

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF SOUTH CAROLINA
 CHARLESTON DIVISION

3 WILLIAM B. TUTTLE, JR., RAYMOND J. :
 4 JOHNSON, GEORGE H. KUCHEN, JOHN E. :
 5 STRAIT, RICHARD SIROIS, WILLIAM :
 MENKINS and JAMES A. TAYLOR :
 :
 vs. :
 :
 6 DANIEL MARVIN, TRINE DAY, LLC, and :
 7 CHICAGO REVIEW PRESS, INCORPORATED : 2:04 CV 948

8
 9 Trial in the above-captioned matter held on Tuesday,
 10 November 1, 2005, commencing at 9:26 a.m., before the
 11 Hon. David C. Norton, in the United States Courthouse,
 12 Courtroom II, 85 Broad Street, Charleston, South Carolina.

13
 14
 15 APPEARANCES:

16 BOBBY G. DEAVER, ESQUIRE, 3760 Bald Mountain Rd.,
 17 West Jefferson, NC, appeared for plaintiffs.

18 BENJAMIN W. DEAVER, ESQUIRE, 705 Princess St.,
 19 Wilmington, NC, appeared for plaintiffs.

20 CHRIS OGIBA, ESQUIRE, 205 King St., Charleston,
 21 SC, appeared for defendants.

22 BARRY A. BACHRACH, ESQUIR, 311 Main St.,
 23 Worchester, MA, appeared for defendants.

24 REPORTED BY DEBRA L. POTOCKI, RMR, RDR, CRR
 25 Official Court Reporter for the U.S. District Court
 P.O. Box 835
 Charleston, SC 29402
 843/723-2208

I N D E X

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ROBERT MILLEGAN

1 (Jury not present.)

2 THE COURT: Good morning. Ready to go?

3 MR. BEN DEEVER: Can we have one minute, Your Honor?

4 THE COURT: Sure.

5 MR. BEN DEEVER: Thank you, sir.

6 (Discussion held off the record.)

7 THE COURT: What are we waiting on?

8 MR. BEN DEEVER: The other Mr. Deaver, Your Honor.

9 THE COURT: 0930, okay? Where is he?

10 (Brief interruption in proceedings.)

11 MR. BEN DEEVER: Your Honor, may we approach?

12 THE COURT: Yeah.

13 (Discussion held off the record at side bar.)

14 THE COURT: Okay, ready to go?

15 MR. COLLINS: Yes, sir.

16 MR. BEN DEEVER: Yes, sir.

17 (Jury present.)

18 THE COURT: Welcome back. Ready to call your next
19 witness, Mr. Collins?

20 MR. COLLINS: Yes, Your Honor, we are. Call Chris
21 Millegan to the stand.

22 THE CLERK: State your name for the record.

23 A. My name is Robert A. Millegan.

24 Robert Millegan, a witness called by the plaintiff, first
25 having been duly sworn, testified as follows:

ROBERT MILLEGAN

DIRECT EXAMINATION

1

2 BY MR. COLLINS:

3 Q. You are Chris Millegan, right?

4 A. Yes. My real name is Robert Millegan.

5 Q. All right. What kind business are you in, Mr. Millegan?

6 A. I'm a publisher.

7 Q. And do you own a publishing company or are you merely
8 employed by one?

9 A. I am a member of an LLC, limited liability corporation,
10 that is a publisher, yes.

11 Q. And what is the name of that company?

12 A. Trine Day.

13 Q. And where is that located?

14 A. It's located in Walterville, Oregon.

15 Q. How long has that company been in business?

16 A. 2003, I believe is when the LLC papers went through.

17 Q. Okay.

18 A. Either late 2002, 2003, right in there.

19 Q. Now, since that time, how many books has Trine Day
20 published?

21 A. Let's see. About eight.

22 Q. Okay. And what is the general nature of the books that
23 Trine Day publishes?

24 A. Well, I published a book about Skull and Bones. You could
25 say a secret history of the United States.

ROBERT MILLEGAN

1 Q. What's Skull and Bones?

2 A. Skull and Bones is a secret society at Yale University.

3 Q. Okay. What else have you published?

4 A. I have published a book called Ambushed, Hidden History of
5 the Bush Family. I've published a book called Expendable
6 Elite by Lieutenant Colonel Dan Marvin.

7 Q. That's the one we're here about on this trial, right?

8 A. Yes. Yes.

9 Q. How about a book called Sinister Forces?

10 A. Yes.

11 Q. All right. What's that about?

12 A. Well, that is about the CIA and mind control projects, and
13 about their involvement in drug trade and other things.

14 Q. How about The Octopus Conspiracy?

15 A. Yes.

16 Q. What's that about?

17 A. Well, that is a book -- it talks a little bit about what
18 some researchers called the octopus, where there are opposing
19 forces that are set up, basically a dialectic; they create a
20 left and a right. And then it's also about -- it's about
21 trading your own culture, is a lot about what Octopus
22 Conspiracy is about. It's a book of stories that were written
23 by a gentleman by the name of Steve Hager.

24 Q. Okay. Is it fair to say that a lot of the books that you
25 have published, deal with conspiracy in one way or the other?

ROBERT MILLEGAN

1 A. Yes, they do.

2 Q. Okay. Now, how did you go about finding works to publish?

3 A. Well, my father was in the CIA, and he told me some
4 things, and so I've done lots of research for about 40 years.
5 I find books through -- I've made a lot of friends of
6 journalists and whatnot who have stumbled across these
7 stories, who then are not allowed to publish these in official
8 publications.

9 Q. Okay. Now, why would that be?

10 A. Well, how much history do you want? Do you know about
11 Operation Mocking Bird?

12 Q. No. Why don't you enlighten us on Operation Mocking Bird.

13 A. Operation Mocking Bird was a thing that started in 1947 by
14 the CIA to infiltrate the news media and publishing houses.

15 Q. Okay. And so what happened?

16 A. Well, I've become friends with a lot of authors, some of
17 them who have books that are Book of the Month Club and New
18 York Times best sellers, and they're unable to publish. A lot
19 of these they have to self-published, because New York will
20 not publish it.

21 Basically my publishing house is a response, is a cultural
22 response to publishing people that they won't publish books
23 out there, because of the political nature of it.

24 Q. So it's your testimony here today that the United States
25 Government has somehow prevented the large publishing houses

ROBERT MILLEGAN

1 from publishing certain types of work?

2 A. No. No, it is my contention that there is secret
3 societies that have infiltrated our Government and have used
4 our Government to -- for their own ends.

5 Q. And one of these would be the Skull and Bones?

6 A. Yes. Our president is a member of it. Dick Chaney's
7 family are members of it.

8 Q. Any other secret societies out there?

9 A. What?

10 Q. Are there any other secret societies out there, other than
11 Skull and Bones?

12 A. Well, I'm sure there are.

13 Q. Well, like who?

14 A. Well, there's books about them, and there's -- I mean,
15 there's lists of many of them. I mean, how many of them would
16 you like me to list?

17 Q. Well, I'm just trying to find out some information from
18 you, maybe some examples other than Skull and Bones. Talking
19 about like the Masons?

20 A. At Yale University there are seven secret societies.
21 There is the Order of Skull and Bones, there's the order of
22 Book of Snake, there is -- Oh, let's see. The Order of Scroll
23 and Key. There's quite a few there.

24 Q. All right. Now, why was it that Colonel Marvin had such a
25 hard time getting his book published?

ROBERT MILLEGAN

- 1 A. Because of the spooky nature of it.
- 2 Q. When you say spooky nature, what are you referring to?
- 3 A. I'm referring to the CIA.
- 4 Q. And in particular, the request that Colonel Marvin attempt
5 to assassinate Prince Sihanouk?
- 6 A. You know, no, I don't think so. I mean, Prince Sihanouk's
7 autobiography is called My War with the CIA. And there is
8 lots of information out there that show that there was
9 assassination plots against Sihanouk. So, no, I do not think
10 it was particularly because of that. I think that there was
11 more of an animus that was developed on Colonel Marvin because
12 he was a stickler for the truth, and was, you know, just
13 trying to tell the story.
- 14 Q. Do you have any idea how many publishers looked at
15 Expendable Elite?
- 16 A. I believe over 100, sir.
- 17 Q. Okay. So that would have made you the 101st?
- 18 A. No, actually I believe it was a little farther than that.
19 But yeah, and I have letters from those, and I have quite a
20 voluminous -- when Colonel Marvin -- when I talked to Colonel
21 Marvin, he didn't just supply me with the manuscript, he
22 supplied me with lots of documentation where, you know, I knew
23 he had contacted other publishers. As a matter of fact,
24 Placedial Press, one of the last ones, I have their letter,
25 and it said, you know, we aren't printing it because of it's

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1 not true, we're not printing because of the spooky nature of
2 it.

