

APPENDIX F

39

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAJOR MARGARET WITT,)	
)	
Plaintiff,)	
)	
v.)	No. C06-5195 RBL
)	
UNITED STATES DEPARTMENT OF)	
THE AIR FORCE, et al.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF COLONEL MARY L. WALKER

* * *

January 8, 2010
1120 N.W. Couch
Portland, Oregon

Cheryl L. Vorhees, CSR, RPR
Court Reporter

1 Q So, in those 28 years plus, did you run into
2 anybody that you suspected was gay or lesbian in the
3 Air Force besides Major Witt?

4 MR. PHIPPS: Objection. Form.

5 THE WITNESS: I didn't seek out to identify
6 who was gay or lesbian because that's a nonissue for
7 me if you can do the job.

8 Q (By Mr. Lobsenz) I understand you didn't seek
9 them out, but that isn't exactly my question. But,
10 you know, we all work somewhere. And I would find it
11 hard to believe that anybody working anywhere,
12 wherever they worked, hasn't at some point in time
13 wondered anyway whether someone they work with is gay
14 or lesbian. And that's all I'm asking.

15 In the 28-plus years, did you run into
16 anybody in the Air Force where you said to yourself, I
17 wonder or I think or I suspect or I think there's a
18 good chance or they might be?

19 A No.

20 Q Never?

21 A I've never said that.

22 Q I'm not asking if you said it, I'm asking if
23 you thought it.

24 A I never thought that.

25 Q Of anyone in the Air Force other than Major

1 Witt ever.

2 MR. PHIPPS: Objection. Form.

3 THE WITNESS: No.

4 Q (By Mr. Lobsenz) And no means no, I have
5 never thought that of anyone other than Major Witt,
6 right?

7 MR. PHIPPS: Objection. Form.

8 THE WITNESS: No. That does not mean no one,
9 that means no one. I've never thought that about
10 Major Witt.

11 Q (By Mr. Lobsenz) Okay. Thanks. Or anyone
12 else?

13 A Or anyone else.

14 Q In the Air Force. Okay. So, then I take it
15 during your time in the Air Force, no one ever came to
16 you and told you that they suspected someone else was
17 gay or lesbian in the Air Force?

18 A No. I do not recall that.

19 Q Okay. And no one ever came to you and said
20 they suspected that someone else in the Air Force was
21 gay or lesbian?

22 A No. I do not recall that.

23 Q Prior to Major Witt, did you know of any
24 other -- I don't mean in the abstract, but did you
25 know of any particular person that was investigated

42

1 Q Let me read her comments from this OER from
2 Exhibit 13 into the record. "Exceptional flight nurse
3 sith superb clinical skills in the aeromedical
4 evacuation patient movement system; always ready to
5 volunteer and support the mission whether in-garrison
6 at home station or at deployed location; exhibited
7 remarkable leadership skills as chief of Stan Eval,
8 meticulously monitoring crew members, currency,
9 qualification and proficiency ensuring 100 percent of
10 squadron taskings met and outstandingly performed;
11 member is unable to participate since November 2004
12 due to pending administrative discharge."

13 Is there anything in those comments that of
14 your personal knowledge you can say I disagree with?

15 A No.

16 Q Okay. Have you ever held the opinion that
17 Major Witt's presence in the 446 has a negative impact
18 on unit cohesion or morale?

19 A No.

20 Q Have you ever held an opinion that if she
21 were reinstated to the unit that she would by being
22 reinstated have a negative impact on unit cohesion or
23 morale?

24 A Never thought about it.

25 Q I think that I'm done. My practice is now if

1 deploy overseas?

2 A I did.

3 Q More than once or --

4 A Once.

5 Q When was that?

6 A That was for Desert Storm, so that would have
7 been in the '90s.

8 Q Do you remember, was that 1991?

9 A Yes.

10 Q And how long were you deployed overseas?

11 A It was approximately six months, four to six
12 months.

13 Q So since 1991, you haven't been overseas in
14 military duty?

15 A Correct.

16 Q So you have no personal knowledge of what the
17 conditions of deployment are like for, say, Operation
18 Enduring Freedom, true?

