.**

25 Q Did you see him, though?

1 **A Yes.**

2 Q Okay. You saw him. Okay. Do you know--and--I'm not going
3 to ask you this way because you've already said you don't
4 know the difference between different types of wood. But
5 would--would it be interesting for you to know that the fly
6 boxes and that the shadow boxes that he builds are made out
7 of oak?

8 **A That'd be okay.**

9 Q Okay. And would you be surprised to know that the U.S.
10 Government, at least here at the MATES facility, does not
11 order oak? That they only order USB (sic), luan and plywood
12 treated or non-treated?

13 CAPTAIN BEDELLS: Well, that assumes facts not in
14 evidence. We don't have any evidence that--so far that
15 they--that the Government doesn't order oak.

16 MR. BANCHS: Well--

17 CAPTAIN BEDELLS: But, subject to that objection,
18 I suppose she can answer.

19 MR. BANCHS: Okay.

20 THE WITNESS: It was still Government tools doing
21 the work.

22 BY MR. BANCHS:

23 Q Okay. And you physically saw him doing it?

24 **A Yes.**

25 Q Okay. Now, let--you know, the fly boxes, we won't talk

1 about those right now. But as far as the shadow boxes go,
2 have you seen other shadow boxes that Mr. Smock has built
3 that are still displayed throughout the MATES area?

4 **A I don't think so, no.**

5 Q Is there a--is there a flag case in the break room?

6 **A I don't know. I just resumed back working out there, so.**

7 Q An Iraqi--

8 MR. BANCHS: --what is it? What is it? The
9 Iraqi?

10 MR. SMOCK: The map--

11 BY MR. BANCHS:

12 Q The Iraqi map. Do--

13 **A Oh, in the hallway?**

14 Q In the hallway or near the break room?

15 **A There's a--like I say, I just started working back out
16 there, but there used to be a map in the hallway.**

17 Q Okay. And Mr. Smock built that? I mean, it's been
18 testified before. Other witnesses have--have confirmed
19 that. Is that the type of stuff that you saw Mr. Smock
20 build, those types of boxes?

21 **A That's more of a frame. That's not really a--**

22 Q Okay. Frame, box.

23 **A I mean, other--like I said, the other box he built was for
24 the EEO, and that wasn't out of that same sheet of stuff.
25 That was out of some other type of wood.**

1 Q But the point I'm--

2 **A And I can't tell you what that wood was either.**

3 Q The point I'm trying to get at is that--

4 **A Oh, excuse me.**

5 Q --even though you're testifying that Mr. Smock was allegedly

6 building stuff at MATES, allegedly with U.S. Government wood

7 for his own personal profit, he also did build things that

8 were for MATES and for the benefit of the Government,

9 correct?

10 **A Oh, yeah.**

11 Q Okay. So he built you an EEO display case. I'm assuming

12 you're the EEO rep for the shop?

13 **A I--I was.**

14 Q Okay. Have you seen other wood products throughout the

15 MATES facility?

16 **A A couple bookshelves.**

17 Q Bookshelves. Have you seen maybe a mechanic toolbox tops

18 that were redone or maybe they were fixed with wood--

19 **A You mean the wooden--**

20 Q --or refinished?

21 **A --workbenches?**

22 **A Uh-huh. The workbenches?**

23 **A Those are more like a butcher-block type of wood.**

24 Q Okay. But could those be repaired locally, perhaps?

25 **A I guess. I'm not a woodworker.**

1 Q Have you seen other display cases maybe in Colonel Golnick's
2 office or maybe in Colonel McNamara's office?

3 A **(No audible answer.)**

4 Q You're a floor mechanic, correct?

5 A **Yes.**

6 Q Have you ever seen a--wooden decks on trailers that were
7 maybe repaired or maybe they were refurbished with wood that
8 was--that was cut and installed by Mr. Smock?

9 A **We've replaced many decks on different trailers out there.**

10 Q Okay. So--so there is potential that the wood that has been
11 ordered and was being ordered at the MATES was actually for
12 work that was being performed on U.S. Government property or
13 items, correct?

14 A **Some of it, yes.**

15 Q Okay. I want to--I'm going to hit all of these at once.
16 But concerning the tires, the allegation that Mr. Smock
17 installed Government tires on his son's truck, concerning
18 the heaters that he allegedly removed from Camp Grayling,
19 and the equipment and parts that he allegedly removed from
20 the air-to-ground range, you said that you had no firsthand
21 knowledge of any of those--well, actually, you did say that
22 Mr. Smock told you in passing that there were parts or
23 equipment at the air-to-ground range. But, other than that,
24 that your knowledge of those three issues came from hallway
25 chitchat.

1 **A Correct.**

2 Q Was this before or after--before, during or after the
3 investigation?

4 **A Before.**

5 Q Before. And you don't recall anybody, the names, that you
6 might have heard it from? Master Sergeant Cooper?

7 **A He's generally not out in the hallway. He was always in the
8 inspection office.**

9 Q Chief Mack?

10 **A (Witness shakes head negatively)**

11 Q Master Sergeant Fouts?

12 **A They were floor workers.**

13 Q Okay. So you don't recall who was saying it?

14 **A No.**

15 Q Okay. As far as the diesel goes, ma'am, you said you also
16 had no firsthand knowledge, that you heard it from Master
17 Sergeant Herblet that--and when you came back from your
18 deployment. And according to you, Master Sergeant Herblet
19 related to you that Joe took fuel from--from the MATES on a
20 couple of different occasions.

21 **A Yes.**

22 Q Does that sound accurate?

23 **A That sounds accurate.**

24 Q Would it--would it surprise you to hear that Master Sergeant
25 Herblet's testimony was nowhere near that?

1 **A Does not surprise me at all. There's a lot of situational**
2 **amnesia going on during this investigation.**

3 Q Okay. So what--so is it your testimony now that--that if
4 Master Sergeant Herblet's story differs from the one that
5 you're telling us right now, that he's the one who's lying?

6 **A I would say so, yes.**

7 Q Okay. You also claimed no knowledge of the chainsaw. And
8 you said you hadn't heard anything about the chainsaw. Him
9 swapping a chainsaw or taking a chainsaw that was Government
10 purchased, and bringing it home and swapping it off for a--
11 for a less quality one?

12 **A (Witness shakes head negatively)**

13 Q You never heard that?

14 **A I know he denied me use of a chainsaw when my husband was**
15 **deployed to take trees off my line, but that's about all I**
16 **can tell you.**

17 Q Okay.

18 MR. SMOCK: Deck boards.

19 MR. BANCHS: Yeah. She already testified to that.

20 MR. SMOCK: All right. Good enough.

21 MR. BANCHS: Yeah.

22 BY MR. BANCHS:

23 Q I'll just leave you with this, ma'am. Just reading your--
24 your original interview questions, at least for the second
25 interview, reading your statement and then reading the

1 statements that I've--that you've made here today, including
2 your new revelations, I mean, just off the top of my head, I
3 count anywhere in the vicinity of 15 to 20 different
4 specific allegations of somebody stealing from the
5 Government. And you had no occasion ever to reveal those to
6 anybody.

7 CAPTAIN BEDELLS: Is that a question?

8 MR. BANCHS: When--

9 CAPTAIN BEDELLS: Do you understand the question?

10 BY MR. BANCHS:

11 Q Did you ever report any of the wrongdoing that you allege
12 seen taking place to anyone?

13 A I have talked about it with several other people. And it
14 always comes to the usual mantra of, one, is it's just Joe
15 Smock. Joe gets to do whatever he wants. And there's also
16 the mantra of just to put it behind you.

17 Q And who was that? Who did you talk to about that?

18 A I've talked to many different people. And it all comes down
19 to my job has been threatened through the years over three
20 times, and wrongfully threatened. And when you're that
21 oppressed, you tend to learn to just shake your head and
22 walk away for the sake of keeping your job.

23 Q Did you report it to anybody in a position of authority?
24 And we can start up the line. Did you ever tell Colonel
25 McNamara?

1 **A** **McNamara knows a lot of this.**

2 **Q** But did you report it to him--

3 **A** **Yes, I have.**

4 **Q** --officially?

5 **A** **Well, if I talk to him, does that count as official or does**

6 **that count as hallway chitchat?**

7 **Q** Well, did you file a complaint?

8 **A** **On paper?**

9 **Q** Yes, ma'am?

10 **A** **No.**

11 **Q** Colonel Golnick?

12 **A** **He ain't going to do nothing. They're best buds. Are you**

13 **kidding?**

14 **Q** Lieutenant Colonel Meyers?

15 **A** **Oh, I never really ever crossed paths with Lieutenant**

16 **Colonel Meyers. He works in Lansing.**

17 **Q** Colonel Gardiner?

18 **A** **He was working out here. He wasn't working out to MATES.**

19 **Q** Colonel Durkac--or, you know, I'll just leave it at this,

20 anybody in the chain of command, whether it was maybe--or

21 even an IG function, like the Department of Defense, OPM?

22 **A** **Oh, there's a lot of stuff that we discuss during the EEO**

23 **complaint. Does that count?**

24 **Q** Not necessarily, ma'am, because that wouldn't be the right

25 venue for theft.

1 **A Well, then I--then I used the wrong venue.**

2 Q Okay. The last question I'll ask you is have you ever seen
3 the actual anonymous letter that was sent out to trigger
4 this entire investigation?

5 **A (Witness shakes head negatively)**

6 Q Would you happen to know who wrote that letter?

7 **A No.**

8 MR. BANCHS: Okay. Thank you, very much. I don't
9 have any questions--any further questions.

10 THE HEARING EXAMINER: Redirect?

11 CAPTAIN BEDELLS: Thanks.

12 REDIRECT EXAMINATION

13 BY CAPTAIN BEDELLS:

14 Q Chief, you mentioned the trouble--you mentioned on cross
15 there that you--you have a distrust of sorts of officers.
16 Do you recall that?

17 **A I do.**

18 Q Do you recall that? Does any of that distrust stem from
19 this investigation?

20 **A It mostly stems from my EEO complaint, sir.**

21 Q Okay. I understand during the course of this investigation
22 that the IO had--had--

23 **A IO?**

24 Q Yeah. Investigating officer.

25 **A Oh.**

1 Q Sorry.

2 A **Sorry.**

3 MR. BANCHS: He drives a CUCV.

4 CAPTAIN BEDELLS: Yeah. There's some acronyms
5 that we know in the JAG office that are just--seem standard
6 for the course.

7 BY CAPTAIN BEDELLS:

8 Q But in any event, it's my understanding that the
9 investigating officer in this particular case had, perhaps,
10 led some people with the impression that their statements
11 and sworn statements and audio--and audiotaped recordings--

12 A **Would be kept confidential, yes.**

13 Q --would be kept--were you one of the people who was led to
14 believe that that--that your statements would be
15 confidential?

16 A **I was led to believe that, once I made my sworn statement,
17 that if anything came of this, that the sworn statement
18 would suffice.**

19 Q Okay. So not that it--

20 A **So I was not--**

21 Q --would be confidential?

22 A **--so I was not expected--I was not expecting ever to have to
23 report in person.**

24 Q Okay. So you wouldn't have to testify in person--

25 A **Correct.**

1 Q --under oath, correct?

2 A **Correct.**

3 Q Okay. And that investigating officer was an 06, right?

4 A **Lieutenant Colonel Doolittle.**

5 Q Right. He's a full Colonel, is--wasn't he--Colonel

6 Doolittle?

7 A **I--**

8 Q Doesn't matter. Okay. Your recollection is 05, 06.

9 They're all the same, right?

10 A **They're above me, sir.**

11 Q I hear you. So--so it--is it fair to say that this has been

12 pretty stressful on you to come forward like this, correct?

13 A **Very stressful.**

14 Q You didn't anticipate this, did you?

15 A **No, I did not, sir.**

16 Q Okay. But you've come nonetheless?

17 A **I came nonetheless.**

18 CAPTAIN BEDELLS: Okay. And I have no further

19 questions.

20 THE HEARING EXAMINER: Recross?

21 MR. BANCHS: I really don't have anything else,

22 sir.

