

LIVINGSTON

WITNESS STATEMENT

(AR 19510 TH 1960)

PLACE FOR URGED, TEXAS LAST NAME, FIRST NAME, MIDDLE NAME JAMES M. LIVINGSTON, JR.	DATE 2 Dec 69	TIME 1030 hours	FILE NUMBER
	SOCIAL SECURITY ACCOUNT NO.		GRADE Captain

ORGANIZATION OR ADDRESS
Headquarters Company, 5/6th Infantry, 1st Airborne Division, Fort Hood, Texas

SWORN STATEMENT

I WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH.

(Captain James M. Livingston was sworn as a witness, and testified as follows:)

(Question by the Article 32 Officer)

Q. Would you please state your name, grade, and organization?

A. James M. Livingston, Captain, Headquarters Company, 5/6th Infantry, Fort Hood, Texas, U.S. Army.

Q. Just for the record, how long do you expect to be at this duty station?

A. For at least another eight or nine months.

Q. Do you know the accused?

A. Yes I do.

Q. Would you point to him?

(The witness pointed to the accused)

Q. Captain Livingston I am calling you to get the general background about what occurred on or about 16 March 1968, at a little village called by Ia Drang (h). First of all could you state what unit you were in while in Viet Nam?

A. The 123 Aviation Battalion in a recon unit.

Q. You were a helicopter pilot?

A. Yes, sir.

Q. As a helicopter pilot what were your duties?

A. I flew a gunship.

Q. Have you ever heard of Task Force Barker?

A. Yes I have.

Q. Could you tell us what Task Force Barker is as far as you know?

A. The organization I can't tell you, all I know is that we were assigned recon for a unit that was going on the ground. I knew that it was an 11th Brigade function, but I didn't know the unit.

Q. Have you ever heard of Phuocville?

A. That's a village.

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF 11 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF... TAKEN AT... DATED... CONTINUED." THE NUMBER OF EACH ADDITIONAL PAGE MUST BE IN THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE... OF... PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE FILLED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

DIA FORM 1411-1
1 JAN 68, G-3

STATEMENT OF CAPTAIN ARTHUR W. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER CONTINUED

Q. What's Pinkville?

A. Pinkville is a village that is further out to the east along the coast that is supposedly VC infested.

Q. What do you mean by supposedly?

A. This is what we were told. We received some pretty heavy action from Pinkville.

Q. Have you ever heard of My Lai (4)?

A. Yes I have.

Q. What does My Lai (4) mean to you?

A. My Lai (4) is just a village to me.

Q. Now I would like to talk about on or about 16 March 1968, what was your mission that day?

A. We were assigned OPCON that day to Task Force Barker.

Q. What's OPCON?

A. Operation control. We were to recon for them, and give them any type of support from our gunships and the sharks that were out there.

Q. Would you go over the 16th of March and tell us what exactly you did that day and what you saw on the ground?

A. All day?

Q. From the time you got in your gunship, took off, and landed.

A. I don't know the crews that were flying, but I was in the high gunship which flew at about 200 feet. The low gunship which was a flex system, had M-60's, was a OH23, and the pilot of which was Hugh Buck Thompson.

Q. Which gunship were you in?

A. I was in the high ship.

Q. How high was this?

A. About 200 feet. It could have been between 150 to 200 feet.

Q. You were at approximately this altitude the entire mission?

A. The entire mission. I started flying this position in the morning.

Q. What time?

A. I can't remember the time right now.

STATEMENT OF CHARLES LEEAN H. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 AUGUST 1971

Q. Was it seven o'clock, ten o'clock, or what?

A. It seems to me that it was around nine-thirty.

Q. You were on station around nine or nine-thirty?

A. Right.

Q. When you were on station what did you do?

A. We were just doing recon in the area as they told us to. We were told to screen the area and see if any VC left the area or anyone else left the area. Just people leaving the area.

Q. What did you see?

A. First of all, we saw an artillery preparation going in prior to the helicopter...

Q. Where was the artillery preparation concentrated? Was it on the village?

A. No, it was concentrated on the LZ or the landing zone which is located off to the north. It could be slightly northeast.

Q. And then what did you see?

A. I saw the artillery prep.

Q. Did you see people screaming and running out of the village?

A. I can make a rough sketch of the area, what it looked like to me if you like.

Q. At this time I would like the witness to make a rough sketch of My Lai (4).

(The witness made a rough sketch of My Lai (4), and the Article 32 Officer marked it Exhibit 1.)

