

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA, |) | Criminal Action |
| |) | No. 14-107 |
| vs. |) | |
| |) | Washington, D.C. |
| NICHOLAS ABRAM SLATTEN, |) | |
| |) | August 6, 2018 |
| Defendant. |) | 10:00 a.m. |
| |) | MORNING SESSION |

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**TRANSCRIPT OF JURY TRIAL
AUGUST 6, 2018, MORNING SESSION
BEFORE THE HONORABLE ROYCE C. LAMBERTH,
UNITED STATES DISTRICT COURT SENIOR JUDGE**

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P R O C E E D I N G S

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THE COURT: Good morning, Counsel.

Any preliminary matters?

MR. CAMPOAMOR-SANCHEZ: No, Your Honor.

MR. BUTSWINKAS: No, Your Honor.

THE COURTROOM DEPUTY: Your Honor, we're on the record in criminal case 14-107, United States of America vs. Nicholas Slatten.

Counsel, if you could, please approach the lectern and identify yourselves for the record.

MR. MARTIN: Good morning, Your Honor.

Patrick Martin and Fernando Campoamor-Sanchez for the Government.

MS. COMMONS: Good morning, Your Honor.

Krystal Commons for the defense. With me at counsels' table are Dane Butswinkas and Amy Saharia; and Mr. Slatten is present.

THE COURT: Good morning, ladies and gentlemen.

At this time, the Government will begin its closing argument.

You may proceed.

MR. CAMPOAMOR-SANCHEZ: Thank you, Your Honor.

Good morning, ladies and gentlemen.

This is a little loud.

Ahmed Haitham Ahmed Al Rubia'y, he was not a

1 terrorist or an insurgent. He was not responsible for 9-11.
2 In fact, when the United States invaded Iraq, he was a high
3 school student at Baghdad College High school. You heard that
4 was the only English-speaking school, and a very hard one to
5 get at in Baghdad.

6 He was also not an animal. He was a medical student
7 who had finished two years of medical school; he was 19. And
8 despite what the defendant likes to think, he was a human
9 being. His life was worth something. He was a son. He was
10 part of a family. And he was part of a brighter future for
11 Iraq.

12 But, now that you have heard the evidence in this
13 case, you know that this man, right here, Nicholas Slatten
14 (indicating), took Ahmed's life for no reason. He took this
15 SR-25 rifle, he pointed it at his head, and he fired twice --
16 boom, boom -- hitting him right here in the head (indicating).

17 And he did it for no reason. But you heard and you
18 know that he had done that previously, that he liked to
19 instigate firefights for the very purpose of getting into gun
20 battles. And why did he do this? Because he has a deep hatred
21 for Iraqis because he wanted -- or, had some misguided notion
22 of retribution for 9-11.

23 Ladies and gentlemen, you know that now because you
24 have heard the evidence in this case.

25 Now, Mr. Butswinkas told you during his opening

1 statements that this was a tragedy. And it was.

2 Can we play?

3 This is a clip from Government's Exhibit 2130.

4 (Whereupon, video was played.)

5 That, ladies and gentlemen, is much more than a
6 tragedy. That is first-degree murder. And you now know that
7 because we have proven that to you beyond a reasonable doubt.

8 So I plan to spend, approximately, an hour and a half
9 this morning reviewing the evidence with you, and I want to try
10 to cover, essentially, three things. I want to review that
11 evidence that you saw for the last five weeks. I will spend,
12 actually, the majority of my time doing that.

13 And then I also, very briefly, want to touch on two
14 other topics. One is, the analysis of what I expect the
15 defense arguments to be; and, secondly, a discussion of the
16 charges and the elements of the offenses, and I'll try to make
17 those brief. All right?

18 And specifically as to the evidence at trial, I'm
19 going to try to focus on four different areas for you today.
20 One is the prelude to September 16, 2007; what happened before
21 that fateful day.

22 Two, I want to, obviously, cover in some detail the
23 actual shooting in Nisur Square with you that day. And then
24 I'm going to cover the aftermath of the shooting, and the
25 defendant's statements about that shooting. And then I'm going

1 to come back, and I'm going to try to answer for you, perhaps,
2 some of the more difficult questions that you'll face, in terms
3 of questions about sequence and identity in this case. In
4 other words, how it happened, and who did it.

5 All right. So let's get started.

6 The evidence in this case was that Mr. Slatten
7 arrived in, at least, late 2006, early 2007. The picture that
8 you have in front of you was in January of 2007. In fact, I
9 believe the evidence is that it was January 23rd, specifically.
10 Mr. Ridgeway told you that.

11 And as the defendant's colleagues started to get to
12 know him and meet and work and spend time with Mr. Slatten,
13 they started to hear some kind of troubling things. So let's
14 review those very briefly. Okay.

15 First of all, you have heard from Mark Mealy. All
16 right. And you heard from Mr. Mealy about the statements that
17 Mr. Slatten made about Iraqis. He said, he told you -- and, in
18 fact, this is going to be a transcript that you're going to
19 have accessible to you in the back.

20 He said: Those people's lives are not worth
21 anything. They're not even human; they're animals. He bragged
22 about turning one guy's head into a canoe. So, Mr. Mealy said:
23 Really, no remorse and no regret. No respect for the lives.

24 Three. And there were questions about: Well, what
25 is the context that we're talking about here? Are we talking

1 about insurgents? Are we talking about civilians?

2 He said: No. It's the Iraqi people in general.

3 So it's not about insurgents. It's about all Iraqis.

4 He was not the only one, though. You also heard from
5 Matthew Murphy, who told you about the defendant's negative
6 views by Iraqis. He told you he had extremely negative views
7 about him. And he was, to his credit, very fair. He said:
8 Look, it was not uncommon for folks that were out there to have
9 some of those feelings and also dislike Iraqis.

10 Why? Because their lives were in danger when they
11 were out there in the Red Zone. That's understandable. We can
12 all relate to that. But on that spectrum of dislike for the
13 thing, that was way over here (indicating) in how much he
14 disliked them and cannot stand them. All right?

15 And he, that being the defendant, really could not
16 differentiate between an Iraqi that is just, essentially,
17 walking in the street, and an Iraqi that's actually threatening
18 his life or the lives of his colleagues.

19 You know, the recollection that Mr. Murphy had, and
20 he told you: Look, it's been many years, but he said in that
21 conversation, the defendant told him that everyone near where
22 an attack had happened was complicit simply because they were
23 near.

24 And Mr. Murphy told you: Well, wait a minute. That
25 doesn't make any sense. We're in a city of 7 million people.

1 Only a handful, only a limited number of those are actually
2 trying to hurt us. And they live, they go about their everyday
3 lives. You can't make them all complicit. But he did.

4 And you heard from Jeremy Ridgeway, also, about this,
5 about his disdain, the defendant's disdain for Iraqis in
6 general. And Ridgeway was honest with you. He said: You
7 know, I also had some of those views. He fessed up to that.
8 Perhaps, maybe that's why he and Mr. Slatten got along so well
9 and were good friends.

10 You know, he would call them "fucking hajjis," right?
11 Okay. And, again, another thing, from his group of friends,
12 the defendant and Mr. Liberty stood out at the high end, at the
13 extreme end of those feelings about Iraqis.

14 And this is where it starts to get even more
15 concerning, right? So the defendant makes statements that he
16 is getting payback for 9-11. And, mind you, the reason
17 Blackwater is there and the contractors are there, it's a
18 defensive mission. It's not to go out and hunt the enemy, or
19 to kill the enemy out there. It is to defend those diplomats
20 that are out there doing a difficult job.

21 But that's how he saw it. And then, only, he said:
22 I was getting payback.

23 He was well on his way to getting payback.

24 Again, Ridgeway told you the defendant does not
25 differentiate between insurgents that are, actually, a threat,

1 and general Iraqi population that are going about their
2 everyday lives.

3 So that's what started to come out from the people
4 that met and knew the defendant in the first few months out in
5 Iraq.

6 Then we get towards the middle of the summer. And
7 you heard testimony from Mr. Webb, the Blackwater armor -- and
8 this is Government's 9861 (indicating). This is an exhibit
9 about when he got issued that brand-new SR-25 rifle. State
10 Department had bought it the end of May, and then the defendant
11 got it in early July. All right?

12 And Mr. Webb told you something important, kind of
13 like what Robert Martin did, too: When these weapons leave,
14 they're checked at the factory. And when they're received in
15 Iraq, they're also checked. And guess what? That weapon would
16 never have left with a modified trigger. But, somehow, it was.

17 Now, again we don't know who did it. I can't prove
18 that. But this weapon that he got issued had a hair trigger.
19 It had been modified from the 2 stage to the 1 stage when the
20 FBI, ultimately, examined it.

21 So what else is happening before September 16th?
22 Defendant also now starts to display this inclination to start
23 firefights without provocation. And you heard about three
24 specific instances of that happening in this case.

25 One, Mr. Ridgeway told you about the mechanics shed.

1 Remember how he told you that the contractors had an Iraqi base
2 that was actually out in the Red Zone and they could go park
3 their vehicles there in the middle of missions and they could
4 wait until they were needed? So not in the Green Zone, but out
5 in the Red Zone.

6 And across the street from that location there was a
7 mechanics shop, and on top of that shop, there was this shed.
8 And the defendant started to say: You know, Jeremy, if I was a
9 sniper, if I was an insurgent trying to take a shot at us,
10 that's where I would take the shot from.

11 And he says: You know what? I am going to -- when
12 we go by -- when we're leaving and we're going by, I'm going to
13 take a shot, and I'm going to see if somebody fires back at us
14 from that shed. And you should also take a shot at that point.

15 And you heard what Mr. Ridgeway told you, what
16 happened. They go out. The defendant takes the SR-25. He
17 takes a pot-shot at that shed, not seeing anybody, not seeing a
18 threat. Maybe there wasn't anybody there. Maybe there was.
19 We don't know. But the fact that he's willing to take this
20 rifle (indicating) and take a shot at that building tells you
21 something.

22 But it's not just that. You also heard about the
23 downed-helicopter mission. Now we're getting very close to
24 September 16. This happened a week to ten days, thereabouts,
25 before September 16th. And you heard from Mr. Ridgeway and

1 Mr. Murphy about this mission. And from Mr. Ridgeway you
2 heard: Yes, there was a downed helicopter. We, ourselves, got
3 into other helicopters. We flew to the site.

4 The Army, by the way, was already there. They had
5 tanks and other -- or similar type of equipment. Okay? And,
6 then, he is right next to Mr. Slatten as they set that
7 perimeter that both he and Mr. Murphy described for you. Okay.

8 And then -- and we went back and forth on this, but,
9 essentially, what Ridgeway told you is -- and we talked about
10 this "wink and a nod" -- but he said: Look, he did just like
11 it was the shed situation.