23 THE HEARING EXAMINER: I've just got a couple

24 issues, Chief, I want to revisit with you just real quick--

25 THE WITNESS: Sure.

1 THE HEARING EXAMINER: --just to make sure I'm
2 clear.

3 EXAMINATION

4 BY THE HEARING EXAMINER:

5 Q You've indicated on--this is going back to your witnessing
6 Joe with the truck on three occasions. The first occasion
7 you indicate you saw the empty truck back on the lot--

8 A **At the--**

9 Q --later that day?

10 A **Yes.**

11 Q So the second occasion, when was the next time you saw that--
12 --after you saw it leave--or after you saw it go beyond your--
13 --your line of vision--

14 A **Oh, later that same day, sir.**

15 Q That truck was back on the lot--

16 A **Before the--**

17 Q --empty?

18 A **Before the end of the dirty--before the end of the duty day.**

19 Q Okay. And same thing--same question on the third occasion?

20 A **Same answer.**

21 Q Okay. And I want to also revisit the conversation you had
22 with Master Sergeant Herblet regarding the fuel. And I
23 want--and I know it was awhile ago, but if you can, to the
24 best of your recollection, tell us exactly what he told you
25 happened that day. I understand Colonel Golnick asked him--

1 well, tell us, if you can, to the best of your recollection,
2 what--what Sergeant Herblet told you happened.

3 **A Well, I--I went up--I'd heard the story, and I went up and**
4 **asked Master Sergeant Herblet about Smock leaving with the**
5 **55-gallon drum in the back of his vehicle. And Master**
6 **Sergeant Herblet--I can't tell you word-for-word; it'll be**
7 **paraphrased--made the comments that Lieutenant Colonel**
8 **Golnick knew and was aware of it. And--**

9 Q Aware of what?

10 **A The fuel leaving in the back of the truck in a 55-gallon**
11 **drum.**

12 Q Okay. So Herblet told you that Golnick said that Joe had
13 left with--

14 **A That he was aware of it, yes.**

15 Q Okay. And what specifically was Herblet--when did he get
16 directly involved in this? In other words, what did he tell
17 you Golnick asked him to do?

18 **A He--I don't think we ever discussed what Golnick told him to**
19 **do. We just discussed the fact that the fuel was in the**
20 **back of the truck, and that it left, and that it came back.**

21 Q Okay.

22 **A Because that was while I was deployed, sir. So I wasn't**
23 **there, and I don't know what Chris actually told him.**

24 Q Okay. Okay. One more question. You've indicated your
25 hesitancy to talk through the investigation, but--but you--

1 but you've raised some issues here today. What--what gave
2 you the impetus to talk here today about some of these
3 issues that you were reluctant to bring forward previously?
4 A I don't know if it's more for closure, sir. But enough's
5 enough. And sometimes, as hard as it is, you have to come
6 forward and just put it all on the table, because you've got
7 to put it behind you--no pun intended there from the
8 previous comment. But you got to find a way to get closure.
9 And I mean, stuff has been going on for decades in that
10 facility with--with no resolve and little hindsight and the
11 selective amnesia that seems to be going around. It's
12 appalling. And, you know, if I can't look at myself in the
13 mirror the next day then there's something wrong with me, as
14 well. And I would like to continue to look at myself in the
15 mirror. And it may be hard sometimes. But I've taken my
16 licks through the year--years out there. I mean, it's been
17 very oppressive. It's been very hard. There's a lot of--I
18 don't even know how to say it without going all the way back
19 to the beginning, sir. But it's--it's not a real friendly
20 environment if you're an outsider to the community.

21 THE HEARING EXAMINER: Okay. Thank you.

22 Any follow-up to my--

23 CAPTAIN BEDELLS: No, sir.

24 MR. BANCHS: Not to your questions, sir. Let me--

25 THE HEARING EXAMINER: Do you have additional

1 questions--

2 MR. BANCHS: I'll just--

3 THE HEARING EXAMINER: --for the witness?

4 MR. BANCHS: I forgot to ask one thing, if you
5 don't mind.

6 THE HEARING EXAMINER: Go ahead.

7 MR. BANCHS: And this was the last question that
8 you asked her.

9 RE-CROSS-EXAMINATION

10 BY MR. BANCHS:

11 Q You came back--I guess we both missed it, but it was about
12 the change in the fuel log entries. Do you remember Captain
13 Bedells asking you about that?

14 A **Uh-huh.**

15 Q Did you testify that Mr. Smock showed you how to do it?

16 A **Yeah. We had a discussion about it.**

17 Q Did you actually ever change the logs?

18 A **I never touched them.**

19 Q Okay. So he only showed you how to do, but you never
20 actually did it?

21 A **I never did it. That was his job to do the logs and get
22 them--to get the fuel reports. And that was never my job.**

23 Q So why would he have any occasion to show you how to doctor
24 a log? Was he just bragging to you?

25 A **That would be a good way to word it. Bragging. Feathers in**

1 **his hat. It was--it was like a rite of passage.**

2 Q Okay. And around what time was this? What year?

3 A **It was previous to my deployment.**

4 MR. BANCHS: Okay. All right. That's it. That's
5 all I got. Thank you, sir.

6 THE HEARING EXAMINER: Okay.

7 Chief, I remind you that you remain under oath,
8 and that you are subject to recall to this hearing until
9 such time that it's been adjourned.

10 Again, I'll remind you not to discuss your
11 testimony with anyone.

12 And I thank you for your time here today.

13 THE WITNESS: Thank you, sir.

14 (At about 3:52 p.m., witness released)

15 THE HEARING EXAMINER: We'll go off the record.

16 COURT RECORDER: Go off the record? We are off
17 the record. The time is 3:52 p.m.

18 (Off the record)

19 (On the record)

20 COURT RECORDER: We are back on the record. The
21 time is 4:05 p.m.

22 THE HEARING EXAMINER: Master Sergeant Fouts,
23 would you raise your right hand, please?

24 Do you swear or affirm that the testimony that you
25 are about to give in this case is the truth, the whole truth

1 and nothing but the truth, so help you God?

2 MASTER SERGEANT FOUTS: I do.

3 THE HEARING EXAMINER: Let me further add that you
4 are advised that you're assured the freedom from restraint,
5 interference, discrimination, coercion or reprisal for
6 testifying in this case.

7 And with that, you can have a seat, please.

8 Captain Bedells?

9 CAPTAIN BEDELLS: Thank you, sir.

10 MASTER SERGEANT JANET JEAN FOUTS

11 (At 4:05 p.m., sworn as a witness, testified as follows)

12 DIRECT EXAMINATION

13 BY CAPTAIN BEDELLS:

14 Q Ma'am, would you please state your full name for the record?

15 A **Janet Jean Fouts.**

16 Q And you are--you are currently a Master Sergeant in the
17 Army, correct?

18 A **Yes, sir.**

19 Q The Army National Guard?

20 A **Yes, sir.**

21 Q How are you currently employed?

22 A **At MATES as a--**

23 Q And you are a technician?

24 A **--technician.**

25 Q How long have you been a technician at MATES?

1 **A** **At least 30 years.**

2 Q Okay. The entire time here in--I presume here in Grayling,
3 correct?

4 **A** **Yes, sir.**

5 Q Okay. So you've had occasion to work next to Master
6 Sergeant Smock, correct?

7 **A** **Yes, sir.**

8 Q Okay. And you've known him since approximately when?

9 **A** **Since he started work at MATES.**

10 Q Okay.

11 **A** **Like--I couldn't tell you how long.**

12 Q Okay. And you worked side-by-side with him for a number of
13 years, correct?

14 **A** **Yes, sir.**

15 Q Do you consider him a friend?

16 **A** **Yes, sir.**

17 Q Okay. Now, you were--you provided some--a sworn statement
18 and possibly some testimony in connection with this
19 investigation that brings us here today, correct?

20 **A** **Yes, sir.**

21 Q Okay. And I understand that you were asked whether--by the
22 investigating officer, the IO, whether you had ever observed
23 Master Sergeant Smock remove anything from the MATES
24 facility; is that fair to say?

25 **A** **Yes, sir.**

1 Q And how did you answer that--that question?

2 A I told him that I saw him and Colonel Golnick carrying a TV-

3 -

4 Q Okay.

5 A --and put it in Colonel Golnick's truck.

6 Q Okay. And do you recall approximately when you observed
7 this?

8 A Exactly when, no. I--

9 Q Okay. I want to--what I want to do is open up the--

10 CAPTAIN BEDELLS: --yeah, Sergeant Schultz, if you
11 could help.

12 BY CAPTAIN BEDELLS:

13 Q Open up the--what's been marked as Smock Exhibit Number 1.
14 Master Sergeant Fouts, take your time and--take your time
15 and read the sworn statement. Well, before you--before we
16 go down that road, is--is it the case that you provided that
17 answer in your sworn statement or was it in an interview; if
18 you recall?

19 A It was in the interview.

20 Q Do you recall how you answered when the investigating
21 officer asked you "Do you recall when you observed this?"
22 If you don't have a recollection, then we're going to have
23 to take a look at this to refresh your memory. Okay?

24 A I don't.

25 CAPTAIN BEDELLS: Do you remember where we saw

1 that, Steve?

2 THE HEARING EXAMINER: It's on the third page,
3 just about, not quite halfway down the page.

4 BY CAPTAIN BEDELLS:

5 Q Okay. Take a moment to read those three lines, if you
6 would.

7 CAPTAIN BEDELLS: Thank you, sir.

8 THE HEARING EXAMINER: Uh-huh.

9 THE WITNESS: In the summer, is when I said.

10 BY CAPTAIN BEDELLS:

11 Q Okay. Right. You--you provided an answer to the question
12 that it was--that it was this summer. What summer did you
13 mean when you answered that question? The summer of what
14 year?

15 A **2013.**

16 Q Okay. As you sit here today, are you absolutely certain
17 that it was 2013?

18 A **Absolutely? No.**

19 Q Okay. Is it possible that it was even more than a year ago,
20 2012, summer of 2012?

21 A **Possible.**

22 Q Okay. And the reason I ask, Master Sergeant Fouts, is Mr.
23 Banchs, who's representing Mr. Smock here today, has
24 provided in a reply that I'm going to guess you haven't
25 seen, evidence that a television was delivered to the MATES

1 facility for--for Lieutenant Colonel Golnick. And,
2 furthermore, there was a bill of lading. Okay. Do you
3 understand that?

4 **A Uh-huh. Yes, sir.**

5 Q Okay. So my question then becomes is it possible that the
6 TV--well, strike that. Let me ask you a question. Tell the
7 Hearing Examiner exactly what you--what you observed on that
8 particular day.

9 **A Just that I observed Colonel Golnick and Master Sergeant**
10 **Smock carrying a TV out. Where it came from or where it was**
11 **going, I have no idea.**

12 Q Okay. Do you know where it ultimately ended up?

13 **A No, sir.**

14 Q Okay. How about where did they take it to?

15 **A They loaded it in the back of Colonel Golnick's truck.**

16 Q Okay. Was it a pickup truck?

17 **A Yes, sir.**

18 Q Okay. Okay. So my question, again, becomes in light of
19 what Mr. Banchs has provided in the way of receipts for a
20 television and the fact that a TV was delivered to the MATES
21 facility in the summer of 2012, is it possible that that--
22 that you observed that same television being delivered in
23 the summer of 2012 and not 2013?

24 **A It's possible, but--**

25 Q Okay. Now, I want to--I want to coerce you into testifying-

1 -

2 **A No, you're not.**

3 Q --a particular way, because it's possible it was delivered
4 in 2012 and it wasn't removed until 2013.

5 **A Yes, sir.**

6 Q Okay. In other words, it sat there for a year or was used
7 for a year. So I don't mean to--but--but, as you sit here
8 today, you're not absolutely certain that it was 2013 when
9 you observed this?

10 **A No, sir.**

11 CAPTAIN BEDELLS: Okay. Okay. I don't have any
12 further questions of Master Sergeant Fouts.

13 THE HEARING EXAMINER: I have one question, and
14 then I'll let Mr. Banchs cross.

15 Was it in a box?

16 THE WITNESS: Yes, sir.

17 THE HEARING EXAMINER: Okay. Thank you.

18 Mr. Banchs, you can cross.

19 CROSS-EXAMINATION

20 BY MR. BANCHS:

21 Q I'm sorry, ma'am. Give me a second. Oh. Here we go. I
22 just want to--the question I have for--for you, ma'am, is in
23 regards to--to a statement you made in your sworn statement
24 concerning diesel fuel. And it's going to be on page 2 of
25 your statement. And it's going to be right in the middle of

1 the page, by the--by the ring, by the binder ring. It says,
2 "In the summer--" or--I'm sorry "--The summer of 2013 is
3 when Sergeant Tammy Blair told me she saw CW2 Joel Mack load
4 about 10 fuel cans of diesel into an NTV and drive off with
5 it. Sergeant Blair said she wasn't sure where he took it."
6 Do you recall that?