19 A True.

20 Q How would you know what the conditions are
21 like for deployment in Oman or Saudi Arabia in say
22 2003?

23 A I don't know.

24 Q Thank you.

25 (Deposition concluded at 1:48 p.m.)

EXHIBIT G

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APPENDIX G

A6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAJOR MARGARET WITT,)
)
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 Plaintiff,)
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 v.) No. C06-5195 RBL
)
 UNITED STATES DEPARTMENT OF THE)
 AIR FORCE, et al,)
)
 Defendants.)

DEPOSITION UPON ORAL EXAMINATION OF
COLONEL JANETTE MOORE-HARBERT

TAKEN AT

Carney Badley Spellman
701 Fifth Avenue, Suite 3600
Seattle, WA 98104

FEBRUARY 25, 2010

THURSDAY, 9:00 A.M.

Reported by:

MARIE WHITE, CSR # WH-IT-EM-*29906

1 Q. Did you attend -- maybe you already said this. Did you

2 attend Sergeant Shafer's retirement party?

3 A. I did.

4 Q. When was that?

5 A. I am going to say it was I believe it was 2006, I don't

6 exactly remember. I was the Commander then.

7 Q. Would October of 2006 sound about the right time frame?

8 A. I don't remember what sounded about right.

9 Q. Do you remember --

10 A. I don't remember the exact date.

11 Q. Do you remember where that ceremony was held?

12 A. It was held in our building.

13 Q. On base?

14 A. On base.

15 Q. In what building?

16 A. It would be Building 1210.

17 Q. How many people do you think roughly were present at

18 that ceremony?

19 A. I really don't know. It could be somewhere between

20 fifty to one hundred, I don't know.

21 Q. Fifty to one hundred?

22 A. It could be, I don't remember.

23 Q. Did Major Witt attend that party?

24 A. Yes, she did.

25 Q. Did you know in advance that she was going to attend

1 that party?

2 A. I know that Sergeant Shafer wanted her at the
3 retirement party.

4 Q. So, yes, then you knew --

5 A. Yes.

6 Q. -- you knew that she was going to come?

7 A. Yes, I did.

8 Q. Were you concerned that that was a bad idea?

9 A. I know that Sergeant Shafer was good friends with
10 Major Witt. And my concern was for Sergeant Shafer to
11 be able to have a retirement ceremony that was
12 significant to him. And I wanted to ensure that
13 everything was in place for him to be able to make
14 something memorable for him and his family, so that was
15 really my concern.

16 Q. So did you have any concern that it would be a bad idea
17 for Major Witt to attend the party?

18 A. No.

19 Q. So you didn't make any effort to prevent her from
20 attending; did you?

21 A. No, I didn't.

22 Q. You were not concerned that it would cause a problem;
23 were you?

24 A. No, I didn't.

25 Q. Do you recall what happened at his party?

- 1 A. Is something specific? I'm not sure.
- 2 Q. Do you recall anything in particular happening with
3 regard to Major Witt?
- 4 A. No, don't remember.
- 5 Q. Do you recall there was a point when Sergeant Shafer
6 called Major Witt up to the stage where he was standing
7 to stand next to him?
- 8 A. I really don't remember.
- 9 Q. You don't.
- 10 A. No.
- 11 Q. Do you recall Major Witt being honored at that
12 ceremony?
- 13 A. I remember Major Witt making a speech or a comment. I
14 don't remember what it was about. I just know that
15 Sergeant Shafer had requested for her to be able to say
16 something.
- 17 Q. Okay.
- 18 A. And I don't remember what it entailed.
- 19 Q. Do you remember standing next to Sergeant Shafer on the
20 stage?
- 21 A. I would have been on the stage.
- 22 Q. Okay. Do you remember, I think he is a sergeant,
23 Theron Smith?
- 24 A. Sergeant Smith, he would have been --
- 25 Q. Do you remember him standing next to you on the stage?