12 He said: If I'm an insurgent, that would be the
13 place where I would go and take a shot at us, or maybe shoot
14 down the helicopter. That must be where it is.

15 And, then, what does he do? He takes a shot. And,
16 of course, when he takes a shot, he then announces: Oh, I saw
17 an insurgent.

18 And now put that together with what you hear from
19 Mr. Murphy about that. Mr. Murphy says: Well, Slatten said
20 there was an insurgent, so we all -- and he fired, so we all
21 turned our guns to that location and we started firing because
22 we were relying on what he was telling us.

23 And although he doesn't know necessarily why they
24 start firing, there's an Army person present, and then the Army
25 starts firing. And then what? They demolish that structure on

1 his word. On his wink and a nod.

2 And then what does Mr. Murphy tell you? At the end,
3 when they return back to base, the story has changed. Now it's
4 not: I saw a man raising a rifle at us." It's: I saw a man
5 moving his hands.

6 And, as Mr. Murphy said, everybody has hands. What
7 makes a threat is the fact that you actually see somebody with
8 a weapon. Nobody else saw it; just like the shed situation.

9 And then you heard a third example. Again, in the
10 week leading up to September 16th, you heard a little bit about
11 this Amanat city hall incident. A number of people were
12 present. There actually was contact with the enemy insurgents,
13 and they fired back. But they were done with the incident.
14 They were now heading back to the Green Zone.

15 And they told you -- Mr. Mealy told you they got
16 stuck in -- because of traffic in this bridge, which, in their
17 minds, is a vulnerable position. So what do they do? They
18 deploy the fire team members. That means that the people
19 inside the vehicles get out to try to move the traffic around
20 so that they can make it through that bridge. Okay?

21 And Mr. Mealy, who's up in the turret, says: Hey, by
22 the way, I see a guy up there. He's making a sweeping motion,
23 as if he had a broom.

24 And he says why; because he just -- he's looking for
25 anything that could be out of place, that could be a threat.

1 That's his job. So he just announces it to everybody on the
2 team. And Mr. Slatten is outside. He's one of the fire team
3 members, so he's outside. And Mr. Mealy remembers looking in
4 that -- that he was also looking in that direction.

5 Then what does he say? His words were -- I'm
6 sorry -- shoot the motherfucker.

7 So a guy is, apparently, sweeping on a rooftop, and
8 simply because it's on a rooftop he believes that man should be
9 shot. Another example that you have about his propensity to
10 want to fire and start something where no threat exists.

11 And then we -- we also had -- just as I was
12 discussing, there was a lot of stuff happening with Blackwater
13 contractors that week. A lot of stuff that was very difficult.
14 So they had the engagement at Amanat city hall that I was just
15 describing, where this incident happened on the bridge. But
16 they had more than that.

17 And, by the way, that's the Amanat city hall
18 incident, that's where Mr. Watson decides to, even though
19 they're being engaged, open his BearCat door and throw a
20 grenade out and then injures himself in that incident, right?
21 That's -- Randall told you that.

22 But, anyway, that's also the incident where the
23 defendant told Randall that -- or, I'm sorry, Ridgeway told you
24 about Watson. Randall said that he saw Mr. Watson out. But
25 Randall also told you the defendant said that he had gotten a

1 couple kills that day.

2 Okay. Maybe. Except that Randall was firing at the
3 insurgents in this direction (indicating), and he could see the
4 gun on the defendant pointed to the other direction. Maybe he
5 was firing at insurgents. We don't know. But the point is,
6 there had been an engagement, an actual engagement.

7 And also that week there was an -- that EFP attack
8 you heard so much about on Raven 26, another TST team, where
9 two people got very seriously hurt, that explosive projectile
10 that fired at the convoy as the convoy was going by. Okay? So
11 tensions were high. But, you know, that's being presented to
12 you by the defense as: Oh, my God. Baghdad is really
13 dangerous.

14 Well, of course it's dangerous. But the more
15 important point for you to consider is, it's actually providing
16 fuel to the fire of this hatred that he has. His comrades are
17 getting hit. People are hurt. They're in firefights.

18 And that's the mindset that takes us to
19 September 16, 2007. So let's actually review what happened
20 that day.

21 You have in front of you a copy of the TOC Log. And
22 it's not complete. That's Exhibit 9801. But it shows you that
23 at the time at which Raven 4, the team that was out there with
24 the diplomat reports an explosion, it's 11:57. All right?

25 By three minutes later, Raven 22, the primary TST

1 team -- so the team the defendant was in was the secondary
2 team. All right? So the primary TST team immediately leaves.
3 Within three minutes they're out of the Green Zone. And, as
4 you'll find out from reading the documents, literally, within
5 ten minutes they're already with them at the site. It's,
6 actually, not that far away.

7 But there's a secondary team, that's his team,
8 team 23, so they start to get ready. And you heard evidence
9 about some people were at the chow hall. They're about to eat.
10 They got to run. Everybody mans their positions. You heard
11 from Ridgeway he was taking a nap, he has to be waken up, he
12 was the last one to make it to the car, and then they roll.

13 But what they're supposed to do -- that being
14 team 23 -- and this is one of the tidbits that you start to
15 learn about Mr. Watson -- is that they were supposed to stay at
16 the checkpoint.

17 Why? Because 22 is doing their job. They're already
18 out there and on their way. There's, actually, no injuries to
19 Raven 4. The explosion was outside of their venue, not in
20 their venue. And they're supposed to wait until something
21 happens. Okay?

22 But Jimmy Watson, the shift leader, didn't do that.
23 In fact, he is told -- as you heard from Mr. Mendoza, he is
24 told that he is supposed to stay at the checkpoint.
25 Nick Poulus, his supervisor, tells Mr. Watson: Hey, stay here.

1 Do not leave.

2 And what does Mr. Watson do? He takes the team out
3 there anyway. Because that's the kind of guy he is. All
4 right?

5 So, very briefly, I'm showing you the Government's
6 Exhibit for the photograph. And it reminds you that, actually,
7 the photo is not oriented to north; north would be to your
8 right. But at the bottom of the photograph is the traffic
9 circle, you got the VBIED detonation location (indicating).
10 And as you can see, by 12:06, which is the satellite picture
11 that Mr. Benn told you about, TST 22 is already, essentially,
12 to Raven 4. All right?

13 But, Raven 23, where are they? They're already out
14 of the Green Zone by 12:06. All right. And this is a team
15 that was out there that day. You have the lead vehicle, the
16 ERV, the command, and the follow vehicle. And then
17 Mr. Slatten, the defendant, and Mr. Watson, Liberty, and Slough
18 are in the third vehicle. Mr. Ridgeway is in the back vehicle,
19 and, of course, you got Mr. Mealy in the front, and then
20 Mr. Murphy in the second.

21 So, in fact, you heard from every -- at least from
22 one witness from every single one of these vehicles. All
23 right? So that's who was out there that day.

24 And I'm showing you now Exhibit 2145 and -- or, 2345,
25 I can't read it very well -- and that's the satellite picture

1 that shows you that, also at 12:06, who's entering the Green
2 Zone and entering the square? Team 23.

3 And if you go look back at the log, by 12:07, just a
4 minute after this, Raven 22 was already linked up with Raven 4,
5 and they were heading back. No issues. But team 23 is now
6 entering the circle.

7 And this is, essentially, the five minutes of calm
8 before the murder takes place. All right? So we know from the
9 satellite picture that Raven 23 enters, at about 12:06, the
10 circle. Obviously, would have taken some time to go make it
11 into the circle and lock down the circle, as they say, right?
12 That would have taken some minutes.

13 But think about what is going on at this time, right?
14 The traffic officers are seeing the vehicles come in. They're
15 walking onto the roadway. They're starting to stop the
16 traffic. You also heard testimony how maybe some water bottles
17 were thrown. But, certainly, people in the turrets were also
18 motioning for the traffic to stop, right?

19 So all of this is happening between 12:06 and 12:11.
20 All right? So this is the calm before the murder.

21 And you heard, for example, from Mr. Hayder, that the
22 Iraqis immediately recognize, they know, if I see a convoy
23 that's coming in, I'm going to stop. All right?

24 And that's why, at the end, I had to ask Mr. Kinani:
25 Well, how different is driving in America versus Iraq?

1 It's completely different. Why? Because we're not,
2 in the moment, in the middle of a war, right? And we're not
3 confronted with military vehicles, like this convoy, with M240s
4 that are mounted on top pointed at us.

5 So this idea, as you hear it suggested by the
6 defense, that people are kind of like we are in D.C.; we're
7 a -- you know, we don't like to wait. We try to move around.
8 We try to get out of traffic. Well, guess what, ladies and
9 gentlemen? That doesn't happen in Iraq. Because when we do
10 that here, in D.C., we don't have people pointing M240s at us.
11 That's a different place, a different set of priorities, and a
12 different set of realities. So what happens here is, actually,
13 traffic stops.

14 And I want to give you a visual idea of all of the
15 evidence that you got about this.

16 And will Your Honor let me know if this is -- the
17 Court can't see this, or if it obstructs the vision.

18 But, you know, people can make jokes about how long
19 it took us to present this evidence, and nobody wants to be
20 here for five weeks. But we wanted to bring you all of the
21 evidence you needed to find out what happened that day.

22 So what happens now, in these minutes?

23 The traffic -- the convoy comes in -- and, by the
24 way, obviously, what I'm showing you here is not exact. This
25 is representative of the evidence you heard (indicating). Your

1 memory controls. Okay.

2 But this is the people, all the witnesses that can
3 tell you about the sequence and the identity of the shooters
4 that day. Okay? And, more importantly, of the shooter of the
5 white Kia.

6 So you heard from -- and pretty much everybody is in
7 accord, except Mr. Kinani, who doesn't see the initial part --
8 that the convoy makes it in. They're in the south side of the
9 circle. And guess what? Traffic stops. Even Sabah, who's all
10 the way on the rooftop -- remember him, all the way on the
11 rooftop with that view he had of the circle? -- he says: A
12 stillness came over the circle at that point.

13 Why? Because the hustle and bustle of all those cars
14 has finally stopped. Right?

15 So the convoy gets in. You heard from -- I think it
16 was Murphy who told you: Yeah. There were some -- a few
17 stragglers of cars, and we send them their way. Right? So
18 they have accomplished this mission.

19 Oh, and by the way, they were not supposed to be
20 locking the circle down. Mr. Watson wasn't, I should say, more
21 specifically.

22 But remember what he told you? Cory Wainscott in the
23 front had told him: Hey, we're here already. Because he was
24 supposed to turn around and head back to the Green Zone. And
25 he said: Fuck it. Let's do it.

1 He admitted to that. He told you that. So on his
2 decision, the convoy stops. The traffic is locked. Okay? And
3 now is when the murder happens. So everybody is consistent
4 about that. And then you hear evidence that there is either
5 one shot or two shots. That's what breaks the silence. That's
6 what begins this whole horrible chapter, that single or two
7 shots.