7 CAPTAIN BEDELLS: I'll object. This is not
8 relevant to Master Sergeant Smock's case.

9 THE HEARING EXAMINER: Noted.

10 MR. BANCHS: I'll just--it's just in regard to
11 the--the diesel theft charge. I'm just curious. I'm just
12 curious as to the statement that Sergeant Tammy Blair made
13 about Joel Mack taking fuel.

14 THE HEARING EXAMINER: Right. How's that relevant
15 to Mr. Smock?

16 MR. BANCHS: I want to ask her if she ever heard
17 about Mr. Smock taking fuel.

18 THE HEARING EXAMINER: Okay. Go ahead.

19 BY MR. BANCHS:

20 Q Yeah.

21 A No.

22 MR. BANCHS: Okay. Thank you, very much.
23 That's all the questions I have.

24 THE HEARING EXAMINER: Okay. Redirect?

25 CAPTAIN BEDELLS: No, sir.

1 THE HEARING EXAMINER: Okay. I remind you that
2 you remain under oath, and that you are subject to recall to
3 this hearing until such time that it has been adjourned.

4 Again, I will remind you not to discuss your
5 testimony with anyone.

6 And I thank you for your time here today.

7 THE WITNESS: Yes, sir.

8 THE HEARING EXAMINER: Thanks.

9 (At about 4:13 p.m., witness excused)

10 CAPTAIN BEDELLS: My boss is here, so I will talk
11 to him about that before he leaves. Okay?

12 THE HEARING EXAMINER: We'll go off the record for
13 just a minute.

14 COURT RECORDER: We are going off the record. The
15 time is 4:14.

16 (Off the record)

17 (On the record)

18 COURT RECORDER: We are on the record. The time
19 is now 4:23 p.m.

20 THE HEARING EXAMINER: Would you raise your right
21 hand, please?

22 Do you swear or affirm that the testimony that you
23 are about to give in this case is the truth, the whole truth
24 and nothing but the truth, so help you God?

25 MASTER SERGEANT SHELDON: Yes, sir.

1 THE HEARING EXAMINER: And further you are advised
2 that you assured the freedom from restraint, interference,
3 discrimination, coercion or reprisal for testifying in this
4 case.

5 THE WITNESS: Yes, sir.

6 THE HEARING EXAMINER: Okay. You can have a seat,
7 please.

8 Captain Bedells?

9 CAPTAIN BEDELLS: Thank you, sir.

10 MASTER SERGEANT TIMOTHY GENE SHELDON

11 (At 4:23 p.m., sworn as a witness, testified as follows)

12 DIRECT EXAMINATION

13 BY CAPTAIN BEDELLS:

14 Q Sir, would you please state your full name for the record?

15 A **Timothy Gene Sheldon.**

16 Q And Master Sergeant--

17 A **Master Sergeant.**

18 Q Thank you. Master Sergeant Sheldon, how are you currently
19 employed?

20 A **At the MATES.**

21 Q In what capacity at the MATES?

22 A **I'm an electronics mechanic. I work in the vault.**

23 Q How long have you been an electronics mechanic at MATES?

24 A **I'm going to say six years. Before that I was an armament
25 repairer.**

1 Q How long were you an armament repairer?

2 A **Ten years.**

3 Q And prior to that, were you a technician at MATES?

4 A **No.**

5 Q Okay. So you've spent about 16 years at the MATES facility,

6 correct?

7 A **Yes, sir.**

8 Q In one capacity or another?

9 A **Yes, sir.**

10 Q And have you had occasion to work with Mr. Smock?

11 A **Yes, sir.**

12 Q And in what capacity have you had occasion to work with Mr.

13 Smock, and we'll start with as an armament repairer?

14 A **I just had helped him in, you know, different stuff,**

15 **carrying stuff or whatever, because my armament repair is**

16 **right next to Joes'--was next to Joe's area. So if he**

17 **needed a hand lifting something or loading something into**

18 **the truck or whatever, then I'd give him a hand.**

19 Q Okay. And what is Joe--what was Joe--and we're talking

20 about the 10 years you were in armament repair--

21 A **Yeah.**

22 Q --correct? And what was Joe's area?

23 A **Oh, the armament--I'm sorry. Sorry about that. I'm**

24 **thinking armament as in--**

25 Q Electronics?

1 **A** --electronics, which I'm actually an armament guy in the
2 **electronics.**

3 **Q** Okay.

4 **A** **So before that, I don't ever remember working with him.**

5 **Q** Okay. Would you consider him a friend?

6 **A** **Yes.**

7 **Q** Do you socialize with him on occasion?

8 **A** **Yes, I do.**

9 **Q** Do you fish with him on occasion?

10 **A** **Yes, I do.**

11 **Q** Okay. Did you go to high school here in Grayling?

12 **A** **Yes, I did.**

13 **Q** Did you graduate around the same time?

14 **A** **I think I was four years ahead of Joe.**

15 **Q** Okay. Your families know one another?

16 **A** **Yes.**

17 **Q** Okay. You're married?

18 **A** **Yes.**

19 **Q** Okay. Socialize as married couples on occasions?

20 **A** **Yes.**

21 **Q** Okay. I want you to take a look at what has been marked as
22 Exhibit--or--I'm sorry--Attachment G to Exhibit 3 in this
23 file. I have it already open for your benefit.

24 **A** **This here?**

25 **Q** Correct.

1 **A** **I don't see a G on here.**

2 STAFF SERGEANT SCHULTZ: Tab G.

3 THE WITNESS: Oh, okay. Sorry.

4 BY CAPTAIN BEDELLS:

5 Q Okay. And it's been previously marked as Exhibit 3 to this
6 hearing.

7 **A** **Okay.**

8 Q Do you recognize that document?

9 **A** **Nope.**

10 Q Okay. Never saw--never--never seen that document before,
11 correct?

12 **A** **Not this one, no.**

13 Q Okay. Take your time--take a moment just to peruse the--
14 it's three pages--just--you can just briefly go over pages 1
15 through 3 and read it. I'm going to ask you some questions
16 about it.

17 **A** **Okay. Okay. That's it.**

18 Q Okay. Have you had an opportunity to read that? You don't
19 have to read that last page.

20 **A** **Okay.**

21 Q As you--now that you've had an opportunity to read that
22 document, what do you understand that document to be?

23 **A** **It looks like just a--something that everybody came up with**
24 **saying something--that what Joe did to--reason for he got**
25 **fired.**

1 Q Okay. Read the subject line. What does--what does the
2 subject line say?

3 A **"The Removal Original Decision."**

4 Q Okay. Is that a fair characterization of what that document
5 might be?

6 A **Yeah.**

7 Q Okay. So, Master Sergeant Sheldon, if you want to flip to
8 the second page, please. You see the allegations there?

9 A **I did.**

10 Q Okay. I'm--

11 A **Eight--**

12 Q --going to walk through those allegations rather quickly.
13 But feel free to stop me if you don't understand--

14 A **Okay.**

15 Q --or I'm moving too quick.

16 A **Yep.**

17 Q I'm going to ask you questions about each one of them,
18 whether you have personal knowledge of it or whether you've
19 ever heard an account of it.

20 A **Okay.**

21 Q Okay. And understanding you're under oath here today,
22 right?

23 A **I do.**

24 Q Tracking. Okay. So A says, "You wrongfully removed--"
25 well--strike that. Let's move right to B. "You wrongfully

1 removed sheets of OSB board from the MATES building." Did
2 you ever personally witness Joe Smock remove OSB boards from
3 the MATES building?

4 **A No, I haven't.**

5 Q You ever heard any occasion--

6 **A Not until this--**

7 Q --from anyone else--

8 **A Not until this investigation came up.**

9 Q Okay. Okay. And what did--okay. So since this
10 investigation has come out, you have heard accounts of him
11 removing--

12 **A Yes.**

13 Q --OSB board, correct?

14 **A Through what the questions were on the initial**
15 **investigation.**

16 Q Okay. From whom did you hear that Mr. Smock had removed OSB
17 boards from MATES?

18 **A Thad Cooper, Todd Whitcher.**

19 Q Okay. What did Thad Cooper tell you?

20 **A That that was one of the questions that was brought up in**
21 **the investigation.**

22 Q Okay. Well, my--let me re- --

23 **A I mean, I just heard it through them talking back and forth**
24 **in their office.**

25 Q Yeah. That's--my question--I might not have--I might not

1 have drafted my question, although no one else has really
2 had a problem with it. So let me rephrase it. You've
3 already testified you've never personally witnessed Mr.
4 Smock remove OSB board--

5 **A No.**

6 Q --from MATES, correct?

7 **A No.**

8 Q Okay. So my question is have you heard of any other person
9 who might have witnessed Mr. Smock take--

10 **A No, I haven't.**

11 Q --OSB from the MATES?

12 **A No, I haven't.**

13 Q Okay. Now we're on--now we're tracking. Okay. The next
14 question says Mr. Smock "wrongfully removed wood--" and I
15 understand OSB is a--is a form of wood, if you will. But
16 this is a more general concept of wood. So it alleges Mr.
17 Smock "wrongfully removed wood from the MATES building." My
18 question, then, is did you, yourself, ever witness Mr. Smock
19 remove wood of any sort--and I don't mean sheets of OSB or
20 plywood, I mean even small pieces of wood, from the MATES
21 facility?

22 **A No.**

23 Q No. Okay. Did you--did anyone else provide you an account
24 of Mr. Smock removing wood from the MATES facility?

25 **A No.**

1 Q Okay. And, D, it says that Mr. Smock "wrongfully removed
2 sheets of luan from the MATES building." Again, Master
3 Sergeant Sheldon, did you ever personally observe Mr. Smock
4 remove sheets of luan from the building?

5 **A No, sir.**

6 Q Did you ever hear of any account of another person relaying
7 to you, "Yeah, Master Sergeant Smock removed sheets of luan
8 from the building, from MATES"?

9 **A I didn't hear them say that they removed--removed sheets of
10 luan from the building.**

11 Q What did you hear?

12 **A I heard that he used it on one of his projects at home.**

13 Q Okay. From whom did you hear that?

14 **A Through Thad Cooper.**

15 Q Okay. Anyone else?

16 **A Todd Whitcher.**

17 Q Okay.

18 **A In the same office.**

19 Q Okay. So Todd Whitcher and Thad Cooper told you that
20 Master--that Joe Smock used sheets of luan--

21 **A I think it was that he probably used it on his playhouse, is
22 the term that they used.**

23 Q Okay. Okay. Fair enough. Anyone else?

24 **A Nope.**

25 Q Okay. Next one down--you can read along.

1 **A** **I am.**

2 **Q** I'm on E, Echo. Okay. I'm on E. So it says Mr. Smock

3 "wrongfully installed Government-purchased tires on his

4 son's truck." Did you ever personally observe Mr. Smock put

5 Government-purchased tires on his son's truck?

6 **A** **No, sir.**

7 **Q** Have you heard any account from any other person that Mr.

8 Smock put Government-purchased tires on his son's truck?

9 **A** **That would be through that same office again.**

10 **Q** I don't know what that same--

11 **A** **Todd Whitcher and Thad Cooper.**

12 **Q** Okay. So your test- --so your testimony is, and correct me

13 if I'm wrong, Thad Cooper--

14 **A** **I heard from them.**

15 **Q** --and Todd Whitcher told you that Joe Smock put Government-

16 purchased tires on his son's truck?

17 **A** **Yes, sir.**

18 **Q** Okay. Anyone else?

19 **A** **No.**

20 **Q** Okay. F, that Mr.--the allegation's that Mr. Smock

21 "wrongfully removed heaters from the buildings at Camp

22 Grayling." My question again, did you personally observe

23 Master Sergeant--Master Sergeant Smock remove heaters from

24 buildings at Camp Grayling?

25 **A** **I never heard that one.**

1 Q Okay. Have you heard any other account from any other
2 person to that effect?

3 A **None, whatsoever.**

4 Q Okay. G, that Mr. Smock "wrongfully removed equipment parts
5 from the air-to-ground range." Did you ever personally
6 witness Master--or Mr. Smock remove any equipment or parts
7 from the air-to-ground range?

8 A **Never heard that one either.**

9 Q Did you ever hear that--okay. You never heard that. Did
10 you ever personally observe it?

11 A **No, I didn't.**

12 Q Okay. Fair enough. H, it's alleged that Mr. Smock
13 "wrongfully removed diesel fuel from the MATES building."
14 My question is did you ever personally witness Mr. Smock
15 remove diesel fuel--

16 A **No, I have not.**

17 Q --from the MATES building? Okay. Let me just finish real--
18 because it--

19 A **Okay.**

20 Q --she's keeping a--she's keeping a verbatim transcript here
21 for the benefit of the Hearing Examiner. And he's not going
22 to get your answer--

23 A **Okay.**

24 Q --if you're speaking over me, or he won't get the end of my
25 question over your answer. Tracking? Okay. So let me

1 start again. Did you ever personally observe Mr. Smock
2 remove diesel fuel from the MATES building?