- 1 A. I don't remember.
- 2 Q. Do you remember him being at the retirement ceremony
3 for Sergeant Shafer?
- 4 A. I don't remember.
- 5 Q. Do you remember anyone receiving a standing ovation at
6 that ceremony?
- 7 A. No, I don't remember.
- 8 Q. You don't remember the people present standing and
9 giving an ovation to Major Witt?
- 10 A. I honestly don't remember.
- 11 Q. Is there a reason why you would not remember that?
- 12 A. Because I don't -- because a lot of things were really
13 going on during that period of time. And from the
14 standpoint of do I have the best memory in the world?
15 I really don't. I do remember, I do remember Major
16 Witt giving a speech. Do I remember and can I say that
17 she got a standing ovation? I can't remember. I don't
18 have anything that is a visual that remembers that.
- 19 Q. Okay. So you remember that she spoke, but you don't
20 remember what she said?
- 21 A. That's correct.
- 22 Q. Do you remember that Sergeant Shafer spoke?
- 23 A. He would have spoken because he was the retiree. And
24 it would have been part of the ceremony.
- 25 Q. Does that mean --

1 A. What he said, I don't remember.

2 Q. You don't remember what he said. So you don't remember
3 whether he said anything about Major Witt?

4 A. Nope, I don't.

5 Q. You don't remember --

6 A. I honestly don't.

7 Q. You don't remember whether anyone else said anything
8 about Major Witt?

9 A. I honestly don't.

10 Q. Okay. You don't remember yourself applauding for
11 Major Witt?

12 A. I don't remember about of the ceremony.

13 Q. Do you remember Major Witt being presented with
14 anything?

15 A. No, I don't remember anything like that.

16 Q. Do you remember participating in getting any kind of
17 gift for Major Witt?

18 A. Nope.

19 Q. Do you remember preparing any kind of memento for
20 Major Witt?

21 A. No, no, don't remember that.

22 Q. Do you remember signing anything for Major Witt?

23 A. No, don't remember that at all.

24 Q. Okay. And you don't remember Sergeant Shafer
25 presenting her with a photograph?

1 A. I don't remember that at all, no.

2 Q. Is it customary for people to sometimes receive framed
3 photos of the unit or the planes or the bases at
4 ceremonies?

5 A. We have in our retirement ceremonies we have a picture
6 that has the picture of our C-17 and our C-141 that
7 anybody that is coming up for retirement, we will pull
8 that picture out and allow people to go ahead and make
9 comments or sign it.

10 Q. And you don't remember signing one of those for
11 Major Witt?

12 A. I sign a lot of pictures. I don't remember
13 specifically signing that one.

14 Q. And you say it is customary to give those at the
15 retirement ceremony to the retired person?

16 A. That's correct.

17 Q. But you don't remember, apparently, that at
18 Sergeant Shafer's retirement ceremony one of those
19 pictures was given to Major Witt?

20 A. I honestly don't.

21 MR. LOBSENZ: This is the only color one I
22 have. But if you want to look at the color one, I have
23 that one here. I just wasn't going to use that one.

24 (Exhibit No. 1 marked for identification)

25 Q. Do you recognize what has been marked as Exhibit No. 1?

1 A. Yes, it appears to be a copy of a picture of the 141
2 and the C-17.

3 Q. Okay, and is this the same picture that customarily is
4 given to people at their retirement ceremonies?

5 A. This would be the same type of picture that we would
6 give to them.

7 Q. Okay. Now do you remember signing one of these for
8 Major Witt?

9 A. I don't remember signing the picture.

10 Q. Okay. Do you see your signature, do you find your
11 signature on it?

12 A. Yes, it looks like it is the one on the right side. I
13 don't have -- maybe the color would show better, is it
14 this one?

15 MR. LOBSENZ: Tiny print.

16 Q. Rather than have you spend a lot of time, do you see
17 where my finger is?

18 A. Yes, that is it.

19 Q. Can you read that? It is small, but can you read what
20 you wrote?

21 A. It looks like best wishes to you, something, and then
22 my signature.

23 Q. Okay. So you now recall that this was given to
24 Major Witt at his retirement party?

25 A. I will be honest with you and tell you I don't remember

1 the aspects of the ceremony.

2 Q. Is this photo usually framed?

3 A. We usually have a, like a cardboard, it is not an
4 actual frame, but it has -- I don't know what you call
5 it, but it has a white border that will go with the
6 picture. That is generally how we have them for
7 signature purposes.

8 Q. And the one that is actually given is considerably
9 bigger than this?

10 A. That's correct.

11 MR. LOBSENZ: And just for the record so you
12 know, Counsel, we have now a same-size copy of this,
13 which you are free to inspect here, if you like.

