

WITNESS STATEMENT (AR 195-10 - TB PMG 3)

PLACE Homestead AFB, Florida	DATE 3 Feb 70	TIME 10:00 AM	FILE NUMBER 100-100000
LAST NAME, FIRST NAME, MIDDLE NAME LEPORE, MICHAEL WILLIAM	SOCIAL SECURITY ACCOUNT NO.		GRADE 1LT
ORGANIZATION OR ADDRESS Battery A, 2d Battalion (HERC), 52d Artillery, Everglades Natl Park, FL 33030			

SWORN STATEMENT

I, Michael William Lepore, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

The following is the substance of my participation at an Article 32 Investigation conducted on the above date at Homestead Air Force Base Florida.

I was called and sworn by the Investigating Officer. I was identified as being the commander of A battery, 2d Battalion, 52d Artillery during the time frame of the events in question. I acknowledged acquaintance of the two defendants, Private Smith and Specialist Eason, and identified them as being present in the room.

The following question were directed to me by the Investigation Officer:

Q. In late November or early December did Specialist Fineran come to you about Smith and/or Eason

A: I can't remember the date. It was early in the morning, he was getting off duty. He came in and wanted to talk to me personally. He brought in a stub of a cigarette and said that he had received it from up in the squad bay. He said that it was represented to him as being marijuana. He said that he got it from Smith and that Smith had a lot of this stuff. I took it and told him to go about his normal routine. I put it in an envelope and secured it and talked to the colonel that day. I didn't take it in to the colonel that day because something else came up. I mentioned to Colonel King what had happened and told him there may be other people involved. We wanted to work out an undercover man. I went to Fineran's home and brought him back with me that afternoon. LTC King was there, along with Mr. Siquefield. Mr. Siquefield desired that we should use Fineran as an undercover man. From this time on I was not directly involved with Fineran's activities, and only heard of them as I inquired informally from him. Early in January Mr. Siquefield finally called asking that Smith and Eason both be on duty that day, and if they were off, that I arrange for them to be there. They were both working that day. Mr. Siquefield had Smith and Eason brought to him and arrested them. He then gave them into my custody. I recommended that they be confined and LTC King arranged for the confinement.

Q: How did you keep this cigarette until you turned it over to LTC King?

A. I have an Army field safe in my office where valuables are kept. I put it in there.

Q. Prior to Fineran's bringing this cigarette in to you, had you had any social or off-duty contact together?

A. Occasionally. His wife and my wife were good friends and we had gone out together a couple of times.

Q. Did you and he discuss drug problems on these social occasions?

A. I can't remember, I don't think so. I don't like to talk about the Army in cases like this.

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT <i>ML</i>	PAGE 1 OF 5 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF [NAME] TAKEN AT [DATE] CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR 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 LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

DA FORM 2823 JAN 66 Exhibit 9

STATEMENT (Continued)

Q. Following your discussion with LTC King and Mr. Sinuefield until the time that Mr. Sinuefield called out to the battery, had you any direct contact with the undercover activities?

A. No.

CPT Pipes, counselor for Private Smith then questioned me as follows:

Q. Can you describe to me the tenor of the conversation when Fineran came into your office that morning?

A. He came in and I didn't know what he wanted. He put it on the table and said that it was given to him. It was a surprise to me because I didn't think we had a drug problem at the battery. I had recently conducted several shakedown inspections and had found nothing. He said that Smith had given it to him, and that he had more.

Q. What did you say to him?

A. I asked him what he did that for? He said that Smith just gave it to him and here it was.

Q. Did he say whether or not he had asked Smith to give it to him?

A. No. I told him that I thought nobody was smoking the stuff. I told him I would keep it and show it to the colonel later.

Q. Did he indicate whether he suspected Smith of selling it?

A. No, I don't believe he did.

Q. Describe to me, as best you can remember it, the conversation that took place with LTC King and Mr. Sinuefield.

A. I showed LTC King what I had found and told him what had gone on without mentioning Fineran. LTC King said that he would probably have to be used for an undercover man. Later on, myself, LTC King, Mr. Sinuefield, and Specialist Fineran were all present. Fineran related the interview between him and me. Sinuefield asked about his background and asked him if he would be an undercover man. I believe he did this because of the fact that he had knowledge and training and a reputable character.

Q. What was Fineran's response?

A. He agreed to go along.

AFFIDAVIT

I, MICHAEL W. LEPORE

HAVE READ OR HAVE HAD READ TO ME THIS STATE-

MENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 5. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Michael W. Lepore
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 5th day of February, 1970 at Homestead Air Force Base, Florida

ORGANIZATION OR ADDRESS

Clifford S. Athey
(Signature of Person Administering Oath)

CLIFFORD S. ATHEY

LO1-8,1-9,Hq 47th Arty Bde (AD), 9Jan70

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

CLIFFORD S. ATHEY
ADMINISTRATOR

PAGE 2 OF 5 PAGES

STATEMENT OF 1LT MICHAEL W. LEPORE TAKEN AT HOMESTEAD AFB, FLORIDA
DATED 3 FEBRUARY 1970 Continued

Q. Did Mr. Sinuefield give him instructions?

A. He said to go along like normal. He gave Fineran his duty and home phone numbers in case anything came up, and said that I was to be a contact. I never did have to act as a contact between them, and learned informally that they met several times.