3 Q. I got you. All right. Did you enter into a contract with
4 Colonel Marvin?

5 A. Well, I'm not really much of a contract guy. We have a
6 letter of intent. It's basically just a letter.

7 Q. And what are the terms of that letter of intent?

8 A. The terms is that I pay him 15 percent of monies that I
9 receive. A royalty, which is a normal what an author gets
10 paid from a publisher.

11 Q. Who covers the cost of the publishing?

12 A. I do.

13 Q. How much do you think you have invested in the publishing
14 of Expendable Elite?

15 A. Probably about \$20,000.

16 Q. And how many books would that be?

17 A. We printed 3000.

18 Q. 3000?

19 A. 3000, yes.

20 Q. Okay. How many of those have sold?

21 A. As of this date, about 2000.

22 Q. Okay. So you're still holding 1000?

23 A. I have some and the distributor has some and Colonel
24 Marvin has some.

25 Q. Who's the distributor?

ROBERT MILLEGAN

- 1 A. The distributor is IPG out of Chicago.
- 2 Q. And how does your business relationship with IPG work?
- 3 A. Well, the book business is a consignment model. Basically
- 4 the publisher's on the hook for everything. Basically I go
- 5 out and get the books printed, I have to pay for it. And then
- 6 I ship the books to the distributor for free, and then the
- 7 distributor then gives them to book stores for free. And the
- 8 book stores then have 90 days, and actually another 30 days to
- 9 return any unsold copies.
- 10 Q. I gotcha.
- 11 A. So basically it's a 120-day dating on -- with complete
- 12 consignment.
- 13 Q. What's the selling price of the book?
- 14 A. It's 28.95 suggested retail. We've been selling it
- 15 recently for 23.95.
- 16 Q. And you sold 2000 copies?
- 17 A. We sold 2000 copies through different distribution levels,
- 18 yes.
- 19 Q. What would you estimate the income from the sale of the
- 20 book has been?
- 21 A. Very little. Very very little. I paid Colonel Marvin a
- 22 6500 advance, and I believe he still has about \$4000, you
- 23 know, in his -- the account, you know. So I haven't had to
- 24 pay him any royalty, because we haven't sold enough books.
- 25 Q. Do you anticipate that there will be another printing of

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1 this book?

2 A. Well, it kind of depends on the outcome of this lawsuit, I
3 would think.

4 Q. Meaning that -- Meaning what?

5 A. Well, in the papers that I got, said you guys were going
6 to ask the jury that I couldn't print it anymore. So I don't
7 know if that's going to happen. And then if I am proved in
8 court of defaming somebody, for me to then continue to print
9 that book would not seem right. It would not seem smart, to
10 me.

11 Q. I gotcha. All right. Now, before this book was
12 published, did you have any communication from an organization
13 known as the Special Forces Association?

14 A. No.

15 Q. You did not?

16 A. No, I did not.

17 Q. How about subsequent to the publishing?

18 A. After it was published, yes, I did.

19 Q. Did you receive any correspondence from that organization?

20 A. Yes, I received a threatening letter from them, yes.

21 Q. Let me ask you to look at this and see if you can identify
22 it. It's been labeled Plaintiff's Exhibit 2.

23 (Plaintiffs' Exhibit 2 received.)

24 A. Yes.

25 Q. What is that?

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1 A. It is a letter where they are telling me that there's five
2 statements on the inside cover that is false and misleading,
3 and they are threatening me to, you know, that I need to --
4 that Marvin needs to give them apology, and that I should look
5 at what they did to Warner Brothers and CNN, if I, you know,
6 am -- question their resolve. And then they attack Colonel
7 Marvin in there, too.

8 Q. Did they ask you to cease and desist from publishing and
9 distributing the book?

10 A. No.

11 Q. What exactly did they ask you to do?

12 A. They didn't ask me to do anything.

13 Q. Did they tell you that they thought the allegations, or
14 some of the allegations in this book were defamatory?

15 A. No, they did not.

16 Q. Did they tell you that they believe that the book
17 contained lies?

18 A. No, they said it was insulting, and that Mr. Marvin owed
19 them an apology.

20 Q. Did you contact Colonel Marvin when you received this?

21 A. Yes, I did.

22 Q. And what was his response?

23 A. Colonel Marvin, I believe, e-mailed the plaintiffs.

24 Q. What did he tell you?

25 A. What did he tell me about what?

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1 Q. In that conversation with him.

2 A. Not much. I don't talk a lot. And I don't tell people
3 what to do. I basically said I received this letter, and
4 probably sent him a copy of it.

5 Q. Okay. And he did not respond to you in any way?

6 A. He might have e-mailed me something; I don't know.

7 Q. But you don't remember what the substance of that e-mail
8 was?

9 A. No, I do not.

10 Q. Did you subsequently receive another letter from Special
11 Forces Association?

12 A. Yes, I did. Yes, that's the letter without the
13 letterhead. It did have a letterhead with it when it came.

14 Q. Now, what's the substance of that letter?

15 A. They say that more than 30 days have passed since their
16 letter. They demanded -- requested, and then they say
17 demanded action on my behalf to correct the libelous accounts
18 published by you.

19 Q. Okay.

20 A. You have elected not to correct or to portray or classify,
21 which was assigned as fictional. We had no alternative to
22 exposing -- but to expose your publication and Dan Marvin's
23 writing as libelous. And they -- they talk about Colonel
24 Tuttle, and he's being libeled and whatnot, and about how
25 Sergeant Taylor and these guys, and they broke the Uniform

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1 Military Code of Justice. And says that SFA, Special Forces
2 Association, which is an association of retired and active
3 Special Forces people, they will assist these libeled soldiers
4 in obtaining counsel. And untrue statements already we have
5 more than 20 -- which I've never seen, they've never sent
6 those to me. And basically, you know, it's just another
7 threatening letter harassing me. I mean, I'm a publisher and
8 I have First, you know, First Amendment rights.

9 Q. As long as you don't defame somebody, right?

10 A. As long -- But I was never shown any information that
11 showed me that I defamed. All I was showed was a letter that
12 said I had defamed people. There was never given to me any
13 type of information that said, you know, anything that I could
14 read that says, well, here, this is what the true story is or
15 something like this. I was just told that I had defamed
16 people. There was no --

17 Q. Now, Special Forces Association is not one of these secret
18 societies that you've been talking about, is it?

19 A. No. A secret society, how I would classify a secret
20 society is if I could write the organization a letter, and
21 they would give me a list of their members.

22 Q. Okay.

23 A. I mean, the Order of Skull and Bones, we do not know all
24 the members there.

25 Q. I gotcha. So at least as of September 22nd, 2003, you

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1 were put on notice that some of the allegations in this book,
2 Expendable Elite, may have been defamatory?

3 A. I was threatened, yes. I was threatened with a lawsuit,
4 yes.

5 Q. And what investigation did you do on your own to determine
6 whether or not there was defamatory material included in that
7 book?

8 A. Well, at that point in time the book was already printed.
9 And I had done quite a bit of research before I printed the
10 book. And like I said, I'm the son of a CIA official. My
11 father was branch chief head of all of Southeast Asia for
12 research and analysis. He quit them in the Fifties because he
13 didn't want to be involved in the drug ring. Okay? And he
14 told me some things in the late Sixties. And since the late
15 Sixties, I have been researching and studying such things as
16 the Vietnam War and secret operations.

17 And I have a 5000-book library, including many of the
18 things such as Vietnam. My father was in Vietnam with Colonel
19 Landsdale in 1956. So I'm quite familiar with Vietnam, I'm
20 quite familiar with the Hoa Hoas, I'm quite familiar with our
21 intrusions into Cambodia. I have an Information Please
22 Almanac at home, 1989, that says that, you know, we incurred
23 into Cambodia in May of 1966.

24 And when I looked at Colonel Marvin's being a -- you know,
25 the CIDGs were paid for by the CIA. I know that the Joint

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1 Chiefs of Staff, in October of '65, had a report that said we
2 need to start doing something about these Cambodian
3 incursions.

4 And so it seemed quite true to me that Colonel Marvin was
5 telling the truth about doing an independent operation,
6 shooting into Cambodia in January of '66.

7 So I did, you know, a lot of my own research, I had the
8 tapes of the people where they confirmed the action. In the
9 tapes, they confirmed that Colonel Marvin could use the -- use
10 their names.

11 And Colonel Marvin has been talking about the same thing
12 in the same way for, you know, since 1984. I mean, the book
13 was written in 1988 and was revised in 1989, okay? And so
14 there was a lot of confirmation. And there seems something
15 that came along about '97, where the story changed, and all of
16 a sudden for some particular reason, these people have changed
17 their story.