A. This is a real rough drawing, so maybe I can explain this thing to you. Off to the east was Pinkville. The river here is the Quang Mi river which runs from the coast. There is a little village right here and I can't recall the name right now. On the southwest side is Quang Mi. My Lai (4) is a little village set off from the side of the road. There was a little hill that sticks in my mind, because there was a VC flag flying right there. We used to always go back and try to take this flag down. My Lai is here, and there is a road that runs all the way up to Pinkville.

Q. How far would you say off this main road is My Lai (4) in meters?

A. It is probably between 800 to 1000 meters.

STATEMENT OF CAPTAIN BRIAN W. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER CONTINUED

Q. Now what did My Lai (b) look like from the air? Was it one central village or were there several huts scattered around?

A. There were huts scattered around. It was a typical Vietnamese village with a bunch of little huts.

Q. What does the (b) indicate after My Lai?

A. I couldn't tell you. It was just a way of identifying the village.

Q. What does a typical Vietnamese village look like?

A. On the missions we flew, a typical village was small with no shops and just the huts, and peasants with black pajamas.

Q. Were there trails or roads running through it?

A. There were trails running through it and I remember rice paddies surrounding this particular village with a trench line also around the village. They may have used the trench for defecation. You could see this from the LZ.

Q. Would you indicate the LZ on the diagram?

(The witness indicated the landing zone on the diagram.)

Q. On your diagram you indicated the LZ to the northeast of the village?

A. That's the way it seemed in my mind. It was off to the northeast.

Q. Now let's get back to the artillery preparation. You saw the artillery prep and what happened after that?

A. About two minutes after the artillery prep, the helicopters came in and let off some of the forces from Task Force Barker.

Q. Where were you in respect to the LZ?

A. We stayed right here. We orbited out here to the west of these little mounds here. We could see what was going in and spot individuals who were leaving by this road and coming down this road here who were trying to take off toward the south.

Q. You have indicated that you were to the south of the village. Was the LZ fairly easy to see from your position?

A. No trouble at all. The trees weren't very high and there were mostly rice paddies.

Q. Were you looking while the troop ships came in or was your concentration on something else? I'm just wondering how much of the lift you saw and how many people you saw coming in.

A. I didn't see them all come in, because I was going back and forth touring. I saw most of them land.

STAFF JNT OR 030001Z DECEMBER 1969. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER 1969

Q. What were you doing when you were flying?

A. We were just orbiting and screening, and making sure the people didn't leave the village, military hardware, or people with weapons. Now the sharks from the 17th were over here and orbiting.

Q. I made a little circle on this diagram indicating that this is approximately where Captain Livingston was flying. Would you indicate where the sharks were flying?

A. The sharks were flying toward the east. They made a preparatory gun run right here, this was SOP for the sharks before the CA came in.

Q. So you think the sharks fired on the LZ?

A. I did not see them fire at that particular time, but they did come over here and were orbiting over here.

Q. Do you have any idea if they fired into the village?

A. No.

Q. Did you at any time fire into the village?

A. Negative. We didn't fire any rounds at all. I don't believe the OH23's did either.

Q. What did you do after the troops got off the ships?

A. The troops rolled out more or less on line toward the village of my Lai. When they got near the village, a group of people, old men, women and children, started leaving the village because the artillery prep scared them. So they started heading down this road out of the village toward Pinkville. We got the word from our lotch and whether he talked to the people on the ground I don't know, because he was on a different fox mike frequency.

Q. Did you have communications with the troops on the ground?

A. I didn't have it. Since we had the OH23, the (0) ship stayed on the ground and kept in communication with the ground troops, and the gunships stayed in contact by com.

Q. So you personally never had any contact with the troops on the ground?

A. I didn't talk to anyone on the ground.

Q. Then what happened?

A. We were told to go down and see if the people were carrying weapons or what the story was. Apparently someone communicated with the sharks, because the sharks started a gun run down the road.

Q. When was down the road?

A. They made the gun run to the west from Finkville. They had mini-guns or flex system on the helicopters, and there were people laying on the road from the left to the right.

