

1 WHEREUPON,

2 DENNIS WARREN TRAYNOR, III

3 called as a witness on behalf of the defendant,
4 and, having been duly sworn, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DUBUC:

8 Q Good morning, Major.

9 A Good morning.

10 Q Would you state your full name, address, and
11 occupation, please?

12 A Yes.

13 Dennis Warren Traynor, III.

14 [REDACTED]

15 I am currently a pilot with the United States
16 Air Force, stationed at Scott Air Force Base.

17 Q Could you give us a little bit of your military
18 and educational background, please?

19 A Yes.

20 I graduated from the University of Georgia; went
21 into OTS; went into pilot training at Laughlin Air Force
22 Base, Del Rio, Texas; was transferred to Dover Air Force
23 Base; went through 133s, flew C-7s in Vietnam, stationed
24 in Camron Bay; and was transferred to Travis Air Force
25 Base; flew C-5s; then was transferred from there to Scott

1 Air Force Base working at headquarters.

2 Q You mentioned C-5s.

3 That is C-5As, is it not?

4 A That is correct.

5 Q Where did you go through your flight training?

6 A Where?

7 Q Yes.

8 A Laughlin Air Force Base, Del Rio, Texas.

9 Q In connection with your flight training, did
10 that include any training as to the affects of altitude,
11 the pressure chamber, things of that nature?

12 A That is correct.

13 Q Could you describe that for us?

14 A Our initial training was talking about the
15 physiological aspects of altitudes and the resultant affects
16 on people to show that it was not something to be feared,
17 so that you could work within it quite easily.

18 Every three years you have a refresher. You go
19 through the altitude chamber.

20 Q What specifically with respect to altitude and,
21 for example, decompression is taught or given in that
22 particular kind of course?

23 A They generally take you on what they call a ride.
24 They lower the pressure in the chamber. They allow you
25 to take off your mask and go for three or four minutes,

1 five minutes, whatever at a very high altitude to experience
2 your hypoxia symptoms so that you know what they are.

3 Q I mentioned decompression.

4 Is there also a decompression type training?

5 A Yes.

6 After they do that they generally take you to
7 a high altitude again and then they open a door, inter-
8 connecting door, to even a higher altitude, and you get
9 what I guess you would call a classic decompression. You
10 get fogged for a couple of seconds. And you feel a rush
11 of air.

12 You go through your procedures to put on your
13 mask. You are doing it for training.

14 Q Do you recall any of the altitudes at which they
15 do that?

16 A No, I don't.

17 The decompression is above 30,000 feet, I believe.

18 Q In connection with that course is there anything
19 given in connection with what is called "decompression
20 sickness"?

21 MR. LEWIS: Your Honor, counsel is leading.

22 THE COURT: Yes.

23 BY MR. DUBUC:

24 Q Have you ever heard of the term "decompression
25 sickness"?

1 A Only with diving.

2 Q Now, with respect to your Air Force career, you
3 mentioned some prior missions to Vietnam?

4 A Yes.

5 Q And what type aircraft was that?

6 A I have been flying into Vietnam nearly every year
7 since I have been in the Air Force until that time, until
8 April, 1975.

9 Q Until April, 1975?

10 A That was the last time I was there.

11 Q Was that in C-5As?

12 A Yes.

13 Q And do you have any idea how many times you have
14 been in and out of Saigon?

15 A Many, many times. Because I know I was in at
16 least once a month in 133s and, of course, I was stationed
17 there for a year in Vietnam.

18 Q Now, you mentioned April, 1975.

19 Did there come a time in April, 1975, when you
20 were assigned to a mission to Saigon on or about April 4th?

21 A I was assigned to a mission, to a rouinte Pacific
22 trip mission, which at that time I believe was going
23 stop by stop into Clark. C-5s had not gone into Saigon in
24 a while.

25 I was informed in the morning of April 4th that

1 I was going into Saigon.

2 Q And you say you were on a routine mission.

3 What type was that?

4 A Just hauling cargo.

5 Q And when were you first notified about the
6 special mission to Saigon?

7 A After I showed at Base Operations.

8 Q What, if anything, were you told about that?

9 A Well, I wasn't really told a lot. I was just to
10 go in. They said they had a lot of people to take out of
11 Saigon. This was at the time when they were talking about
12 Saigon falling. There had been people, like World Air-
13 ways had been taking people out.

14 They indicated it was to be similar; to take some
15 people out.

16 Q And were you given any briefing as to that par-
17 ticular part of the mission; taking people out?

18 A Well, not a specific briefing as such, no.

19 Q What were you told to do?

20 A Well, they asked me how many people I could take
21 out. We had not previously carried people downstairs,
22 although the aircraft was designed for them. So, we
23 checked to see how many we could take out and it was more
24 than they had for us to take. So, we said we would take
25 how ever many people they brought to the airplane.

1 Q And what was your job or position in connection
2 with that aircraft?

3 A I was the aircraft commander.

4 Q That means you were in charge of --

5 MR. LEWIS: Counsel is testifying.

6 BY MR. DUBUC:

7 Q What does that mean?

8 A It is similar to captain on an airliner.

9 Q And did there come a time when you took off and
10 went to Vietnam on this mission?

11 A I am sorry?

12 Q Did there come a time when after you were told
13 of it, you took off and went to Vietnam on the mission?

14 A Yes. Subsequent to my alert. I was called in
15 the morning. I went in to file a flight plan. They told
16 me it was for Saigon.

17 Q Did you have your regular crew?

18 A Yes.

19 Q Were there any special crew or special personnel
20 assigned to that mission?

21 A We had a flight examiner, load master aboard.
22 But that is not really special crew, that is normal.

23 Q Were there any medical crew?

24 A Yes.

25 Because of the nature of the mission, we took

1 Air-Evac personnel, the people who generally are used to
2 handling extra people on the airplane. We picked them up
3 at Clark from the C-9 Air-Evac Squadron there.

4 Q Can you tell me what kind of people were included
5 in that Air-Evac crew?

6 A Nurses and flight Med Techs.

7 Q Now, can you recall approximately when you
8 arrived in Saigon on April 4, 1975?

9 A In the vicinity of noon.

10 Q And did you still have a cargo load aboard?

11 A No. We took our cargo load in.

12 Q Into where?

13 A Into Saigon. From Clark to Saigon.

14 Q And when you got to Saigon, what was done with
15 the cargo?

16 A It was routinely offloaded.

17 Q Did you have to make any special arrangements
18 with respect to --

19 THE COURT: Objection to the form of the ques-
20 tion.

21 MR. LEWIS: It seems to be a constant matter of
22 him leading.

23 THE COURT: I think he is just going over pre-
24 liminary matters. But there can be an objection as to the
25 form of the question.

1 MR. LEWIS: We heard it before, Your Honor. It
2 doesn't seem to be a contention.

3 MR. DUBUC: It is preliminary, Your Honor. I am
4 just trying to move it along.

5 THE COURT: All right.

6 BY MR. DUBUC:

7 Q So, the cargo was unloaded in Saigon?

8 A That is correct.

9 Q Where were you while the cargo was being unloaded?

10 A I don't recall being in any one particular place.

11 Generally I stayed at the aircraft.

12 Q Did there come a time where passengers were loaded?

13 A Were loaded?

14 Q Yes.

15 A Yes.

16 After the cargo was off --

17 THE COURT: You have answered the question.

18 THE WITNESS: I am sorry.

19 BY MR. DUBUC:

20 Q When was that?

21 When was it that the passengers were loaded?

22 A After the cargo was offloaded.

23 Q Do you recall about how long that took?

24 A To load the passengers?

25 Q Yes.

1 A Half an hour.

2 Q Were you involved in that procedure at all?

3 A Yes.

4 I was supervisor.

5 Q In what way, sir?

6 A Insuring that the aircraft was not approached by
7 anyone other than those authorized from the buses that
8 brought them out to the aircraft.