8 How do you know? Well, you heard from Majed. What
9 is Majed doing? He's talking to his friend Osama. They're
10 talking about trades and the businesses they were about to
11 conduct. He hears this shot, and then he feels this bump.
12 It's light, but he feels this bump to the back of his car. And
13 when he looks back, what does he see?

14 He sees a hole in the windshield of this white car.
15 He sees blood on the windshield. So he can't even see the
16 person inside. And then he hears a woman scream.

17 Sarhan tells you, also, he hears the shot. All these
18 years later they ask: Well, was it one shot? Two shots?

19 He's not sure. At one point, it was described as a
20 shot, pause, shot. But, also, he hears the shot. He's
21 surprised, just like Ali. Where are they? They're actually in
22 front of the traffic that was stopped, and they're looking
23 towards the vehicles.

24 But both of them are, actually, closer to Vehicle No.
25 4, the vehicle where Ridgeway was in, than Vehicle No. 3. They

1 both know the sound comes from the third vehicle, and they make
2 some assumptions about that. And I'm going to get back to
3 that. But, essentially, they hear one or two shots. And they
4 hear what? A woman scream.

5 Hayder, who's there in his black taxi, hears one
6 shot. What does he hear then? A woman scream. All right?

7 And same for these guys. Mr. Mealy says: Well, it
8 sounded like a pen flare. And I looked back, and I didn't see
9 anything.

10 Murphy tells you he hears two pops. And he knows, he
11 comes to the conclusion later it was the SR-25. But he hears
12 two pops. He's talking to Frost, he's like: What the hell was
13 that?

14 Randall told you he hears a shot, looks. Nothing is
15 happening. They looked. Nothing is happening. In other
16 words, the Kia is not a threat. The Kia is not moving. All
17 right?

18 So what happens next? Oh, Sabah, all the way on the
19 top, he doesn't hear the shots, but he hears the woman
20 screaming.

21 And what happens next? Well, the police officers are
22 trying to do their job, right? So Ali goes to the driver's
23 side of the vehicle, and Sarhan goes to the passenger side of
24 the vehicle. And it is described for you what they saw. And
25 both Ali and Sarhan see gunshots, holes to the windshield. And

1 the woman is screaming, and they're trying to help her. Right?

2 Ali is trying to help the driver. He gets his hand
3 in, and then he -- what is he trying to do? He's trying to
4 motion the convoy: Hey, somebody is injured. Don't do
5 anything else.

6 Right? But the car then starts to move. And, by the
7 way, you also heard, of course, about -- and I'll go over it a
8 little bit later -- you heard from the expert, Mr. Chase, about
9 the impact between the white Kia and the VW Caddy, right? Very
10 low impact. Completely corroborating what Majed says about the
11 sequence and how things happened, right?

12 And then Mr. Kinani also, then, gets in on the
13 action. Why? Because he also sees the two officers -- or at
14 least an officer, I should say, approach. The Kia is stopped,
15 and then the Kia starts to move. And then the barrage of
16 shooting happens.

17 And, of course, how could I forget Mr. Watson?
18 Mr. Watson told you through his 2013 grand jury transcripts,
19 where, on his own words, he told you what happened that day,
20 and the sequence of events was: I'm in a car. Somebody from
21 the back -- the rear vehicle, supposedly, saying "contact." He
22 hears distant pops -- I'm sorry -- he hears distant pops.
23 Somebody says "contact."

24 He, somehow, is still looking at his map and not
25 worried. But, in any event, he hears the defendant say:

1 Contact. Contact. He hears the defendant shoot. He looks,
2 looks back to his maps because, apparently, he's not that
3 concerned about it, and then he hears the second shot.

4 And, ladies and gentlemen, who would know who was
5 firing inside that car but the people in the car? And think
6 about this for a second: If this is the front passenger side
7 where Mr. Watson is firing -- you saw the pictures --
8 Mr. Slatten would have been just off to the back and left,
9 approximately, what? four, five, six feet from him and in here
10 (indicating).

11 He knows the sequence. He's in there. He knows what
12 all these other people don't know because they can't see
13 Mr. Slatten. He's hiding inside the BearCat, secure from any
14 dangers by that armor. But Mr. Watson knows because he's
15 inside of the vehicle. And I'm going to go over him in some
16 more detail later because you definitely need to pay some
17 attention to what he said.

18 And then we have Mr. Ridgeway, who is the outlier,
19 but we presented you that evidence, too. He comes in late to
20 the story and the chapter. He believes that -- and we're not
21 saying that he's not trying to tell you the truth; we're just
22 saying -- we're just telling you that he's mistaken. He comes
23 into the sequence with the white Kia moving, and then he sees
24 Slough shoot.

25 But what Mr. Watson, who's in that car, told you is:

1 Slatten fires, boom, pause; Slatten, fires again, boom; and
2 then Mr. Slough opens up with the 240.

3 And how does he know and how does he remember?
4 Because he gets -- the hot brass starts falling from the top
5 turret on the back of his neck.

6 Ladies and gentlemen, that is the sequence that you
7 have, in terms of the evidence in this case. And that sequence
8 points to this man, the defendant (indicating), as taking those
9 shots, those first shots.

10 So let's -- and I did this very quickly, but you can
11 have and do your own counting. But there's nine witnesses who
12 told you traffic was completely stopped, and the white Kia was
13 stopped before those shots rang out.

14 You got six witnesses, plus Murphy and Mealy, who
15 initially think that maybe that was a pen flare, who tell you
16 it was one or two to three shots that they initially heard,
17 that set this whole event in motion.

18 You have six witnesses that say the shots or the
19 sounds came from where? The BearCat (indicating), where the
20 defendant is at.

21 You have five witnesses that tell you that after
22 those shots rang out, the very first thing that happened, a
23 woman screams; Mahassin, Ahmed's mother.

24 You have eight witnesses that tell you that after
25 that, you got two officers going to the vehicle, which is what?

1 Stopped. The Kia is stopped at this point. Okay?

2 And then you have six witnesses that tell you that
3 after the police officers are by the car, then the car starts
4 to move slowly forward.

5 And, of course, it's moving slowly. For one, because
6 Ahmed is dead, and he can't control the car. And it's an
7 automatic, as you've heard. So it's now, on its own power,
8 starting to move.

9 And, of course, you have ten witnesses that tell you
10 that now, when the white Kia finally starts moving, rolling
11 slowly forward, of course, the heavy shooting begins, and they
12 totally pummelled the white Kia and everything else and
13 everybody. And then the shooting proceeds.

14 So you saw just some evidence of the immediate
15 aftermath of the shooting with the Kia, of course, still on
16 fire.

17 And how did that happen?

18 So, by the way, in this whole sequence, right, when
19 some people are going to try to tell you that perhaps people
20 thought they were under attack, remember what was happening at
21 the BearCat, or the people inside the BearCat? Watson told you
22 that he ordered Liberty to open the door, the door that would
23 protect them if somebody was shooting at them, told him to open
24 the door.

25 And when they opened the door, what did they do?

1 They both emptied at least one M4 cartridge towards the
2 direction of the white Kia. And not satisfied with that,
3 Mr. Watson then fires an M203 round, also, towards the white
4 Kia.

5 And you heard Mr. Murphy tell you that he saw
6 Slough -- oh, by the way, a lot of people see Slough --
7 Randall, Murphy, Mealy, Watson -- firing the M240; not the M4,
8 the M240. And then they see him stopped, that being
9 Mr. Slough, and then picking up his M4 and firing M203
10 rounds -- or, M4 -- if I'm going to be, actually, correct, M433
11 rounds from the M203 launcher.

12 And that is the outcome of that case, of those
13 actions.

14 Can we play the second clip?

15 (Whereupon, video was played.)

16 So, now, you're seeing, from the driver side, some of
17 the impacts on the side of the Kia, and the result of the
18 volley of heavy gunfire that took place.

19 You've seen the pictures, what the white Kia looked
20 like. You also saw from Tom O'Connor, as he tried, with
21 Doc Murphy, to lay out some of the trajectories. And you see,
22 very clearly, that the Kia was impacted from both the left and
23 right (indicating).

24 Of course, the windshield is not there so you can't
25 see the shots or the directionality of those shots on the

1 windshield (indicating).

2 This is a little bit of a close-up (indicating). And
3 what's interesting is, clearly, it's being shot at from both
4 the left and the right, but not the center.

5 Which, again, you know, I don't remember if you
6 remember Kinani telling you how, even though they were shooting
7 at the Kia, if the Kia had kept ongoing, it would not have
8 really hit either of the two command vehicles. It wasn't kind
9 of aimed at them. And the evidence seems to suggest that
10 that's the case, right?

11 Of course, you saw what happened to the VW Caddy.
12 Mr. Majed told you about that. And here's some of the photos
13 about some of the trajectories, both from bullets and,
14 potentially, the M203 rounds that hit the VW Caddy
15 (indicating).

16 And here's a photo of Hayder's car after it had been
17 moved (indicating), when he was taken to the hospital, again,
18 shot.

19 And you saw vehicles further down the road that were
20 actually headed the wrong way, ladies and gentlemen. They were
21 trying to get away as they were shot.

22 And, of course, even that blue Golf, or VW, whatever
23 it is, trying, again, to get away, impacts the bus stop.

24 So we've been talking about sequence of events,
25 right? How this happened. Let's talk now a little bit about

1 whether there were any threats out there that day. Or, more
2 precisely, the fact that there were no threats out there that
3 day. And you have a lot more witnesses about that.

4 All right. So, now, I've added the other folks that
5 came in and testified and that told you that they were out
6 there that day, and not one of them saw an armed insurgent or
7 somebody shooting at the vehicles or the convoy that day.

8 So, of course, you got the Iraqi witnesses who was
9 the closest. You got Majed. You got Hayder. You got the two
10 police officers. I asked them: Anybody out there posing a
11 threat to the convoy? No.

12 These people were trying to get away when the
13 shooting started.

14 You heard from Kinani: Anybody in your car? Anybody
15 around you? No. There was nobody shooting.

16 We asked Sabah, who's got the elevated position,
17 right? He can look down on the circle. Had a different angle,
18 from the side, that can look at the median, these so-called
19 bushes that people keep talking about where insurgents could
20 hide. Nobody, nobody in front of his PUK compound. All right?

21 Wisam, who's by the bus stop, he takes refuge. He
22 runs. Remember he told you, he, like -- actually, after he was
23 shot, he's hiding. He's making himself into a ball behind the
24 wall of that bus stop down here (indicating). And he sees
25 people get shot, and then he gets this woman that goes and

1 hides with him back there.

2 Nobody is shooting from that bus stop where the
3 cartridge casings were found, for which so many questions were
4 asked of Colonel Boslego that he missed them, or didn't see
5 them, right? And then when he totally saw the picture: Yeah,
6 that would not mean anything to me. Those look old.