3 **A No, I have not.**

4 Q Have you ever heard from any other person an account of any
5 sort that Mr. Smock had removed diesel fuel from the MATES
6 building?

7 **A No, I have not.**

8 Q Okay. And finally the last allegation, I, talks about Mr.
9 Smock "wrongfully appropriating--" which is really a fancy
10 way of taking "--a chainsaw purchased with Government funds
11 to--" well "--for his own use."

12 **A No, I have not.**

13 Q Never--never observed him do that?

14 **A Nope.**

15 Q Any account from any other person to that effect?

16 **A No, sir.**

17 Q Okay. Now, I want to go back to D, luan. Do you see that
18 one there?

19 **A I do.**

20 Q Okay. And I believe you testified that Todd Whitcher and--
21 Todd Whitcher and--

22 **A Thad Cooper.**

23 Q --Thad Cooper told you that they believe Mr. Smock took luan
24 from the MATES facility--

25 **A That was--**

1 Q --correct?

2 A **That was brought up, yes.**

3 Q Okay.

4 A **In their office.**

5 Q Master Sergeant Sheldon, we've had--we've actually had Chief
6 Mack--you know Chief Mack?

7 A **I know Chief Mack.**

8 Q Okay. We've had Chief Mack testify before you.

9 A **I've confronted all these guys before--**

10 Q Okay.

11 A **--about it, too.**

12 Q Okay. We've had Chief Mack testify before you. Just listen
13 to my question--

14 A **Okay.**

15 Q --if you don't mind. Chief Mack testified before you. And
16 Master Sergeant Cooper, Thad Cooper testified before you.
17 Both of those gentlemen testified under oath, as you are
18 right now, that it was you who suggested to them that Mr.
19 Smock took luan from the MATES facility and used it at some
20 structure at his house. Both of them.

21 A **Yeah.**

22 Q Okay. And I understand you're under oath, as well. So my
23 question is is there any doubt in your mind as to how this
24 played out? You're telling me that it was Todd Witcher and
25 Thad Cooper who told you this, and I've got Chief Mack and

1 Thad Cooper saying otherwise.

2 **A Uh-huh.**

3 Q Are they in error?

4 **A They are in error, because they--Joel Mack wasn't even in**

5 **there at the time that that was all brought up. It was Todd**

6 **Whitcher and Thad Cooper had brought it up. When I had said**

7 **that I was over to Joe's house one day, and I saw his**

8 **addition he had put on his shed. And they said, "Oh, was it**

9 **made out of OSB?" I said, "No. Actually it was made out of**

10 **luan." And then that's when it all got brought up that,**

11 **"Oh, he must have took the luan from here."**

12 Q Well, who--

13 **A And then--**

14 Q --who brought that up?

15 **A That was Thad Cooper had brought that up.**

16 Q Okay. So--so really Chief Mack and Thad Cooper have it all

17 wrong on their--

18 **A Well--**

19 Q --as it pertains to their testimony here--

20 **A --from what I said, it--**

21 Q --today?

22 **A --they do.**

23 Q Okay. So they're not being truthful?

24 **A Apparently not.**

25 Q Okay. Okay. Now, we also heard some testimony from--to the

1 effect that you told others that you had, in fact, some
2 information regarding the installation of tires on Mr.
3 Smock's son's truck.

4 **A I have no information--**

5 Q My--okay.

6 **A --about that.**

7 Q Okay. And that's my question. So, again, whoever--whoever
8 said that under oath is--is not being truthful, correct?

9 **A Not being truthful at all.**

10 Q Okay. And we also received testimony from another person in
11 this matter that you used a motor from the air-to-ground
12 range that Mr. Smock secured for you in a log splitter.
13 Does that jog your memory at all?

14 **A Not at all.**

15 Q Okay.

16 **A I have a brand new motor on my log splitter--**

17 Q Okay.

18 **A --that I bought from the Home Depot.**

19 Q Okay. So completely wrong?

20 **A Yeah. Completely wrong.**

21 Q Okay. There's--your--and the log splitter you had before
22 that new log splitter, that didn't have a motor--

23 **A I didn't have a log splitter before that.**

24 Q Okay. So it's--

25 **A This is my only log splitter I've had.**

1 Q Okay. And brand new, no motor from the air-to-ground range?

2 A **No.**

3 Q Okay. So, again, whoever said that, not being truthful?

4 A **Not being truthful. And I'll show anybody they want to see-**

5 **-if they want to see the brand new motor that's on there--**

6 Q Yeah.

7 A **--that's been on there.**

8 Q Well, that would speak to your brand new motor. That

9 wouldn't--

10 A **Yeah.**

11 Q --or your brand new log splitter. Of course, that wouldn't

12 explain if you had another log splitter.

13 A **Yeah.**

14 Q But you're saying you don't have one--

15 A **Not a--**

16 Q --correct?

17 A **Not a used one. I have a brand new one--**

18 Q Right. Okay.

19 A **--that I built with a brand new motor.**

20 Q Did you ever lend that log splitter to anyone?

21 A **I lend it to a lot of people.**

22 Q Okay. You ever lend it to Thad Cooper?

23 A **I have lent it to Thad Cooper.**

24 Q Okay. The brand new one?

25 A **Brand new one.**

1 Q Okay.

2 **A The one that's got the same brand new motor on it.**

3 Q Okay. And would it surprise you if you learned that someone

4 had previously testified that you prob- --that you provided

5 some evidence that Mr. Smock took a chainsaw out of the

6 MATES facility?

7 **A That would surprise me, too.**

8 Q Okay. Because presumably you've testified that's not true?

9 **A That is not true.**

10 Q So whoever testified in that respect is not being truthful?

11 **A Sounds like the same guy.**

12 Q Okay. Who would you surmise that guy to be?

13 **A Thad Cooper.**

14 Q Okay. Why do you think Thad Cooper would be so--would be

15 untruthful in these--in these proceedings?

16 **A Because this whole investigation's all been on mostly all**

17 **hearsay of what he's heard or other people's heard.**

18 Q Okay. Well, he's hearing--he's telling us that he heard

19 some of this stuff from you.

20 **A Well, I don't know about that.**

21 Q Well, you've told me--you do know about it. You've said

22 here today that that's not the case.

23 **A Well, that, but--**

24 Q Okay. Okay. And you've been there since about what, 2002--

25 MATES, I mean?

1 **A** **I--I believe somewhere--**

2 Q Oh, no, no, no. I mean, it'd be more than that.

3 **A** **'90- --**

4 Q Yeah. '98.

5 **A** **'98.**

6 Q So you've been there since the late '90s?

7 **A** **Uh-huh.**

8 Q And never witnessed any of this stuff that we've just gone

9 over today?

10 **A** **Not--except for what I had told you about what they said in**

11 **their office--**

12 Q Right.

13 **A** **--after the investigation had already started--**

14 Q Right.

15 **A** **--and all the questions came out.**

16 Q But, again, it was Whitcher and Cooper who told you--

17 **A** **Yes.**

18 Q --about the luan?

19 **A** **Yes.**

20 Q And it was not you who told--

21 **A** **They weren't telling me, they were just--I mean, it was all**

22 **brought up in--**

23 Q Yeah. Let me just--

24 **A** **--in conversation.**

25 Q Let me just finish. Right. Right. Oh, okay. So that's

1 different. So they didn't really tell you; it was just--

2 **A They didn't come out and say--**

3 Q --brought up in--

4 **A --yeah.**

5 Q And you were part of the conversation, right?

6 **A I was in there, you know, when the--and I told you the**

7 **story, that I was there 4th of July looking at it. And he**

8 **said "Was it made out of OSB?" And I said, "No. It was**

9 **actually made out of luan." And that's when--**

10 Q Okay.

11 **A --they come out and said, "Well, that must have been stolen**

12 **from here."**

13 Q Okay. So if--if--again, if Chief Mack and Master Sergeant

14 Cooper testify--and I assure you they did testify this way--

15 **A Well, I know they testified.**

16 Q --they testified that it was you who said, on a Friday,

17 there's a bunk of luan at MATES. And this must have been

18 the Friday of the 4th of July holiday or something?

19 **A Who knows?**

20 Q Okay. Well, you just testified that it was the 4th of July

21 you--

22 **A I said it was that weekend that I went over there and saw**

23 **the house.**

24 Q Okay. Okay. So it's their testimony that you witnessed a

25 bunk of luan at the MATES facility on a Friday--and they

1 both testified in this respect--that you then went to Mr.
2 Smock's house and observed luan that was in--what was--I'm
3 still not clear what it was.

4 MR. BANCHS: If I could correct the record. They
5 never specific that it was a bunk, because you held me to
6 that same standard. They just said it was luan.

7 CAPTAIN BEDELLS: Okay. Strike it.

8 BY CAPTAIN BEDELLS:

9 Q Just some luan. There was some portion of luan in the MATES
10 facility on a Friday, they testified that you said this,
11 that you then went to Mr. Smock's house. And I presume
12 we're talking about the same weekend. And you observed the
13 luan in--and this is where I'm unclear. What sort of
14 structure is this--the luan in, I mean?

15 A **A shed.**

16 Q It's in a shed. Like a--

17 A **Two-story shed.**

18 Q --storage shed? A two-story storage shed. Okay. And that
19 on Monday, when you returned to work, you told both of them,
20 both Chief Mack and Master Sergeant Cooper, "Yeah, I saw the
21 luan in the storage shed, and sure enough the luan that was
22 at MATES is gone."

23 A **That's not true.**

24 Q Didn't happen that way?

25 A **Didn't happen that way. And after I did hear about it**

1 **happen that way--because I've heard the--the recording from**
2 **the investigation. I went back out to the barn. And that**
3 **luan was still out there--**

4 Q Did you provide--

5 A **--a bunk of luan.**

6 Q Did you provide any--any testimony with respect to this
7 investigation?

8 A **I did.**

9 Q You did? Okay.

10 A **Uh-huh. I was out there.**

11 Q Okay. You provided a sworn statement to Colonel Doolittle?

12 A **No, I did not.**

13 Q Okay. Why not?

14 A **Was never asked for one.**

15 Q Okay. What did you do? Provide an interview?

16 A **Yes.**

17 Q Okay. Did you make this clear in the interview, what you're
18 telling us here today?

19 A **Yes--**

20 Q Okay.

21 A **--well, only if he had asked me. I don't remember what he**
22 **asked me.**

23 Q Well, wouldn't you have volunteered it? I mean, wouldn't--

24 A **What's that?**

25 Q --you have said, look--I said would--

1 conversation with--let me--let me make sure we're clear
2 again. Was it--was it Whitcher--

3 **A Yes.**

4 **Q --and Cooper?**

5 **A Yes.**

6 **Q** And that conversation came up--still prior to the
7 investigation, the conversation came up about--

8 **A No. It was after--it was during the investigation.**

9 **Q** So you didn't say anything--

10 **A Well--well, I don't know about that. But the--I'm trying to**
11 **think how that went. It was--that--that came up shortly**
12 **after--it would have been the following week. The following**
13 **week is when the conversation came up, when they said about**
14 **the luan, and I said--or they asked about the OSB, and I**
15 **said, "No, it was made out of luan." That would have been**
16 **that following week after the 4th of July. Then that was**
17 **the last I had heard of it until the investigation.**

18 **Q** Okay.

19 **A** And then that's when I confronted both of them, because I'd
20 heard my name was brought up that I'd said that. And they
21 said, "Well--" and then somehow or another Joel Mack got
22 into the whole thing. And Todd said he never even--he never
23 even said anything about it.

24 **Q** Okay. So then somewhere between 3 and 4 or 5 months later,
25 the investigation was going on. And do you--this may have

1 already been asked--but do you recall Colonel Doolittle
2 asking you about luan or wood?

3 **A I remember him saying something about wood, but specifically**
4 **luan, I don't remember him saying anything.**

5 Q Okay. Do you remember in that--in the--when you were
6 questioned, talking about the shed at Joe's house and the
7 luan?

8 **A I don't remember even bringing that--him even bringing that**
9 **up. Because I think I was, like, one of the third or fourth**
10 **people to go in for the investigation.**

11 THE HEARING EXAMINER: Okay. Thanks.

12 Mr. Banchs, you can cross.

13 MR. BANCHS: Just a second here, sir. Just
14 looking at something here, because unfortunately there is
15 no--no notes for his interview.