14 MR. PHIPPS: All right.

15 MR. LOBSENZ: It is in my office. It is no
16 different except it is a lot bigger and a lot easier to
17 read the writing.

18 MR. PHIPPS: Thank you.

19 Q. (By Mr. Lobsenz) Do you recall anyone being presented
20 with flowers at this ceremony?

21 A. I don't.

22 Q. Do you know Major Carolyn Newhouse?

23 A. I do know her.

24 Q. Did she have any particular role to play at retirement
25 ceremonies of members of the unit?

1 A. I don't. Just like I said I don't remember.

2 Q. But it doesn't strike you as something that would be
3 out of the ordinary?

4 A. More of the times that I do is in recognition of when
5 they come back from a mission. So again I really don't
6 know. I can't get a feel for that.

7 Q. Well, she wasn't coming back from a deployment.

8 A. Mm-hmm.

9 Q. She wasn't coming back from stationed at a different
10 base, but she was in a sense coming back to the unit
11 after having been suspended and not having been there
12 at the unit for just about two years.

13 A. I don't remember giving her a hug.

14 Q. Yeah. Who pays for those photos?

15 A. A lot of times we do within the squadron. We have a
16 collection of funds that we'll -- that either we have
17 done through like a morale type of a fund where we will
18 actually be able to -- trying to even think, whether it
19 will be a car wash or whether we have something, just
20 like how we fund like a holiday party or something.
21 There is a reservoir pot of money that we use to be
22 able to give flowers if we have a member that is in the
23 hospital or our retirement certificates or sometimes
24 we'll just get through donations. I have paid for a
25 lot of these pictures just from a donation just to

1 ensure that the members may have the retirement
2 ceremonies. It is just something that comes with the
3 job.

4 Q. So does everyone in the unit contribute to this fund
5 for buying, say, these photos?

6 A. Just depends, I mean we don't keep track. We don't go
7 through. It is a lot of times it is donations.

8 Q. How does one -- does somebody once a year say, hey,
9 guys, the fund is low? How do the funds manage to end
10 up getting into this account?

11 A. Essentially what we do is, again we have a squadron
12 fund, what you call as a coffee fund, that are just
13 literally used for things such as this as far as
14 flowers and such. And then we report in our executive
15 staff that we have got a certain amount within our
16 funds, and that this is what we use it for.

17 Q. Okay. Is this like a fund which is just kept in a
18 coffee can?

19 A. No.

20 Q. Is it actually --

21 A. It is in the bank.

22 Q. It is in a bank?

23 A. It's in a bank, there is a 446th, it is an actual fund
24 that we use.

25 Q. Okay. And if an individual puts \$10 in this fund, is

1 Q. Did anyone at the party appear to you not to want to
2 interact with Major Witt?

3 A. I don't remember that.

4 Q. You have no memory of any morale problem being caused
5 at that party by her presence; do you?

6 A. I have no memory of that.

7 Q. Okay. And just to be clear, by the time Sergeant
8 Shafer's ceremony occurred in October of 2006, by that
9 time you knew that Mayor Witt was a lesbian; right?

10 A. That's correct.

11 Q. Okay. Other than Major Witt have you had any
12 experience encountering any other person in the
13 military who was gay or lesbian?

14 A. In the military?

15 Q. Yes.

16 A. Not that I can remember.

17 Q. So '78, is that when you entered?

18 A. Yes.

19 Q. So we are talking thirty-two years, and as far as you
20 can remember, you have never encountered any other
21 person that you knew to be gay or lesbian in the Armed
22 Forces of the United States?

23 A. That had identified themselves as being --

24 Q. No.

25 A. I mean, again --

1 Q. I don't care whether they --

2 A. Again, when I look at from the standpoint of an
3 association, no, I do not remember anybody that I have
4 had as a connection with. It is again it is possible
5 that they were, I just -- it is not something that I'm
6 asking or recognizing.

7 Q. So first of all, no one ever came to you who was in the
8 military and said I am gay or lesbian; right?

9 A. That's correct.

10 Q. At any point in your career has anyone in the Air Force
11 or any other branch of the service come to you and say
12 that they suspect that a person is gay or lesbian?