7 No insurgents, right?

8 You heard from -- more importantly, from the Raven 23
9 members, the guys who would be receiving the fire, who would be
10 getting the attack. Mealy never saw a single insurgent. He is
11 looking at where his teammates are firing at. And he's
12 looking, and he doesn't see anything. So why are they shooting
13 at a direction when there's nobody shooting back?

14 In fact, he told you how troubled he was when he saw
15 the shooting. He made the map with the green arrows in it
16 about seeing people get shot as they're running around trying
17 to seek cover.

18 Murphy, same thing, he's looking; no threats.

19 Ridgeway, who was doing the shooting, and we asked
20 him: What were you shooting at? He was just shooting because
21 others were shooting, and he did not, himself, see any threats.

22 Even Watson and Randall, right, Randall -- who, I
23 guess, has to believe, to feel better, that somebody must have
24 attacked him that day -- he did not see a single insurgent that
25 day.

1 Watson, who fired, even he couldn't tell you he saw
2 an insurgent. The closest thing he got to tell you was that he
3 saw a man running away, and maybe he was dragging a firearm
4 behind him when he shot him, and he felt he was a threat. But
5 did he see him actually point a gun at the convoy? No.

6 Afrah, who's on the bus with her mother -- and you,
7 of course, had the statement from Mr. Slough, who claims there
8 were insurgents inside of a red bus in that statement -- she
9 told you: There's no insurgent in the bus. Just me and my mom
10 and some other passengers. And her mom got shot and killed.

11 Husam, who is another traffic police officer who was
12 going to come and help with the fact that the convoy had locked
13 down the traffic circle. He was coming on his motorcycle, and
14 he sees a single turret vehicle firing. Any insurgents here?
15 Nope. And yet, when he comes out, there's three people that
16 are dead right in that roadway. No guns. No insurgents.
17 Nothing.

18 Oh, and how can we forget? There's the helicopter
19 pilots. And the lead gunners in the helicopters, their job is
20 to look for threats. These are some of the best marksmen
21 anywhere. They shoot from those helicopters at 90 knots, 100
22 feet off the ground, and they hit their mark. And they've
23 heard reports that Raven 23 claims they're being attacked and
24 shot. They're looking. Gehrsitz sees nothing.

25 You heard the testimony from Bronn that was read to

1 you. No threats.

2 Gosiewski, who also -- by the way, I could have added
3 him to the sequence chart because he saw that the Kia was being
4 pummelled, and the Kia wasn't moving when it was being
5 pummelled from the convoy with gunfire, right? He didn't see
6 any threats. And these men, they looked around the circle. No
7 threats. Nothing they could see. So don't forget that, ladies
8 and gentlemen. Don't forget all the witnesses that we brought
9 you, all around the circle and above, that tells you there were
10 no threats.

11 And I added Jasim down here (indicating). Because,
12 if you recall, Mr. Murphy said that later in the engagement, he
13 heard what he thought were some distant AK-47 fire. And the
14 reason we read you Jasim's transcript? Because, remember, he
15 said the checkpoint further down, off of this map (indicating),
16 at an Army checkpoint, and he says that they fired AK47s into
17 the air to stop the traffic from flowing north because they
18 knew there was a shooting going on.

19 But, again, did Jasim see any threats? Of course
20 not. And why? Because there was no threats out there. That's
21 why nobody could see them. They're not invisible insurgents;
22 they just didn't exist.

23 So what's the corroboration you have for no attack?

24 First, you have American forces on the ground, okay,
25 within 15 to 30 minutes.

1 Colonel Boslego, a man who served 30 years in the
2 Army, a man who volunteered to go to Iraq. Why? Because he
3 promised the wife, the widow of one of his men who died in Iraq
4 as a result of insurgent action, as a result of a VBIED, he
5 volunteered to go to Iraq so that the mission for which his man
6 died for can go forward and be successful. He did that.
7 Despite all the questions, he got on the stand.

8 And so when he arrives there, he's expecting to see a
9 two-way firefight, evidence of that. He can't imagine
10 Americans are just going to shoot and commit this kind of
11 atrocities. Right?

12 But what happens? He gets there, and he doesn't see
13 any. All he sees is evidence of a one-way shooting incident.
14 No AK47s. No AK cartridge casings on the ground. No dead
15 insurgents. Nothing.

16 And General Tarsa also goes; later, but he goes.
17 And, again, General Tarsa doesn't see any evidence.

18 So there was, indeed, no evidence there to be, sort
19 of, collected or preserved about an alleged attack because it
20 didn't happen.

21 We have additional corroboration, no attacks.
22 Remember the BearCat tires? They're back there (indicating).
23 I'll try not to bring them up and take too much of your time.
24 I certainly cannot lift them out.

25 But, you know, you heard from Brandon Giroux, right?

1 He recovered three fragments from those tires. Then
2 Mr. Whitworth came in and he conducted those tests, right?
3 Remember how he blew up those M203 at different vehicles and he
4 took the still-shot photographs, in addition to the video?

5 And then you have Susan Marvin, the metallurgist,
6 actually analyze those fragments, and compared it to the
7 fragments that Whitworth also shot at this box (indicating),
8 and was able to collect, compare to the fragments that were
9 covered from the BearCat.

10 So when we bring the tires up (indicating), these are
11 the tires that Brandon Giroux examined, which are in evidence.
12 You'll be able to take a look at them.

13 Here's one of those photos he took about how that
14 fragment looks (indicating), one of the fragments that he
15 recovered, right? Here's a still shot of that test that
16 Whitworth conducted, right?

17 And you can see -- those orange kind of little flames
18 that you see, these are all little fragments from that M433
19 exploding and going out at an incredible high rate of speed.
20 And you know they're that devastating and damaging because, in
21 fact, those little fragments -- that's Exhibits 60C, 61B, and
22 60B -- as little as they are, they can penetrate a rubber like
23 that BearCat tire.

24 They were found inside of that BearCat tire. That's
25 how much power and speed they have. And -- well, they're

1 designed to kill, right? That's what they're supposed to do.

2 Here is a picture of that box that Whitworth
3 constructed to get those fragments (indicating). And,
4 ultimately, here's the photograph. And you can see, ladies and
5 gentlemen, without even being an expert, you can look at those
6 fragments, and you can compare them to the ones that were shot.
7 And you can see how, in fact, match. And that is, indeed, the
8 opinion of the experts that you heard. All right?

9 So that tells you what actually damaged that BearCat.
10 That tells you what damaged that radiator and made the leak.
11 And that also tells you what damaged the side of the BearCat.

12 Here's a photo of that fragmentation cup. And that's
13 what we're talking about, the bottom part. That red part, and
14 that little sort of round and oval shape, those are the
15 fragments that caused the damage to the BearCat that day
16 (indicating).

17 And, by the way, you have corroboration of that, too.
18 Remember Hayder and Majed, who were up here, in the front
19 (indicating), near where those M433s exploded? What do they
20 have? Fragments in their legs, in their bodies, still within
21 them to this day. That tells you what it was that actually
22 caused the damage around this area (indicating) when those M203
23 were fired.

24 You know Watson fired one. You know Slough fired at
25 least two, according to Murphy. There were multiple explosions

1 that day. That's what did the damage.

2 You also heard and have additional corroboration
3 evidence of no attack. So the damage to the BearCat, you know,
4 what we believe the evidence shows, is consistent with damage
5 from an M433.

6 But you heard testimony from Lisa Lopez, right? She
7 inspected the BearCat and she described the marks to you. And
8 I was trying to be precise in the questions I asked. Like:
9 What do they look? Is it just an indentation? Did it radiate
10 out from that hole? What was it? Right?

11 She was, like: No. It just, like, made a little
12 indentation in the BearCat.

13 And, of course, we have to try to get her description
14 of it. Because when the FBI got there three weeks later, when
15 they're finally brought in to investigate this, the BearCat had
16 been painted over. So we couldn't test it at that point.
17 Blackwater decided to have a paint party. Remember,
18 Mr. Randall told you about that.

19 So, in any event, you also heard testimony from
20 Mr. Randall that he believed he saw something impacting the
21 side of the BearCat. And, again, he said: Yeah. I don't have
22 Superman eyes, but I saw kind of an impact off of the BearCat.
23 Right?

24 And remember the testimony of Scott Patterson, who
25 did the test? He fired an AK round at a metal plate. Well,

1 I'm going to show you that.

2 But before that, these are the photos that Lisa Lopez
3 took (indicating). That's kind of how the damage looked at the
4 time. And, again, they're not great pictures, but she did what
5 she could, or knew how to do. And so that's an example of
6 those, right?

7 And then I showed her pictures that we also had, and
8 these are in the daylight, right? And look at that BearCat
9 (indicating). Do you see damage that seems to be from some
10 bullets that are hitting the side of the BearCat?

11 Here's a better shot (indicating), kind of straight
12 on. And you see there are, like, pinpoint marks on the side of
13 that BearCat, right?

14 Let's look at what happens when an AK bullet actually
15 hits an unpainted steel plate.

16 (Whereupon, video was played.)

17 See that pattern? See how it breaks (indicating)?

18 And you actually got to feel Government's
19 Exhibit 9306 Bravo, the actual plate. And you can see how
20 those radiating marks are actually part of the metal because
21 those fragments actually imparted those marks. So you'll be
22 able to see this, again, if you so desire, back in the jury
23 room.

24 That's a close-up of what that actually looks. And,
25 again, this is unpainted, right? So if you want to even paint

1 it, you can imagine what would happen to the paint, if it was
2 hit by an AK bullet. And we submit that it would not look like
3 that (indicating).

4 All right. So, clearly, you heard evidence that
5 there were allegations that there were threats out there that
6 day, right? And I would really invite you to take a look at
7 that TOC Log, you know, the same TOC Log, that evidence of
8 Raven Base Watch Log where they omitted -- Mendoza was told to
9 omit, including the fact that Watson had gone out there without
10 permission.

11 Take a look at that, and you're going to be really
12 surprised. Because, according to the reports that were coming
13 from Jimmy Watson, they were under attack for 11 minutes. The
14 first one came out at 12:12. Watson reported multiple
15 insurgents northwest of the circle. Multiple. All right?

16 By 12:13, he says: Iraqi police are shooting.

17 Yeah. More likely, Iraqi police are seeking cover
18 from the heavy volley of fire that's going on at that time.

19 Then, at 12:18, he reports: We're being engaged, but
20 we're being towed out. So as they're moving out of the circle.

21 And what's happening when they're moving out of the
22 circle? Well, you know what happened. Shooting is going on
23 towards the west, both on this road, where Afrah was, and the
24 road where Husam was (indicating).

25 And now they're in traffic, so up north, right? But

1 still receiving sporadic small arm fire at 12:20. And what's
2 happening now? You heard; Ridgeway was shooting. Slough was
3 shooting. Still, at 12:23: We're receiving contact from south
4 of our position.