9 Q And how did you do that?

10 A Just by being physically present.

11 Q Did there come a time when passengers were all
12 loaded on the airplane?

13 A Unloaded?

14 Q Were loaded?

15 A Yes.

16 We put --

17 THE COURT: You answered the question.

18 BY MR. DUBUC:

19 Q Do you recall where and how they were loaded?

20 A Yes.

21 We had an aircraft ramp, ordinary aircraft ramp.
22 I should say airline steps up to the door. They either
23 walked on or were carried on, depending upon the age.

24 Q Now, are there several compartments in the C-5A?

25 A Yes.

1 Q Could you tell us what they are?

2 A You have the cargo compartment down below, the
3 length of the aircraft.

4 Immediately above the cargo compartment is the
5 troop compartment in the rear.

6 You have the flight deck area up forward.

7 Q When you say the "troop compartment", is that
8 below or where is that located with respect to the cargo?

9 A That is above the cargo compartment, behind the
10 wing.

11 Q And the "flight deck", where is that?

12 A Above the cargo compartment, forward of the wing.

13 Q Can you recall with respect to passenger loading
14 where the passengers were with respect to those compart-
15 ments that you just mentioned?

16 A Yes.

17 There were some people in the cargo compartment
18 and some people in the troop compartment.

19 Q And you mentioned you supervised the loading.

20 Did you look at the area where the passengers
21 were loaded?

22 A Yes.

23 Q And what can you tell us about that?

24 A The people upstairs were assigned mostly two
25 people to a seat with a pillow between them and a seatbelt

1 across and were given a bottle of juice. Those were usually
2 very young children. And if they were able to open the
3 seatbelt and go away, then we were putting them downstairs
4 and sitting on blankets or sitting on the side rail.

5 Q Now, with respect to the younger ones, you men-
6 tioned upstairs in the troop compartment, you mentioned the
7 seatbelts.

8 Do you recall anything about how they were seated
9 and how the belts were fastened on them?

10 A Yes.

11 With the two children sitting in a normal air-
12 craft seat, a pillow between them, the seatbelt fastened
13 across them. They were quite content to play with the
14 bottles.

15 Q Can you tell us with respect to those seats in
16 the troop compartment how they were oriented with respect
17 to the airplane?

18 A All seats faced aft.

19 Q Faced what?

20 A Aft. To the rear of the aircraft.

21 Q Now, did there come a time when you left Saigon
22 on April 4th?

23 A Yes.

24 Q Do you recall approximately what time?

25 A About four o'clock in the afternoon.

1 Q Could you tell us, based upon arrival and depart-
2 ure, how long you were on the ground?

3 A I don't recall specifically, but it would be in
4 the neighborhood of four hours.

5 Q And after takeoff can you tell us what, if any-
6 thing, occurred?

7 A After takeoff and normal departure, right turn
8 out of traffic, headed for the coast, climbing out, cross-
9 ing over Phung Chi (sic), I began to accelerate to gain
10 air speed. I accelerated. I was starting to accelerate
11 from 270 knots, going to approximately 23,000 feet. I had
12 a classic rapid decompression.

13 Q You mentioned that before.

14 What do you mean by "classic rapid decompression"?

15 A The fog fills the compartment. There is a rushing
16 of air. The fog clears momentarily. And by procedure you
17 put on your oxygen mask and descend to a lower altitude.
18 The fog clears nearly immediately.

19 Q What with respect to altitude, if anything, did
20 you do after the decompression?

21 A I rolled off on a wing, which takes away some of
22 my lift and lets my nose lower; turned around, headed back
23 the direction that I had come from with a nose low attitude
24 to get down from the altitude that I was. My intention was
25 to go back to Saigon and land. The air speed kept increas-

1 ing. So, I was going down much faster than I wanted to go
2 down. I kept pulling back on the yoke and pulling back.
3 But as it turns out the feel that I have got in my hands
4 is generated by the hydraulic system and the air speed,
5 rather than actually controlling the surface.

6 Q Now, sir, for what reason did you go into a left
7 turn descent?

8 A Left as opposed to right?

9 Q Yes.

10 A That is the smoothest and the easiest way to make
11 a turn.

12 When you roll up on a wing, the wings are still
13 creating lift. And to the people in the airplane, if they
14 are not looking out the window, they can't tell that we
15 are turning.

16 Q What was the reason for the descent?

17 A To make a return to Saigon; to get down from
18 23,000 feet.

19 Q You mentioned the altitude going to 23,000.

20 Do you recall looking at the altimeter or ob-
21 serving this altitude?

22 A I don't know whether I recall lookint at it or
23 whether I just know that from experience.

24 Q Can you give us any description as to the rapidity
25 or speed of that descent?

1 A Well, I started to go down much quicker than I
2 would have had I had full control.

3 So, I was down quite quickly.

4 Q When you say "down quite quickly", down with
5 respect to what are you referring to?

6 A Well, the 23,000 feet is not a very hazardous
7 altitude anyway. But losing, say, five or 10,000 feet from
8 there would be the maximum that I would have to be worrying
9 about anyway.

10 Q Okay.

11 And when you say "worrying about", what are you
12 referring to?

13 A Sustained flight at that altitude.

14 Q And could you describe for the jury what you are
15 talking about; a sustained flight at that altitude?

16 A Certainly.

17 Normal passenger operations can be conducted at
18 14,000 feet, I believe, or higher. I can't remember the
19 rule. It has been a while. But for several hours. And
20 so, as a matter of procedure you generally head for those
21 altitudes so that if for some reason you cannot descend
22 later, you are at least down at that time.

23 Q Now, what, if anything, do you recall as to the
24 temperature in the aircraft following the decompression?

25 A There should be no change except for the initial

1 rush of air. All systems were operating normally. The
2 aircraft continued to heat the aircraft.

3 Q When you refer to "systems", what are you refer-
4 ring to?

5 A Well, the way the aircraft is heated is the jets
6 put out hot air from the compressors, from the turbines
7 themselves, the jet engines, and it is circulated into the
8 aircraft, and according to the temperature inside the air-
9 plane they add cold air to cool it down, to be comfortable.

10 So, if it started to get cold at all in the air-
11 craft, they would just mix in less cold air.

12 So, I am sure there was no temperature change to
13 speak of.

14 Q What with respect to either hypoxia or any other
15 affects of decompression did you personally feel or exper-
16 ience?

17 A None.

18 Q What, if any, reports with respect to hypoxia did
19 you receive, if any?

20 A I asked.

21 None.

22 Q When you say "asked", who did you ask?

23 A My crew members are always on headsets.

24 So, as a procedure after I put on my oxygen mask
25 as a crew member I have the other members check in. And I

1 asked the people. I said, "Are there any problems?"

2 No.

3 Q Where are those crew members that you asked
4 located in the airplane?

5 A The first person to check in was the person, the
6 load master in the troop compartment. Then, the people
7 down in the cargo compartment that I had stationed along
8 the way checked in and said that there were no problems.

9 Q Now, you mentioned a turn and a descent became
10 rapid.

11 What happened then?

12 A Well, even though all indications to me in the
13 cockpit were that I had flight control, and only sub-
14 sequently did I find out I only had right aileron as my
15 only flight control, the aircraft, of course, was very
16 smooth, because without being able to move any controls in
17 the tail my descent was at one "G" the whole time, a very
18 smooth, easy turn.

19 In fact, the people, because they didn't have
20 windows, they were totally unaware of the real severity of
21 the problem. In fact, I was getting reports from my crew
22 members in the cargo compartment that the people were
23 saying: "We are not turning around, are we? Let's go on."
24 They were not concerned at all.

25 Q Now, you mentioned some control problems.

1 What was reported to you as to control problems?

2 A I sent my scanner back, which is a crew member
3 that is specifically assigned to by my eyes, on headset,
4 and he described the control cables as being cut and the
5 hydraulic systems as being damaged in the back of the air-
6 craft.

7 So, from that I determined that I, indeed, had
8 no control over my elevator or my rudder and had no way to
9 control pitch of the aircraft.

10 At this time I was in a very rapid, fast dive,
11 nose low, and I elected at that time to increase my power
12 to maximum in the dive, thereby generating more lift and
13 turning, raising the nose of the aircraft.