18 Q. Well, did you bother to pick up the phone and call any of
19 them?

20 A. I did not have any of their information as to where they
21 were located at.

22 Q. Well, did you attempt to get it?

23 A. No, I did not. It was a -- it was Colonel Dan's memoirs.
24 It was a memoir of the Vietnam War.

25 Q. But nevertheless --

ROBERT MILLEGAN

1 A. I don't feel that they are defamed in the book.

2 Q. Nevertheless, in September of 2003, you were put on notice
3 that there was a problem. Isn't that correct?

4 A. I was told that they were going to take me to court. If
5 they want to take me to court, that's a place to do it. I am
6 not -- I should negotiate? You know? On threats?

7 Q. Don't you think you should ask some questions when
8 somebody sends you a letter and says you defamed somebody in
9 one of your books? Shouldn't you have picked up the phone and
10 called the Special Forces Association and talked to somebody
11 over there?

12 A. The book was already published, sir.

13 Q. But you still had many copies that weren't put out to
14 public, didn't you?

15 A. Yes, that's true.

16 Q. Okay. Did you stop disseminating the book?

17 A. No, I did not, sir.

18 Q. Okay.

19 MR. COLLINS: That's all I've got.

20 A. Thank you, sir.

21 MR. BACHRACH: Your Honor, may I just ask him a few
22 questions relative to this, then reserve the rest for my case?

23 THE COURT: Sure.

24 CROSS-EXAMINATION

25

ROBERT MILLEGAN

1 BY MR. BACHRACH:

2 Q. Good morning, Mr. Millegan.

3 A. Good morning, sir.

4 Q. Now, prior to publishing the book Expendable Elite, you
5 were provided information by Colonel Marvin, to support what
6 was stated in the book, correct?

7 A. Yes.

8 Q. And among those, you heard statements by the very
9 plaintiffs, confirming major key aspects of the book, correct?

10 A. All key aspects of the book, and -- Yes.

11 Q. And if you didn't have that information, it would have
12 caused you to question whether to publish the book, correct?

13 A. I wouldn't have published it.

14 Q. But faced with a tape from Lieutenant Strait, Mr. Sirois
15 and Mr. Johnson, confirming the key aspects of the book, did
16 you consider that the book was true or false?

17 A. I considered the book to be true.

18 Q. And I'd like to show you a document --

19 MR. BACHRACH: May I approach, Your Honor?

20 THE COURT: Sure.

21 BY MR. BACHRACH:

22 Q. Do you recognize this document?

23 A. Yes, I do.

24 Q. And was that the document that Colonel Marvin gave you a
25 copy of before publishing the book?

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1 A. Yes, it was.

2 Q. Is that a book you -- a document you relied on in
3 determining the truth of the book?

4 A. Yes, it is.

5 Q. And so you -- and this gave you a reasonable belief as to
6 the truth of the book?

7 A. Yes, this is from a general --

8 MR. COLLINS: Your Honor, I object to this affidavit.

9 MR. BACHRACH: Your Honor, may I introduce this into
10 evidence?

11 THE COURT: Well, let me --

12 MR. BACHRACH: It's a document he relied on in
13 publishing the book, as to the reasonableness of the truth.

14 THE COURT: What's your objection?

15 MR. COLLINS: Your Honor, it's hearsay. We haven't
16 had an opportunity to confront this General Dang.

17 MR. BACHRACH: Should we have a side bar, Your Honor?

18 THE COURT: No. What's the purpose you're trying to
19 get this?

20 MR. BACHRACH: It's a document that he was given from
21 General Dang, that confirms, in his mind, the truth of certain
22 statements in the book, so it goes to the reasonableness of
23 his belief. Not for the truth of the matter, but the
24 reasonableness of his belief as to whether certain statements
25 in the book were true.

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1 THE COURT: Okay.

2 MR. BACHRACH: Goes to the negligence issue, the
3 fault. And I believe they opened the door to it.

4 THE COURT: It wasn't given to him by General Dang,
5 it's a letter to Colonel Marvin.

6 MR. BACHRACH: But it was Colonel Marvin provided it
7 to -- and he indicated that.

8 THE COURT: Yes, sir.

9 MR. COLLINS: Your Honor, I think it certainly is
10 attempting to go to the matter of the truth asserted. I mean,
11 that was the question out of Mr. Bachrach's mouth was, is this
12 what you based your feeling that the matters were true on.

13 THE COURT: Well, you know, you brought a negligence
14 cause of action, you asked him what investigation he did, this
15 is part of the information that he had before he published the
16 book, and so I'm going to overrule your objection as to
17 hearsay. It's not for the truth of the matter asserted, it's
18 his state of mind in publishing the book.

19 MR. COLLINS: All right, sir.

20 (Defendants' Exhibit 35 received.)

21 BY MR. BACHRACH:

22 Q. I'm showing you what's been marked as Exhibit 35, and what
23 issue in the book did this go to?

24 A. This went to the incident of the regiment's -- the ARVN
25 regiment coming to attack the camp. And this is the general

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1 who stopped it. And I knew of General Dang before, because
2 he's -- I'd read about him in several books.

3 Q. And was it important for you to confirm that assertion by
4 the book in Colonel Marvin's book?

5 A. This was one of the major pieces that I used.

6 Q. And could you publish what General Dang wrote, to the
7 jury?

8 A. 10th of November 1988. Lieutenant Colonel Dan Marvin,
9 AUS, retired. 1605 Trumansburg Road, Ithaca, New York,
10 14850.

11 "Dear friend: I have fully enjoyed the reading of the two
12 chapters from your coming book, The Bassac Bastards, Chapter
13 10, Mission to Assassinate a Prince, and Chapter 11,
14 Apocolypse at An Phu.

15 "Though many years have passed since the events of
16 June 1966, I assure you that I recall Major Le Van Phoi's
17 emissary come to me in my headquarters in Can Tho and
18 explaining the situation in An Phu with the Hoa Hoa
19 irregulars. It was a very dramatic and crucial event that
20 would hardly escape my memory. At that time I commanded all
21 Vietnamese forces in the Fourth Corps area as a lieutenant
22 general.

23 "I would like to say that it was my duty to go to your
24 Green Beret camp in An Phu with my U.S. Army adviser, Colonel
25 Desobry, and personally assure the brave irregular fighters

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1 that they were safe from military tribunal action and that
2 their amnesty was restored to them. I wanted to avoid any
3 bloodshed between two friendly anticommunist forces, and to
4 work toward national unity and reconciliation.

5 "The Hoa Hoa people were a very strong asset for my
6 country, and I worked very closely with Colonel Desobry to
7 have a happy ending to the very troubled situation in An Phu.
8 It was our joint success.

9 "Though I do not have any knowledge of all the details
10 included in your Chapter 10 and 11 of The Bassac Bastards, I
11 do believe that you are honest in what you say, and do not
12 know of anything that would truthfully contradict your
13 revelations.

14 "May the Lord bless you and your family. Sincerely yours,
15 Quang Van Dang, your camrade in arms."

16 Q. Now, you've indicated that after you received the
17 threatening letters from the Special Forces, they did not
18 provide you with any information to demonstrate to you what
19 was false about the book. Correct?

20 A. No, it just seemed to be threatening and harassing. There
21 was no information.

22 Q. And as you've indicated, prior to publishing the book,
23 you -- You take publishing the truth very serious?

24 A. Very serious, yes.

25 Q. And it's important for you to publish the truth?

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1 A. That is one of the reasons why I publish, yes.

2 Q. And you spend much time confirming what, in the book --
3 whether a book is truth worthy?

4 A. We try and go through and confirm all the facts, yes. We
5 don't always make it correct, but we try.

6 Q. And in this case, prior to publishing this book, you
7 demanded that Colonel Marvin provide you with corroboration?

8 A. Yes. And he provided me with a lot. And there was, you
9 know, he continued through all of his campaigns, he told the
10 same story over and over and over again, and it didn't change.

11 Q. And in addition to what he told you, he provided you
12 statements right out of the mouths of the plaintiffs.

13 A. Yes.

14 Q. And he provided you Exhibit 35 from General Quang?

15 A. Yes.

16 Q. And he provided you a letter from Tony Trung?

17 A. Yes.

18 Q. And we'll hear from Tony Trung later in this trial.

19 Correct?

20 A. Yes.

21 Q. And so based on all this, and your in-depth investigation,
22 you concluded that what was stated in the book was true,
23 correct?

24 A. Yes.

25 Q. And do you consider that you've defamed anyone by the

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1 publishing of this book?

2 A. No, I do not.

3 MR. BACHRACH: Your Honor, I'd like to reserve the
4 rest of my questioning for my case in chief.

5 THE COURT: Sure. All right.

6 MR. COLLINS: Judge, we have no further questions.

7 THE COURT: Thank you.

8 MR. BEN DEEVER: Your Honor, we call Mr. John Strait.

9 THE CLERK: State your name for the record.

10 A. John E. Strait.

11 John Strait, a witness called by the plaintiff, first
12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BEN DEEVER:

15 Q. Morning, sir. State your name, sir.

16 A. I'll tell you before we start, I have to tell you I have a
17 hearing problem. We're going to have to hear to communicate.