13 A. I don't remember that happening.

14 Q. Really?

15 A. I don't remember that happening.

16 Q. You don't remember?

17 A. Someone coming to me to say that I believe that this
18 person is gay.

19 Q. In your thirty-two years do you remember having any
20 responsibilities that caused you to learn that somebody
21 was gay or lesbian other than Major Witt?

22 A. To learn that?

23 Q. Yes.

24 A. I don't remember of that happening.

25 Q. And using suspect the way I said it, that is that it

1 crosses your mind to think this person probably is of
2 this sexual orientation. In thirty-two years other
3 than Major Witt have you ever suspected any other
4 person in the Armed Forces to be gay or lesbian?

5 MR. PHIPPS: Objection, characterization and
6 form.

7 A. I don't know.

8 Q. You don't remember ever suspecting any such person?

9 MR. PHIPPS: Objection, vague.

10 A. My focus is I focus on the fact that I try to keep
11 myself professional. I am not interested in finding
12 out.

13 Q. I am not asking if you're interested.

14 A. And from the standpoint of I don't lead myself down
15 that line of trying to say I am going to suspect one
16 way or the other.

17 Q. So are you saying that you actively prevent yourself
18 from considering the possibility whenever you meet
19 anyone, you just don't want to consider it?

20 A. I don't think that is an important avenue unless it
21 brought to me specifically against that criteria that
22 we discussed with the military.

23 Q. Okay.

24 A. That there is a concern.

25 Q. How about outside the military?

1 Q. Okay, but so in the case of your husband's friend,
2 apparently, your husband's friend was living with
3 another man, and that was one of the things that caused
4 you to suspect?

5 A. Yes. And that was many years ago.

6 Q. Okay. And are you telling me that you in your
7 thirty-two years in the military have never had
8 occasion to learn that a woman in the military was
9 living with another woman in the military in what
10 appeared to be a relationship?

11 A. In my thirty-two years of being in the military
12 assuming that because two woman are living together
13 does not in my mind assume that they're gay.

14 Q. That isn't quite what I asked. But in the thirty-two
15 years that you have been in the military have you had
16 occasion to have it be made known to you that two women
17 are living together and having a relationship?

18 A. No.

19 Q. That has never happened?

20 A. Not that I can remember.

21 Q. What about [REDACTED]?

22 A. Okay, what about [REDACTED]?

23 Q. It never happened? You never learned that [REDACTED]
24 [REDACTED] was living with another woman and having a
25 relationship with another woman?

1 A. I was never told that she was having a relationship.

2 Q. Did you learn that she was living with another woman?

3 A. My understanding was that they were renting from each
4 other.

5 Q. How did you learn that they were renting and living
6 together?

7 A. There was a report that came in regarding a conflict
8 that occurred, an argument that occurred that involved
9 the police.

10 Q. Wasn't it a Domestic Violence Report?

11 A. That was what was brought to me.

12 Q. Wasn't it a Domestic Violence Report?

13 A. I don't know.

14 Q. Didn't it state that right on the report?

15 A. I don't remember if it said domestic violence. I know
16 that the concern was was because of the conflict that
17 came between the two of them.

18 Q. What did you learn about that incident?

19 A. I reported, I talked to the JAG about the issue, my
20 concern was fraternization of an officer and an
21 enlisted.

22 Q. You were concerned --

23 A. And that was my concern.

24 Q. You were concerned that an officer shouldn't live with
25 an enlisted person under their Command?

- 1 A. That's correct. It is a fraternization issue.
- 2 Q. Does it cross your mind that they were having a sexual
3 relationship?
- 4 A. Did it cross my mind?
- 5 Q. Yes.
- 6 A. No, my focus was fraternization.
- 7 Q. It didn't cross your mind?
- 8 A. My focus was fraternization.
- 9 Q. Did it cross your mind?
- 10 A. My focus was fraternization.
- 11 Q. Did it cross your mind that they were having a sexual
12 relationship?
- 13 I don't care what your focus was.
- 14 Did it cross your mind?
- 15 A. No, because my issue was fraternization.
- 16 Q. Okay, and did you learn how they came to be living
17 together?
- 18 A. I had someone that I actually had initiation of what
19 was called a command directive investigation on the
20 issue of fraternization. And I don't know how they
21 came together. The issue was the fact that the
22 fraternization issue of the two of them renting, one
23 renting from the other, the officer and the enlisted,
24 was inappropriate.
- 25 Q. Didn't you learn that -- what is the name of the other

1 woman? It was [REDACTED] and the other woman was?