Q. Did Mr. Sinuefield tell Fineran how to act?

A. I really don't remember.

Q. Did he indicate that he was to try to contact Smith?

A. I don't think so. He was just told to act normal and that Mr. Sinuefield would contact him later.

Q. You say that you put the alleged cigarette butt in your safe. Would you please describe your safe.

A. It is an Army field safe, very heavy, and further chained to the pipes in my office. It has its own locking device, as well as a combination lock. Myself, the Executive Officer and the first sergeant know the combination.

Q. At the time Mr. Sinuefield contacted you and said that Smith should be on duty, was that in the new year.

A. Yes

Q. Did Mr. Sinuefield say to confine them?

A. No. I was inexperienced in these matters and didn't know what to do. He placed them in my custody and mentioned several possibilities. Confinement was my choice.

Q. Did LTC King suggest confinement to you?

A. No

Q. Did he indicate that he was happy with your decision?

A. No

Q. Why did you rule out transferring them to the base?

A. I don't really know, it just seemed in light of the seriousness of the offense that it was the best thing that could be done. They had no place in the unit and couldn't be useful anywhere else.

Q. Didn't you send another person up to the base on a similar offense?

A. Segalla, yes.

Q. Did anyone ever tell you it was wrong to send Segalla up to the base?

A. No.

Q. Would you be adverse to releasing them?

A. I would be opposed to letting them out of confinement.

Q. Why?

A. Because of the seriousness of their offense. I don't want them to be exposed to the rest of the personnel.

Q. Did you confine them originally to protect the rest of the troops?

A. I suppose that had something to do with it.

Q. Did you have any indication at all that Private Smith was preparing to go AWOL?

A. No, you never do.

Q. Do you know whether Segalla is still here at Homestead

A. No.

Q. I am not familiar with that man's case. Why was he transferred to Homestead.

A. Possession of Marijuana.

Q. Regards to Smith. You are the officer who signed the confinement orders?

A. Yes

Q. Did you also sign any paperwork transferring them from Key West to Homestead?
A. No. I am not involved in that at all.

Captain Pipes indicated that he had no further questions of me at that time.

Captain Suhre, counsel for Specialist Eason then questioned me as follows:

Q. You were a go-between for Fineran and Sinuefield?

A. I believe Mr. Sinuefield had that in mind, but I was never involved in any action.

Q. Did you ever hear from Mr. Sinuefield, Fineran, or anyone else during the investigation, Eason's name mentioned?

A. One time I informally asked Fineran how things were going, and he said he thought Eason might be involved. Later, as I read the statements, I realized that Eason might be involved.

Q. Not before that?

A. No.

Q. When Fineran first brought the marijuana cigarette allegedly obtained to you, you asked him where he got it. What was the tenor of the conversation?

A. We had a few sarcastic comments back and forth. I didn't really think that we had any problem at the battery.

Q. What do you mean by "sarcastic comments"?

A. Some profanity. I said there was none of that crap around and he said he got the crap from one of the guys he knew from down range.

Q. These sarcastic remarks had no ethnic or racial overtones.

A. No sir. No inference of any kind.

Q. As far as Eason is concerned, were you surprised when Mr. Sinuefield said to have Eason there?

A. Not really, since Fineran had mentioned Eason earlier.

Q. You said that you were unexperienced in these matters and did not know what to do and Mr. Sinuefield said the general procedure was to confine these people.

A. He did not tell me to confine them. I said, "What do I do with them?" He said it was my responsibility. I could confine them, transfer them to headquarters, or keep them at the battery.

Q. When was your decision made to confine them?

A. Right away.

Q. You decided to confine them because they might contaminate the troops, and you also said something about a freeze?

A. I thought that if I left them at the battery they would just be in the way. I didn't know what they would do with them at headquarters, so I thought confinement would be best.

Q. I am interested in your legal reasons now rather than your practical ones. Did you consult with anyone about what the UCMJ says about pre-trial confinement?

A. I read the confinement section of the UCMJ and thought that it was warranted by the seriousness of the offense. There was no outside influence in my chain of command that I know of to have them confined. I was not aware that they were brought up here from Key West.

STATEMENT OF 1LT MICHAEL W. LEPORE TAKEN AT HOMESTEAD AFB, FLORIDA
DATED 3 FEBRUARY 1970 Continued

Captain Suhre had no further questions for me.

Captain Pipes asked if I knew my new forwarding address, and I replied that it was not known to me.

He asked me if I had ever made a written statement pertaining to this case. I said that I had, but later found I had been confused and telephonically stated to him that I had not made such a statement.

There being no further questions, I was dismissed by the Investigating Officer.