14 Q Now, you mentioned you put on an oxygen mask.

15 Do you recall how long you kept it on?

16 A I believe I took it off around 10,000 feet be-
17 cause there was no reason for the encumbrance. I wasn't
18 climbing back up at all.

19 Q Now, during this descent did there come a time
20 when you made different turns, different directions, with
21 the use of the powers that you described?

22 A Turns were not a problem. Except for the fact
23 that I had to hold pressure in one direction, I had control
24 of the aircraft roll moments. The pitch moments, the up
25 and down moments, I was controlling by adding power. If I

1 started to climb, I would take power off. If I started to
2 go down relative to the flight path that I wanted, I would
3 add power.

4 Q Now, you mentioned that with only an aileron, and
5 I think you said a spoiler, you had to make slow turns.

6 I didn't quite understand that.

7 A If I make a steep turn -- I say "steep" by mean-
8 ing anything over two or three degrees of bank -- I would
9 destroy some of my lift relative to the ground and the same
10 thing would happen as when I intentionally did that to
11 begin my descent after the rapid decompression.

12 If I roll on a wing, I lose lift, my nose drops
13 to the horizon, and I start going down. So, I stayed level.

14 Q You stayed level?

15 A I stayed wings pretty level so that I did not
16 radically change my pitch.

17 Q Okay.

18 Now, did there come a time during this descent
19 when a decision was made to make a landing?

20 A I announced my intentions very quickly that I
21 wanted to go back to Saigon and land.

22 I attempted to talk to the people in Saigon on
23 the ground. I never really could get them to understand
24 the severity of my problem. They were asking me to fly
25 headings and maintain altitudes.

1 I had my co-pilot in the jump seat, in the middle
2 seat, talking constantly with the people, trying to get
3 clearance to land in Saigon.

4 Q Who was that, sir?

5 A Keith Malone.

6 Q Who was your first pilot?

7 A That was Til Harp. Captain Til Harp.

8 Q Now, did there come a time when the aircraft did
9 come to the ground?

10 A Yes.

11 Q Could you tell us what you observed, what you
12 did in connection with that?

13 A When I began my slow turn to line up with the
14 runway I was in normal approach attitude and pitch. How-
15 ever, by making that turn I again lost lift and the nose
16 of the aircraft was descending more than would allow me to
17 go around the turn successfully.

18 At this point I am in a landing attitude. I
19 emergency extended the gear, all systems worked correctly.
20 I elected to roll out straight ahead to keep from descend-
21 ing at a speed greater than I wanted to.

22 I continued to go down. I chose a long stretch,
23 like a meadow, of presently uncultivated rice fields, that
24 stretched for quite a long distance. And when I got to
25 about 200 feet I decided, even with my addition of full

1 power, I was not going to be able to keep from touching
2 down. So, I pulled the engines to idle, came in to near
3 the ground. And the cushioning affect of the wings,
4 against the ground made the airplane flare. And I remember
5 looking at the vertical velocity and it was reading about
6 500 feet per minute, which is even less than a normal
7 touchdown.

8 So, I touched down the first time and was quite
9 relieved because of the non-severity of the touchdown,
10 although I had forgotten about the fact that I was going
11 so fast that I still had flying speed.

12 So, I was flying and skimming across the ground
13 at flying speed.

14 Q Now, you mentioned the word "flare".

15 Can you tell us what you were talking about?

16 A When you fly the airplane down a glide path --
17 you have seen the airplanes come in to approach the field.
18 Just before they touch down the airplane is tilted back,
19 flared back, and that makes a nice easy cusion. That is
20 when you touch easily. That is helped by the fact that
21 the compression between the wings and the ground is there.
22 It is very much of a cushioning effect. But you change
23 your attitude because you are near the ground.

24 Q Now, I think you mentioned 500 feet per minute.

25 When did you notice that and how did you do it?

1 A We have a little gauge that we are required to
2 observe during normal landings. So, it is just in my
3 normal cross-check. I was landing and I looked at the
4 vertical velocity.

5 Q Do you recall the air speed?

6 A Once, again, it was around 270 knots, it should
7 have been. By not being able to change anything in the
8 empennage I cannot change my air speed, because to change my
9 air speed I have to be able to change how much pressure
10 is being exerted in the tail to balance the airplane on
11 its wings.

12 Q When you refer to the "empennage", what are you
13 referring to?

14 A The tail.

15 Q The vertical tail?

16 A Right.

17 I had no controls in the tail. So, therefore,
18 I could not change my trimmed air speed. My airplane was
19 flying in stable flight around 270 knots and so I must
20 have touched down at about 270 knots. I don't know whether
21 I just know that or I saw it, looked at it on the indicator.

22 Q What happened after that, after the first touch-
23 down?

24 A I skinned across the ground; became airborne
25 again, and bridged a river tributary; and touched down on

1 the other side of that. This time it shook the airplane
2 just a little bit more. The power went away from all my
3 flight instruments and that sort of thing on the second
4 touchdown.

5 Q You say it shook a little bit more.

6 Can you describe the touchdown as best you can?

7 A Well, it was a vibration like if I had blown a
8 tire or run off a runway.

9 I have never run off a runway, so I don't know
10 if that is an accurate description.

11 But it was not severe.

12 Q You mentioned something about loss of power.

13 What did you mean by that?

14 A Well, all of our instruments up front are
15 powered electrically. So, I lost electrical power ap-
16 parently to the flight deck and when that happened all my
17 instruments went to zero.

18 Q And what can you tell us about what happened
19 then after the touchdown?

20 A Well, after the very brief moment of the second
21 impact I felt like I was floating. I felt there was no
22 strain, no nothing. I could hear myself gliding across
23 the ground, but I couldn't really feel anything.

24 I felt myself turn upside down and I was only
25 aware of the fact that we had stopped -- well, I thought I

1 was going to die right then. That was at the point things
2 were going through my mind, like back in my home town
3 there was a scenic cruiser bus that had gone under a
4 bridge. The scenic cruiser was too big and had chopped it
5 off. I thought perhaps that was going to happen to me now
6 that I felt that I was upside down and hitting one of the
7 rice dikes, which would be about four or five feet tall.

8 Q Can you remember anything with respect to time
9 as between the second touchdown and the time you said you
10 rolled over, came to a stop?

11 A We would be talking about seconds, ten seconds,
12 fifteen seconds.

13 It would be difficult to estimate. But we came
14 to it very easy.

15 Q Now, at the time of your second landing, the final
16 landing, as you described it, could you tell us who of your
17 crew were in the flight deck or troop compartment, that
18 area that is used by the crew?

19 A The flight deck, of course, has the primary
20 crew member positions forward. It has the avionics, all the
21 radio gear behind it, and then right behind that is a table
22 and chair for the relief, what they call a relief crew
23 compartment or just an area behind.

24 All the seats forward, the primary seats --
25 engineer, navigator, pilot, co-pilot, and jump seat -- were

1 filled. And as far as who exactly was in the rear flight
2 deck, I can't tell you.

3 Q Okay.

4 Do you know whether there were some people in
5 the rear flight deck?

6 A Yes. I know of some people that were there.

7 For example, my scanner was there. That is the
8 other engineer.

9 I know that my extra navigator was there.

10 I know one of the load masters was there. In
11 fact, there may have been two load masters back there. I
12 don't remember right at the moment.

13 Q Now, after you rolled over, can you tell us what
14 happened?

15 A Well, I came to a stop and somebody yelled, "Fire".
16 So, I released my lapbelt, opened the sliding window, and
17 stepped out onto the ground. I reached back in and got my
18 hat and put it on. I walked back.

19 By this time I did not realize that the flight
20 deck had also turned from going this way to turning around
21 reverse.

22 So, I looked a good quarter of a mile or better
23 away at where the wings were burning all by themselves and
24 I thought that was the rest of the airplane.

25 So, I thought at that time the people with me

1 were the only survivors.

2 But because of the location of the airplane,
3 being upside down, my window was on the other side from
4 the troop compartment. So, when I walked around to the
5 other side of the flight deck I could see the troop com-
6 partment a couple of hundred yards away. It looked like
7 a little Quonset hut over there.