16 CROSS-EXAMINATION

17 BY MR. BANCHS:

18 Q And you did not provide a sworn statement because you were
19 not asked to; is that--

20 **A No, sir.**

21 Q --your testimony here today?

22 **A Correct.**

23 CAPTAIN BEDELLS: So then you'd be limited to what
24 I've asked on direct.

25 MR. BANCHS: I'm only limited to what he limits

1 to.

2 CAPTAIN BEDELLS: Roger. Okay.

3 BY MR. BANCHS:

4 Q Concerning the OSB, your testimony was that you did not know
5 anything about the allegations that Joe had stolen OSB until
6 you heard Thad Cooper and Todd Witcher talking about it in
7 their office?

8 A **Correct.**

9 Q Okay. And I'm trying--where is it? Here we go. So and I'm
10 looking at--

11 MR. BANCHS: --and if you guys want to reference
12 this, it's going to be the--the last item in Book 2 of the
13 MATES investigation, which the only record that we have here
14 of him being interviewed is in Colonel Doolittle's
15 chronological list of activities, where he shows that he
16 interviewed--

17 CAPTAIN BEDELLS: Which--which exhibit is it? Oh,
18 Q?

19 MR. BANCHS: I think it's the very last one.

20 CAPTAIN BEDELLS: Q?

21 MR. BANCHS: If you look at page--it's 30 October,
22 conducted interview with Master Sergeant--Master Sergeant
23 Tim Sheldon, 09:00.

24 CAPTAIN BEDELLS: Right. I see it. It should be
25 in Book 2.

1 THE HEARING EXAMINER: What's the tab again, Ben?

2 MR. BANCHS: It--the tab in--oh, I don't--I--

3 MASTER SERGEANT SCHULTZ: Book 2.

4 MR. BANCHS: No.

5 CAPTAIN BEDELLS: No.

6 MR. BANCHS: It's not in that one, sir. We didn't
7 print out Book 2.

8 CAPTAIN BEDELLS: Here.

9 THE HEARING EXAMINER: Okay.

10 CAPTAIN BEDELLS: Here. I've already seen it.

11 It's this entry right here, sir.

12 THE HEARING EXAMINER: Okay. Thank you.

13 BY MR. BANCHS:

14 Q So, Mr. Sheldon--Sergeant Sheldon, you were interviewed on
15 30 October, according this record. Does that sound
16 accurate?

17 A **Sure.**

18 Q Mr. Cooper--or Thad Cooper--I'm sorry--was interviewed on 5
19 November. And Todd Witcher was actually interviewed the
20 day before. So when--just--you know, and I know it's been
21 almost--well, it's been over a year now since you were
22 inter- --

23 A **Uh-huh.**

24 Q --or close to a year. When--in reference to the time that
25 you were interviewed by Colonel Doolittle, was it after your

1 interview with Colonel Doolittle that you heard these two
2 individuals talking about that?

3 **A About the OSB?**

4 Q Yes, sir. Or was it before your interview?

5 **A I would say it was--I don't remember. I can't--**

6 Q Around the same time?

7 **A Around the same time.**

8 Q But they were--they were definitely talking about that
9 allegation in reference to what they were being asked in the
10 interview?

11 **A Yes.**

12 Q Is that--

13 **A Yes, sir.**

14 Q --accurate?

15 **A Yes, sir.**

16 Q And would that be the same with the luan?

17 **A Yes, sir.**

18 Q In fact, would all those charges that Captain Bedells had
19 you read about, would that be accurate on all those charges?

20 **A Yes, sir. All the ones that I had heard about.**

21 Q So your--your testimony today is that you unequivocally,
22 whether you were implicated by other--other people as having
23 made statements in regards to any of these events, that you
24 did not make any of those statements?

25 **A No, sir.**

1 Q Okay. I know Captain Bedells has highlighted your
2 friendship with Mr. Smock and the fact that your families
3 interact socially. You've been friends with Joe for awhile?

4 A **Yes, sir.**

5 Q When you started hearing allegations being made by other
6 people about Mr. Smock being involved in these incidences,
7 what was your impression of that? What did you think about
8 that?

9 A **Oh, I was mad. And then I had actually confronted three of**
10 **them that I knew. And then--**

11 Q And who was that?

12 A **It was Todd Whitcher, Thad Cooper and Joel Mack.**

13 Q Okay.

14 A **Because Joel was a family friend, too.**

15 Q And were these confrontations all simultaneous or where they
16 at different times?

17 A **Different times.**

18 Q And were they after the tapes--

19 A **After--**

20 Q --were released?

21 A **Yes. Because I'd heard that they had used my name in it.**

22 Q So this is, like, February or timeframe of this year?

23 A **It could have been, yes.**

24 Q Okay.

25 A **December, Feb- --oh. It was after everything was all over**

1 **with, and the tapes had come out and--**

2 Q Well, was that--was that a mean confrontation or were these
3 spirited conversations?

4 A **No. It was just--it was just brought up and that I wasn't**
5 **happy with it.**

6 Q Or were you just like, "Hey--"

7 A **Yeah. That my name was being run in the dirt and--**

8 Q Okay. So you didn't actually confront them about the
9 allegations, though, until after the investigation was over?

10 A **Correct.**

11 Q When you heard them making the allegations during the
12 interview time, during the investigation timeframe, did you
13 confront them at that time or did you say, "Oh, that's not
14 true"?

15 A **I just figured it wasn't true and didn't know what was going**
16 **to go on. Mostly everything was all hearsay, you know,**
17 **everybody that heard about this whole trial, everything was**
18 **just hearsay. So-and-so said this; so-and-so said that.**

19 Q And--

20 A **It was never anything like, "I saw this" or "I saw that."**

21 Q And your feeling--and your feeling that these allegations
22 were--were unfounded, were the same for the allegations that
23 were being made against you; would that be correct?

24 A **Correct.**

25 Q You felt the same way?

1 **A** **Correct.**

2 **Q** Did they--do you believe Joe should have been fired?

3 **A** **No.**

4 **Q** Do you think he should get his job back?

5 **A** **I think so.**

6 MR. BANCHS: Okay. I don't have any more
7 questions, sir, at this point.

8 CAPTAIN BEDELLES: I do, sir.

9 THE HEARING EXAMINER: Go ahead. Redirect.

10 CAPTAIN BEDELLES: Thank you, sir.

11 REDIRECT EXAMINATION

12 BY CAPTAIN BEDELLES:

13 **Q** Master Sergeant Sheldon, you indicated on cross there that
14 you confronted some of these individuals who had mentioned
15 your name, correct?

16 **A** **Yes, sir.**

17 **Q** Okay. What did--who did you confront?

18 **A** **I confronted Thad Whit- --or Thad Cooper. I never did Todd,**
19 **because Todd never, ever said anything about me and never**
20 **used my name. And Joel Mack I confronted also. But it was-**
21 **-Joel's was--wasn't--didn't have anything to do with**
22 **Sergeant Smock's. It was one of the other guys that had**
23 **gotten reprimanded.**

24 **Q** Who was that?

25 **A** **I don't know if I'm supposed to say that here or not,**

1 **because he's--he didn't get fired or anything. He just got-**
2 **-**
3 Q Suspended?
4 A **--two weeks off.**
5 Q Bower? Thayer?
6 A **Thayer.**
7 Q One of them--okay.
8 A **Yeah.**
9 Q Yeah. I said it, so you didn't say it.
10 A **Yeah. So it had something to do with the copper.**
11 Q Okay.
12 A **That I knew about it--**
13 Q Okay.
14 A **--which I didn't know about it.**
15 Q Okay. But you didn't confront Chief Mack about this--
16 A **Not about this--**
17 Q --particular case?
18 A **--no. No.**
19 Q Okay. But you did confront Master Sergeant Cooper?
20 A **I did.**
21 Q Okay. So--and so--and is that just those two?
22 A **Yes.**
23 Q Okay. Not Todd Whitcher?
24 A **Nope.**
25 Q So I'll limit--

1 **A** **Because he never--**
2 Q --my questions to your--
3 **A** **He never said anything.**
4 Q I'll limit my questions to your confrontation with Master
5 Sergeant Thad Cooper. Okay?
6 **A** **Uh-huh.**
7 Q Okay. What did you say to him?
8 **A** **On the lines of I didn't appreciate him using my name,**
9 **saying that, you know, what I said and I--what I didn't**
10 **actually say.**
11 Q Okay. Why didn't--what do you mean--when you use the term
12 "appreciate it," what do you mean? You didn't like the fact
13 that--
14 **A** **I didn't like it--yeah, like the fact that he was using my**
15 **name saying that--**
16 Q Did you--did--is it because you didn't like the fact he was
17 using your name or you didn't like the fact that it--that
18 you thought it was untruthful?
19 **A** **That I--it was untruthful.**
20 Q Okay. You didn't want to get implicated in this thing--
21 **A** **Right.**
22 Q --did you?
23 **A** **Correct.**
24 Q Right.
25 **A** **And Thad and I were--are really good friends, also. Todd**

1 **Whitcher and I are really good friends, and--**

2 Q Are you still good friends with Thad Cooper?

3 A **Not so much.**

4 Q Okay. He moved, right?

5 A **He moved, and just don't--**

6 Q Right. I understand that.

7 A **--associate with him.**

8 Q Okay. Now, you obviously took issue with people using your

9 name, because you--in your--in your testimony here today you

10 say it's untruthful, correct?

11 A **Correct.**

12 Q Okay. What about--what--

13 A **I did confront one other person, too, and that was Sharon**

14 **Whitcher.**

15 Q You confronted Sharon Whitcher. Okay. Were you--

16 A **And it wasn't anything to do with that either. It was about**

17 **a--something that she had used against me that didn't happen**

18 **either.**

19 Q Didn't deal with this--

20 A **Correct.**

21 Q --this? Then I'm not--

22 A **Not with--**

23 Q --interested in it.

24 A **It was part of the investigation, but it wasn't with the**

25 **Smock--with Joe's.**

1 Q Did it have to do with Reed?

2 A **No, it didn't.**

3 Q Okay.

4 A **It just happened to be brought up that--something about the**

5 **pig roaster that it was my personal pig roaster. And it was**

6 **actually the MATES pig roaster.**

7 Q Oh, okay.

8 A **So--**

9 Q Yeah. I don't want to get in--I don't want to get into

10 that.

11 Okay. So we'll go back to--we'll go back the only

12 person you really confronted about this particular case--

13 A **Would have been Thad Cooper.**

14 Q --and that's Thad Cooper. Okay.

15 A **Correct.**

16 Q And you confronted him and said, "I don't appreciate you

17 using my name in this hearing--" or "--in this

18 investigation," correct?

19 A **I think it was the false statements that I didn't**

20 **appreciate.**

21 Q Okay. Okay. Now, you've also mentioned that you think a

22 lot of these allegations are unfounded. You said that on

23 cross, correct?

24 A **Correct.**

25 Q Okay. Well, if your name's not implicated and no one said,

1 you know--no one mentioned your name, Tim Sheldon, do you
2 dispute their testimony under oath; in other words, their
3 personal observations, vis-a-vie Joe Smock removing any
4 number of these things?

5 **A Could you say that again? I don't quite understand the--**

6 **Q**Okay. Some people have testified that they have personal
7 knowledge of Mr. Smock removing wood and--wood in the form
8 of luan--

9 MR. BANCHS: Can you say what witness personally
10 saw him?

11 BY CAPTAIN BEDELLS:

12 **Q**Well, several witnesses have testified that they have--they
13 have knowledge, independent of you telling them. Okay. How
14 do--how do you feel about that? Think--do you think that's
15 just not--not possible?

16 MR. BANCHS: I object. He should know who the
17 witnesses are that are saying they have this direct
18 knowledge. Because I think we've established with the
19 testimony--

20 CAPTAIN BEDELLS: Any witness. Any witness.

21 MR. BANCHS: --that there's witnesses that claim
22 direct knowledge that didn't have it.

23 CAPTAIN BEDELLS: Okay.

24 MR. BANCHS: In fact, their knowledge was through
25 him allegedly.

1 CAPTAIN BEDELLS: Any witness. Okay.

2 THE HEARING EXAMINER: What's your question again?

3 CAPTAIN BEDELLS: Okay. Whether--whether he--
4 whether he would dispute any witness' account of Mr. Smock
5 removing things that are independent of Mr. Sheldon telling
6 them. I understand, sir--

7 THE HEARING EXAMINER: How would--how would he
8 know to dispute?

9 CAPTAIN BEDELLS: No. Whether--whether he would--
10 whether he would take issue with it or dispute it. Let me
11 put it--let me put it another way. I think it'll help.