Q. Could you see this gunship make this run?

A. That's an affirmative.

Q. Did you see bullets leave the helicopter and strike people on the ground?

A. Definitely.

Q. Do you think that while they were making this gun run that some of the bullets may have struck the village itself?

A. No.

Q. So you saw people getting killed, probably civilians being killed by this shelling.

A. That's affirm.

Q. What did you see and do?

A. Then we were told to go down and take a look and see if we could see any VC. Mr. Thompson the OH23 pilot was told to look for VC weapons and get a body count. He called back and said that he hasn't seen any weapons lately; but like I said we didn't have any communications with the gunships.

Q. Then what happened?

A. Then we started flying around and by this time the troops were in the village, and there were bodies in the trenches that surrounded the village. There were bodies laying in the trenches.

Q. Would you indicate with a blue pen where you saw the bodies?

A. There were a bunch of trees on the outside of this trench line right here.

Q. You indicated the trees to the east of My Lai (4).

A. That's the best I can recall right now. I remembered that we recalled and remarked at that time about the old biblical story of Jesus turning water into wine. The trench had a grey color to it, with the red blood of the individuals laying in it.

Q. You are talking about the ditch around My Lai (4)?

A. Yes, there were bodies laying in it.

STATEMENT OF CAPTAIN MELAN W. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER 1944

Q. When you talk about bodies, how many were there?

A. They were too numerous to count, but I would guess there were between 35 and 80. It's hard to give a count.

Q. How long and deep was the ditch?

A. I would say at least 100 meters long and at least four feet wide at the top. It kind of angled down.

Q. Were the bodies concentrated in any certain position or were they spread out?

A. They were spread out the length of the ditch, and as you can see here, the trench line was almost due east and a little bit to the southeast. This is where the bodies were, the majority of them were.

Q. Could you see individuals or I should say individual bodies close enough to determine the wounds? Could you tell if they were artillery wounds?

A. No I could not.

Q. Could you describe what you did next?

A. We started flying around, and we received a call from the low ship on the ground informing us that he had talked to the leader on the ground.

Q. Are you talking about the OH23?

A. Yes, the OH23 called us back in a very disgruntled attitude.

Q. What do you mean by disgruntled?

A. He was mad.

Q. Did you talk to him directly?

A. That's affirm.

Q. What were his words?

A. The exact words I can't tell you, but he said that he talked to the leader on the ground and had informed them that there was a little child bleeding and crying over by the trench line. By this trench line here.

Q. Are you indicating the trench line to the east?

A. Yes. He had seen a lieutenant come up there and empty his clip into the child. By this I mean that he had fired more than five or six rounds into the child.

Q. He fired a clip of ammunition into a little child?

A. Yes.

Q. They what happened?

A. Then he ran after child.

STATEMENT OF CAPTAIN BRIAN W. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER CONTINUED

Q. Who is he?

A. The OH23 pilot.

DC: I would like to pose an objection to this line of questioning, because I think this is just hearsay as far as admissible evidence. Captain Livingston can only testify to what he saw and not to what he heard.

AO: What I'm doing here is noting the conversation that was carried on between the two pilots. This is just talk. You may continue.

A. He said that there was another little child which he couldn't tell whether it was a boy or girl that was laying next to his parents who were supposedly dead; he saw a negro sergeant also fire a clip from his M-16 into the child.

Q. CW2 Thompson was relaying these messages back to you all the time?

A. That's an affixin. Each time this happened he just got madder and madder telling us what happened down there.

Q. When you were talking to CW2 Thompson where were you flying?

A. We were circling the area in our orbits off to the southeast of the village, off in this area here.

Q. How far was CW2 Thompson off the ground?

A. He was about 25 feet off the ground and just hovering around which means that he is almost stationary or about four knots.

Q. Was ever a gunship or slick under your control called in to land on the ground?

A. No there never was.

Q. What happened then?

A. After this last incident, he was thoroughly bitter. He landed and told his gunners, the door gunner and the crew chief, to watch the GI's and to fire if they moved toward this other kid. He spotted another kid and didn't know whether it was a girl or boy laying next to two bodies. He assumed it was his parents.

Q. Did you see any of this?

A. I saw him land. He landed his aircraft, got out of his aircraft, talked to someone, picked up a body, got in his 23, and took off.