2 A. [REDACTED].

3 Q. [REDACTED]?

4 A. That's correct?

5 Q. Did you learn how where [REDACTED] had been
6 before she was with the 446th?

7 A. No.

8 Q. You never learned that?

9 A. She was -- she came into our squadron as a [REDACTED]
10 [REDACTED]. And the only thing in that I knew
11 was that she was also what is called a [REDACTED]
12 [REDACTED].

13 Q. You didn't learn why she came and transferred to the
14 446th?

15 A. No, I was unaware why she came, she came over and was
16 hired as the [REDACTED].

17 Q. So no one ever suggested to you that she came in order
18 to live with [REDACTED]?

19 A. Nope.

20 Q. Okay. Did you discipline either of these people?

21 A. Yes, I did.

22 Q. Who did you discipline?

23 A. I gave [REDACTED], it's [REDACTED] now, a
24 Letter of Admonishment for the fraternization issue.
25 And [REDACTED] got a Letter of Counseling.

1 Q. Would you refresh my memory, but a Letter of
2 Counseling, is that remaining in the personnel file or
3 does it disappear after a period of time?

4 A. Neither one of them actually will remain in the
5 personnel file. The issue, a Letter of Admonishment
6 can if you actually do an unfavorable information file,
7 but neither one of them remain.

8 Q. Why was [REDACTED], [REDACTED] was a higher level of
9 discipline because she was the superior officer?

10 A. That's correct.

11 Q. What happened to [REDACTED]?

12 A. She eventually transferred. She wanted to go back to
13 the [REDACTED], [REDACTED]. And we don't
14 have any [REDACTED] assigned to our squadron. And then she
15 moved --

16 Q. Do you know why she transferred out?

17 A. She wanted to become a [REDACTED].

18 Q. That is what she told you?

19 A. That was what I was told.

20 Q. But you don't know why she transferred to the 446th?

21 A. No, I don't.

22 Q. Okay. Who was the -- you said you consulted with
23 someone before you took these steps?

24 A. I consulted with the JAG.

25 Q. Who was that?

1 A. That would be Lieutenant Colonel Holmgren.

2 Q. And what did you ask Lieutenant Colonel Holmgren?

3 MR. PHIPPS: My understanding is I am going
4 to instruct the witness not to answer on the
5 Attorney/Client privilege.

6 Q. Is Lieutenant Colonel Holmgren a lawyer?

7 A. He is.

8 Q. Why did you consult him, for what purpose?

9 A. Because I was looking at possibly doing an
10 administrative action based on a possible
11 fraternization.

12 Q. Okay. Was anyone else present when you consulted him?

13 A. Initially no, it would have just been between the JAG
14 and myself.

15 Q. Do you mean later someone else was present?

16 A. No. This was between Colonel Holmgren and myself. And
17 after I spoke with the JAG, I then spoke with my
18 Commanding Officer or the Operations Group Commander,
19 Colonel Pavey.

20 Q. Would you spell Pavey?

21 A. P-a-v-e-y.

22 Q. What did you tell Colonel Pavey?

23 A. Basically that I was looking at possibly initiating a
24 Commander's Directed Investigation on an issue of
25 fraternization.

1 So I can make sure that I look at all the relevant
2 information before any decisions are made, that's the
3 purpose of the CDI.