8 I sent my extra navigator over there, Major
9 Wallace, to check on the status of those people there.

10 Q Now, you mentioned someone said "fire"?

11 A Yes.

12 Q Did you observe or was any fire reported insofar
13 as the cockpit, troop area?

14 A No.

15 What that was was because the airplane apparently
16 was by design, the upper flight deck and the troop com-
17 partment were very strong, and they --

18 MR. LEWIS: Your Honor --

19 THE COURT: That is objectionable.

20 BY MR. DUBUC:

21 Q Just tell us what you observed as to fire.

22 THE COURT: Ladies and gentlemen: I instruct
23 you to disregard the suggestion about the strain or the
24 design of the flight deck and the troop compartment.

25 BY MR. DUBUC:

1 Q The question is: Somebody reported fire. And
2 can you tell us what you observed as to fire, either as
3 to the flight deck and flight area or as to the troop com-
4 partment?

5 A Okay.

6 The flight deck sheered right through the fuse-
7 lage, which left the flight deck intact. And the people
8 who were sitting at the tables in the back had a clear
9 view right down the hall, right down the aisleway, directly
10 at the burning wings, which were a good distance away,
11 fairly far away.

12 But yet that was where they had gotten the word
13 "fire".

14 Q All right.

15 Now, just so the record is clear, because we did
16 have an interruption, was there any fire in the area of
17 the flight deck?

18 A There was no fire around any people.

19 Q Did you observe any fire in the area around the
20 troop compartment?

21 A No.

22 Q Now, after you exited from the airplane, what, if
23 any, fumes, or anything of that kind did you observe?

24 A Well, we had a little bit of hydraulic fluid
25 smell. But I wouldn't say fumes. It was mostly a mud smell

1 Q Was that in the area of the cockpit?

2 A Cockpit, yes.

3 Q And did you have any fumes or any smell of any
4 kerosene?

5 A No.

6 Because of the direction we were going there was
7 a fairly strong wind coming from behind us and it was
8 blowing away anyway. There wouldn't have been anything
9 staying around where we were.

10 Q All right.

11 A There is no fuel or kerosene to be there to smell.

12 Q Could you tell us, based upon your observations
13 of the wing area that was burning and based upon your
14 observations of where the troop compartment was, in which
15 direction was the wind blowing from the troop compartment?

16 A It was blowing across the troop compartment,
17 toward the burning wings, away from the wings.

18 Q You mentioned some distance. I forgot what you
19 said.

20 Was it a quarter of a mile away you said?

21 A That was my guess.

22 Q Would it be approximately that distance from the
23 troop compartment as well?

24 A About that. About that.

25 Q Now, you said you sent a navigator over to the

troop compartment.

A Yes.

Q Did he ever report back to you after going over there?

A Yes, he did.

Q And what, if any, report was given?

MR. LEWIS: Your Honor, I think he would be better hearing from the navigator than the report, which is hearsay here.

THE COURT: It is overruled.

A The navigator reported that the condition of all the people over in the troop compartment was good; that there were no significant problems at all involved with the people over there. They all fared well. He came back with the stories of the crew members there that said that they were totally unaware that we had done anything other than made a landing in Saigon. They were quite surprised.

BY MR. DUBUC:

Q All right.

Now, tell us what you can that you remember as far as the evacuation of people from the area?

A Because we were on the radio coming down, the Air America folks had heard us and they apparently had helicopters mobilized just about the time that we were touching down.

1 So, we had helicopters overhead within five
2 minutes or so. And they had -- the helicopters had the
3 dustoff or the Red Cross type people there evacuating the
4 people almost immediately. And when everything was well
5 in hand by those people, I got on one of the helicopters
6 and went back to the Air America ramp and proceeded to
7 reported the fact that the airplane had crashed.

8 Q All right. .

9 Are the seats in the flight deck forward facing
10 or aft facing?

11 A The pilot, co-pilot and jump seats face forward.
12 The engineer and the navigator seats swivel so that they
13 can turn with their backs to the front of the airplane.

14 The seats back in the other part of the compart-
15 ment mostly face aft, except for the ones at the table,
16 and then there are two seats facing forward there.

17 Q All right.

18 Now, you were seated in one of the forward facing
19 pilot seats?

20 A That is correct.

21 Q What, if any, restraining devices did you have?

22 A We had shoulder harnesses and seatbeltes.

23 Q Are you familiar with the term "Gs"?

24 A Yes.

25 Q What, if anything, can you tell us about any "Gs"

1 experienced by you with the shoulder harness on during the
2 second landing?

3 A The only measurable "Gs" that I would feel quali-
4 fied to tell by touch would be the ones down. As far as
5 forward "Gs", I have no way to gauge that because we do not
6 routinely stop with any such force. But it was not violent.
7 It didn't hurt or I didn't feel thrown forward. It was not
8 significant.

9 Q When you say "thrown forward", would that have
10 any relationship to "Gs"?

11 A Well, gravity of force is what we are all exper-
12 iencing sitting right here. That is one "G" down. A
13 gravity of force in that direction would be if we were slow-
14 ing down at the same rate that we are sitting here. So,
15 a zero "G" would be unaccelerated. Of course, as you go to
16 one "G", that would be more.

17 But I have no way to gauge that. It does not
18 appear to me or I do not recall anything significant in the
19 flight deck.

20 Q Okay.

21 And you stated that after the helicopters arrived
22 and you received these reports, at that point you departed
23 the area?

24 A That is correct.

25 Q Were you injured?

1 A No.

2 Q Do you recall any injuries in the flight deck,
3 the flight crew area?

4 A Yes.

5 The co-pilot injured his legs because of either
6 crawling out or on the rudder pedals. I don't know, but
7 they were minor scrapes.

8 Q Any other injuries reported in the flight deck
9 crew area?

10 A Not to my knowledge.

11 MR. DUBUC: You may examine.

12 CROSS-EXAMINATION

13 BY MR. LEWIS:

14 Q Did I understand you to say that your navigator
15 came back and said that everybody in the troop compartment
16 was in good shape?

17 A No.

18 He said the people --

19 Q The people there were in good shape?

20 A Yes.

21 Q Do you know a Mary T. Klinker?

22 A I know who she is.

23 Q Who is she?

24 A She was a nurse that boarded the aircraft in
25 Saigon.

1 Q She was in the troop compartment; wasn't she?

2 A I don't believe so.

3 Q Do you say she wasn't?

4 A I don't believe so.

5 Q Well, now, you were the captain of the ship; is
6 that right?

7 A That is correct.

8 Q And did you make an inventory at some point which
9 of your passengers and which of your crew lived and which
10 of your passengers, which of your crew died?

11 A I, myself did not.

12 Q Well, did you make any attempt to find that out?

13 A In terms of my interest, yes.

14 Q Now, a nurse died in the troop compartment; didn't
15 she?

16 A Not to my knowledge.

17 Q Two babies --

18 MR. PIPER: To my knowledge is contrary to tes-
19 timony last week. It is misleading.

20 THE COURT: I beg your pardon?

21 MR. PIPER: Your Honor, I would object to this
22 line of questioning in that I think it is totally contrary
23 to testimony last week. I think it is misleading.

24 THE COURT: Overruled.

25 BY MR. LEWIS:

1 Q Did the flight nurse die in the troop compartment,
2 whatever her name might have been?

3 A Not to my knowledge.

4 Q Did babies die in the troop compartment?

5 A I understand that there may have been one. But
6 I don't think it was incident to anything that I can tell
7 you about.

8 Q Just talking about people living or dying.

9 You said the navigator came back and said every-
10 body was okay.

11 You would agree -- and I don't mean at all to
12 be facetious, sir -- that if somebody was severely wounded
13 and ultimately died or died at that time, it would be
14 contrary to what the navigator told you; isn't that right?

15 A I would say that the navigator was trying to
16 impress upon me that there was no need for me to go to
17 the troop compartment.