12 BY CAPTAIN BEDELLS:

13 Q So you take issue with Chief Mack using your name as a--as
14 a--as a source for Joe Smock removing the luan, correct?

15 A **Correct.**

16 Q Correct. Okay. What if I told you Chief Mack also
17 testified that he personally helped Joe Smock remove wood
18 from the MATES facility, and he doesn't rely upon you at
19 all; would you dispute that?

20 A **I wouldn't dispute that.**

21 Q Okay.

22 A **If he said he personally--**

23 Q He said it under oath.

24 A **--personally did it.**

25 CAPTAIN BEDELLS: Right. Okay. Fair enough. I

1 don't have any further questions.

2 THE HEARING EXAMINER: Recross?

3 MR. BANCHS: Sure.

4 RE CROSS-EXAMINATION

5 BY MR. BANCHS:

6 Q Would you believe that statement in light of what has been
7 said and--

8 A **Not right now I wouldn't.**

9 MR. BANCHS: Okay. Thank you, very much.

10 THE HEARING EXAMINER: I want to take a recess
11 with just the two of you. So let's go off the record.

12 COURT RECORDER: Is this witness released?

13 THE HEARING EXAMINER: No. I'd like the witness
14 to stay.

15 COURT RECORDER: We are going off the record.

16 (Off the record at about 4:57 p.m.)

17 (On the record)

18 COURT RECORDER: We are back on the record. The
19 time is 5:14 p.m.

20 THE HEARING EXAMINER: Sergeant Sheldon, I remind
21 you that you remain under oath, and that you are subject to
22 recall to this hearing until such time that it has been
23 adjourned.

24 Again, I will remind you not to discuss your
25 testimony with anyone.

1 THE WITNESS: Yes, sir.

2 THE HEARING EXAMINER: And with that, you're
3 excused. Thank you for your time here today.

4 THE WITNESS: If I'm not supposed to discuss it,
5 why are they next door discussing it all the time when they
6 leave from here?

7 THE HEARING EXAMINER: They shouldn't be. They've
8 all been instructed just as you have.

9 THE WITNESS: Well, they go over there and they
10 just start chatting about the whole thing.

11 THE HEARING EXAMINER: All right. Noted. Thanks.
12 (At about 5:14 p.m., witness released)

13 MR. BANCHS: I just need to talk to Major Johnson
14 about the next witness. Who to call?

15 THE HEARING EXAMINER: Just like one minute, 30
16 seconds something like that?

17 MR. BANCHS: I'm just going to peek my head out
18 the door.

19 MR. SMOCK: He's next door.

20 MR. BANCHS: Oh, he is next door?

21 MR. SMOCK: Yes, he is. We can--well.

22 (Off the record chatter/mumbling while getting
23 next witness)

24 CAPTAIN BEDELLS: What time does your plane leave?
25 Sunday or Monday--or Friday?

1 HEARING EXAMINER: Friday. 16:00.
2 MR. SMOCK: Out of where, sir?
3 HEARING EXAMINER: Traverse City.
4 MR. BANCHS: We got Miller coming up.
5 THE HEARING EXAMINER: Okay.
6 Tracy, are we on the record?
7 COURT RECORDER: Yes, sir.
8 THE HEARING EXAMINER: Okay. For the record,
9 before the witness comes in, Mr. Banchs, would you just
10 confirm that you are deferring an open statement?
11 MR. BANCHS: Yes, sir.
12 THE HEARING EXAMINER: Okay. Thank you.
13 MR. BANCHS: You're welcome.
14 Right here, sir.
15 THE HEARING EXAMINER: Would you raise your right
16 hand, please?
17 Do you swear or affirm that the testimony that you
18 are about to give in this case is the truth, the whole truth
19 and nothing but the truth, so help you God?
20 CHIEF MILLER: I do.
21 THE HEARING EXAMINER: Further, you are advised
22 that you are assured the freedom from restraint,
23 interference, discrimination, coercion or reprisal for
24 testifying in this case.
25 And you may have a seat.

1 Mr. Banchs?

2 MR. BANCHS: Thank you, sir

3 How you doing, Chief?

4 THE WITNESS: Good. How are you?

5 CHIEF DEAN MARVIN MILLER

6 (At 5:18 p.m., sworn as a witness, testified as follows)

7 DIRECT EXAMINATION

8 BY MR. BANCHS:

9 Q All right. Chief, can you give us your full name?

10 A **Dean Marvin Miller.**

11 Q And what--are you a technician, sir?

12 A **Roger.**

13 Q What is your current position at the MATES?

14 A **Lead Shop Foreman.**

15 Q And how long have you been in that position?

16 A **About three months probably, somewhere in there.**

17 Q What was your position before becoming foreman?

18 A **I was FMT-1 Supervisor.**

19 Q And for how long did you do that, sir?

20 A **Six-and-a-half, seven years probably, somewhere in there.**

21 Q Sir, this is going to go fairly quickly. In front of you,
22 you have a copy of the original decision letter that was
23 written by Colonel Durkac concerning allegations that were
24 made against Mr. Joe Smock.

25 A **Uh-huh.**

1 Q If you can turn to the next page, sir. Paragraph 4, and
2 then you have Alpha through India. Those are the nine
3 separate charges that Mr. Smock was terminated for. If you
4 could read through those real quick, I'd appreciate it.

5 **A Alpha--**

6 Q You don't have to read them out loud, sir.

7 **A I'm sorry.**

8 Q Just read them to yourself.

9 **A Okay.**

10 Q All right. Chief, concerning--and I'll just lump them
11 together, sir. Concerning--I'm sorry--not lump them. The
12 first one is regarding Mr. Smock removing a flat screen
13 television from the MATES. And that's--actually he was
14 fired for stealing a flat screen television from MATES. Do
15 you have any knowledge of that incident taking place?

16 **A The only thing I know about that is what I heard after the**
17 **investigation started, that it was a TV that was ordered by**
18 **Colonel Golnick and--**

19 Q But prior to the investigation, any knowledge of this?

20 **A No.**

21 Q And in your--

22 **A Not that I recall.**

23 Q In your position as Shop Foreman--and actually it was
24 yesterday when Lieutenant Colonel Meyers--and you know who
25 Lieutenant Colonel Meyers is?

1 **A** (Witness shakes head affirmatively)

2 Q He testified that post the investigation--let me back up
3 real quick, and I apologize to everybody because I know I'm
4 jumping all over the place. Your--your--your position as
5 Shop Foreman, now, was that a promotion?

6 **A** **Roger.**

7 Q And was that--did that have anything to do with the--with
8 the personnel moves that took place after the investigation?

9 **A** **Yes.**

10 Q Okay. Are you privy to any of the FLIPLs or any of the
11 investigations that are being done post?

12 **A** **I have seen the, I guess you'd call it, the draft FLIPL.**

13 Q Yes, sir.

14 **A** **I've been researching trying to find those parts, and the**
15 **last--**

16 Q Okay.

17 **A** **--nine items, myself. But--**

18 Q Okay. Are any of those FLIPLs or investigations that are
19 being done right now concerning a flat screen television
20 being removed from the MATES?

21 **A** **Negative.**

22 Q Okay. And these are the ones I want to lump together, it's
23 going to be charges Bravo, Charlie and Delta, which are OSB,
24 wood and then sheets of luan, which, in general, are just
25 wood-type products. Did you--before the investigation took

1 place, did you have any knowledge of Mr. Smock stealing, for
2 the lack of a better word, wood products from the MATES?

3 **A No, I did not.**

4 Q Okay. When you--when you heard post-investigation that he
5 was--let me back up. Post-investigation, are you aware that
6 he was fired for stealing wood?

7 **A I wasn't aware that he was fired for that reason, no.**

8 Q Okay. Would today be the first day that you're aware that
9 he was fired for stealing wood?

10 **A No. It's not the first day, but I--I didn't realize that he
11 had been fired for that until after the fact.**

12 Q Until after the fact.

13 **A It was post.**

14 Q Okay.

15 **A But I--I can't tell you when I heard it.**

16 Q Okay. But before the investigation, you had no knowledge of
17 him--

18 **A No.**

19 Q --stealing wood? Did you have any reason to suspect that he
20 might be stealing wood?

21 **A No.**

22 Q Okay. Concerning allegation Echo here, where he was accused
23 of installing Government-purchased tires on his son's truck
24 at the MATES, any knowledge of that allegation?

25 **A No, sir.**

1 Q All right. Okay. Any reason for you to believe that that
2 was--that that allegation might be true?

3 A **No.**

4 Q Concerning the allegation that he removed heaters from the
5 buildings that were being demolished at Camp Grayling, any
6 knowledge?

7 A **No.**

8 Q Okay. And same thing, no reason to suspect the allegation
9 would be true?

10 A **No.**

11 Q Concerning equipment or parts from the air-to-ground range--
12 and I want to--I want to spend just a little bit of time on
13 this. We've had several witnesses testify that it is a
14 regular occurrence for MATES personnel to go and cannibalize
15 parts from equipment that's at the air-to-ground range. Is
16 that accurate?

17 A **Yes.**

18 Q How long has this practice been going on for that you know
19 of?

20 A **Twenty-five years.**

21 Q Twenty-five years. And what is the reason for that
22 practice?

23 A **To save Government money, to get equipment off a non-
24 mission-capable status faster, that kind of thing.**

25 Q And what would be, maybe, types of parts or equipment that

1 would be removed from the range to be used here at the
2 MATES? Just a couple of examples. You don't have to give
3 me everything.

4 **A A lot of times alternators, generators, transmissions**
5 **sometimes, even engines have been removed and replaced--**

6 Q Okay.

7 **A --because of that.**

8 Q And to your knowledge, does this go on with the knowledge
9 of--of--of leadership outside of the MATES?

10 **A Does it--is it known outside?**

11 Q Yes, sir. Like, higher headquarters personnel--

12 **A I would say yes.**

13 Q --do they know and it's an accepted practice?

14 **A Yeah. I mean--the RMO knows we have taken equipment up**
15 **there and got stuff--**

16 Q Okay.

17 **A --taken back to MATES just to repair.**

18 Q And ultimately it's saving the Government money?

19 **A Yes.**

20 Q Okay. Concerning accusation Hotel, where he's accused of
21 removing diesel fuel from the MATES building--and he's been
22 accused of removing diesel fuel from the MATES facility in
23 different manners of ways, whether it's 55-gallon drums,
24 whether it's putting Government fuel in his own personal
25 tractor; any reason for that--did you have any knowledge of

1 that before the investigation?

2 **A No. Not till I was questioned about it.**

3 **Q**And any reason for you to believe that that was true?

4 **A No.**

5 **Q**And the last one--and it's a little confusing, because it
6 reads that he was wrong- --that he "wrongfully appropriated
7 a chainsaw purchased with Government funds," but in lay
8 terms, what he was being accused of doing was the he pur- --
9 that he--that he brought home his own personal chainsaw that
10 was of less quality than the one that had been purchased by
11 the MATES, and he swapped it out. Did you have any
12 knowledge of that prior to the investigation?

13 **A No.**

14 **Q**And do you find the allegation credible or to be true?

15 **A No.**

16 **Q**Okay. Sir, before I turn you over to Captain Bedells,
17 because he's going to ask you questions in his examination
18 of your statements or whatever it has to do with this
19 investigation, I would just like to hear your general
20 impression of--of this investigation and of Mr. Smock's
21 termination, and maybe about your knowledge of Mr. Smock,
22 whether it's personal or just professional and his
23 character.

24 **A My opinion how the investigation took place, personally,**
25 **I've been there 25 years. I've never felt this way in my**

1 entire life. And I can tell you from experience, I hope I
2 never do again.

3 As far as the accusations that were made, you know,
4 everybody has a different opinion. I understand that. But
5 I don't have those same opinions. Did I see any of this
6 stuff happen? I did not. I think I answered that clearly.

7 As far as Joe Smock's credited, he's--credit, he has
8 done a lot for the community. I've known him a long time.
9 If I was ever in combat and needed somebody in the foxhole,
10 I'd want him there, so.

11 That's about all I got, sir.

12 Q Well, normally I have asked some of the witnesses what--
13 whether they think that Joe should be reinstated, but based
14 on your answer, I'll ask you--I'll ask you that question.
15 Do you think he should be reinstated?