18 Q. Yes, sir. Would you please state your name?

19 A. John Strait.

20 Q. Okay. And where do you reside?

21 A. Where do I live?

22 Q. Yes, sir.

23 A. In Jonesville, Michigan.

24 Q. How long have you lived there, sir?

25 A. Well, I was born and raised there, and then I -- while I

JOHN STRAIT

1 was in the Army I was away for 22 years, and went back in '79.

2 So I lived there straight from 1979 till now.

3 Q. Are you currently employed?

4 A. I've retired from the Army, and retired from the Post
5 Office.

6 Q. So you were in the military?

7 A. I was what?

8 Q. You were in the military?

9 A. Yes. I spent 22 years, 22 and a half years in there.

10 Q. When did you come into the military? When did you join?

11 A. When did I join?

12 Q. Yes, sir.

13 A. In September 8th, 1953.

14 Q. And were you as an enlisted man, as an officer?

15 A. I was enlisted man for about ten years, and then I went to
16 OCS and got commissioned in February of '65, when I was 29
17 years old.

18 Q. Where did you do your basic training?

19 A. Did my basic training at Fort Knox, Kentucky.

20 Q. And that was as an enlisted man, correct?

21 A. That was an enlisted man.

22 Q. And after you finished your basic training, did you do any
23 advanced individual training?

24 A. Did I go where?

25 Q. Any advanced individual training? AIT.

JOHN STRAIT

1 A. The basic training back at that time was a 16-week course,
2 we had advanced infantry training and basic all at the same
3 time. So I left there and went to the 11th Airborne and
4 worked for infantry company.

5 Q. And where was the 11th Airborne at the time?

6 A. Fort Campbell, Kentucky.

7 Q. And after that, where did you go?

8 A. Well, I stayed with them until '55, and then they
9 gyroscoped to Germany, and I didn't have enough time to go
10 with them, so I went to Germany with nine months to go, and I
11 was assigned to the 2nd Armored Division.

12 Q. And at what point -- When did you go to OCS, officer
13 training school?

14 A. In August of '64.

15 Q. And did you receive your commission?

16 A. I received a commission in February of '65.

17 Q. What was the commission in?

18 A. Infantry.

19 Q. What was your first assignment as an officer?

20 A. My first assignment as an officer was the 3rd Special
21 Forces group in Fort Bragg.

22 Q. All right. So to be assigned to the Special Forces group,
23 the 3rd Special Forces Group, did you have to complete Special
24 Forces training, the qualification course?

25 A. I had Special Forces training as an enlisted man, in 1962.

JOHN STRAIT

1 And then after I went to OCS, come back out and went through
2 the officer's course at Fort Bragg.

3 Q. The officer Special Forces course?

4 A. Special Forces course, yeah.

5 Q. When you did the enlisted man's course, is that when --
6 did you take the assassination course at that point?

7 A. Take the what?

8 Q. The assassination course, the one that Mr. Marvin --

9 A. Never had anything like that.

10 Q. Okay. So when you were an enlisted man, they did not have
11 an assassination course?

12 A. No, I didn't.

13 Q. Okay. So you heard Mr. Marvin, he took the -- as an
14 officer, so I guess you took the assassination course when you
15 were an officer?

16 A. No, I did not.

17 Q. Why didn't you take it, sir?

18 A. They didn't have it there. As far as I know.

19 Q. Okay. So there was no assassination course?

20 A. Not to my knowledge.

21 Q. But you went through it actually twice; once as an
22 enlisted man and once as an officer?

23 A. Yeah. And as you go through enlisted, you go through two
24 courses, rather than one. You got the branch course, which is
25 the general, and then you've got the MOS producing, which I

JOHN STRAIT

1 went through operations intelligence there. And then when you
2 come out, you spend -- I think it's three months, total time,
3 then you can get qualified as a -- to wear the Prefix, or the
4 Prefix 3, or S at the time, I think it was.

5 Q. Yes, sir. Okay. And during your tenure as an officer
6 with Special Forces, did you ever have the pleasure to serve
7 in An Phu?

8 A. What now?

9 Q. During your tenure as an officer with Special Forces, were
10 you ever with the pleasure to serve in An Phu, Vietnam?

11 A. Did I serve in An Phu?

12 Q. Yes, sir.

13 A. I did at -- I believe I got there around March of '66, I
14 believe.

15 Q. Where did you come from before being assigned to An Phu?
16 And let me just ask, was that the Camp A-424?

17 A. A-424, yeah.

18 Q. Where were you before, immediately before you arrived to
19 A-424?

20 A. Immediately -- you go down through the chain of command
21 or --

22 Q. Your assignment prior to A-424.

23 A. It was in C Company of the Third Group.

24 Q. Third Group meaning Third Special Forces?

25 A. Third Special Forces group.

JOHN STRAIT

1 Q. Okay. And so you arrived on or about sometime in March
2 1966 --

3 A. Yes.

4 Q. -- to An Phu.

5 A. I think I left the States in 4 March of '66.

6 Q. How long were you at An Phu?

7 A. Well, I got there around the 15th, and I'm not exactly
8 sure when I left. I know it's -- I believe it was sometime
9 between the middle of June and end of June. I'm not sure.
10 Because I -- I was there one day, and they said I had half an
11 hour to get my bags packed, I was going to Tan Chau, which is
12 the camp next door, 428, to take over the command of the
13 detachment there, that the C.O. had had emergency leave. So I
14 bagged and baggage and picked up the dog that I got from Jim
15 Taylor, and went to Tan Chau.

16 Q. I'm sorry, you picked up the what?

17 A. The dog.

18 Q. The dog?

19 A. Pup.

20 Q. Okay. So you left --

21 A. A black one.

22 Q. You left with your runt sack, your duffel bag and a puppy?

23 A. That's it.

24 Q. Okay. When you were assigned to A-424, what was your
25 responsibilities?

JOHN STRAIT

1 A. Well, the responsibility was the XO and CA PsyOps. And
2 most of my responsibility is CA PsyOps, that was working with
3 the civilians building schoolhouses, bridges. We got corn for
4 the ag agent to plant corn, so we got corn crop going. Oh,
5 golly, build hospitals and several things like that throughout
6 the town. And I accompanied the medics quite frequently on
7 med patrols.

8 Q. So the majority -- basically what you said is everything
9 you did was helping out the civilians there?

10 A. Yes, it was.

11 Q. Helping them build schools, roads, bridges, and you
12 introduced corn to them?

13 A. Um-hum.

14 Q. Did they have corn before you got there?

15 A. No. I believe that the corn crops was started by
16 Lieutenant Clunker, it was just before I got there, so the
17 corn, I believe it was already there. I'm not sure on that.
18 But -- but whether -- the seed was. I don't know if -- I
19 don't think it had been started growing yet there, I don't
20 think they planted it there, but I think the seed was there.
21 I can't say for sure on that.

22 Q. And at your time, what was your rank at that time?

23 A. Second lieutenant.

24 Q. Second lieutenant. Who was your superior officer?

25 A. Captain Marvin.

JOHN STRAIT

1 Q. Okay. In the camp he was?

2 A. Yes.

3 Q. Do you know who the next officer in the chain of command
4 would have been?

5 A. Well, I knew it was a B-42, but I think they had a
6 different -- Colonel Brewer was the one I remember best, but I
7 believe they had one just before him. I'm not sure.

8 Q. All right. Did Colonel Brewer have to report to anyone?

9 A. Pardon?

10 Q. Do you know if Colonel Brewer had to report to anyone?

11 A. He reported to Colonel Tuttle up at C-4.

12 Q. So Colonel Tuttle, in essence, was in charge of Camp
13 A-424?

14 A. Oh, yes, absolutely.

15 Q. Okay. Was there ever any correspondence that you're aware
16 of that -- between Camp A-424 and Colonel Tuttle?

17 A. Any correspondence?

18 Q. Yes, sir.

19 A. All I know, I assumed there was, as far as reports and
20 stuff, but I don't -- I can't give -- verify that myself, that
21 there was or not. I never sent any.

22 Q. Yes, sir. Did -- what was it like there at Camp A-24?

23 A. What was that?

24 Q. What was it like at Camp A-24? Was it a quiet area, was
25 it constantly under attack, was everybody stressed? What was

JOHN STRAIT

1 it like?