18 Q So, you never did go to the troop compartment?

19 A That is correct.

20 Q You didn't want to see for yourself?

21 A I have a crew.

22 Q You have a crew?

23 A I have a crew that works for me.

24 Q I understand that.

25 But you were the captain of the ship?

1 A That is correct.

2 Q Did you have time to go to the troop compartment?

3 A Not in the time before I evacuated, no.

4 Q Could you have delayed your evacuation and checked
5 on the condition of your passengers if you had wanted to?

6 A Had I wanted to, yes.

7 Q Now, you are familiar with the fact that there
8 was an official Air Force investigation; is that right?

9 A That is correct.

10 Q You have read the collateral report?

11 A Some years ago, yes. Last year.

12 Q Do you recall what the collateral report said
13 with respect to the number of orphans that died in the
14 troop compartment?

15 A No.

16 Q Could it have been two?

17 A It could be anything. I don't know.

18 Q Well, you have no recollection of that at all?

19 A No.

20 Q Can you tell me if attendants in the troop com-
21 partment died?

22 What did the collateral report say with respect
23 to that, please, sir?

24 A I have made no attempt to remember the collateral
25 report. I know one of my crew members died there.

1 Q And you would include your crew member as an
2 attendant?

3 A I would call him a load master.

4 Q Your load master died in the troop compartment;
5 is that right?

6 A That is correct.

7 Q So, the navigator was wrong there; wasn't he?

8 A No. He didn't die there. He was injured there.
9 I am sorry.

10 Q All right.

11 Your navigator said, I thought you told me, that
12 everybody was okay.

13 Well, the load master wasn't okay; was he?

14 A No.

15 Q He wasn't okay at all; was he?

16 A He was already evacuated perhaps by the time he
17 got there.

18 Q Do you know that, sir?

19 A No, I don't.

20 Q Are you just speculating?

21 A That is speculation.

22 Q Now, a competent officer that went there to find
23 out how the people were in the troop compartment would in-
24 quire whether there were any casualties at all, whether
25 they left or not; wouldn't he? Wouldn't that be his duty?

1 A I did inquire.

2 Q I'm not talking about you. I'm talking about the
3 navigator whose report you told us about.

4 Wasn't he supposed to find out how things were
5 going?

6 A Yes.

7 Q He certainly didn't find the accurate information
8 with respect to the load master, who either was very ill at
9 that point or was dead at that point; isn't that true?

10 A It may have been his oversight. I don't know.
11 I can't judge for him.

12 Q So, at the very least he overlooked a very serious
13 condition with respect to the load master; do you agree?

14 A Or I misrecalled what he was saying.

15 Q But you told us today -- you could be mistaken
16 about his report; is that correct?

17 A Not his intent.

18 Q I am sure that he meant to tell us the truth and
19 I am sure you do, too. I am trying to find out the quality
20 of your memory, sir. That is all.

21 I know it has been a while.

22 But you could be mistaken about what he told you;
23 couldn't you?

24 A That is possible.

25 Q So, you mean the load master --

1 THE COURT: Just a moment.

2 MR. PIPER: Your Honor, I would object to further
3 questioning of Major Traynor on documents that have been
4 marked.

5 THE COURT: Overruled, Mr. Piper.

6 This is cross-examination

7 BY MR. LEWIS:

8 Q Now, sir, what you are telling us is that the
9 load master situation could have been reported to you, is
10 that right, by the navigator?

11 A That is possible.

12 Q And the navigator could also have reported to
13 you that there were dead babies, one or two, in the troop
14 compartment; couldn't he?

15 A That is less likely.

16 Q So, you say he didn't tell you that?

17 A It is about five years. I do not recall.

18 Q Would you have considered broken bones on the
19 part of flight nurses the kind of information that you
20 wanted the navigator to tell you, the injuries?

21 A The injuries that I would be most interested in
22 at that moment, judging by the magnitude of the problem
23 at hand, would have been those critically ill or injured.

24 Q I understand that.

25 I may have misunderstood what you told me. This

1 is the first time I have heard that.

2 I want to try to get it as accurately as we can.

3 You say that you sent the navigator to find out
4 how everybody was in the troop compartment; is that right?

5 A Yes.

6 It didn't go that way. He didn't report to me
7 and I gave him an order. In the ensuing discussion when
8 we got out of the aircraft he went over there with my
9 knowledge to see what the status of the people in the troop
10 compartment was.

11 Q Well, you didn't send him over there; is that
12 correct? He just went over there and you knew he was going
13 or knew that he had gone? Tell us which.

14 A I would say that I knew he was going. He was
15 going to go over there and do that.

16 Whether I told him or he suggested it, I don't
17 know.

18 Q All right.

19 Now, in any event, did you make any inquiry of
20 him when he returned?

21 A Yes. He came back to me.

22 Q Did you ask him, "Is anybody injured?"

23 A No, I did not ask that question.

24 Q Why not?

25 A Because he came back to tell me that the severity

1 of the injuries of the people in the troop compartment was
2 low. He indicated to me that the people there were, like
3 I say, in good shape.

4 Q Did you think that Lt. Aune was in good shape?

5 Did you think her broken bones made her in good
6 shape?

7 A With respect to being alive or dead, yes, I
8 would say that she was in good shape.

9 Q What I'm trying to find out is whether the test
10 was whether they were alive or not and I agree that most
11 of them lived.

12 So, you don't mean, then, by your testimony to
13 suggest that medical examination would not disclose a lot
14 of injuries; is that right? You are not trying to tell
15 us that; are you?

16 A I have no medical authority.

17 Q So, you just mean that compared to the fact that
18 they might have all died from this terrible accident, that
19 we were lucky that a lot of them were alive?

20 Isn't that the gist of what the navigator told
21 you?

22 A He was trying to tell me that they were more
23 than just lucky to be alive; that they were doing quite
24 well, in fact.

25 Q And you would have expected him to give you a

1 casualty report, a dead person report; is that right?

2 A Well, no. I'm not used to that sort of a res-
3 ponse.

4 Q Did you make any inquiry of how many people
5 died?

6 A I don't remember.

7 Q Well, it was a violent accident, wasn't it, sir?

8 A For those who died.

9 From my standpoint it was relatively non-violent.
10 I was not hurt in any way.

11 Q I understand that.

12 But that big airplane broke apart; didn't it?

13 A Yes.

14 Q And you have never been in a landing like that
15 where the airplane broke apart like that; have you?

16 A No.

17 Q And so it wasn't your just common garden variety
18 ordinary hard landing; was it?

19 Is that what you are telling me?

20 A From where I was I couldn't tell that the air-
21 plane broke up.

22 Q I understand that.

23 Is there a possibility, sir, that you might have
24 been stunned?

25 A No.

1 MR. LEWIS: Could I have the exhibits there?

2 With the Court's permission, I want to show the
3 witness this exhibit.

4 BY MR. LEWIS:

5 Q You did participate in the investigation of the
6 accident?

7 A They called me in for my information that I could
8 give to them.

9 Q Then afterwards you read the whole thing; didn't
10 you?

11 A I read my portion, sir.

12 Q But you have already told us you read the part
13 that talked about who lived or died and where they were.

14 A I beg your pardon?

15 Q You already told us that you read the collateral
16 report that talked about who died.

17 A Yes.

18 Q Well, did you, sir, as the captain of the air-
19 craft, at any time try to determine which members of your
20 crew died in that crash?

21 A After we got back to Saigon I gathered my crew
22 members together to reconstruct.

23 Q Okay.

24 Now, how many crew members did you start with?

25 A I don't recall what figuring we went through at

1 that time.

2 Q You don't remember how many crew members you had?

3 A No.

4 Q All right.

5 Can you tell me how many died?

6 A No.

7 Q Can you tell me where they were?

8 You do know that a number died?

9 A Yes.

10 Q Well, you knew one was actually blown out of
11 the aircraft when the explosive decompression occurred;
12 isn't that true?

13 A I can't tell any of those types of things from
14 the flight deck.

15 Q Well, surely somebody called you up and said,
16 we have lost a man overboard?

17 A No.

18 Q Nobody called you up and told you that?

19 A No.

20 Q It was somebody's responsibility to do that;
21 wasn't it?

22 A It might have been that man's.

23 Q Well, if he was gone nobody else would say that
24 he was lost overboard?

25 A If he were the only person there.

1 I don't know. There was no way to know.

2 Q Were you getting regular reports of how things
3 were going on in the cargo compartment?

4 A Yes.

5 We had several people on headsets.

6 Q And it would have been one of those responsible
7 to say that that man had been blown overboard with a rush
8 of air going out of that airplane at the explosive decom-
9 pression, wouldn't it, sir?