16 A Based on what I've been asked, yes.

17 MR. BANCHS: Thank you, sir.

18 THE HEARING EXAMINER: Captain Bedells, do you
19 want to cross-examine?

20 CAPTAIN BEDELLS: Thank you, sir.

21 CROSS-EXAMINATION

22 BY CAPTAIN BEDELLS:

23 Q Chief, you mentioned you've been in the Grayling area for
24 some time now, right?

25 A Uh-huh.

1 Q Twenty-five years at MATES?

2 A **Roger.**

3 Q Okay. And were you raised here in Grayling?

4 A **Born and raised.**

5 Q Born and raised. You friends with Joe Smock and his wife?

6 A **I didn't really know him before I started working there, to**

7 **be honest.**

8 Q But you started working there 25 years ago?

9 A **Yeah.**

10 Q So you've known him for at least 25 years?

11 A **Uh-huh.**

12 Q Okay. You socialize with him sometimes?

13 A **I used to, yes, and I have in the past.**

14 Q Okay. Outside of work?

15 A **Yep.**

16 Q Right? You have children?

17 A **Yes.**

18 Q Do you have children the--about the same age?

19 A **Graduated together.**

20 Q Okay. Oh, you have kids who have graduated?

21 A **Uh-huh.**

22 Q Okay. Now, you've testified that you don't--you didn't

23 personally observe any of--any of the misconduct that's

24 alleged in that--in that original decision letter, correct?

25 A **Correct.**

- 1 Q Okay. Have you heard accounts from others who might have
2 witnessed that stuff?
- 3 **A I have heard accounts.**
- 4 Q Okay.
- 5 **A But, again, that took place pretty much as the investigation**
6 **took--started or after.**
- 7 Q Okay. Regardless of when you heard it, do you--do you know
8 it not to be true? In other words, if someone said "I saw
9 or I--" you know, "I personally saw Joe Smock remove lumber
10 from the MATES facility," I mean, what--do you have any
11 reason to just categorically deny that, if they testified so
12 under oath?
- 13 **A I don't.**
- 14 Q You--just you didn't personally observe it, correct?
- 15 **A Right.**
- 16 Q What did you--what did you hear during the course of the
17 investigation?
- 18 **A I heard that OSB was removed from the facility. Some of**
19 **the--**
- 20 Q Who did you hear that from?
- 21 **A That was in the investigation, when I talked to Colonel**
22 **Doolittle basically, face-to-face.**
- 23 Q Okay. So Colonel Doolittle told you that Mr. Smock had
24 removed--
- 25 **A Yeah.**

1 Q --OSB?

2 A He actually told me he had--had information of a load of
3 lumber coming out of USPFO, and he said, "How does that
4 affect you, Chief," and I said, "Well, I don't know anything
5 about it, sir," but--

6 Q Because you never witnessed it yourself?

7 A No.

8 Q Okay. So other than Colonel Doolittle, did you hear any
9 information from any coworkers at MATES regarding Joe Smock
10 doing any of the things that are alleged in that original
11 decision letter?

12 A In the hallway I heard Thad Cooper, you know, express some
13 issues related to that. I don't know if it was word-for-
14 word or verbatim that he had taken word, but--

15 Q Okay.

16 A --I would guess he was--

17 Q Do you have any reason to know that Thad Cooper wasn't being
18 truthful?

19 A No.

20 Q Okay.

21 A I don't know--same thing. I don't know that it wasn't,
22 either.

23 Q Right. Now, you mentioned--and the TV at this point really
24 is a moot point. But I was curious about your answer. When
25 you were asked about the TV--and you can clarify, okay,

1 because I don't want to hold you to this--it is a moot issue
2 at this point, but you responded that you didn't have any
3 information that you could recall regarding the TV. I mean
4 is it the case that, as you sit here today, you just don't
5 simply recall whether you saw him take a TV or heard
6 anything about a TV, or you just--or you're certain that you
7 never saw him or heard anything to that effect?

8 **A I never saw him take a TV out of the facility, no.**

9 Q Okay.

10 **A Again, that was in the three, four days I spent typing 27**
11 **pages worth of answers to the questions that I was asked**
12 **during my holiday break, I would say I read it probably four**
13 **or five times.**

14 Q Okay.

15 **A But other than that--**

16 Q I don't know what you're--

17 **A --I never seen--**

18 Q --what you're talking about. You're talking about the
19 questions you received--

20 **A Yeah.**

21 Q --in connection with the investigation?

22 **A My--my actual sworn statements.**

23 Q Okay. You also mentioned on direct there, that you're--
24 you're somehow running a large-scale FLIPL; is that right?
25 Is that a fair--

1 **A** **It's not--**
2 Q --characterization?
3 **A** **It's large scale, maybe, to some, as far as money. But I**
4 **think right now it's at 6 or 7 items.**
5 Q Okay. Well, as long as I don't have to do the legal review
6 on it, okay.
7 **A** **Right.**
8 Q So--so it covers--I'm sorry, how many items?
9 **A** **Six or seven to be approximate.**
10 Q What are the items?
11 **A** **Three of them class-9 item, that I can tell you right now we**
12 **ordered the parts separately because we couldn't get the**
13 **test kit. So we ordered three different pieces to make our**
14 **own test kit. And to be honest, it was probably turned in**
15 **and we didn't get the turn-in documents correct.**
16 Q Okay.
17 **A** **That's, like, a \$13,000 set. But if you order them**
18 **separately, it's not the same amount.**
19 Q Okay. What were the other items?
20 **A** **I think one of them--I don't--I'd be guessing, but I think**
21 **one of them is a circuit card, test card.**
22 Q Okay. Those circuit cards were a subject--were subject of
23 this investigation, right?
24 **A** **They were.**
25 Q So does this FLIPL relate to--the FLIPL that you're

1 conducting right now, does it relate to the circuit cards
2 that are subject to this investigation?

3 **A** **It could. I would have to do some research, but.**

4 **Q** Okay.

5 **A** **I was never really part of any questioning. I was not at
6 the facility when supposedly that stuff was turned in. So I
7 don't have an answer for you on that one.**

8 **Q** Okay. So Colonel Doolittle didn't question you about the--

9 **A** **He--**

10 **Q** --circuit cards, subject to this investigation?

11 **A** **He asked me if I knew anything about them being turned in,
12 and I said no.**

13 **Q** Okay. Is that--is that the entirety of all the items that
14 are subject to the FLIPL or are there others?

15 **A** **No. I would--I would have to get a copy of that to tell
16 you, sir.**

17 **Q** Okay.

18 **A** **I don't know exactly what's on there without--**

19 **Q** Okay. But what's alledge- --

20 **A** **It's been a couple months since I've--.**

21 **Q** Okay. But what's in this--what you--what you see in front
22 of you in Tab G to Exhibit 3, those enumerated--or
23 alphabetized items, none of those are the subject of the
24 FLIPL, right?

25 **A** **No.**

1 Q Okay.

2 A **Not that I know of.**

3 CAPTAIN BEDELLS: Okay. I have no further
4 questions, sir.

5 THE HEARING EXAMINER: Redirect?

6 MR. BANCHS: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. BANCHS:

9 Q I just--I just want to be clear, the allegations that were
10 made specifically to Mr. Smock was that he stole wood,
11 hundreds of thousands of dollars, in some of the
12 allegations, for a period of a long time, at least since
13 2007. And neither that nor any of the other allegations
14 against him right now is the subject of--of a FLIPL or any
15 kind of investigation; is that--is that correct?

16 A **As far as I know, yes.**

17 MR. BANCHS: Okay. Thank you, very much, sir.

18 THE WITNESS: Okay.

19 THE HEARING EXAMINER: Recross?

20 CAPTAIN BEDELLS: I don't have anything further,
21 sir.

22 THE HEARING EXAMINER: I just have--I have two
23 questions.

24 EXAMINATION

25 BY THE HEARING EXAMINER:

1 Q As the--you're the Foreman at MATES; is that correct?

2 A Roger, sir.

3 Q And you started when again, did you say?

4 A About three months ago.

5 Q Okay. And that's the number 2 position at--

6 A Roger.

7 Q --at MATES? And did you compete for that job?

8 A Yes.

9 Q And who was the--do you know who the selecting official was
10 for that position?

11 A Colonel Meyers, I believe.

12 THE HEARING EXAMINER: Okay. Thank you.

13 THE WITNESS: Yep.

14 THE HEARING EXAMINER: Any follow-up to that?

15 MR. BANCHS: No, sir.

16 CAPTAIN BEDELLS: No, sir.

17 THE HEARING EXAMINER: I remind you that you
18 remain under oath and that you are subject to recall to this
19 hearing until such time that it has been adjourned.

20 Again, I'll remind you not to discuss your
21 testimony with anyone.

22 And with that, you're free to go.

23 THE WITNESS: All right.

24 THE HEARING EXAMINER: Thank you.

25 THE WITNESS: Thank you.

1 (At about 5:34 p.m., witness released)
2 MR. BANCHS: Colonel Gardiner.
3 Is he a Lieutenant Colonel or a Colonel?
4 MR. SMOCK: Who's that?
5 MR. BANCHS: Gardiner.
6 THE HEARING EXAMINER: Colonel. He's a full bird.
7 MR. SMOCK: Colonel.
8 MR. BANCHS: Colonel.
9 MR. SMOCK: I had to think about that one. He is
10 a full bird.
11 STAFF SERGEANT SCHULTZ: What's his position now?
12 THE HEARING EXAMINER: C4.
13 CAPTAIN BEDELLS: C4, I think. Down in Lansing.
14 COLONEL GARDINER: I'm here?
15 MAJOR JOHNSON: Yes, sir.
16 THE HEARING EXAMINER: You are.
17 Colonel Gardiner, if you'd raise your right hand
18 for me, please.
19 COLONEL GARDINER: Sure can.
20 THE HEARING EXAMINER: Do you swear or affirm that
21 the testimony that you are about to give in this case is the
22 truth, the whole truth and nothing but the truth, so help
23 you God?
24 COLONEL GARDINER: I do.
25 THE HEARING EXAMINER: Further, you're advised

1 that you are assured the freedom from restraint,
2 interference, discrimination, coercion or reprisal for
3 testifying in this case.

4 THE WITNESS: I understand

5 THE HEARING EXAMINER: Okay. Thanks.

6 THE WITNESS: Thank you.

7 THE HEARING EXAMINER: You can have a seat.

8 Mr. Banchs, you may direct.

9 MR. BANCHS: Thank you, sir.

10 Good afternoon, sir--

11 THE WITNESS: Afternoon.

12 MR. BANCHS: --or good evening. Thank you for
13 your patience.

14 THE WITNESS: Not a problem.

15 COLONEL JAMES GARDINER

16 (At 5:36 p.m., sworn as a witness, testified as follows)

17 DIRECT EXAMINATION

18 BY MR. BANCHS:

19 Q Sir, just real quick. I think most of the people in the
20 room know who you are, but just for the record, can you
21 state your rank, and name and your position?