5 Ladies and gentlemen, what's going on here is pretty
6 evident. Jimmy Watson is reporting there are insurgents and
7 contact whenever his men are shooting. He's got everything
8 covered. He's got shooting from Iraqi police, he's got
9 shooting insurgents on the northwest, shooting to the west,
10 those are being lobbed, and shooting to the north.

11 Whenever there is shooting from Raven 23, oh, it must
12 be because we're under threat, and there are insurgents out
13 there.

14 You know what's also not here? A VBIED threat
15 attack. Compare that on the log with the Raven 4, that a VBIED
16 actually went off, and that's what they reported. But that's
17 not what Jimmy Watson reported that day.

18 Keep that in mind as you're examining whether there
19 were actually any threats.

20 And, ladies and gentlemen, we literally covered the
21 circle. Even if some of you were to believe that at some
22 point -- like Murphy now believes, maybe at some point with
23 what's going on, the people are getting killed out there, some
24 Iraqi police shot back? We don't think there's any evidence of
25 that.

1 But, if you were to believe that, that happened well
2 after this man (indicating) fired those shots that killed
3 Ahmed. So when he fired those shots that killed Ahmed, nobody
4 was shooting at the convoy. Nobody was presenting a threat to
5 the convoy.

6 So let's talk a little bit about the aftermath of the
7 shooting. So -- and you heard a number of people that told you
8 about what happened afterwards, right? What happened in the
9 parking lot, the comments that were being made, etcetera.

10 But Ridgeway, Murphy, and Mealy all had conversations
11 with the defendant where he made a number of admissions that
12 you should keep in mind. All right?

13 And they also had the opportunity to observe his
14 behavior after the shooting. And this is all, by the way,
15 taken in the context of, almost, from the beginning. And
16 Ridgeway told you that as soon as he got out of the vehicle
17 that day, Frost, in front of him, like: What the hell were you
18 shooting at, man?

19 And what does Ridgeway have to say?

20 Well, I'm shooting at insurgents.

21 He didn't see them, right? That's the atmosphere.
22 Immediately, members of this team, who are trained and paid to
23 shoot at threats, did not shoot because they could not see the
24 threats, and they're so upset about what they've seen.

25 I mean, Mealy told you about that. Murphy told you

1 about how he couldn't even take any more north of the circle.
2 And he said -- I'm sorry: Cease fucking fire. He was so mad
3 and disgusted.

4 Anyway, when they get back, right, so what is going
5 on? What does Ridgeway tell you that the defendant said that
6 very day? He said that he popped the grape of an armed
7 insurgent taking aim at the convoy. Okay. And he also said,
8 interestingly, that that alleged insurgent slumped forward
9 after he popped his grape.

10 Now, think about this, ladies and gentlemen: If
11 there's an insurgent out there that is running around and you
12 take them out, you think you would describe them as: He
13 slumped forward? Or, is slumping forward a lot more consistent
14 with somebody, like Ahmed, sitting in the car, being shot in
15 the head, and slumping forward after he's dead?

16 Mark Mealy told you that the defendant now claimed
17 that he had seen a pickup truck during the shooting at Nisur
18 Square and that he saw people going to the truck and pulling
19 AK47s out of the back of the truck. Really? There's a truck
20 that sort of came in here during this incident (indicating),
21 and people started pulling AK47s out?

22 And then the defendant told Mealy that they had taken
23 him out of the TST, sent him to monitor security cameras. He
24 was mad about that. And he was also mad about the fact that
25 they had taken away his precious SR-25.

1 And what did he tell Murphy? He told Murphy at the
2 stationing area that day: Hey, Murphy, you saw the insurgents
3 too, right? Like the ones I see running in the bushes?

4 And Murphy told you, he's like: This dude is trying
5 to suggest to me that I should say there's insurgents out
6 there.

7 Uh-huh. You heard him. He ain't going to do that.

8 The defendant also said and admitted to him that he
9 had fired that day, but that he thought he had done the right
10 thing.

11 Ridgeway, Liberty, Slough, and, to a lesser extent,
12 the defendant, were black-slapping and bragging in a juvenile
13 reaction about the shooting, and saying: We did our jobs that
14 day.

15 Yeah, this man was part of that group (indicating).

16 You know what happened out there that day. But he
17 (indicating) and others were bragging about it. Murphy told
18 you that.

19 And about a week after the incident, the defendant
20 told Murphy that: You know what? Maybe there's something
21 wrong with me. Because he cannot, sort of, feel the same way,
22 or the way he thinks he should feel about killing people.

23 Let that sink in for a minute.

24 So what is also going on for one of the key witnesses
25 in this case, for Watson? Pressure is building on, right? So

1 when Watson got back, he got relieved of his weapons. Remember
2 how Pearson told you he had to go out there, Poulus sent him
3 to, and immediately he got out of the car, he got confronted,
4 and they took his weapon away.

5 Watson told the Department of State that day: Well,
6 I didn't shoot. I didn't shoot that day.

7 You remember what he told you here at trial when
8 Mr. Martin asked him about that? He said it was too much
9 paperwork, and it would have been the same outcome. That's
10 right, ladies and gentlemen, the same outcome. Because, as far
11 as those men were concerned, they had no oversight out there.

12 And as you know from the Department of State, nobody
13 had ever gone out to investigate a crime scene after a
14 shooting. Nobody went out and tried to interview the Iraqi
15 civilians to figure out what they had to say about the shooting
16 that they conducted. So regardless of what he said, he felt:
17 It's the same outcome. Nothing is going to happen.

18 And you heard that the non-shooters in the team, but
19 specifically Mealy and Murphy, went to Watson and complained.
20 And said: Dude, this is out of hand, what happened out there
21 today. Right?

22 And what did he say to them? If you all have a
23 problem with what happened out there today, you need a better
24 line of work.

25 That's the kind of person and leader that Mr. Watson

1 is.

2 And then Watson, you heard from Ridgeway, did have a
3 meeting with some of the shooters. And what did he tell them?
4 Keep your stories straight.

5 And what did Ridgeway understand that to mean? I
6 need to keep saying that there were insurgents out there, and I
7 did my job by shooting them.

8 You also, of course, heard about the Department of
9 State investigation. And, boy, there's not a lot I can tell
10 you about that that you don't already know from what you've
11 seen. But, clearly, they had no experience doing this kind of
12 thing; not at this scale, not this type of case.

13 Previously, what they had been limited to was,
14 essentially, taking statements from people. And the
15 contractors would tell them what happened, and they had,
16 really, no ability to investigate whether that was true or not.
17 They had never gone to the crime scene, as I said. They had
18 never interviewed Iraqi civilians. They never seized evidence,
19 or anything of the like, right?

20 But the worst problem with the Department of State
21 was that some of them had, actually, made up their minds before
22 any investigation had taken place. I mean, Mr. Farrington told
23 you about it. I mean, that very day, that being the 16th, one
24 of the USS agents said: Oh, this was a good shoot.

25 I guess, based upon what the people he talked to had

1 told him.

2 And then, a few days after that, when they finally
3 made it to the crime scene -- because, obviously, something big
4 had gone on here, right? They finally made it to the crime
5 scene. And you remember Colonel Boslego telling you about
6 this? How one of them, like, bent over and picked up something
7 and was, like: Hey, we're done.

8 Well, that's consistent with what Mr. Farrington told
9 you, that that agent, or an agent said that night: Hey, we got
10 enough to clear those guys.

11 And when nobody responded, he said: No. No. We got
12 enough to clear those guys.

13 Really?

14 And, look, Department of State just did not have the
15 wherewithal to do this or the experience to do this. They did
16 not go out to the crime scene that day. They did not seize the
17 evidence. Even when Ms. Lopez tried to go out and take some
18 pictures, you couldn't even take a picture of the whole BearCat
19 to show you some kind of scale or put marks.

20 Or when they went to the crime scene, they didn't
21 have little bags to put the stuff in or mark where the evidence
22 is being collected. They just were completely ineffective in
23 what they did that day -- or, those days. They just were.

24 And because they didn't seize the evidence, by the
25 time the FBI actually made it there, for example, the BearCat

1 was painted. That now, as Tim O'Connor told you: I cannot do
2 a copper and lead test because it's useless to me. I could
3 have done that on that little hole before and told you if it
4 was copper or lead; I can't now.

5 But you know from the witnesses what happened out
6 there. You know from the BearCat what happened out there.

7 So let's talk now a little bit about some additional
8 questions you may have about sequence and identity.

9 Your Honor, would you like to take a break at the
10 hour mark, or do you want me to continue?

11 THE COURT: Go ahead.

12 MR. CAMPOAMOR-SANCHEZ: Okay.

13 So let's talk about these additional questions you
14 might have.

15 And, really, the biggest question mark that I bet all
16 of you have is about Jimmy Watson, and what should you make of
17 him, and what should you make of the evidence that he's
18 provided you?

19 So I want you to think about something first. Watson
20 has always been consistent about two things. One is he has no
21 regrets about the actions that he took that day. And you heard
22 how some described him as an aggressive leader. I think that's
23 a generous term.

24 But he has supported his men, as much as he can,
25 always. No matter what. And you have received a lot of

1 evidence about his bias in favor of his men throughout this
2 trial.

3 So, for example -- well, he's got personal bias and
4 bias towards his men. But, you know, as we talked, he left the
5 Green Zone without authority. Disregarding a direct order from
6 a superior officer, he decided to lock down the square on his
7 own. "Fuck it. Let's do it."

8 He was relieved of his weapons when he returned. He
9 told DSS that he did not fire his weapon. "Too much
10 paperwork."

11 He dismissed the concern of the non-shooters. "Find
12 better work."

13 And he told a number of his men: Keep your stories
14 straight. Right?

15 And so this is what's going on.

16 And then you also hear about how he gets sent back
17 home.

18 And, by the way, remember those few questions I asked
19 Ridgeway about who did Watson express concern about or asked
20 about when he got sent home? That man (indicating), that man,
21 Mr. Slatten, who he claimed he was not really that good friends
22 with and who he called a "sweetheart" on the stand.

23 Remember when he called him a sweetheart? He did.

24 All right. So the first time -- because, remember,
25 he told the Department of State he never fired. But the first

1 time he testified -- Watson, that is -- about this incident was
2 in 2013, in the grand jury. Went two days. And he testified
3 pursuant to an immunity and compulsion order. That means that
4 whatever he said could not be used against him, and that he was
5 required to provide the testimony. Okay?

6 And at the time that he went in the grand jury, he
7 was already a Navy SEAL. And he told you he had some injuries.
8 I won't go into that.

9 But I want you to think about this: When he had
10 those injuries, and he was testifying to the grand jury, he was
11 training to be a Navy SEAL sniper, and he graduated to that
12 that summer. And he was sent on missions that he cannot tell
13 us about as a Navy SEAL team member, right?