2 A. It was a resort camp. That's why it was successful in the
3 CA PsyOp programs.

4 Q. CA PsyOp. What exactly is that?

5 A. CA PsyOp. Civic action, psychological warfare, which is
6 working with the people and stuff like that.

7 Q. Working with people that lived there?

8 A. That -- yeah, they did. An Phu was Hoa Hoa, so we worked
9 with the Hoa Hoas there.

10 Q. And did what you said earlier; corn, schools, bridges,
11 piers, stuff like that?

12 A. Yes.

13 Q. And treated them medically?

14 A. Yes.

15 Q. So I'm sorry to interrupt you on that. You were saying it
16 was a -- what was it, a vacation camp?

17 A. It was camp. There was no action that I know of. I never
18 got shot at once there. I never shot my M-16 over there. The
19 only action, it was one action that lasted, I think, one
20 evening, one night.

21 Q. Now, when you say action, was that at Camp An Phu, or was
22 that at one of the --

23 A. That was north of us, it was at Khanh-Binh.

24 Q. And that was one of the forward out --

25 A. That was a CIDG company was up there.

JOHN STRAIT

1 Q. Were there any Americans up at the FOB at that time?

2 A. Not at that time.

3 Q. When they became under attack?

4 A. No.

5 Q. Now, when you say they were under attack, can you
6 elaborate a little bit more on that?

7 A. Well, I'll give you -- starting out, we went out, it was
8 quite after dark, with a platoon, with a Lieutenant Bob, which
9 was LLBD, Vietnamese Special Forces there, with, I think it
10 was a platoon of Strikers. CIDG we called them. And we
11 had -- now, there was quite a late -- 10:00 o'clock, something
12 like that, we went out, trucked up as far as we could and
13 walked in, and then Lieutenant Bob put the -- Sergeant Woolley
14 and myself, probably 100 yards back of him, and he put up an
15 ambush position there. And we was there. And about, oh,
16 3:00 o'clock, they made contact at the ambush site. And that
17 ambush site --

18 Q. You say they made contact. Were you involved in that
19 contact?

20 A. I was not involved in that. I was about 100 yards away
21 with a radio.

22 Q. Okay.

23 A. And Lieutenant Bob came up got us up there, and he took
24 lanterns and stuff from the civilians, put there so if anybody
25 come up there, they could -- it would be illuminated here.

JOHN STRAIT

1 But we got one weapon and one pair of sandals is all. And no
2 blood, no bodies, no nothing there.

3 Q. So that ambush y'all recovered one weapon and a pair of
4 sandals? During that ambush, there was -- y'all recovered one
5 weapon and one pair of sandals?

6 A. One weapon and one pair of sandals. And then at the same
7 time that made contact, Khanh-Binh was getting hit up there.

8 Q. Now, when we say Khanh-Binh, how far is Khanh-Binh from An
9 Phu?

10 A. From An Phu camp?

11 Q. Yes, sir.

12 A. I don't know.

13 Q. From A-424.

14 A. I couldn't even guess. It's a long ways.

15 Q. Is it a mile, two miles?

16 A. Oh, it's more than that, it's five miles, six miles, I
17 can't -- I can't say. It might be ten miles. I'm not sure.
18 But I know it didn't take us long to get from Camp An Phu up
19 to the ambush site there, so it -- I'd say maybe five,
20 six miles. Maybe ten, I don't know.

21 Q. How did you get up there?

22 A. We got up there at the ambush site with, I think a deuce
23 and a half. And then they left us there or -- well, up to a
24 point prior to the ambush site, they didn't take us right up
25 to the ambush site, but -- then we walked, I don't know how

JOHN STRAIT

1 far up to the ambush site there. But now in the morning, at
2 about daylight, Major Phoi and Captain Marvin come up there, I
3 think it was a three-quarter ton with -- I don't know if they
4 had some troops with them or not. But anyway, they went on
5 ahead, and I went up to Khanh-Binh with the platoon that was
6 at the ambush site here. We walked up there.

7 Q. And once you walked up there, what did you see?

8 A. Walking up there?

9 Q. Yes, sir, what did you see once you arrived at that
10 forward out base, FOB?

11 A. Well, the first thing I seen as we walked up there is
12 Captain Marvin sitting in a pit like, or a hole.

13 Q. Did he have his -- you said a three-quarter ton?

14 A. No, the -- I didn't see the three-quarter ton there.

15 Q. Did you see any -- was the area destroyed?

16 A. Well, this was my first experience with combat there, so
17 to me, it looked worse than it was here.

18 Q. Okay.

19 A. But the schoolhouse is damaged, which was on the perimeter
20 of the outpost there. You could see the bamboo was --

21 Q. Messed up a little bit?

22 A. Where it had been tore up, stuff like that. And there
23 was, I think, one body of a VC inside the perimeter. And on
24 the outside there were one, two or three, something like that
25 on the outside there.

JOHN STRAIT

- 1 Q. And that was it?
- 2 A. That was just about it, yes.
- 3 Q. All right. And that was between six and ten miles away
4 from Camp A-424?
- 5 A. Pardon?
- 6 Q. That was about six to ten miles away from Camp A-424?
- 7 A. About six to eight?
- 8 Q. Six to ten miles away from Camp A-424, sir.
- 9 A. I would say -- they had a 155 Howitzer there, and that was
10 about max range for them, so whatever that is, I'm not
11 sure what -- as the crow flies there -- but there's a road a
12 little further I imagine there, so --
- 13 Q. Yes, sir. And that was your only experience in An Phu of
14 any combat or any --
- 15 A. That's right.
- 16 Q. Would that be what they call a probe?
- 17 A. It -- I don't think it was much more than that, because it
18 lasted a couple hours is about all here, and there was not
19 that many casualties. I only seen two of our CIDG that was
20 wounded there, I treated a couple of them there. One had a
21 chest -- belly wound or something, and then the other, I gave
22 him Albumin, hooked it up to him and got him there. That's
23 the only wounded I seen there. I didn't see any dead CIDG
24 there.
- 25 Q. How many wounded Americans?

JOHN STRAIT

- 1 A. None.
- 2 Q. Any dead Americans?
- 3 A. Any what?
- 4 Q. Dead Americans. Dead.
- 5 A. Dead? No.
- 6 Q. Were there any Americans involved in that?
- 7 A. Not when they had the action going, no.
- 8 Q. So everybody around when it was over with? All the
- 9 Americans, the Green Berets from Camp A-424, they arrived when
- 10 it was completely over?
- 11 A. Yes. After I got there, I didn't hear a round fired.
- 12 Q. And you didn't fire your weapon?
- 13 A. I didn't fire my weapon the whole time in An Phu.
- 14 Q. Now, earlier you said that Camp A-424, An Phu, was a
- 15 resort camp?
- 16 A. Compared to Vietnam, it was a resort area. Because
- 17 very -- no action other than just that one, and once in awhile
- 18 they maybe probe a outpost there. But --
- 19 Q. But this is basically nothing going on, you felt safe?
- 20 A. Not much.
- 21 Q. Now, after that battle up there, and we'll call it a
- 22 probe, did you receive any decoration?
- 23 A. Oh, two of us that -- three of us that received the -- and
- 24 I think that was in -- I think it was at 4th, 5th June, they
- 25 got the Cross of Galantry issued to us there, but --

JOHN STRAIT

- 1 Q. Is that the Vietnamese Cross of Galantry?
- 2 A. Pardon?
- 3 Q. Was that the Vietnam --
- 4 A. Yes. Yes. And it had on the thing, and I couldn't read
5 Vietnamese, but it looked like they had on there that we
6 killed I don't know how many Vietnamese and captured so many
7 weapons and stuff like that, which was completely false.
- 8 Q. So y'all didn't do that up there?
- 9 A. No.
- 10 Q. According to what --
- 11 A. No.
- 12 Q. -- the Vietnamese gave you?
- 13 A. No.
- 14 Q. Are you familiar with anybody else who's ever received a
15 Vietnamese Cross of Galantry?
- 16 A. Well, just about everybody in Vietnam at one time or
17 another got it. It's kind of a give-away.
- 18 Q. So the Vietnamese just gave those out freely?
- 19 A. Pretty much freely, yeah.
- 20 Q. To any American, basically any American who was over
21 there?
- 22 A. Yes. Well, I got the second one in 1968 when I was in
23 Treton, for a battle I never was in, you know. They just to
24 give -- they give you award just as a bribe, whatever you want
25 to call it there, probably a bad word, but --

JOHN STRAIT

- 1 Q. Or as a thank you?
- 2 A. Or, yeah.
- 3 Q. As a thank you for being there?
- 4 A. I'd say so, yeah.
- 5 Q. The one you received for that -- the probe where you were
6 not involved in --
- 7 A. What's that?
- 8 Q. The Vietnamese Cross of Galantry, did -- that you received
9 for your involvement in the probe up at the outpost, do you
10 feel like you earned that?
- 11 A. I think that was given for that one pair of sandals that
12 we got from the ambush, that I was a 100 meters away from. So
13 I don't think it was for the Khanh-Binh.
- 14 Q. So you're saying that you received this medal for a pair
15 of sandals?
- 16 A. That's what I've always thought, yes.
- 17 Q. Yes, sir.
- 18 A. And a weapon.
- 19 Q. Were they nice sandals?
- 20 A. Pardon?
- 21 Q. Were the sandals nice?
- 22 A. They were made out of a truck tire, so --
- 23 Q. Okay. Let's go back to A-424, if we may.
- 24 A. Okay.
- 25 Q. Have you read the book, Expendable Elite?