22 A I'm Colonel Jim Gardiner. I am the Deputy Chief of Staff
23 for logistics for the Michigan Army National Guard.

24 Q Thank you, sir. How long have you held that position?

25 A I was assigned that position 1 October of last year.

1 Q And prior to that, sir, what position did you hold?

2 A **Prior to that position I was the Deputy Post Commander here**
3 **at Camp Grayling.**

4 Q Okay. And how long did you hold that position for, sir?

5 A **Oh, somewhere around 2009, I believe, so three, four, five**
6 **years, whatever that adds up to.**

7 Q Roger that. So 1 October 2013, you were promoted to your
8 current position?

9 A **As a technician, correct.**

10 Q As a technician. And that was pretty much in the middle of
11 this investigation?

12 A **It was ongoing when I moved into that position, correct.**

13 Q Okay. All right. What, if any, sir, knowledge did you have
14 about the--the anonymous letter that was sent?

15 A **I knew that an anonymous letter was sent. I was not privy**
16 **to any of the details of the content of it, but I knew**
17 **several of the individuals that were investigated as a**
18 **result of that letter.**

19 Q So--but you were not briefed directly about the letter, sir?

20 A **Correct.**

21 Q Okay. And then, in regards to the 15-6 investigation, that
22 was ordered by higher up?

23 A **Correct. And, again, I was up--assigned to Camp Grayling**
24 **when that occurred, so I don't know the manifestations of**
25 **how--who initiated the investigation at that point, because,**

1 **again, MATES does not fall under the Camp Grayling as far as**
2 **chain of command.**

3 Q Roger that. Now, when the investigation was conducted, were
4 you part of the out-brief, sir?

5 A **No. I was--when I transitioned in the position, again, the**
6 **investigation was ongoing at that point. As the Deputy**
7 **Chief of Staff for logistics, the surface maintenance**
8 **community does fall under my command at that time. But I**
9 **was asked by the Chief of Staff--or was told by the Chief of**
10 **Staff they were keeping me out of--out of the investigation.**

11 Q And did they give you a reason for that, sir?

12 A **Colonel Durkac said it was for my protection.**

13 Q Okay.

14 A **They were doing this to protect me.**

15 Q Now, even though you were out--you were out of the post-
16 investigation actions, meaning that you were not involved in
17 the disciplinary actions that were taken in any capacity--

18 A **Correct.**

19 Q --were you still being briefed on what was going on?

20 A **No. Nope.**

21 Q Okay. And that was--and according to Colonel Durkac, that
22 was done for your protection--

23 A **Yes.**

24 Q Okay. Since Mr. Smock--well, I assume you do know Joe?

25 A **Yeah. Oh, absolutely.**

1 Q Okay.

2 A **We go back, way back.**

3 Q I'm sure you're aware that he was terminated on February
4 28th?

5 A **I knew all four of the individuals that were terminated.**

6 Q Okay. But have you had occasion to actually read maybe the
7 proposal letter of the termination letter?

8 A **No, I have not. Again, I have stuck to the original--and
9 I've not gone back and readdressed this with Colonel Durkac
10 and said, "Hey, now that the investigation's over, can I go
11 in there and read?" I have not addressed that issue or
12 reached that point. So I've not--again, any of the
13 information, as far as what I've gathered, does not come
14 through official channels.**

15 Q Okay. And so the--and so possibly you haven't read the 15-6
16 either?

17 A **That is correct.**

18 Q Okay. All right. So then I'll--I guess I'll just limit my
19 questions, sir, to processes, then.

20 A **Okay.**

21 Q I guess maybe I'll ask this, sir. In your position, how
22 long--you--have you been a technician the entire time you've
23 been in--

24 A **I joined the technician program back in--I've been a member
25 of the Michigan National Guard since 1992. I joined the**

1 **technician program back in 2004.**

2 Q Okay. And have you always been in a management capacity?

3 A **Yes.**

4 Q And you have supervised technicians in your career?

5 A **Yes.**

6 Q In your management capacity as a technician supervisor, how
7 many times have you been a part of a disciplinary action,
8 whether it was a proposing official or original decision
9 maker, sir?

10 A **I don't believe I have--I'd have to think about it, but I
11 don't believe I have actually been in--in that position.**

12 Q At all?

13 A **No.**

14 Q Disciplinary process. Now, your understanding--maybe if you
15 speak to the disciplinary process.

16 A **Uh-huh.**

17 Q If you were--if--even though you have not read the 15-6, and
18 even though you haven't been privy to any of the documents
19 related to Mr. Smock's termination, you do--you have been to
20 supervisor's training, I'm sure?

21 A **Yes, I have. And I've been--on the military side, I've been
22 through disciplinary classes.**

23 Q Oh, good. Well--

24 A **And I've down FLIPL investigations or been--and I--in the
25 role as a Deputy Chief of Staff of logistics, I am the**

1 signing-off authority on a FLIPL investigation, as well. So
2 we do assess liability in those cases for loss of military
3 property.

4 Q Again, sir, maybe--I'll just boil it down to the brass
5 tacks.

6 A Okay.

7 Q If you were investigating somebody for theft, what would you
8 be looking for?

9 A A thorough investigation and as much proof as possible of
10 the theft, obviously.

11 Q And what would that proof include?

12 A Videotape would be nice, I mean, obvi- --whatever makes it
13 cut and dried. You know, but, again, you're looking at
14 documented, you know, loss of the item, and something that
15 ties the loss to the person that's being accused of the
16 theft.

17 Q Like physical evidence, perhaps?

18 A Absolutely. More evidence is always better. And, then,
19 again, going into these FLIPLs, we'll look at that. And
20 sometimes they're a case of damage of Government property.
21 Sometimes it's a case of loss of Government property. And
22 we have to assign liability in a case--some cases. Assign--
23 charge an individual for the cost of that loss. And, again,
24 when I see an investigation, I want to see did the
25 investigating officer do a good job of proving to me, the

1 person that's got to, you know, bill that soldier for the
2 loss, did he prove to me that that soldier, indeed, lost
3 that article of--or was responsible for that article that
4 was lost.

5 Q Okay. Speaking of FLIPLs, sir, and you should be--

6 CAPTAIN BEDELLS: Sir, I'm going to object at this
7 point, at the risk of harming my career and interrupt a
8 Colonel. But I don't understand the relevancy of a FLIPL
9 to--I mean, I don't think the FLIPL even arises in the
10 context of this investigation, so.

11 THE HEARING EXAMINER: Where are you going?

12 MR. BANCHS: Well, it's--this is going along the
13 same line of questions that I asked Chief Miller about
14 whether--because Colonel Meyers alluded that there were
15 FLIPLs that were in process right now based on the findings
16 of this investigation. So I'm going to ask the Colonel, and
17 he would know, if--

18 THE HEARING EXAMINER: Okay. Go--

19 MR. BANCHS: --there are any FLIP- --

20 THE HEARING EXAMINER: Go ahead and go to that.

21 MR. BANCHS: Okay.

22 BY MR. BANCHS:

23 Q Sir, as you testified, you have not read the 15-6.

24 A Correct.

25 Q But obviously you know that there were repercussions after

1 that.

2 **A Oh, absolutely, yes.**

3 **Q** So--and we've already asked the--Chief Miller, who testified
4 right before you this, but we'll ask you. Are you aware of
5 any FLIPLs that are going--that are being conducted right
6 now concerning the MATES?

7 **A Yes. I know of one that is being conducted at the MATES. I**
8 **don't consider it tied directly to this investigation,**
9 **although it does involve Colonel Golnick who has separated**
10 **as part of this investigation. The FLIPL was for--they do a**
11 **change of command inventory meeting when--when the hand**
12 **receipt holder is processed out or changes in any way, shape**
13 **or form, you have to identify all the property on hand**
14 **before the new individual comes in and says I'm going to**
15 **sign this hand receipt. And that can--that happens every**
16 **time there is a change of hand receipt holder.**

17 **So there is an investigation because there are items**
18 **that were discrepancies on the hand receipt for Colonel**
19 **Golnick. And those have to be investigated.**

20 **Q** Okay. This, what you have in front of you, sir, is Colonel
21 Durkac's original decision letter removing Mr. Smock. And
22 items Alpha through India are the nine separate allegations
23 that he was terminated for.

24 **A Okay.**

25 **Q** Okay. If you could read through those real quick. And you

1 don't have to read them, sir.

2 **A No, that's--**

3 **Q** Just look at them. And you--and if you could tell me if
4 there are any FLIPLs right now that deal with any of those
5 types of items, I'd appreciate it.

6 **A To the best of my knowledge, none of the items listed here--**
7 **let me get to the bottom of the list here--to the best of my**
8 **knowledge, yeah, none of the items here are listed--are**
9 **anything that is being investigated that I'm aware of at**
10 **this time.**

11 **Q** Roger that. And, sir, I'll ask you two more questions, and
12 they relate directly to Joe. Now, I won't ask you and you
13 don't have to answer whether he should be reinstated or not,
14 because I don't want to put you--

15 **A Okay.**

16 **Q** --in any kind of bind with your command. But I will ask you
17 this: Prior to this investigation, would you have had any
18 inclination to believe that Joe Smock would have--would have
19 done any of those things that he's being accused of?

20 **A No. Now, let me just sum up my military association with**
21 **Joe.**

22 **Q** Yes, sir.

23 **A** Again, I've not worked with him at MATES. On the military
24 side, he was assigned to Camp Grayling and worked out here
25 as the motor Sergeant for us for a couple years. So I have

1 an overlap with him there. And his work there was
2 outstanding. He did a great job getting ready for our
3 common inspection. So I don't--and I would have knowledge
4 of any of this. And, again, but I don't work with him on a
5 day-to-day basis. But got nothing good to say about--
6 nothing but good things to say about the work he did over
7 here at Camp Grayling.

8 Q Well, and--so the last question I would have, sir, is that
9 would--was this a surprise to you?

10 A I think the whole thing, the whole investigation was
11 somewhat of a surprise that he would be accused of stealing
12 any of this stuff.

13 MR. BANCHS: Roger that, sir. Thank you, very
14 much.

15 THE HEARING EXAMINER: Captain Bedells?

16 CROSS-EXAMINATION

17 BY CAPTAIN BEDELLS:

18 Q Sir, you--at the outset of your direct testimony, you
19 indicated that you go back, way back--were the words you
20 used--with Mr. Smock.

21 A Yeah.

22 Q Are you from the Grayling area?

23 A Oh, yeah.

24 Q Raised here?

25 A Yeah. My family moved back to Grayling back in 1960, so.

1 Q Okay. So you--

2 A Other--so other than the eight years I was on active duty in
3 the Air Force, I've pretty much been a Grayling resident.

4 Q Okay. And I presume you've known Mr. Smock for a very long
5 time, correct?

6 A He's quite a bit younger than I am, despite the fact that we
7 look about the same age, we're both equally young. Yeah.
8 He's quite a bit younger, so I really didn't know Joe a
9 whole lot until we got in the military. So our
10 association's been from the military standpoint.

11 Q And I'm not trying to date you, sir. Do you know his dad or
12 did you know his dad?

13 A The Gardiners and the Smocks have been Grayling residents
14 for--yeah. So--

15 Q Okay. So you go--that's what you mean by way back--

16 A Yeah. That's why I say, our--

17 Q --correct?

18 A --you know, our--you know, my brothers and his brothers and
19 uncles and, yeah, all hung out together, so.

20 Q Okay. Hence your testimony that you're surprised when you
21 see that--

22 A Uh-huh. Yeah.

23 Q --that he's been charged with these offenses, correct?

24 A Uh-huh.

25 Q Okay. But as you sit here today, you don't have any reason

1 to--you know, to--to say one way or the other whether he
2 committed those offenses, correct?

3 **A** **No. I don't have a good working relationship of, you know,**
4 **inner workings over at MATES, because, again, I've never**
5 **been an employee over at MATES. And Camp Grayling, the main**
6 **post, does not have oversights at MATES. They--you know, so**
7 **until I took the position down in Lansing as the G- --as the**
8 **DCS-Log, I was not in anywhere the chain of command at MATES**
9 **at any time.**

10 CAPTAIN BEDELLS: Okay. Thank you, sir.

11 THE HEARING EXAMINER: Redirect?

12 MR. BANCHS: No further questions, sir.

13 THE HEARING EXAMINER: Okay. I remind you that
14 you remain under oath and that you are subject to recall of
15 this hearing until such time that it's been adjourned.

16 Again, I'll remind you not to discuss your
17 testimony with anyone.

18 And I thank you for your time.

19 THE WITNESS: Thank you, very much.

20 THE HEARING EXAMINER: And you are free to go.

21 Thanks.

22 (At about 5:48 p.m., witness released)

23 HEARING EXAMINER: Let's go off the record for a
24 minute.

25 COURT RECORDER: We are going off the record. The

1 time is 4- --5:48 p.m.

2 (Off the record)

3 (On the record)

4 COURT RECORDER: We are back on the record. The
5 time is 6:02 p.m.

6 THE HEARING EXAMINER: Okay. We've just had a
7 discussion. The Appellant has no more witnesses to present.
8 Both parties would like to defer--actually, there is one
9 more witness, Staff Sergeant Rock, that the Agency would
10 like to call. He's out of town right now, will likely be
11 back in town tomorrow. So efforts will be made to determine
12 whether or not he can be here to testify during the day at
13 some point tomorrow. If that's the case, he'll testify.
14 And regardless of whether he's here or not, the closing
15 statements for the Joseph Smock case will be conducted
16 tomorrow.

17 With that, we'll adjourn for today.

18 We can go off the record.

19 COURT RECORDER: We are off the record. The time
20 is 6:03 p.m.

21 (At 6:03 p.m., session concluded)

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RECORDER'S CERTIFICATE OF TRANSCRIPTION

I do hereby certify that on the date and at the place set forth on the title page hereof, there did personally appear before myself, Notary Public, the witnesses named on the table of contents page; that said witnesses were sworn to tell the truth and that testimony electronically recorded, the same being later reduced to typewriting, and that the foregoing is a true and accurate transcription by me of said electronic recording.

I further certify that I, to the best of my knowledge, am not related to or employed by any party to this cause or their respective counsel/representative.



Tracy L. O'Brien



Notary Public - CER - 5175
My commission expires 3/19/2020