14 You think that's a man who is not going to be clear
15 in his head about what he saw or didn't see, or what he thinks
16 happened or didn't happen? All right?

17 And the sequence that he gave in 2013, as summary for
18 you, is he claims that when they got into the circle and they
19 looked down the traffic circle, that he heard some distant
20 pops. So that, in his mind, there's a threat out there. I'm
21 saying there's a threat.

22 Then he says that the rear vehicle called out:
23 Contact. That being, I guess, Mr. Vargas, who was the
24 commander of the vehicle, calls: Contact.

25 And then the defendant, Mr. Slatten, says: Contact.

1 Fires his SR-25 from the left side of the BearCat, facing
2 south, fires one. Boom. He looks, looks back to his man,
3 second boom. And he can hear it clearly because he's just a
4 few feet off of his left ear, right in the same vehicle. And
5 then, and only then, does Slough fire off of the top.

6 Now, you may think: Well, okay. So what do I make
7 of that?

8 Well, ladies and gentlemen, what you can make of that
9 is that he, when he testified, had every intention of defending
10 every single one of his men, and giving exculpatory evidence
11 for every single one of his men. Why? Because he took them
12 out there that day.

13 So when he's telling you that sequence of who fired
14 first in his vehicle, in his mind at the time, that's
15 exculpatory to him. Because if he's really facing a threat out
16 there, then he can shoot at it. There's no problem with that.
17 If he's facing a threat, he can shoot it, right?

18 So that's the baseline. That's where it starts.

19 So the only difference that you have now of the man
20 you saw here on the stand and the half answers that he gave, is
21 that he, clearly, now understands that saying that Slatten
22 fired first makes him guilty of murder.

23 And back in 2013, when that did not seem like a
24 problem, seven times, ladies and gentlemen, seven times he
25 repeated that sequence and said that in his vehicle, he -- that

1 being Slatten -- fired first. And that even though the back
2 had said, "Contact," he did not hear anybody else in the convoy
3 fire before Mr. Slatten. And Slough fired after.

4 All right. So what we're asking you to do, ladies
5 and gentlemen, is to credit that part of the sequence and
6 identity of what he said in 2013, when he did not realize what
7 that meant. All right?

8 But I know that's difficult to ask of you. But
9 that's why what we did in this case is, we actually presented
10 to you some of the audio from those grand jury meetings so that
11 you can hear from your -- by yourselves what he said, how he
12 said it, and whether there was any hesitation or confusion
13 about what was going on. Or any hesitation or confusion about
14 who was the first to fire and who fired after.

15 And I'm going to tell you, you're going to have --
16 because we impeached him, you're going to have those
17 transcripts back with you, but you're not going to have the
18 audio back with you. So the audio I'm just going to play for
19 you today. And I want you to, please, pay attention because
20 you can hear for yourself how he describes this.

21 For the record, this is 498II. And the defendant is
22 going to tell you -- I'm sorry -- Mr. Watson is going to tell
23 you the defendant was the first to fire, that he yelled out:
24 Contact, contact; fired twice, and then the turret opened for
25 the second shot. So I'm going to play that.

1 (Whereupon, video was played.)

2 So, as you heard him -- and I apologize. This is not
3 the best sound. And the way it got recorded, it's, clearly,
4 not exactly the voice of the -- albeit the prosecutor's asking
5 the question or Mr. Watson, but it's clear enough for you to
6 hear what he's saying, and hear how he says it.

7 Let's play the second one.

8 (Whereupon, video was played.)

9 All right. So, as I indicated, he was very clear.
10 And compare that to how he testified and how unclear he was and
11 how he answered the questions at the trial.

12 But there's more. We also played this excerpt for
13 you when, again, the defendant says, very clearly, he shot
14 before Slough, and he has a strong recollection that the
15 defendant shot first.

16 Let's play that.

17 (Whereupon, video was played.)

18 So, again, very strong recollection, Slatten shot
19 first, in his own words.

20 There's more. And, again, this time he says, again,
21 the defendant was the first person to fire from Raven 23. He
22 was seated right next to the defendant, and he heard the
23 defendant's rifle go off first in his vehicle.

24 (Whereupon, video was played.)

25 Next one.

1 (Whereupon, video was played.)

2 Yeah. That and his map and the radios. And, again,
3 he says, very clearly, because he's seated right next to him,
4 he says it in the same answer: I can hear his rifle go off.

5 A lot is said of the audio that I'll play. And,
6 again, he's very clear that the defendant shot, pause, shot
7 again, that Watson glanced at him between the shots, that the
8 defendant was oriented to the left side of the BearCat, that
9 is, facing the south, and that the defendant was laying down.

10 Remember those pictures of the middle of the BearCat,
11 how there's, like, this bench? There's space for you to be
12 able -- you can lay down and be able to rest a weapon and fire
13 out of the portholes.

14 So let's look at -- let's listen to the first one,
15 please.

16 (Whereupon, video was played.)

17 And in between those, although we didn't play the
18 audio for you, they said: So, if the vehicle was facing this
19 way, he was firing, essentially, perpendicular?

20 He answered: Yes. If you have a map, I can show
21 you.

22 And then he said he was firing in the direction of
23 the white car.

24 (Whereupon, video was played.)

25 Coincidentally, that's the direction he was firing,

1 where the white car was (indicating).

2 Well, ladies and gentlemen, you know from the
3 evidence that's no coincidence. And you know that what Watson
4 is saying about the rear, that he never heard anybody fire,
5 that maybe the back vehicle was firing, you know that's not
6 true because all the witnesses said the first sounds came from
7 the BearCat vehicle.

8 So Mr. Watson, in his own words back in 2013, told
9 you both the sequence and the identity of who committed the
10 mass murder. He just doesn't want you to believe it now, and
11 neither does the defense. But you can evaluate it with your
12 own ears, and as you read that evidence, and you remember how
13 different he was in the sound that you hear, what version you
14 believe. And we submit to you that it is this version, from
15 2013.

16 So you have some additional corroboration, also,
17 right, from what Mr. Watson told you. And this is particularly
18 important. So Mr. Murphy told you the first thing he heard was
19 about two pops, right? And that the sound came from the
20 BearCat. The command vehicle.

21 And then, although immediately -- he was very honest
22 with you. He said: Look, it was not an immediate thought in
23 my head. I knew it wasn't a pen flare. I know it wasn't an
24 M240. I know it wasn't an M4.

25 And, obviously, after that happens, pandemonium

1 breaks out. But he's able to tell you by the process of
2 omission: I know where the sound came. I know where the
3 weapon systems are. This was the SR-25 who fired first.

4 That was the source of those initial sounds that
5 broke the silence that day. He told you that. That
6 corroborates what Watson now wants you to forget or take back.

7 Even Mr. Mealy, who does not have, unfortunately,
8 today, the best memory, but who, thankfully, testified in the
9 grand jury, months after this happened, also corroborated the
10 sequence.

11 Do you recall -- well, first, in his testimony he
12 told you that he initially thought it was a pen flare from
13 behind. He looks. Doesn't see a flare. He knows that the
14 sound wasn't an M4 or M240.

15 And do you recall when Mr. Martin was redirecting
16 him, and he asked him: Well, have you ever heard an SR-25
17 fired from inside of the vehicle while you were outside?

18 And it was like a -- almost like a light-went-off
19 moment. And he said: You know, it is fair to say that that
20 initial sound could have been that SR-25.

21 That's what he told you. Very last question that was
22 asked of him on redirect. Additional corroboration for the
23 fact that this man took those shots.

24 And Ridgeway, let's address Ridgeway because he is
25 simply mistaken about the sequence of events, all right?

1 He told you that his best recollection today is that
2 he sees Slough shoot his M4. He looks. A vehicle is moving.
3 He shoots at it. Then the police officers come, and then they
4 shoot at it again.

5 Well, you know that is not possibly true or accurate.
6 You know that these officers that are here (indicating) only
7 approach after those first one or two shots, and were trying to
8 stop any further shots. And if there had been machine gun fire
9 going on at the vehicle, they would not have approached the
10 white Kia. He's just wrong.

11 And what's -- you know, the only explanation I can
12 come up with is, and I asked him these questions, was: Were
13 you on medication at the time?

14 And he admitted that he was taking Valium and Ambien,
15 I think it was, because he had trouble sleeping. He was, in
16 fact, taking a nap when this thing started and he was the last
17 one to arrive and he was kind of fumbling with his earpiece and
18 trying to get ready for this. And he just doesn't recall it
19 that way. I don't know if it was because of the conversations
20 he had with others or what the deal is, but he just didn't
21 remember it correctly.

22 But what's interesting is, I asked him what he told
23 DSS that night, because he was interviewed. And then, if you
24 recall, I asked Lopez, who was the one who interviewed him on
25 the 16th: What did he say?

1 And what he said that day, back then, was that he
2 hears Slough shooting. He turns, and the vehicle is moving,
3 and he shoots as the police officers are separating from the
4 car, fleeing from the shooting.

5 In other words, ladies and gentlemen, he comes in at
6 Chapter 3 or 4 of the story. He doesn't see or have anything
7 to tell you about the first part of the story. He's just
8 wrong.

9 But you got to hear from him, and we brought him to
10 you so you could hear that as well. But he's just wrong about
11 that.

12 And then, finally, you know, which I'm sure the
13 defense will spend a lot of time on, they're going to be asking
14 you to say: Well, Sarhan and Ali say it was Slough. It was
15 the up-gunner that shot this -- the shots that killed Ali.
16 Right? Well, let's go over that.

17 First, let's talk about Sarhan. Sarhan told you,
18 and, you know, not surprising to us, right, he was shocked when
19 the gunfire went off, right? Why? Because he stopped all the
20 traffic. There's no threat. There's no reason to be shooting,
21 right? He only heard the sound.

22 And he -- and if you have looked back -- I don't have
23 it right with me -- but they are actually stopped in front of
24 the -- and to the side of -- well, they're standing in front of
25 all the vehicles, right, kind of perpendicular, or close to

1 where that kiosk is, where they came off to go to the street,
2 right?

3 So they're actually pretty far away from the
4 vehicles. If you looked at the diagrams that we have with
5 measurements, that's actually pretty significant. We tried to
6 get Sarhan to approximate it. And, if you recall, that's when
7 Mr. Martin had somebody standing all the way back there
8 (indicating).

9 And then we had some measurements as to how far that
10 was when he was standing by, like, that fourth row down there,
11 right? He was pretty far. So he is, actually, not facing the
12 third vehicle, and he hears a sound. He looks. He knows it
13 comes from the third vehicle. He's surprised. But he is
14 assuming that the only person he can see, which is on top of
15 the vehicle, must be the one that took the shot.

16 And, I mean, nobody can fault him for that. All
17 right? But he's just not correct. And he doesn't know what
18 you know. He doesn't know and cannot see inside the vehicle.
19 He doesn't know what Watson knows and told you about, right?