4 Q. Okay. And then it was assigned to someone for
5 investigation?

6 A. That's correct.

7 Q. And that was who?

8 A. Lieutenant Colonel Pat Kearney.

9 Q. Carney?

10 A. Kearney.

11 Q. Not Carney like here?

12 A. No, Kearney.

13 Q. How do you spell that, please?

14 A. K-e-a-r-n-e-y.

15 Q. And is Pat Kearney a man or a woman?

16 A. He is a man, Patrick Kearney.

17 Q. Patrick Kearney, he did the investigation?

18 A. He did.

19 Q. He gave you an Investigation Report?

20 A. Yes.

21 Q. He confirmed what was in the Police Report was
22 accurate?

23 A. Confirmed fraternization.

24 Q. Did he confirm what was in the Police Report was
25 accurate?

- 1 A. He confirmed fraternization.
- 2 Q. That is not what I am asking.
- 3 A. I don't have the Police Report in front of me. He
- 4 confirmed fraternization.
- 5 Q. Okay. To you that means that he confirmed they lived
- 6 together in the same house?
- 7 A. He confirmed that an officer and an enlisted were
- 8 living together.
- 9 Q. Anything else he confirmed?
- 10 A. Not in the CDI.
- 11 Q. Did he confirm they had a domestic incident?
- 12 A. I don't have the report in front of me to be able to
- 13 refer to.
- 14 Q. Who did he interview?
- 15 MR. PHIPPS: Objection, foundation.
- 16 A. Again I don't have the report.
- 17 Q. You don't remember who he interviewed?
- 18 A. It more than likely would have been the parties
- 19 involved. But I don't have it in front of me.
- 20 Q. Okay. And after you got the report did you at that
- 21 point have any reason to suspect that either one of
- 22 these women was a lesbian?
- 23 A. Suspect based off of the criteria that we talked about
- 24 suspect?
- 25 Q. Suspect the way that I have consistently asked you the

1 question about suspect. Did it cross your mind?

2 A. And in this particular instance, I am using suspect
3 based off of the criteria.

4 Q. Okay, but I'm not. I'm asking you after you read this
5 report did it cross your mind?

6 A. I don't know.

7 Q. [REDACTED] is still with the unit?

8 A. Yes, she is.

9 Q. Did this incident cause in your opinion any morale
10 problems in the unit?

11 A. I don't know that the information went out in the unit
12 regarding this. This is not something that we will
13 discuss --

14 Q. You think nobody else knows it?

15 A. I have no idea. I don't go out and tell the unit of
16 the incident?

17 Q. So you have no sense of whether anyone else in the unit
18 knows about it?

19 A. That's correct.

20 Q. When you gave the Letter of Admonishment to [REDACTED]
21 [REDACTED] was anyone else present?

22 A. There was. I can't remember who it was.

23 Q. Did you instruct whoever it was to keep it secret and
24 not tell anyone?

25 A. Well, it's an action that occurs between a Commander

1 A. Yes.

2 Q. What is your reason for saying that?

3 A. My reason really is not based so much on an engarrison
4 function. My reason is based more on a deployment
5 function. What I look at with our unit is there is a
6 couple of things. To give you a broad scale again, my
7 unit does not deploy out as a unit. It deploys in bits
8 and pieces. It deploys as a crew, it deploys as an
9 element, and it deploys anywhere.

10 And the feasibility of it deploying in a hard
11 billet all the time is not rendered. We don't know
12 where the members are going to go into a tent city type
13 of location, an extended barracks type of a location
14 with communal showers.

15 And the concern that really is there is concerning
16 Major Witt deploying is if there are personnel that are
17 uncomfortable with the aspect of Major Witt. And if
18 they would be uncomfortable deploying in that type of a
19 setting.

20 Again it is the aspect of not only a deployment
21 and to be able to support the mission, because what
22 happens with that it ends up being also a distraction.
23 If they're concerned about who they are billeted with,
24 then that can be a distraction. And the main mission
25 is for them to get out and be able to take care of live

1 patients.

2 And that is where a concern over the morale issue
3 would be is if that happens, it may hinder a member
4 from either volunteering to go ahead and go out because
5 of feeling distracted, that they can not focus on the
6 mission.

7 Q. You say now if that happens, it would be a problem?

8 What evidence do you have that it would happen

9 specifically with regard to Major Witt?

10 A. The only thing that I can get at is from the standpoint

11 of looking at the deployments and looking at where

12 members are deployed to different locations that are

13 put into tent cities.

14 Q. What if --

15 A. And the other side of that too is they are not only

16 deployed with members of our squadron, they are

17 deployed with joint. It can be Army, it could Navy, it

18 could be other elements that then may be put into a

19 position of are you willing to be billeted in this type

20 of facility.