JOHN STRAIT

- 1 A. Yes, I have.
- 2 Q. Do you have a copy?
- 3 A. Yes.
- 4 Q. Okay. And are you mentioned in this book?
- 5 A. Pardon?
- 6 Q. Is your name in this book?
- 7 A. Yes.
- 8 Q. Is it just once, is it multiple times?
- 9 A. Several times.
- 10 Q. When did you first receive a copy of this book?
- 11 A. After it was printed. And I guess -- I think it was after
12 the lawsuit was filed, if I'm not mistaken.
- 13 Q. So --
- 14 A. Maybe before. I'm not sure. But anyway, Jim Taylor
15 called me, said that book was published and stuff, so -- but I
16 didn't get it until, oh, gosh, I'm not sure on that there.
- 17 Q. All right. Well --
- 18 A. It was --
- 19 Q. Did you ever receive a questionnaire?
- 20 A. I did receive a questionnaire.
- 21 Q. Did you receive one from me?
- 22 A. Yes.
- 23 Q. Okay. When you completed that questionnaire -- Did you
24 read the book before you completed the questionnaire or after
25 you completed the questionnaire?

JOHN STRAIT

- 1 A. It was just before.
- 2 Q. You read the book just before --
- 3 A. Um-hum.
- 4 Q. -- the questionnaire? You were here yesterday, correct?
- 5 A. Pardon?
- 6 Q. You were in the courtroom yesterday, correct?
- 7 A. Yes.
- 8 Q. And you heard Mr. Taylor describe a questionnaire that he
9 received from us, and that he completed it?
- 10 A. Um-hum, yes.
- 11 Q. Okay. And I think you heard him say that that
12 questionnaire was used for our benefit to investigate to
13 determine whether a lawsuit would be filed?
- 14 A. Say -- that's what it was used for?
- 15 Q. Yes, sir, that's what Mr. Taylor said yesterday; you heard
16 that?
- 17 A. Yeah.
- 18 Q. So it would make sense that you read the book before the
19 lawsuit was filed, because that questionnaire was used to
20 determine whether a lawsuit was --
- 21 A. Yeah.
- 22 Q. Okay. When you arrived at Camp A-424, I believe in March
23 of 1966, was Mr. Marvin the captain at that time?
- 24 A. Yes.
- 25 Q. Okay. And when you arrived, did you ever have -- did you

JOHN STRAIT

1 have any introduction to him?

2 A. Well, the only introduction I had at the time was he was
3 out playing horseshoes, and -- up there, and he stopped long
4 enough to shake hands, and that was just about it. And I
5 didn't see him again there until I think it was around
6 suppertime.

7 Q. Was he playing horseshoes by himself?

8 A. No, he -- I don't know who all was playing out there.
9 But -- which, I mean, that's not unusual.

10 Q. Did he tell you what your responsibilities were going to
11 be once you arrived? When he shook your hand playing
12 horseshoes?

13 A. I don't recall getting a briefing by him or even shown the
14 camp. Sergeant Taylor is the one that showed me most of the
15 camps and stuff.

16 Q. Okay. In this book -- you know that there's a lawsuit
17 that's filed, that's why we're here today.

18 A. Yes.

19 Q. And the reason we're here is because we're putting on
20 evidence to show that there's portions of this book that are
21 untrue.

22 A. Quite a bit of it's not true here.

23 Q. Are there any certain spots that you're aware of that are
24 untrue?

25 A. Well, the one that's not true is the -- my biggest concern

JOHN STRAIT

1 is where --

2 Q. Let's start. What do you feel is untrue about this book?

3 A. What I think is untrue?

4 Q. Yes, sir.

5 A. Most of it that concerns me.

6 Q. Well, which part concerns you?

7 A. Well, the biggest thing that concerns me is the part that
8 he has us accused of mutiny, and CIDG -- or CI --
9 assassination of Prince Sihanouk, conspiracy there, and a
10 regiment coming in to take us over.

11 Q. Okay. 'Now, it says you're accused of a mutiny. Can you
12 find that in your book, where it accused you of that?

13 A. I can't see very well either, because I have macular
14 degeneration in my eyes, too, so --

15 Q. Time kind of takes its toll on us sometimes.

16 A. If somebody can help me, I'd appreciate it.

17 Q. Would it be somewhere around page 281?

18 A. 281?

19 Q. Yes, sir.

20 A. Pardon?

21 Q. Yes, sir.

22 MR. BEN DEEVER: May I approach the witness, Your
23 Honor?

24 THE COURT: Sure.

25

JOHN STRAIT

- 1 BY MR. BEN DEEVER:
- 2 Q. You see down about the middle of it -- and some of this we
3 went through yesterday, so we're going to not go through it
4 all. But it said, it read, and can you tell me when it --
5 where it says -- Do you see where it says, it read?
- 6 A. You mean the big print?
- 7 Q. Well, where it starts, it read, correct. In bold.
- 8 A. "It read: 'Secret. To Marvin. Urgent. Repeat. Urgent.
9 A-424 must depart in An Phu -- or depart An Phu and report to
10 B-42 not later than 2000 hours today. CO, B-42 advised.
11 Tuttle.'"
- 12 Q. Okay. Let's stop right there. Now, it says it read;
13 what's it referring to?
- 14 A. What does it refer to?
- 15 Q. Yes, sir, what read? It read. What was it? Was it a
16 message?
- 17 A. It was a message, yes.
- 18 Q. And where did the message come from?
- 19 A. Well, it's got here it was signed by Colonel Tuttle; that
20 was the C Team commander.
- 21 Q. Okay. Now, earlier you said that Colonel Tuttle was in
22 the chain of command.
- 23 A. Yes, he was.
- 24 Q. All right. Did he have authority to issue an order such
25 as that?

JOHN STRAIT

1 A. Absolutely.

2 Q. He did?

3 A. He was a C Team commander, we were all under him. The B
4 teams are under him and the C teams are under the B teams and
5 chain of command up, yes.

6 Q. Okay. And according to the book, how did you respond to
7 that order?

8 A. How did I?

9 Q. How did -- Did you respond to that order, according to the
10 book?

11 A. I never seen it.

12 Q. How about according to the book? Let's go on to the next
13 paragraph, where it says, in other words?

14 A. "'In other words,' I told John Strait and Jim Taylor,
15 'we've been ordered to abandon ship, to desert the Hoa Hoas,
16 to betray our pledge to help them against the communists. I
17 can't do that. They'll have to come and take me -- take me
18 out of here. Do you guys stand?'"

19 Q. "How do you guys --"

20 A. Want more?

21 Q. Let's go on to the next one, because it has your name.

22 A. "Lieutenant Strait, sitting across from me, spoke, 'I
23 can't quit these good people, Dangerous, I'm staying with
24 you.'

25 "I shook his outstretched hand. 'Thanks, John, I

JOHN STRAIT

1 appreciate it. But, look, you men know what the message
2 says.'"

3 Want more?

4 Q. All right. Is that the portion in the book that you were
5 saying -- says that you committed mutiny?

6 A. That's what it says we did, but it was an absolute damn
7 lie.

8 Q. That never happened?

9 A. It is. Never happened.

10 Q. Never did. But it says right there, you committed mutiny,
11 didn't it?

12 A. Yes, it did.

13 Q. Now, are you a member of the Special Forces Association?

14 A. Yes, I am.

15 Q. Are you a member of any other veteran organizations?

16 A. The VFW, American Legion, retired military organization
17 from Fayetteville.

18 Q. Why are you a member of those organizations?

19 A. Because I feel obligated, or feel comradeship of the
20 veterans there.

21 Q. You like to be around other veterans?

22 A. Yes, I do.

23 Q. And what do y'all do?

24 A. Well, do a lot of talking, drinking, BS-ing, and I mean,
25 that's what -- but they are charitable organizations,

JOHN STRAIT

1 basically.

2 Q. Y'all kind of support one another?

3 A. Support one another, yes. And they, like the American
4 Legion and VFW, they have service officers, if you need like
5 VA aid or stuff like that, they'll make arrangements and what
6 have you.

7 Q. Now, do y'all ever, when a soldier might come in, a member
8 of your organization, and maybe he doesn't have a very good
9 reputation as being a soldier when he served, is there any
10 talk about him, you know what, here comes John again, he's not
11 a good soldier, never was. When you're at your meetings.