20 And then Ali, who, unfortunately, could not be
21 available so you only got to hear him by transcript, right?
22 And I'm sure, again, the defense is going to be talking to you
23 a lot about him because Ali, at one point in questions from
24 another defense counsel, said he was 100 percent sure that the
25 sounds, or the shots, came from the top.

1 And he also said, by the way, that he was 100 percent
2 sure that the vehicle -- the third vehicle had two turrets on
3 stop. He's just misremembering. And he's also facing more in
4 front of the fourth vehicle, as opposed to the third.

5 So, essentially, the defense wants you to believe
6 that they are, like, facing the third vehicle, they're very
7 close to it, and they could see Slough on top, and that they
8 saw Slough take the shot. That's just not the case. That's
9 not the evidence that you have.

10 And let's talk about assumptions here. Because, I
11 think, all witnesses do this, but particularly when you're
12 dealing with witnesses from a foreign country that have to go
13 through an interpreter and that are trying to do their best,
14 it's even more difficult. And it's, perhaps, easier for stuff
15 to come out that appears like an assumption, or is an
16 assumption. So let me give an example.

17 I don't know if recall with Sarhan, but he was asked,
18 actually on direct, because he said that after the shooting
19 started -- remember, he said some cars were trying to turn
20 around and drive the opposite way to get away from the
21 shooting. Okay?

22 And then we showed him a picture of Hayder's black
23 Kia taxi, the one that's in front of your screen (indicating).
24 And this is a picture that is taken after the event, right?

25 And you know, because Hayder told you, that his car

1 had been moved. He never got a chance to, you know, turn all
2 the way around and leave because he turned his car around,
3 stopped at the curb, and was stuck, right? And then he exited,
4 and that's when he got shot, when he's, like, heading out of
5 the car through the passenger seat.

6 Well, when we showed that picture to Sarhan, what did
7 he tell you? He said: Oh, yeah. That was one of the cars
8 that turned around and drove away.

9 And it was very interesting. Because Mr. Butswinkas
10 started his cross-examination with that very picture. And he
11 asked Sarhan: So you saw this car turn around and move away?

12 And I don't know why he asked that question. Maybe
13 it was to try to impeach Hayder, to say Hayder wasn't telling
14 the truth about that, he only turned to the right and that he
15 got shot and that he left the car and he was taken to the
16 hospital. I don't know.

17 But that was, to me, a crystalizing moment that shows
18 a perfect example of people making assumptions. People that
19 are trying to tell you the truth, but they get it wrong.

20 And the reason that this case took the five weeks
21 that it took is because we had to bring you all these people so
22 that you had all these pieces of information to build the
23 foundation for what the evidence is and what happened that day
24 so you can compare and contrast and understand what actually is
25 the truth, what you have corroboration for, what happened that

1 day.

2 They're just wrong about that.

3 And I mentioned already, I won't spend time, you also
4 have corroboration of the sequence of what Majed told you from
5 Brian Chase and Maureen Bradley, right? That's, you know, the
6 fact that the white Kia hit the bumper of the VW Caddy at less
7 than five miles per hour, probably less than two and a half.

8 And you have Maureen Bradley, the paint expert, who
9 told you there was paint transfer between those two bumper
10 systems. And these are pictures to remind you of that
11 testimony, and the directionality of when the hit took place
12 between the two vehicles (indicating). All right? So that
13 also corroborates the sequence that you have.

14 All right. We're getting close to -- we're getting
15 close to the end. So I want to just talk very briefly about
16 some of the arguments I expect the defense to make, and then
17 some of the elements of the offenses. All right. And I know
18 I've taken all your time, but I'll try to do it quickly.

19 But, first of all, I just want you to not be misled
20 and just take away sort of the irrelevant arguments in this
21 case. The first irrelevant argument that you might hear about
22 is that Baghdad was a dangerous place. Well, of course,
23 Baghdad was a dangerous place, and nobody here is disputing
24 that. Okay? The question is: What was happening in Nisur
25 Square that day? Was there an attack that day?

1 And the answer is: No. There was no coordinated
2 insurgent attack on the convoy that day. All right?

3 Now, you did hear evidence that Nisur was one of the
4 safer areas. And you heard evidence that, for example,
5 General Tarsa had over 2400 missions, and his men had never
6 been hit by a VBIED when they were doing the escort missions.

7 You heard, also, from Boslego about all the
8 improvements of security in that area. And so, to them, the
9 idea there was a coordinated insurgent attack with busses full
10 of AK47s and people hiding in the bushes is really not
11 credible. Okay?

12 But Baghdad was dangerous. It was the Red Zone. We
13 all know that, and we do not dispute that. The question is:
14 Was there a threat there that day?

15 And the answer is: No.

16 So just put that aside. That's not an argument you
17 need to concern yourselves with.

18 Second, you might hear some attacks on the
19 prosecution team. And my first one was from the opening.
20 Like: We are taking you around the block to cross the street.

21 Apparently, we enjoy being here five weeks, and we
22 have nothing better to do than waste your time. All right?
23 Look, we can do a better job, always, always. But what we
24 tried to do here each and every day was to bring you the
25 evidence, the 360 degrees about that white vehicle so that you

1 can make the determination about what happened that day, so
2 that you have the building blocks to get from the presumption
3 of innocence to a finding of guilt beyond a reasonable doubt
4 for what that man did. That's what we tried to do.

5 There was even suggestions and a question that we hid
6 evidence from you. Really? We're trying to hide evidence and
7 the fact of what happened when we're bringing you all the
8 witnesses, even the ones that say: Oh, yeah, the sequence
9 starts later. Or the ones that say: Yeah, the shots came from
10 the top of the turret.

11 No. We brought it all so that you can make the
12 determination that we think is accurate and correct; that you
13 have the evidence.

14 There's also been some suggestion that, you know, we
15 conducted a shoddy investigation, or the FBI did. And remember
16 at opening, they showed you a picture of trash in the white
17 vehicle? Well, it really bothered me. Because I could not
18 wait until we got Brian Cramer to tell you the variant of the
19 evidence, when that picture was taken.

20 It was taken in 2018, ten and a half years after this
21 happens. Did you hear that from Mr. Butswinkas's opening? Or
22 did you hear the suggestion that, clearly, the FBI doesn't know
23 how to take care of the evidence?

24 Did he show you the pictures that Tom O'Connor also
25 showed you about how the FBI collected the evidence? How the

1 FBI preserved the evidence? How the FBI took all these photos
2 and measurements and tests and diagrams to make sure that the
3 evidence of what happened was preserved? No.

4 But they did. And we could have kept Tom O'Connor
5 here for days on end, and other FBI people, to tell you about
6 all the other things that they did. So put that aside.

7 And please, please do not forget, ladies and
8 gentlemen -- the Judge is going to tell you about this --
9 statements or argument, including mine, are not evidence. All
10 right? They're not. So the questions are not evidence. The
11 statements that we make are not evidence. It's only the
12 answers that the witnesses give you. That's the evidence. And
13 the physical stuff that you can see.

14 Well, during opening, the defense went on for a very
15 long time about many, many different topics. Took us all the
16 way to World War II and Pearl Harbor. All right? And there
17 was a lot of allegations or claims about witnesses that are
18 going to say this happened or that happened or about
19 defendant's prior history or his service or the like. You have
20 zero evidence of any of that. Zero.

21 Some of you may have taken notes about that. And, if
22 you did, you need to disregard them because none of that came
23 in. None. This bit about some brown-skinned friend, I think
24 Mr. Butswinkas's words was, that the defendant allegedly had;
25 zero evidence of that. Again, do not forget that. Do not

1 believe that. There is no evidence of it.

2 So let's get to the actual arguments that I expect
3 you will hear. And I'll be very brief.

4 During opening, Mr. Butswinkas, again, tried to argue
5 to you those words about "Iraqis are animals," or, "I got to
6 kill. I popped this grape," they're just mere bravado, there's
7 coarse language that might happen or you may have heard.

8 I'm sorry, ladies and gentlemen. We must be in
9 different circles, but that is not bravado. The hostility, the
10 violence that those words engender, they're not bravado. They
11 are not mere coarse language. They're the words of somebody
12 who hates a group of people. Who blames them for 9-11. Who
13 thinks their lives are not worth anything.

14 The other thing you heard was that nobody really
15 knows what happened. It's an encounter. There's fighting.
16 There's adrenaline. There's confusion. All that to try to
17 convince you that you cannot possibly reach a resolution about
18 what you believe happened in this case. Or that by bringing
19 all these witnesses, you cannot put together this chronology
20 and the sequence if the identity of what happened there that
21 day.

22 But, yes, you can. You get to evaluate that. You
23 get to decide who you believe and how much you believe what
24 they have to say. That's what the Judge is going to tell you
25 about. All right? So don't let that confuse you. If you have

1 the evidence, you can find him guilty. Because they say it's
2 confusing doesn't mean that you cannot accept it.

3 I'm going to get to the last point, the four
4 witnesses -- well, frankly, I just -- I did.

5 They're going to keep pointing, and they have the
6 diagram that he wrote out in the opening about the four people
7 are going to say somebody else did it.

8 And I'm going to get to Slough in a second.

9 I already talked to you about Ali and Sarhan, and why
10 we believe they're confused, why we believe they're making
11 assumptions.

12 Same with Ridgeway. He's just wrong about the
13 sequence.

14 We'll talk about Slough in a second.

15 But the last point I want to mention before I get to
16 Slough is: The defense actually, in their opening, argued to
17 you that how realistic it was for you to think that Mr. Slatten
18 would, in front of his boss, Mr. Watson, decide to take a shot
19 in broad daylight, in front of Iraqi police positions, how
20 could he even think that?

21 Well, now you have met Mr. Watson. You know how
22 aggressive he was. You know what his style of leadership was.

23 And, secondly, he wasn't taking a shot in broad
24 daylight. He's hiding inside of the BearCat. Protected where
25 nobody can see him.

1 And, third, you have evidence he had done that very
2 thing before, in broad daylight, in front of his teammates. In
3 front of his boss.

4 So is it that difficult to think that that's exactly
5 what he did that day? Of course not. Of course not.

6 So let's get, now, to Slough.

7 And you heard some evidence about Slough's
8 statements. The defense moved them in for you through Ridgeway
9 and then Lopez.

10 But let's be clear about one thing: Slough did not
11 confess to killing Ahmed. All right? He did not. He said --
12 what Slough actually says in those documents, that are not
13 worth the paper they're printed on, is that he shot at a moving
14 vehicle. He said that the white vehicle, the white Kia was
15 moving at a high rate of speed. Okay?