10 A If that, in fact, happened. I don't know that
11 anybody would be looking or not.

12 Q Are you disputing that that did happen?

13 A I cannot ascertain for you either way.

14 Q Well, didn't the collateral report say that is
15 what happened?

16 MR. PIPER: Your Honor, objection to the line
17 of questioning. It depends on what happened to people
18 other than the plaintiffs here. I think he has gone pretty
19 far afield, even for cross-examination.

20 THE COURT: That is overruled.

21 You are interviewing the commander of the plane.
22 He has a different perspective.

23 BY MR. LEWIS:

24 Q When you got back to Saigon and you had a meeting
25 of the crew, didn't anybody tell you that your man had been

1 lost overboard at the time of the explosive decompression?

2 A No.

3 Q Did you read the collateral report?

4 A Yes, I have.

5 Q Didn't it say that a man had been lost overboard
6 at the time of the explosive decompression?

7 A I do not know.

8 I only read the collateral report once. It was
9 not something that I wrote. I can't tell you the content.

10 Q Did you read the AIB report?

11 A I don't know what that is.

12 Q You don't know what an AIB report is?

13 A No.

14 What is AIB?

15 MR. DUBUC: I would object, Your Honor.

16 BY MR. LEWIS:

17 Q That is the Accident Investigation Board's
18 report.

19 A I read my testimony.

20 THE COURT: Just a moment.

21 There is some problem about the nomenclature.

22 Why don't you call it by its full name?

23 MR. LEWIS: All right, sir.

24 Let me make sure that I am exactly precise,
25 Your Honor, in that.

1 MR. PIPER: Your Honor, when he said the Accident
2 Investigation Board's report, I believe that is the nomen-
3 clature everybody is using.

4 THE COURT: Thank you, Mr. Piper.

5 BY MR. LEWIS:

6 Q I am not trying to be precise, sir. I just am
7 trying to find the documents that you had available to you.

8 You told us there was an accident investigation.

9 Did you read the various reports that it talked
10 about, what happened to the people on the plane that you
11 were the commander of, including the Accident Investigation
12 Board's report?

13 A I have read portions of it, but I do not think
14 I have sat down -- I know I haven't put it in front of me
15 and read the accident report. No, I have not.

16 Q Well, would you agree that there were 16 flight
17 crew on board and 11 survived and 5 died?

18 A I do not recall the numbers.

19 Q Would you agree that there were 10 medical crew
20 members on board and 7 survived and 3 died?

21 A I do not recall the numbers.

22 Q Do you remember that the report stated that there
23 were two photographers on board and both of them died?

24 A Yes, I do.

25 Q And that there was an MAC observer, one on board

1 and one died?

2 A Yes. I remember that, yes.

3 Q Who was he or she?

4 A That was he. That was a Colonel Willis, I
5 believe.

6 Q Where was Colonel Willis stationed?

7 A He was an observer.

8 Q Where on the airplane?

9 A Any place he chose to be.

10 Q Do you know where he was on the airplane when he
11 died?

12 A I beg your pardon?

13 Q Where was he when he died?

14 A I was told he was downstairs.

15 Q When you say "downstairs" --

16 A In the cargo compartment.

17 Q You mean in the cargo compartment?

18 A Yes.

19 Q Now, how many orphans died in the troop com-
20 partment, sir?

21 A I don't know.

22 Q You have no idea?

23 A No.

24 Q Do you know how many were loaded on the troop
25 compartment?

1 A No. I don't recall.

2 Q Do you know how many orphans died in the cargo
3 compartment?

4 A No, I don't.

5 Q Do you know how many survived?

6 A No.

7 Q Do you know how many people died on the airplane
8 as a whole?

9 A I was told.

10 Q How many?

11 A 154.

12 Q Now, in the totality of the situation, considering
13 your experience as a military pilot and someone with a gen-
14 eral knowledge of airplanes, this was a terribly violent
15 crash; wasn't it?

16 A No.

17 In fact, I was very relieved that it was not as
18 violent as it could have been.

19 Q I agree that everybody didn't die. But what,
20 then, broke the nose off if it wasn't a violent crash?

21 A I don't know.

22 Q Are you saying it was cheap construction as
23 opposed to a lot of force?

24 A No.

25 As a matter of fact, I would say that it was

1 strong construction of the flight deck that allowed it to
2 come away intact.

3 Q All right.

4 MR. LEWIS: May I approach this diagram, Your
5 Honor?

6 THE COURT: Yes.

7 BY MR. LEWIS:

8 Q Can you see this, sir?

9 I want to get it so everybody can see it, so
10 everybody in the jury can see it.

11 THE COURT: You can stand up.

12 BY MR. LEWIS:

13 Q Now, this is the flight deck, is that right,
14 where you were?

15 A That is correct.

16 Q Now, that broke off right here, is that right,
17 or was it further back?

18 A That is correct. It broke off right behind the
19 wing.

20 Q Right here (indicating)?

21 A Right here (indicating).

22 Q It broke off --

23 A Just after the galley.

24 Q And it broke off and just snapped; right?

25 A No.

1 I would say it kind of opened like a can would
2 open. It tore probably.

3 Q And are you saying it doesn't take much force to
4 break the front end of the airplane off of the back end of
5 the airplane, sir?

6 A Not if the bottom has rubbed off.

7 Q Not if the bottom has rubbed off?

8 A Yes.

9 Q Now, are you saying that the bottom just rubbed
10 off the flight deck?

11 A At the speed we were going I would say that it
12 aberrated away. It was very smooth.

13 Q The tail broke off?

14 A I couldn't tell anything from where I was.

15 Q Well, did the tail break off?

16 A That is what I'm told.

17 Q Ordinarily a strong structure?

18 A Yes.

19 Q And the wings broke off; right?

20 A Yes. They broke off.

21 Q Just snapped off?

22 A I would say that if anything snapped off, it
23 would have been the wings, because the wings and the troop
24 compartment stayed intact until the troop compartment
25 nearly came to a rest. And then the wings snapped off and

1 went quite a distance beyond the troop compartment and then
2 burned.

3 Q Now, the troop compartment is this place right
4 here; is that right?

5 A Yes.

6 Q And there was a cargo compartment underneath;
7 right?

8 A At the time the troop compartment came to rest
9 there was no cargo compartment underneath.

10 Q I fully understand that.

11 But it separated and left a hull underneath;
12 didn't it?

13 A I don't understand the question.

14 Q I am saying there was a piece of -- sort of a
15 boat-shaped piece underneath this so-called cargo compart-
16 ment; isn't that right?

17 A A boat-shaped piece?

Q I don't really know how to describe it.

19 MR. LEWIS: I will get it, if it please the
20 Court.

21 THE COURT: Yes.

22 MR. LEWIS: Indulge me just one moment, if it
23 please the Court.

24 Your Honor, this is Exhibit 2-FF.

25 BY MR. LEWIS:

1 Q Now, you see this piece of wreckage here?

2 MR. DUBUC: May I move over here?

3 THE COURT: Certainly, Mr. Dubuc.

4 BY MR. LEWIS:

5 Q Do you see this exhibit here, sir?

6 A Yes.

7 Q Now, what part of the airplane was that?

8 A I can't determine.

9 Q You can't recognize it at all?

10 A I might be able to if I studied it for a minute.

11 Let me see.

12 Q Look at it.

13 A I recognize the roller, a cargo roller by the
14 man's foot.

15 Q It has been identified as a piece of the cargo
16 compartment.

17 A Okay.

18 Q I don't insist that you agree that it is.

19 A I can't tell.

20 Q Does it look to you like a part of the cargo
21 compartment?

22 A My knowledge of the cargo compartment is the
23 flat surface on which you load the cargo, not the structure
24 underneath or any part of it broken up.

25 Q Does that photograph to you suggest a violent

1 accident?