21 The other thing that I get concerned about, and we

22 go back to the morale is, let's say that we do send out

23 Major Witt that is a known gay, how do we billet? Is

24 it perceived that they billet with either a male or

25 female or how do you billet that it doesn't look like

1 favoritism, that you have to do something different.

2 That again makes that an issue of taking a look at
3 morale of the troupes. Because then they are not
4 focused on what they need to be focused on, which is
5 their mission. So yes, I believe that that would be a
6 concern.

7 MR. LOBSENZ: Move to strike as
8 nonresponsive.

9 Q. Now, I didn't ask you whether it would be a concern.

10 You told me it would be a concern. I asked you: What
11 evidence do you have that Major Witt specifically would
12 cause that reaction?

13 A. I have no evidence.

14 Q. Okay. If you have no evidence that she would cause
15 that concern, could you explain to me why this answer
16 was given to Interrogatory No. 39?

17 Interrogatory No. 39 was: Identify every person
18 who holds the opinion that reinstatement of Major Witt
19 within the 446th would likely have a negative impact on
20 unit morale, cohesion or discipline of the 446th.

21 And the Answer given said that they identified
22 you.

23 So if you have no evidence that she would cause
24 those kinds of concerns, why would you answer that you
25 have an opinion that she likely would cause a negative

1 Q. Do you know whether it was presented in '07?

2 A. I don't know.

3 Q. Do you know whether it was presented in '08?

4 A. I don't remember.

5 Q. Do you know if it was presented at least once in the
6 last four years?

7 A. Again, as an ancillary training requirement a lot of
8 those are presented right after Commander's call,
9 viably they could have been. I don't remember.

10 Q. Okay. Have you had any conversations with Sergeant --
11 I think he is a sergeant -- Stacy Julian about this
12 case?

13 A. The only conversation that I have had was Sergeant
14 Julian indicated that he had been contacted by you and
15 by Witt's attorneys and requesting or asking what he
16 should do. And I told him that he needed to contact
17 our attorneys so that at least from the standpoint he
18 was covered from speaking with the JAG.

19 Q. Did he do that, do you know?

20 A. I don't know.

21 Q. Did you tell him he couldn't talk to me until he had
22 done that?

23 A. No, I did not.

24 Q. And that is the only conversation that you had with
25 him, just telling him that he should contact the JAG

1 people?

2 A. That is all I remember.

3 Q. So you don't have an objection to his talking to me; do
4 you?

5 A. Not as long as he has coordinated with the JAG first.

6 Q. So that is a condition as far as you're concerned, he
7 must coordinate with the JAG before he can talk to me?

8 A. No, the guidance is is that he should to protect
9 himself. But, no, he is perfectly free to be able to
10 talk with you.

11 Q. To project himself, from me?

12 A. Just to make sure, again, he's an Air Force member. As
13 an Air Force member the recommendation is before you
14 give any statement you need to be keep connecting with
15 the JAG.

16 Q. What does he need to be protected from?

17 A. Again just making sure that he knows as far as all of
18 the issues regarding the guidelines that the JAG could
19 be advisor for him.

20 Q. Who else have you told that they should not talk to me
21 until they talk to JAG?

22 A. We have a -- we had a -- it was a briefing to the
23 squadron that was essentially regarding making sure
24 that any time that you are approached across the board
25 about giving any type of a briefing or request for

1 statements, that you should contact the JAG. And so
2 that would have been across the board.

3 Q. Are you saying that you made that statement to a group
4 of people?

5 A. We had -- we had our JAG, Colonel Holmgren, and we had
6 our public affairs person just to make sure, and it
7 wasn't necessarily a focus on Major Witt. It was the
8 focus was to make sure that people were aware in our
9 time that we have a lot of events going on. Because we
10 had also had contacts from different agencies to give
11 speeches. And we wanted to make sure we closed the
12 loop.

13 Q. This meeting, when was that?

14 A. That would have been some time last year.

15 Q. Were you there?

16 A. I was.

17 Q. You were there?

18 A. I was there.

19 Q. And at this meeting in '09 you are saying that Major
20 Witt was not mentioned?

21 A. Major Witt was mentioned by a public affairs person.

22 Q. And he said what?

23 A. Just basically if there is any contacts, just make sure
24 that you contact the JAG.

25 Q. So can you explain why Sergeant Julian's wife would