16 At one point in one of those statements, he said it
17 was moving at 40 miles per hour in a lane that was
18 unobstructed. You know, the lane that Kinani was, on the left,
19 he claims it was just traffic stopped, and then this Kia just
20 barreled through at 40 miles per hour. And he just made signs
21 and he threw water bottles and he did all these things and he
22 was able to see the man in his eyes and then he took a shot.

23 Ladies and gentlemen, that is not an admission to
24 shooting a man while stopping traffic. That is a man trying to
25 say: I did my job. There was a threat, and I addressed it.

1 And, of course, he has to say that. You know why?
2 Because he is the turret gunner. He is the person that's
3 supposed to engage a threat, like a fast-moving vehicle coming
4 at the convoy. He also knows that because he's on top,
5 everybody is going to know that he fired.

6 And he did fire at the white Kia. Planning. He shot
7 the M203s at the white Kia and the other vehicles. The
8 question is: When did he fire? And he fired after the
9 defendant had already killed Ahmed.

10 He, of course, omitted a number of facts. He denied
11 using the M203. He did not tell you what others did that day.
12 And as you're evaluating his credibility, take a look at his
13 convictions; 13 counts of manslaughter for what happened out on
14 September 16, plus 17 counts of attempted manslaughter for what
15 happened on September 16. And account for the use of firearm
16 for what happened on September 16.

17 But that is the man that the defense is going to try
18 to get you to believe has admitted to shooting and killing
19 Ahmed.

20 Ladies and gentlemen, you know better. You can
21 evaluate that, and you'll see it. It is not credible. He
22 shot, he just shot later.

23 Now, another five minutes, hopefully, and I'll be
24 done.

25 So I've always struggled to try to explain in my

1 trials, to the jurors, what are the elements of the offenses;
2 and, specifically, what does that mean, in a way that's
3 meaningful to all of you.

4 And the best thing I could do is, I remember when I
5 used to take my kids for the summer to a vacation home in the
6 mountains. And there was always -- the place we would rent
7 always had a puzzle of some kind, and most of the time the
8 puzzle was missing some pieces. All right.

9 So the kids would put it together, and it was always
10 missing a couple pieces here and there. All right. But
11 it's -- still, they got a lot of enjoyment out of it. But the
12 more important point was, they always knew what was the picture
13 in the puzzle, even if a few were missing.

14 And so when you're thinking about the elements of the
15 offense, all right, what we must prove to you, all right, is
16 each and every element of the offense beyond a reasonable
17 doubt. And the Judge is going to tell you the seven elements
18 of the offense, and I'll go over them very quickly. That's the
19 part we have to prove to you beyond a reasonable doubt.

20 Some of you may have questions about, I don't know,
21 who fired the fifth shot? Or exactly where was, you know, this
22 individual during the event? And maybe we haven't answered
23 that. Or maybe you guys are confused as to whether, as Hayder
24 said, the damage to his car was really shrapnel. But somebody
25 else said: No. We think it was bullets. All right? That's

1 all fine and good.

2 But if any of those questions that you have don't go
3 about the elements of the offense, you can still find him
4 guilty, even if you have questions about the case.

5 So what we must prove to you, the elements; that's
6 what we must prove to you beyond a reasonable doubt. Okay?

7 And so that's why I have this picture here
8 (indicating). Like, there's pieces missing from this puzzle,
9 right? But does anybody doubt that what's in this picture is a
10 mountain? And if the mountain were the elements of the
11 offense, that's what we had to prove to you. You could convict
12 Mr. Slatten, even if you have questions about other things in
13 the case. Okay?

14 Also, the question of reasonable doubt comes up,
15 right? And the Judge, again, is going to instruct you, so you
16 follow what he tells you. But, I believe his instructions are
17 going to tell you that proof beyond a reasonable doubt is proof
18 that leaves you firmly convinced of the defendant's guilt.
19 Okay?

20 The law does not require proof to overcome every
21 possible doubt; just a reasonable doubt. Okay?

22 And then, in this case, you probably haven't really
23 heard or focused on this, but we have what's called the
24 Military Extraterritorial Jurisdiction Act, called MEJA, right?
25 That's the piece of law that allows a jury, like yourselves, to

1 render a verdict in this case for something that happened
2 overseas. Okay?

3 And as you will learn from what the Judge tells you,
4 it subjects the prosecution of those people that commit
5 felonies overseas if certain conditions are met; and,
6 specifically, there's this definition if somebody is employed
7 by the armed forces. And as you'll hear, "employed by the
8 armed forces" just means any federal agency. If you're a
9 contractor or subcontractor and what you do relates to the
10 mission of DOD. All right? That's what we're talking about.

11 So, essentially -- and, again, the Judge is going to
12 instruct you. Make sure you follow that.

13 But a summary of what MEJA and what we need to
14 satisfy in this case is the questions of:

15 Well, first, was the defendant employed as a
16 contractor or subcontractor by a federal agency?

17 Yes. Department of State, that's who Blackwater had
18 the contract with. That's who he was a subcontractor for.
19 Therefore, he is employed by a federal agency.

20 The defendant resides outside of the U.S. for that
21 employment. And, indeed, at the time of the offense, he was
22 where? In the man camp in Baghdad, where all the contractors
23 were. He resided overseas. Specifically, Baghdad, in this
24 case.

25 And the defendant's employment related to supporting

1 the mission of the Department of Defense overseas. Now, that
2 might give you pause. But let me tell you what that really
3 means. And you heard from General Tarsa, you heard from
4 Mr. Mendoza, you heard from Mr. Pearson, and you heard from
5 Raven 23 members about this. Okay?

6 So, for example, Tarsa told you: Our mission was, I
7 had a number of units and men assigned to provide protection to
8 the Department of State employees.

9 That was the mission of the Department of Defense.
10 All right? They had military units that would do the PSD, or
11 protective security details. All right.

12 When Blackwater came in, he was able to reassign, or
13 relocate, those units, those men, to other functions because
14 Blackwater, with people like the defendant, were doing, now,
15 that work; they were providing the personal security detail
16 work. All right?

17 So that's -- and, in fact, what the statute requires
18 is not that they are doing the work, but that the work they do
19 relates. So in this case, you actually have more. You have
20 they were actually doing work that used to be done by the
21 defense, our soldiers, in support of the mission of the
22 Department of Defense for the Department of State.

23 Maybe this is very confusing, and I'm not explaining
24 it well. Follow the instructions of the Judge.

25 But the bottom line is, all these witnesses, Tarsa,

1 Mendoza, Pearson, have all said: We worked together with the
2 Army. We supported DOD. If the Army needed help out in the
3 field, we helped out in the field.

4 We also helped train the Army units that would come
5 in to provide protective security details.

6 But, more importantly, they were doing that function.
7 And by doing their function, it relieved the Department of
8 Defense to be able to do other missions in addition to the
9 protective security detail. So there's really no controverted
10 evidence about this. The statute is met, and you can decide
11 this case.

12 So, finally, let's talk about the first -- elements
13 of first-degree murder.

14 And, of course, we have to prove that the defendant
15 caused the defendant of Ahmed, that he acted with malice
16 aforethought. That means that he acted deliberately and
17 intentionally. It wasn't a mistake. It wasn't, like: Oops.
18 I shot him. Right?

19 No. He intentionally and deliberately did that. All
20 right?

21 That he did so after premeditation. And that has two
22 concepts in it, right?

23 So one is forming the intent to kill. And that might
24 be instantaneous. I can, literally, just look at somebody and
25 decide, I'm going to kill them. That's instantaneous.

1 But there must also be some type of deliberation.
2 And that requires some time to pass between forming the
3 decision of the intent to kill and me actually carrying out
4 that act of killing somebody, right?

5 And, in this case -- oh, and I should say, and the
6 law doesn't define what that is. It can be even seconds,
7 right?

8 So think about this: So I'm having this SR-25, I
9 take aim at a man's head. I'm looking through the scope. I'm
10 putting the crosshairs. I decided I'm going to kill him and I
11 take the shot. That, ladies and gentlemen, is enough to
12 satisfy that one.

13 And as the Judge will tell you, you should look at
14 all the facts in the case, no matter how small, to make sure
15 you can make that determination.

16 We must also prove that there are no mitigating
17 circumstances. All right. So there wasn't heat of passion or
18 provocation or a belief that he was in danger, even if his
19 beliefs were not reasonable. So, you know, if he thought it
20 was a threat and took the shot and he was wrong; not guilty.
21 Okay.

22 But, in this case, you have evidence that he did not
23 have any such belief. There were no mitigating circumstances.
24 He decided to kill Ahmed.

25 Obviously, there can also be no self-defense, and

1 that we must prove that the murder was done in Baghdad. And,
2 obviously, we have satisfied in that regard. All right?

3 So that's, essentially, the elements of the one
4 charge you have to decide in this case.

5 So I'm coming to a close.

6 We have spent a lot of time together. You have heard
7 a lot of evidence in this case. You know, and we showed you in
8 this exhibit what somebody's -- somebody's head -- in this
9 case, mine -- would look like at 75 feet, ten times
10 magnification through the scope. Okay? We don't know exactly
11 the distance. This is all to just give you an approximation,
12 and show you what it might like look. All right?

13 But, ladies and gentlemen, what you now know after
14 these five weeks together, is that this man (indicating) had
15 the skills to carry out, take that shot. He was the best
16 marksman in Raven 23.

17 But in addition to having the skills to carry out
18 that job, he had a deep hatred for Iraqis. He blamed them for
19 9-11. He thought they were worthless, that they were animals.

20 And, I guess, when you are looking through a scope
21 like this (indicating) at somebody, it's a lot easier to think
22 of them as less than human. It's a lot easier to separate
23 yourself from your target. But that is what he did that day.

24 Ladies and gentlemen, after all this evidence you
25 know and we have proven to you beyond a reasonable doubt that

1 Mr. Slatten took the shot that ended Ahmed's life. So all that
2 we have left to ask you is to, please, hold him accountable for
3 what he did. Find him guilty as charged.

4 Thank you.

5 THE COURT: I'll see counsel at the bench.

6 (Whereupon, a bench conference was held.)

7 THE COURT: I assume you want to start after lunch.

8 MR. BUTSWINKAS: I think that would be better. But
9 it would be the Court's judgment.

10 THE COURT: Okay.

11 (Whereupon, the bench conference concludes.)

12 THE COURT: We'll go ahead and take our luncheon
13 recess early. We'll come back at 1:30.

14 Don't talk about the case yet. Don't let anybody
15 talk to you about the case.

16 We'll start back at 1:30.

17 (Whereupon, the morning session concludes at
18 12:02 a.m.)

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CERTIFICATE OF OFFICIAL COURT REPORTER

I, JANICE DICKMAN, do hereby certify that the above and foregoing constitutes a true and accurate transcript of my stenograph notes and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated this 6th day of August, 2018.

/s/ _____

Janice E. Dickman, CRR, RMR
Official Court Reporter
Room 6523
333 Constitution Avenue NW
Washington, D.C. 20001

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