12 A. Pardon?

13 Q. When you're at your meetings and -- of the organizations
14 that you're members of, if -- scratch that.

15 If you're at one of your meetings and there was a guy that
16 walked in, and during his service he was a great soldier.

17 A. Yes.

18 Q. And at the meetings, would y'all talk about him as being a
19 great soldier?

20 A. Not unless we liked him.

21 Q. So if you liked him, you'd say he was a great soldier?

22 A. Probably, yes.

23 Q. What would get you to like him?

24 A. Pardon?

25 Q. What would get you to like him? What would get you to

JOHN STRAIT

1 like that guy?

2 A. I can't --

3 Q. I understand your ears. What would it take to get you to
4 like that guy?

5 A. Just being a nice guy or honest person.

6 Q. Someone who's honest?

7 A. Yes, um-hum.

8 Q. Would you look onto his military record? If he had a
9 great military record, would that give you some respect for
10 him?

11 A. I would have respect there, but I'd have just as much
12 respect if he was a grunt, so --

13 Q. If he was a what?

14 A. A grunt. Rifleman. Low rifleman.

15 Q. But what if he was somebody that committed mutiny?

16 A. I would have absolutely no respect for him there.

17 Q. So when you walk in, before this book was published,
18 people probably had the same respect.

19 A. I'd say so, yes.

20 Q. But now they think you're a mutineer?

21 A. I get a lot of hassle from them here and stuff, yes.

22 Q. So you probably lost some of the respect of the
23 organizations that you're a member of, didn't you?

24 A. All the ones that --

25 MR. BACHRACH: Objection.

JOHN STRAIT

1 A. The ones that think it is the truth, I would say I've lost
2 respect with them.

3 Q. Okay.

4 THE COURT: Let's watch your leading questions.

5 MR. BEN DEEVER: Yes, sir, Your Honor.

6 THE COURT: I think that was the objection.

7 MR. BACHRACH: Yes, it was, Your Honor.

8 THE COURT: All right.

9 BY MR. BEN DEEVER:

10 Q. Are there any other mentions of you in this book?

11 A. In --

12 Q. Are there any other mentions of you in this book?

13 A. There's several mentions in there, yes.

14 Q. While you were stationed at A-424, did you ever have any
15 knowledge of any secret independent covert operations?

16 A. Absolutely none.

17 Q. Now, is being -- you were second in command at the camp,
18 weren't you?

19 A. Yes, I was.

20 Q. Would you be privy to that information?

21 A. I would assume I would be.

22 Q. All right. Let's go, if you would, please, to the next
23 page, page 282 in your book, please. Now, there's another
24 section in there that's in bold. Do you see that section,
25 sir?

JOHN STRAIT

- 1 A. About the message?
- 2 Q. There's a section that's bold in there; is that a message?
- 3 A. About the message? Yeah.
- 4 Q. Yes, sir. Can you tell me what that message says?
- 5 A. Do you want me to read it?
- 6 Q. If you would, please, sir.
- 7 A. Okay. "Secret. To Tuttle. Amnesty must be granted
8 Strikers of An Phu. Will advise later today if I will send
9 team members to B-42. I am staying. Signed Marvin."
- 10 Q. And at that point, what's going on there?
- 11 A. It looks like he's committing mutiny.
- 12 Q. As a lieutenant in a Special Forces A Camp, are you able
13 to accept orders, and some orders, and some orders you say,
14 you know what, I'm just not going to take that order?
- 15 A. Not if they're lawful orders, no.
- 16 Q. And back on page 281, where you just read, secret to
17 Marvin, urgent, repeat, then it goes on, and you're being told
18 to leave Camp A-424, from an officer that was in your chain of
19 command, is that an illegal order?
- 20 A. Is that a legal order?
- 21 Q. Is it legal or illegal?
- 22 A. No.
- 23 Q. No what? No, it's not legal or no it's not illegal?
- 24 A. It's not legal.
- 25 Q. That's not a legal order?

JOHN STRAIT

- 1 A. Not a legal order, no.
- 2 Q. How is that not a legal order?
- 3 A. Because it violates the UCMJ, mutiny is.
- 4 Q. No, no, no.
- 5 A. Maybe I'm not understanding you.
- 6 Q. Okay. That order was given by Colonel Tuttle to Captain
7 Marvin, correct?
- 8 A. Yes, um-hum.
- 9 Q. All right. Was it okay, was it legal for Colonel Tuttle
10 to tell Captain Marvin to leave the camp?
- 11 A. Oh, definitely, because he was the C Team commander.
- 12 Q. So the order, is it a legal order?
- 13 A. It is a legal order, Colonel Tuttle's is, yes.
- 14 Q. But according to the book, you decided, you know what,
15 let's don't obey it.
- 16 A. No.
- 17 Q. That's what the book says, right?
- 18 A. Yes, it does.
- 19 Q. So as a lieutenant in a Special Forces A Camp, you can do
20 that; just say I'm going to take this order or I'm not going
21 to take this order?
- 22 A. Not in my Army, you couldn't.
- 23 Q. So you would have taken that order, if it came down?
- 24 A. I wouldn't have taken -- I would take Colonel Tuttle's
25 order. I'd have obeyed that one.

JOHN STRAIT

1 Q. Okay. What would happen if you disobeyed that order?

2 Would that be a crime?

3 A. If you disobey a direct order like that in combat, it's a
4 capital crime.

5 Q. So it's a crime to disobey an order?

6 A. Yes, it is.

7 Q. And that's what that says you did, doesn't it?

8 A. Yes, it is.

9 Q. Did you disobey an order?

10 A. No, I did not.

11 Q. All right, sir, if you would, please, turn to page 287 in
12 the book. Have you read that -- these pages of the book, sir?

13 A. The whole page?

14 Q. Have you read it before?

15 A. Yes.

16 Q. Are you quoted anywhere on these pages?

17 A. 287?

18 Q. Yes, sir, 287.

19 A. I don't know what you're referring to there now.

20 Q. Is your name anywhere on page 287?

21 A. Pardon?

22 Q. Is your name mentioned anywhere on page 287, maybe down
23 near the bottom?

24 A. Yes, it has, "My rest was short, as I was awakened by
25 Lieutenant Strait shaking my shoulders.

JOHN STRAIT

1 "'What's up, John?' I asked."

2 Q. Keep going.

3 A. "I hate to bother you, Dai-uy, but Major Le just brought a
4 report from the ambush site."

5 Q. Let's stop right there. Do you know what ambush site
6 they're referring to?

7 A. No, I do not.

8 Q. Do you remember this event happening?

9 A. No, I don't. I have no idea what he's talking about here.

10 Q. Okay. Because earlier you stated that there was only one
11 ambush that you were aware of, up in Khanh-Binh?

12 A. Yes, um-hum.

13 Q. So if there's any other ambush, you don't have any
14 knowledge of that?

15 A. Actually no knowledge of that.

16 Q. Because there was only one?

17 A. Except the one.

18 Q. All right. Let's go on and read a little bit further on
19 that, the remainder of that page.

20 A. "'What's up, John,' I asked, half asleep. 'I hate to
21 bother you, Dai-uy, but Major Le just brought in a report from
22 the ambush site.'

23 "That woke me with a start. 'What happened, John? Any
24 casualties?'

25 "'None, Dai-uy. Lieutenant Luon Le's spotters sighted

JOHN STRAIT

1 three assault boats coming up the river with two Americans and
2 about 15 RF soldiers. They ignored the loud speaker warning
3 to return back broadcast by Minh's man on the Lambretta.
4 Luong then ordered his men to fire warning shots with two
5 light machine guns and then threw two rounds of 60 millimeter
6 mortar HE in the path of the boats but far enough to their
7 front to be a warning only.'

8 " 'Did they turn back,' I asked? Big John laughed. 'The
9 way Major Le tells it, they almost lost control of the lead
10 boat, trying to turn back too fast. The last our Strikers saw
11 of them, they were roaring at full throttle straight down the
12 river toward Chau Duc.' "

13 Q. All right, that's good right there. Now, where it
14 mentions Big John --

15 A. Pardon?

16 Q. Where it mentioned Big John in there, who's Big John?

17 A. Apparently that was me. He never called me that, but --

18 Q. But he's referring to you in this book?

19 A. He was referring to me, yes.

20 Q. Okay. Can you tell us about when that happened? Not in
21 the book, but while you were over at A-424, tell us about that
22 incident when it happened.