2 A The speed certainly tore the cargo compartment
3 up. The aircraft is not made to be going along the ground
4 at that speed.

5 Q I understand that.

6 But doesn't this photograph suggest that there
7 was tremendous forces that ripped this part off of the
8 rest of the airplane, wherever it went?

9 A The speed that we touched down and the speed that
10 we were going across the ground would certainly have caused
11 the lower part of the aircraft to come apart in that
12 fashion. And what it did after it came apart, as far as
13 subsequently tearing up because of the speed, I couldn't
14 speculate.

15 Q But, in any event, these things here are ribs;
16 aren't they?

17 A That is correct.

18 Q And they are structural members, like the beams
19 in a house, so to speak; isn't that right?

20 A Yes.

21 MR. PIPER: Your Honor, might I interpose an
22 objection here.

23 I realize that Mr. Lewis is cross-examining.
24 However, I think he is getting Major Traynor way outside of
25 the pilot areas. He is talking about engineering, con-

1 struction, beams and girders.

2 THE COURT: Objection is overruled.

3 BY MR. LEWIS:

4 Q But these go all the way around the airplane and
5 are so-called structural members; aren't they?

6 A Yes.

7 Q And they are designed to keep the top and the
8 bottom holding on together; aren't they?

9 A I have no idea.

10 Q You don't know.

11 But asking you again, didn't this rip off from
12 the rest of the airplane?

13 A I can only tell you what it appears to me from
14 sitting up front.

15 From my standpoint it was very smooth. What you
16 describe as "ripping", I cannot tell you one way or the
17 other whether it was.

18 Q Your part may have detached and then the back end
19 might have had a lot rougher trip than the front end; right?

20 A That is possible.

21 Q So, you are not trying to suggest to us, are you,
22 sir, that it was not a violent accident when taken as a
23 whole?

24 MR. DUBUC: Objection, Your Honor.

25 THE COURT: Overruled.

1 A I guess I am worried about the word "violent" as
2 stressing it as something than it really was.

3 It was certainly serious.

4 Q It was awful; wasn't it?

5 When you say "worse", it was just terrible?

6 A I wouldn't use that emotion, no.

7 It was certainly devastating to the lower part
8 of the aircraft. Yes, you are correct. But as far as
9 being violent, I wouldn't really call it violent from my
10 standpoint.

11 Q Okay.

12 I'm not just asking you from the ride that you
13 got when the front end detached and went through the air.
14 I am talking about from the airplane as a whole.

15 A That I can't judge if you are restricting it
16 beyond me.

17 Q Well, the wings broke off when the airplane
18 struck the ground the second time; didn't they?

19 A I don't believe so.

20 Q When did they break off?

21 A I was told they remained on. They were the last
22 thing to leave the aircraft.

23 Q You don't have any personal knowledge one way or
24 the other? Is that your testimony?

25 A Of what?

1 Q Do you know when the wings broke off?

2 A Only what I am told.

3 Q From your observation.

4 A From my standpoing, at the time, no, I could not
5 tell anything except where I ended up.

6 Q Now, you know Captain Harp?

7 A Yes.

8 Q Your co-pilot?

9 A Yes.

10 Q He said, at least I thought he said, that the
11 impact was a violent one.

12 You would disagree with that?

13 MR. DUBUC: Objection, Your Honor.

14 I believe that mischaracterized the testimony.

15 THE COURT: Double check your premise, Mr. Lewis.

16 MR. LEWIS: I will, Your Honor.

17 Well, I want to be precise, Your Honor. I
18 don't have the testimony here. I have the deposition and
19 I believe it was consistent with the deposition.

20 THE COURT: Why don't you take a moment and
21 exhibit it to Mr. Dubuc. He probably doesn't have the
22 deposition.

23 MR. LEWIS: Surely.

24 In fact, it was read to the witness.

25 THE COURT: Even so, let him look at it before

1 you inquire.

2 [Whereupon, the deposition was handed to

3 Mr. Dubuc.]

4 MR. LEWIS: Indulge me just one moment, Your
5 Honor.

6 THE COURT: Why don't we take our morning recess
7 now.

8 Ladies and gentlemen, we will reconvene at
9 ten after eleven.

10 You may be excused.

11 Why don't you stay there, Major, until they have
12 left.

13 [Jury leaves.]

14 [Recess.]

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THE COURT: At the recess, the Marshal brought me a message from Alternate No. 2, saying again that has to leave at 5:00 o'clock, and I am proposing that we excuse him.

Bring in the jury.

(The jury enters the courtroom.)

Whereupon,

CAPT. DENNIS WARREN TRAYNOR--res.

resumed the stand and, having been previously duly sworn,
was examined and testified further as follows:

CROSS-EXAMINATION--res.

THE COURT: Mr. Lewis.

MR. LEWIS: Thank you, Your Honor.

BY MR. LEWIS:

14 Q Sir, I was asking you about Captain Harp. And
15 this part of his testimony was read to him; and I want to
16 know if Captain Harp shared that view with you at anytime?

17 "Question: " -- this is on page 54, sir, and I
18 have shared it with counsel.

21 "Answer: Certainly, no doubt that was an impact.
22 It was extremely rough. Everything went blank inside. We
23 lost all power. Mud was flying up on the windshield. There
24 was no doubt that was an impact."

Now, do you agree with that?

1 A I don't dispute the way he placed it.

2 Q All right. Now, there was a conversation in the
3 cockpit of the airplane prior to its leaving, that if there
4 was an explosive decompression that it might kill some
5 people. Isn't that true?

6 A No.

7 THE COURT: Just a moment.

8 MR. DUBUC: Objection. He has mischaracterized
9 the witness' testimony.

10 MR. LEWIS: I shared this with counsel before.

11 THE COURT: Are you comfortable with your premise,
12 or do you want to check it?

13 BY MR. LEWIS:

14 Q You are familiar with the fact there is an audio
15 transcript as to what happens in the cockpit of an airplane?

16 A Correct.

17 Q And you have gone over this transcript at some
18 past time; have you not?

19 A Prior to my deposition last year.

20 MR. LEWIS: All right. May I show it to the
21 witness?

22 THE COURT: Yes.

23 (Counsel handing document to the witness.)

24 BY MR. LEWIS:

25 Q Let me call your attention to page 2. Do you see

1 the part I have marked in red?

2 A Yes, I see it.

3 Q Now, that transcript would indicate that that
4 conversation took place in the cockpit of the aircraft; is
5 that correct, sir?

6 A Not necessarily.

7 Q Where would it take place?

8 A The recording can take place from anybody who is
9 on headset throughout the aircraft, whether they are
10 qualified to discuss the subject or not.

11 Q Can you tell me whether there was a conversation
12 among the crew of the aircraft that suggested that if there
13 was a decompression, that some people were going to die?

14 MR. DUBUC: Objection.

15 THE WITNESS: I would say no.

16 BY MR. LEWIS:

17 Q Would you read those two paragraphs that I have
18 marked in red?

19 A Do you mind if I read it?

20 THE COURT: Just a moment, sir. He doesn't seem
21 to know anything about it.

22 MR. LEWIS: He disagrees that it says what I--

23 THE COURT: I don't think he said that. He said
24 he didn't know anything about it. That is what I understood
25 him to say. He doesn't remember that; he doesn't know about
it. It might have been a conversation between two other

1 people besides himself.

2 MR. LEWIS: I'm not suggesting that it was his
3 conversation. Let me ask again.

4 BY MR. LEWIS:

5 Q This is the standard device that is used to
6 monitor crew conversations during an operational period on an
7 aircraft; isn't that true?

8 A That is correct; 30 minutes.

9 Q And when you turned the aircraft on, this machine
10 ordinarily starts; isn't that what happened in this
11 instance?

12 A It continues to tape whether there is anybody on
13 headset or not.

14 Q And it is a standard procedure in military air-
15 craft, including yours, that that operated and recorded
16 everything that was said over the sound system or in the
17 cockpit; is that correct?

