



MOD-83-0000120-A

STAFF – INVESTIGATION
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MOD Form 266A (Military)

Case No: 64679/03

WITNESS STATEMENT

(CJ Act 1967, S.9; MC Act 1980, SS 5A(3a) and 5B; MC Rules 1981 r70)

Statement of: THOMAS GARDENER

Age if under 18: Over 18 **Occupation:** HM Forces (Army)
(if over 18 insert "Over 18")

This statement (consisting of 8 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 5th day of August 2003

Signature: T GARDENER

I am the above named person.

I am currently serving with 2 Tp, Badger Sqn, at the Hacienda, 5 km south of Ad Dayr. I have been in theatre for about 5 weeks.

I have today been asked by Sgt Hoffmann PR, RMP (SIB), to outline the details surrounding a shooting that occurred on Sat 2 Aug 03, involving S009 [REDACTED] of my unit.

On Sat 2 Aug 03 about 1700 hrs, myself, Lt Halloran and S009 [REDACTED] departed the Hacienda and travelled to 33F location in Ad Dayr to uplift S008 [REDACTED] RMP, who was joining us on our patrol

After uplifting S008 [REDACTED] we commenced our patrol of route six and the surrounding area.

A short while later, whilst conducting this patrol, we encountered 7 Iraqi men pushing a large hand cart from one side (west) of the route six from open ground into a local village on the east side of the route six. This village is about 2 km north of Ad Dayr. I do not know it's name.

We had actually passed the seven Iraqi men when the boss, Lt Halloran, told me to stop the vehicle.

Of the seven Iraqi males I am only able to describe two of them:

Male one: dark skinned about 5' 7", stocky build, black hair and beard, wearing light coloured shirt and trousers (colour not known).

Male two: dark skinned, 5' 7" tall, average build, blue T shirt, trousers (colour not known), black hair and stubble.

As we drove past them we were about 15 to 20 metres away from them. As we passed them we were travelling about 60 kph. The weather conditions were bright and sunny at that time.

Signature: T GARDENER

Signature Witnessed by: PR HOFFMANN

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MOD Form 266E (Continuation Sheet)

Sheet No 2

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Continuation of statement of: THOMAS GARDENER

Having passed them I reversed our Landrover patrol vehicle back up the road towards the men. These men were about 15 – 20 metres behind us now.

As I reversed the Landrover back, I heard S008 shout from the back of the Landrover. He was telling the Iraqi men to stop. As I stopped the Landrover and got out I saw that there was now only two of the seven men left. These two men are those that I have already described.

Lt Halloran approached their cart and tried to establish what it was they were pushing. It appeared to me that they had about 30 boxes that were about 8" x 6" x 4" in size. I had not seen this type of box before.

Lt Halloran and S008 took one of the boxes to the side of the road and opened it.

Having opened the box, Lt Halloran shouted over to me to arrest the two men that I had with me. I then attempted to restrain them by using my issue plasticuffs.

I began to arrest the first male that I have described but he began to resist me. It was here that Lt Halloran joined me and began to shout at this man.

I would like to add that also on our patrol was the interpreter from 33F location. I do not know his name.

During my arrest of the first male, I became aware that S008 had started to run after someone. I do not know who this was. S008 was followed by S009. I saw them run about 30 metres along a dirt track on the east side of the road and turn right up a side street. S008 and S009 were now out of sight, as was the person who they were chasing.

A short while later I heard some shouting closely followed by the sound of a gunshot. I did not hear what was shouted or how many shots were fired. I was still dealing with my prisoner at this time.

After I had loaded my prisoner into the rear of my Landrover, Lt Halloran told me to go and see where S008 and S009 had gone to.

At this time, a large crowd of the local population had gathered and were quite animated.

I ran into the village to try and find them. As I did so I saw that a large crowd had gathered in some open ground behind the houses and were wailing and shouting. I now made my rifle ready.

I ran around a block of houses looking for them both. I thought that they may now have been cut off. Having run around this particular block of houses and returned to where I had started, I saw S008 who was standing outside one of the houses. S008 told me that there had been a shooting and that the casualty was inside the house with a blue door.

I then went inside the house to locate the casualty. Because I could not see S009 I thought that it may be him that had been shot.

Signature: T GARDENER

Signature Witnessed by: PR HOFFMANN

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MOD Form 266E (Continuation Sheet)

Sheet No 3

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Continuation of statement of: THOMAS GARDENER

As I entered the house, I found S009 who directed me to where the casualty was lying. The casualty was laying inside a small courtyard against a wall. I would describe the casualty as quite tall, about 20 – 25 years old, black hair and stubble, wearing a light coloured but dirty T shirt and track suite bottoms.

The man was laying on his right side and was still conscious. I did not see where he was shot. I could however, see blood on his T shirt.

Due to the amount of people in the immediate area I did not render first aid. I instructed S009 to take up a defensive position on one door whilst I took up a defensive position on another.

About 30 seconds or so later Lt Halloran appeared and I briefed him on what I had done. He told me to return to the Landrover and bring it back to the house.

When I returned to the Landrover, I saw that S008 was there guarding the prisoners.

Having driven the Landrover back to the house, we loaded the injured man into the back and drove him to hospital.

I do not know if anyone attempted first aid on the man at this time. I was sat in the front driving.

When we arrived at the hospital, the man was taken inside. I did not see him again. I do not know if he was still conscious at this time or indeed if he was still alive.

Once we had finished at the hospital we drove to 33F location and dropped the prisoners off.

After leaving the Police Station we drove to the Sqn HQ at the Riverside where the matter was reported to Sqn Ops.

I was informed by S008 that he had instructed S009 not to talk to anybody until we had been interviewed.

Having read my statement I would like to clarify that when I heard the shouting and the gunshot both S008 and S009 were still in view, however, immediately afterwards they disappeared from view.

Furthermore, I would like to add that after Lt Halloran had opened the box and told me to arrest the two Iraqis he came over to me and showed me what he had found in the box. It appeared that the boxes contained anti aircraft ammunition.

Signed: T GARDENER

Signed: PR HOFFMANN

Sgt

RMP (SIB)

Signature: T GARDENER

Signature Witnessed by: PR HOFFMANN

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