Q. At no time were other helicopters called in to pick up other bodies?

A. No.

STATEMENT OF CHARLEY MITCHELL W. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER 1969

Q. Then what?

A. We picked up this O-23 and departed the area. We took the child which was a boy to Qui Nhon which has a hospital.

Q. Did you follow him back?

A. Yes I did.

Q. Did you return and go back to my Lai?

A. No.

Q. You were only in my Lai for approximately two hours?

A. Yes.

Q. When O-23 then landed, were you able to see the GI's on the ground?

A. No, not that I could discern.

Q. Could you tell a black man from a white man?

A. If I spent time doing it.

Q. But you couldn't in this particular instance?

A. No.

AO: That's all the questions I have about my Lai (4). If it is all right with you, I would like to get into the present. Are you the Headquarters Company Commander?

A. That's correct.

Q. What were your duties before this?

A. Before I got here at Fort Hood?

Q. Just Fort Hood.

A. I was Charley Company Commander.

Q. What Battalion?

A. The 5/5th Infantry.

Q. 1st Armored Division?

A. Yes, sir.

Q. Was Sergeant Mitchell a member of your company?

A. Yes he was.

Q. What kind of a leader was Sergeant Mitchell?

A. He is a tremendous leader. He is a real fine leader. I have known Sergeant Mitchell since the 5th of January 1969. Since we were both in the Armor Division I remember getting into some conversations with him. He is a tremendous leader.

STATEMENT OF CAPTAIN BRIAN W. LIVINGSTON TAKEN AT FORT HOOD, TEXAS DATED
2 DECEMBER 1970

Q. What is your opinion of Sergeant Mitchell as a person?
A. In what way?

Q. Do you feel in your own opinion that Sergeant Mitchell is capable of killing a large number of civilians?
A. No.

Q. You don't feel this?

A. I don't feel that Sergeant Mitchell is the type of person that would kill civilians.

Q. Do you know Sergeant Mitchell's family?

A. Sergeant Mitchell is married and I know that she is expecting. At least she was three weeks ago. Did she have it?

Accused: No.

Q. You don't feel that Sergeant Mitchell is capable of killing a large number of civilians?

A. No.

AO: I have no further questions.

(Questions by the defense counsel)

Q. You flew over the village of My Lai (4).
A. Yes.

Q. What type of vegetation was in the village?
A. What type of vegetation are you talking about?

Q. Was it a flat terrain?

A. It was a flat terrain. It was a flat, rich, farming area.

Q. Were there a lot of trees around the village?

A. There were quite a few trees but not enough that your vision of the area would be blurred.

Q. At the time you witnessed this gunship run by the helicopter that was shooting civilians on the road, how far was this from My Lai (4)?
A. It was off to the southwest.

Q. How far is that?

A. The length of the road is about a thousand meters or two thousand meters away.

Q. You said that you saw trenches about four feet wide on the top. Isn't that kind of narrow?

A. They weren't very wide. A man could jump over it if he wanted to.

Q. At the time you saw Thompson land his helicopter by the ditch and pick up a child, were there bodies in the ditch?

A. Yes there were.

Q. Did you notice if there was a body of a man with a white garment on in the ditch?

A. No.

Q. You just didn't notice?

A. I didn't notice.

Q. At any time on the ground, did you see Sergeant Mitchell?

A. No. You don't know who people are on the ground unless you know prior who they are. You don't pick a person out from 200 feet in the air.

Q. Is that about the height you were hovering?

A. No we weren't hovering we were orbiting. Mr. Thompson was hovering about 25 feet off the ground.

Q. What are Sergeant Mitchell's duties here at Fort Hood?

A. Sergeant Mitchell is a platoon sergeant in the 3rd platoon.

Q. In what respect is Sergeant Mitchell a good leader?

A. His leadership is constantly the best. His actions while in the field are good. His vehicles in the motor pool are outstanding. His people have respect for Sergeant Mitchell which is the most important thing. They all think he is a good leader.

Q. In your pre-trial recommendations, did you recommend Sergeant Mitchell's retention in the service?

A. Yes I did.

DC: I have no further questions.

OA: I have no further questions. Captain Livingston you are excused. You should not discuss your testimony with anyone except counsel or the accused. You will not allow any witnesses to discuss his testimony that he has given or intends to give to anyone other than counsel or the accused. If anyone attempts to discuss the testimony you have given in this case, you should make the circumstances known to myself and Captain Bowdish. You are excused.

Ephesus 1