18 A That is correct for the past 30 minutes of
19 operation.

20 Q This was part of the Air Force's official
21 investigation; wasn't it, this particular tape? Look in the
22 front.

23 A Yes.

24 Q All right. And that is the transcript of the
25 recording of what was said by the military crew on that

1 aircraft; is that not correct?

2 A Yes, anyone who was on headset could speak into
3 this recording.

4 MR. LEWIS: If it please the Court, I would
5 move admission of this document.

6 THE COURT: Is there objection, sir?

7 MR. DUBUC: Objection.

8 THE COURT: Overruled. Admitted as an official
9 document which was offered by the fellow in charge of the
10 plane.

11 THE DEPUTY CLERK: What is the exhibit number?

12 MR. LEWIS: It is Tab 82 of the Accident
13 Investigation Report.

14 THE COURT: That's an exhibit?

15 MR. LEWIS: It is an exhibit. It does not have
16 any exhibit number.

17 THE COURT: Let's give it one.

18 THE DEPUTY CLERK: What is your next number?

19 MR. LEWIS: Indulge me one moment, sir. We will
20 have a number in just a minute, Your Honor.

21 (Short pause in proceedings.)

22 MR. LEWIS: Plaintiff's Exhibit No. 128.

23 THE DEPUTY CLERK: Plaintiff's 128 marked and
24 received.

(The document referred to was marked Plaintiff's Exhibit No. 128 for identification and received in evidence.)

MR. LEWIS: Thank you, Your Honor.

I have no more questions.

THE COURT: Do you care to redirect?

MR. PIPER: Yes, Your Honor. I have several questions.

REDIRECT EXAMINATION

BY MR. PIPER:

Q Maj. Traynor, you have testified in response to questions by Mr. Lewis. And you did, at least to some extent, participate in an accident investigation or board or inquiry; is that correct, sir?

A That is correct.

Q As a result of that accident investigation board's reports, or as a result of any other reports, were any adverse disciplinary action taken against you and--

MR. LEWIS: Your Honor--

THE COURT: Sustained.

MR. PIPER: Your Honor, might I?

THE COURT: Yes.

MR. PIPER: In cross-examination, Mr. Lewis has implied certain conduct on the part of Maj. Traynor, which would be less than appropriate. I think we are

1 entitled to inquire into what, if any, actions were taken
2 with respect to Maj. Traynor as a result of--

3 THE COURT: The objection is sustained. Do you
4 have another question?

5 MR. PIPER: I have another question.

6 BY MR. PIPER:

7 Q As a result of the accident, and subsequent to
8 the accident, were you given any award or decoration?

9 MR. LEWIS: Objection.

10 THE COURT: Sustained.

11 MR. PIPER: The same proffer--

12 THE COURT: I don't want the proffer either.

13 MR. PIPER: Thank you.

14 BY MR. DUBUC:

15 Q Mr. Traynor, in Mr. Lewis' examination, he
16 referred to some accident reports that you may have
17 reviewed. Do you recall that?

18 A Yes, sir.

19 Q I would like to show you what has been marked
20 Defendant's Exhibit D-3, and ask you if this is one of the
21 reports that you reviewed?

22 THE COURT: What was the number?

23 MR. DUBUC: D-3, Your Honor. This is the Air
24 Force Investigation Report.

25 THE WITNESS: I am familiar with most of the

1 things they are talking about here. Whether or not I read
2 this document, I don't really know. It doesn't look familiar
3 to me in its form.

4 BY MR. DUBUC:

5 Q All right. This has been marked in evidence as
6 Exhibit D-3. You were asked by Mr. Lewis if you recall
7 certain statistics as to persons who may have died in the
8 accident. There are some statistics here as to survivors.
9 Does that refresh your recollection as to the number of
10 survivors?

11 A Is this the correct number? Is that what you are
12 asking?

13 Q This is the Accident Report. I am asking, from
14 looking at that, if you can tell us whether it refreshes
15 your recollection as to the number who did survive?

16 A The numbers that I had recalled were 154 and
17 176, but that came to me as an unofficial source. There is
18 one different in this report.

19 Q What was the 176 number?

20 A 176 was the number of survivors.

21 Q Do you recall the number who survived in the
22 troop compartment?

23 A The statement says the air crew confirmed
24 145 orphans were located in the troop compartment.

25 Q Does it refresh your recollection in the

1 statistics as to the number of survivors?

2 A I made no attempt to recall the number. There
3 are 176 seats in the troop compartment, which I was trying
4 to approximate, two per seat; so that number is reasonable.

5 Q How about survivors of the 145?

6 A That would be reasonable. I don't really know.

7 MR. DUBUC: Since this is in evidence, just so
8 we can context the jury so they can understand it, I would
9 like to read this to the jury, the statistics in Exhibit
10 D-3.

11 THE COURT: Without objection, you may.

12 MR. LEWIS: I have no objection, Your Honor.

13 THE COURT: Ver well.

14 MR. DUBUC: In Exhibit D-3, as to the troop
15 compartment, orphans on board, 145; survived 143; attendants
16 in the troop compartment 7; survived, 6.

17 BY MR. DUBUC:

18 Q Major, what was your rank at the time you were
19 involved in this accident?

20 A I was a captain.

21 Q And your present rank is major?

22 A Major.

23 Q And you said you are presently assigned in
24 Illinois?

25 A That's correct. Right after the crash, I

1 upgraded--

2 MR. LEWIS: That exceeds the scope of our
3 examination, Your Honor.

4 THE COURT: The objection is sustained. We don't
5 need to get into that.

6 MR. DUBUC: The only reason I am proffering
7 this, Your Honor, is with respect to certain rulings
8 concerning Maj. Traynor, and events subsequent to the
9 accident in the Air Force.

10 THE COURT: Were they adduced in the redirect?

11 MR. DUBUC: Yes, and which goes to the cross, and,
12 if I may, I would like to approach the bench to make a
13 proffer on that.

14 THE COURT: All right.

15 (Whereupon, the following took place at the
16 bench outside of the hearing of the jury:)

17 THE COURT: Remember our reporter's concerns.

18 MR. DUBUC: All right.

19 THE COURT: Okay.

20 MR. DUBUC: In asking questions as to
21 Maj. Traynor's rank and subsequent events to the accident
22 which would have involved his upgrading, promotion and
23 advancement in the Air Force, I would proffer this as an
24 indication of findings by the board of no dereliction
25 by Capt. Traynor, as suggested in the cross. Furthermore,

1 I would proffer that if permitted to ask the question as
2 to whether he received any awards or decoration, the answer
3 would be yes; he did receive an award and some additional
4 decorations and personal letters of commendation by his
5 superiors as to the way he handled himself and his crew
6 and survivors in connection with the accident. I proffer
7 this as a rebuttal to the cross-examination and the
8 implications that have been made through the cross-
9 examination.

10 THE COURT: I suppose you might call it the law
11 of the case, as established by my ruling on Mr. Piper's
12 objection. I sustained the objection on your application
13 also.

14 MR. DUBUC: Well, I am just making a proffer of
15 proof.

16 THE COURT: I understand.

17 MR. PIPER: I think you understood mine; the
18 same offer.

19 THE COURT: I did.

20 MR. PIPER: Okay.

21 (Whereupon, the following took place in open
22 court:)

23 MR. DUBUC: I have no further questions, Your
24 Honor.

25 THE COURT: Mr. Lewis?

1 MR. LEWIS: No, sir.

2 THE COURT: Major, thank you very much. You are
3 excused.

4 (Witness excused.)

5 THE COURT: Call your next witness.

6 MR. DUBUC: I would call John Edwards.

7 MR. LEWIS: Your Honor, may I address counsel
8 privately?

9 THE COURT: Yes, you may.

10 (Consel conferring privately.)

11 MR. LEWIS: Thank you.

12 Whereupon,

13 JOHN W. EDWARDS

14 was called as a witness and, having been first duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DUBUC:

18 Q Good morning, Mr. Edwards.

19 A Good morning.

20 Q State your full name, address and occupation
21 for us, please.

22 A My name is John W. Edwards. I live at
23 1211 Timberland Drive in Marietta, Georgia. I am employed
24 at Lockheed-Georgia Company in the capacity as Deputy Chief
25 Project Engineer.