23 A. It never happened.

24 Q. It never happened?

25 A. It never happened.

JOHN STRAIT

1 Q. Okay. So you can't tell us about it?

2 A. Pardon?

3 Q. You can't tell us about it because it didn't happen?

4 A. I can't talk about it because it never happened.

5 Q. Do you remember places in this book that say that y'all
6 wired the camp -- Scratch that.

7 Is there any mention in this book about a regiment coming
8 in to take over Camp A-424?

9 A. Reference in the book?

10 Q. Yes, sir.

11 A. Yes.

12 Q. Can you point to that in the book, where it would be?

13 A. I doubt if I can now. I mean, that's -- I have it marked,
14 but it would take awhile to find it. If you could find it,
15 I'd --

16 Q. Maybe to speed things up a little bit, you were here
17 yesterday when --

18 A. Pardon?

19 Q. You were here yesterday when Mr. Taylor testified,
20 correct?

21 A. Yes.

22 Q. All right. And he read that into the record.

23 A. Yes, um-hum.

24 Q. You heard that?

25 A. Yes.

JOHN STRAIT

1 Q. Okay. And where it said about the regiment coming into
2 Camp A-424, can you tell us about your experiences when you
3 were in A-424, when you heard about this regiment coming in to
4 take over the camp?

5 A. There's no regiment ever come to take over the camp, to my
6 knowledge there. I have absolutely no knowledge of that.

7 Q. So you wouldn't be able to testify about a camp coming
8 down? You wouldn't be able to testify about a regiment coming
9 in to take over Camp A-424?

10 A. Never.

11 Q. Also, you were here yesterday when Mr. Taylor read into
12 the record about going out and setting up a perimeter to keep
13 anybody from coming into Camp A-424. Americans.

14 A. To my knowledge -- I have no knowledge of that at all.

15 Q. Okay.

16 A. I don't think it ever happened. I know it never happened.

17 Q. Doesn't it mention you in the book as doing that?

18 A. I know it mentions it, but it wasn't me that did it.
19 Because it never happened.

20 Q. Okay. Well, if the book says it, what is that accusing
21 you of doing? What's the book accuse you of doing?

22 A. Accused me of committing mutiny.

23 Q. All right. Which is a crime that you stated earlier
24 punishable by death?

25 A. Absolutely.

JOHN STRAIT

- 1 Q. During wartime.
- 2 A. It is.
- 3 Q. Now, Colonel Marvin contacted you, didn't he? Did Colonel
4 Marvin contact you at any time prior to the publication of
5 this book?
- 6 A. You mean in reference to that book, or are you talking
7 back time-wise, back in '88 or --
- 8 Q. Well, in '88, did Mr. Marvin contact you?
- 9 A. Well, in 1988, I think I made contact with him first. His
10 name was in The Drop.
- 11 Q. The Drop being the Special Forces Association magazine?
- 12 A. Special Forces magazine that comes out quarterly, I think
13 it is.
- 14 Q. All right. And did he ever ask you any questions about
15 providing information?
- 16 A. Did he --
- 17 Q. Did he ever ask you for any information?
- 18 A. I can't remember asking -- he give me a bunch of it. He
19 told me a bunch of stuff that --
- 20 Q. Did he ever mail you a questionnaire?
- 21 A. Oh, he -- I'm sorry, yeah, he mailed a questionnaire once,
22 and that's when he asked about where I lived, where I grew up,
23 if I got in any fights, I think was in there, and who was most
24 influential person in my life and stuff like that. Yeah.
- 25 Q. Did you answer those?

JOHN STRAIT

1 A. I answered some of the questions in that.

2 Q. How did you answer those? In what manner? Was it
3 written, taped?

4 A. It was written. Longhand.

5 Q. Did you ever provide any taped answers?

6 A. I gave him -- I think it was three tapes, if I'm not sure.
7 This was probably the same time frame.

8 Q. Back in 1988?

9 A. Oh, 1988, yes.

10 Q. Did he tell you what he wanted those tapes for?

11 A. Well, he was talking about writing a book, a novel, about
12 the Hoa Hoa people and An Phu and the Americans.

13 Q. So he was going to write a novel about the Hoa Hoas?

14 A. About the Hoa Hoa and the Americans, yes.

15 Q. When you say about the Americans, the Americans'
16 involvement with the Hoa Hoas?

17 A. Well, the -- no, the relationship, the way I assumed it
18 was, yeah, with the -- with the Hoa Hoas there.

19 Q. All right.

20 MR. BEN DEEVER: Your Honor, if I may have a second,
21 please.

22 THE COURT: Sure.

23 (Brief interruption in proceedings.)

24 BY MR. BEN DEEVER:

25 Q. All right. You do remember making some tapes?

JOHN STRAIT

1 A. I remember making some tapes, yes.

2 Q. And back in 1988, you made some tapes?

3 A. I think it was around May '88, or somewhere in that
4 neighborhood.

5 Q. Do you remember what you were doing at the time you made
6 these tapes? Where were you?

7 A. I can tell you what I was doing just before I made the
8 tapes.

9 Q. All right, what were you doing just before you made the
10 tapes?

11 A. Just before I made the tapes, I spent -- I think three
12 days to make the tapes there. And I was commander of the
13 American Legion over at Quincy, a small town next to ours.
14 And I'd go over there every night after work from the Post
15 Office, the wife and I did, and we'd spend about three to five
16 hours over there BS-ing with the guys, maybe conducting a
17 meeting, drinking a lot of beer and tequila and stuff. And
18 probably three to five hours worth.

19 And when I came home, I had my camper set up, and I just
20 went out with a little tape recorder, voice activated, and
21 just let it swing. And just whatever come to my mind, I put
22 it down there, you know. So there's no rhyme or reason for
23 what --

24 Q. All right. And so when you made this tape, you just left,
25 what was it, the American Foreign Legion?

JOHN STRAIT

1 A. American Legion.

2 Q. The American Legion. And spent a few hours over there,
3 maybe booze it up a little bit?

4 A. Yes.

5 Q. Okay. And when you're over there, you said you were just
6 BS-ing, telling war stories?

7 A. See who can do one up on somebody else, tell a bigger
8 story than they got, so --

9 Q. Okay. I'm going to play these tapes, if that's okay by
10 you, sir, and if it's okay by the Court.

11 THE COURT: After our morning break.

12 MR. BEN DEAVER: Yes, sir.

13 THE COURT: Ladies and gentlemen of jury, go to the
14 jury room. We'll listen to the tapes in about 15 minutes.

15 (Jury excused.)

16 MR. OGIBA: Your Honor, I mentioned yesterday about
17 mass --

18 THE COURT: I thought it was tomorrow.

19 MR. OGIBA: It will be at noon.

20 THE COURT: Okay. Well, if I don't stop, take on
21 off. Sneak out, then we'll quit soon thereafter. You're not
22 doing the cross-examination?

23 MR. OGIBA: No, Barry's going to do that.

24 THE COURT: Okay.

25 (A recess was held at this time.)

1 (Jury not present.)

2 THE COURT: Like I said, I'm going to bring the jury
3 back in and tell them about Mr. Deaver's health problems, then
4 we'll let them go for today, have them come back at 9:30 in
5 the morning.

6 Y'all have my number, so if, in fact, he's not able to
7 continue because of medical advice, call me so I can call Gail
8 so we can call the jury, and we'll just have to declare a
9 mistrial. Because from what I understand, Mr. Deaver is the
10 head counsel in this case?

11 MR. COLLINS: That's correct, Your Honor.

12 THE COURT: Okay. Even though some of my brethren
13 get a bad rap, I don't think I want to bring somebody back
14 from having heart problems, to try a case.

15 (Jury present.)

16 THE COURT: Hope y'all had a nice lunch.

17 What I'm going to have to do, the elder Mr. Deaver was
18 having chest pains this morning after breakfast, and it's
19 either indigestion, or he may have a heart problem. So he's
20 at Roper Hospital right now. So he's the lead counsel in this
21 case, and so he's at the doctor's, and we don't know what's
22 going on right now. As a matter of fact, the younger
23 Mr. Deaver is going to go check on him right now. He's okay,
24 but if, in fact -- we'll have to see what the medical problem
25 is.

1 So I'm going to excuse you for this afternoon. Okay?
2 We're going to start again at 9:30 tomorrow morning. If, in
3 fact, we have an update as to what his condition is, we have
4 your telephone numbers, we will call you. But if you don't
5 hear from us, we'll see you at 9:30 in the morning. And the
6 case is still going to be over this week, okay?

7 So you're excused. Don't discuss the case among
8 yourselves, don't let anyone discuss it with you. We'll see
9 you at 9:30 tomorrow morning, unless you hear from us in the
10 meantime. Okay? Thank you.

11 (Jury excused.)

12 THE COURT: Okay. Mr. Deaver, you've got my office
13 number. And why don't you get Gail's number, too, and so if
14 you can't get to me, you can get her and she can get me, okay?
15 When she comes back. And so we'll be at ease until 9:30 in
16 the morning. Anything else?

17 (Discussion held off the record.)

18

19 (Court adjourned at 1:24 p.m.)

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