

1 DIRECT EXAMINATION

2 BY MR. MILLER:

3 Q Good morning, sir. My name is Victor
4 Miller and I am an attorney who represents
5 Mr. Barlow. We haven't met before.

6 Would you please state your name for the
7 record?

8 A Michael McRoberts MacMurray.

9 Q And are you represented by counsel today,
10 sir?

11 A I am.

12 Q And who is that counsel?

13 A Mr. Aly and his companion.

14 Q What is your current job, sir?

15 A I am the Director of the Office of Western
16 Hemisphere Affairs in the Office of the Secretary
17 of Defense.

18 Q And can you briefly describe your
19 educational background, sir?

20 A I was awarded an AB from Dartmouth College
21 in 1964, an M.B.A. from Harvard in 1973.
22 Subsequent graduate work at Georgetown.

1 Q And what was the subject area of your AB,
2 sir?

3 A I majored in government.

4 Q And your graduate work at Georgetown?

5 A National Security Affairs.

6 Q Do you have any academic training in
7 engineering or the sciences, sir?

8 A None whatsoever.

9 Q In 1989, where did you work?

10 A I worked in the Office of the Deputy
11 Assistant Secretary of Defense for Near East and
12 South Asian Affairs.

13 Q And do you recall when you first came to
14 that position in 1989?

15 A When I retired from the Navy in 1985.

16 Q And were you in that position in July and
17 August of 1989?

18 A I was.

19 Q Who were your direct reports in that
20 position?

21 JUDGE BRUGGINK: Reports?

22 BY MR. MILLER:

1 Q Supervisors. Who did you report to?

2 A At what time?

3 Q In 1989.

4 A There were two.

5 The Deputy Assistant Secretary was, for
6 the first part of the year, Edward 'Skip' Gnehm,
7 who was followed by Arthur Hughes.

8 Q What were your job responsibilities with
9 the Office of the Deputy Secretary of Defense in
10 1989?

11 A I was responsible for providing political
12 military advice to the Secretary of Defense on our
13 security relationships with the countries I was
14 responsible for.

15 Q Did your job require you to utilize
16 intelligence information?

17 A Yes,

18 Q Do you personally have a background in
19 intelligence?

20 A I do not.

21 Q And at any time in your career have you
22 worked for the Central Intelligence Agency or

1 ask him that question in that fashion, why don't
2 you show him the testimony.

3 MR. MILLER: Okay. Well let me ask a few
4 more questions, then we can do it I think all at
5 once.

6 JUDGE BRUGGINK: All right.

7 BY MR. MILLER:

8 Q Isn't it true, sir, that you believed
9 Mr. Barlow was over-zealous because he disagreed
10 with others in his office regarding Pakistan's
11 nuclear program?

12 A I think what I said in my deposition was
13 that others in his office did not seem as fixated
14 on the issue as he did.

15 Q Okay. I'd like to direct your attention
16 to page 44 of your deposition. I would like to
17 read some of your testimony and ask you if that is
18 an accurate transcription of what you said,
19 starting with line 15:

20 "How does that explain your statement, 'a
21 man with a cause'?

22 "Answer: It is my belief that Mr. Barlow,

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1 as perhaps proper in his job, focused exclusively
2 on nonprofliteration concerns without due regard to
3 other aspects of our relationship with Pakistan.

4 "Question: Did you say that was
5 appropriate for his job?

6 "Answer: Yes, I did.

7 "Question: So being a man with a cause,
8 would that be a criticism, then?

9 "Answer: I believe Mr. Barlow pursued the
10 goals of his office in an overly zealous way, which
11 was not exhibited by co-workers in the same office.

12 "Question: Why would you describe him as
13 being overly zealous?

14 "I think the easiest characterization
15 would be to refer to the second piece of the
16 Pressler Amendment that you reminded me of earlier;
17 that the provision of conventional weapons to
18 Pakistan reduce the likelihood that they would be--
19 they would in fact obtain nuclear weapons. One, we
20 believed it. And, two, it was our business to
21 make it happen, make that happen. I don't think
22 Richard shared those views."

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1 "Question: How does that make him overly
2 zealous?

3 "Answer: He didn't agree with me."

4 Is that an accurate transcription of your
5 testimony, sir?

6 A It is.

7 Q But isn't it true, sir, that Mr. Barlow's
8 focus on Pakistan may have been appropriate for his
9 job?

10 A (Pause.)

11 Yes, it was.

12 Q Now in that passage that we just referred
13 to in your deposition, there was a reference to
14 other--that there were other aspects of a
15 relationship with Pakistan that needed to be
16 considered, can you amplify what you referred to,
17 sir, there as "other considerations"?

18 A We had a major concern with overall
19 regional stability, the tensions between India and
20 Pakistan and its relations. Through all of the
21 previous decade during the Soviet occupation in
22 Afghanistan, we worked very closely with Pakistan

1 in assisting the Mujahideen.

2 We provided considerable security
3 assistance used for arms sales to Pakistan during
4 that decade to improve Pakistan's confidence vis-a-
5 vis India.

6 Q Now, Mr. MacMurray, how would the failure
7 to obtain Pressler Certification in 1989 have
8 affected any proposed F-16 sale to Pakistan?

9 A Failure to achieve Pressler Certification
10 in '89?

11 Q Yes.

12 A We would have never have presented the
13 sales contract to Pakistan. It would have been
14 dead in the water.

15 Q Are you aware, sir, of a consensus view in
16 1989 regarding the ability of the F-16 to deliver
17 nuclear weapons in Pakistan, that Pakistan may have
18 possessed?

19 A The consensus view that I'm aware of, was
20 aware of in 1989, was that the F-16s would not be
21 nuclear capable.

22 Q To deliver any weapons Pakistan would

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1 have? Correct?

2 A Any nuclear weapons?

3 Q Yes.

4 A Correct.

5 Q Are you aware on the topic of the F-16's

6 capability as a weapons delivery system, whether

7 Mr. Barlow shared the view that you just espoused?

8 A I was not aware of any--I did not have

9 that knowledge in 1989.

10 Q So did Mr. Barlow ever discuss with you

11 the F-16's capability as a weapons platform for

12 Pakistan?

13 A I don't believe so.

14 Q Did he ever refer you to any data on that

15 subject?

16 A Not to my recollection.

17 Q Did he ever refer you to a report by the

18 DIA on that subject?

19 A Not that I recall.

20 Q Do you ever recall seeing a report from

21 the DIA on the subject?

22 A I do not.

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1 Q Mr. MacMurray, who is Arthur Hughes?

2 A Arthur Hughes was the Deputy Assistant
3 Secretary of Defense for Near East South Asian
4 Affairs. Today he is the Director General of the
5 Multinational Force and Observer in Rome.

6 Q And what position did Mr. Hughes hold in
7 your office in 1989?

8 A Deputy Assistant Secretary of Defense.

9 Q And so did he replace Mr. Gnehm?

10 A Yes, he did.

11 Q Do you recall when that transition
12 occurred?

13 A Sometime between Prime Minister Bhutto's
14 visit in July and the subsequent F-16 testimony in
15 August.

16 Q And were you ever asked to draft testimony
17 for Mr. Hughes related to an appearance before
18 Congress in 1989?

19 A I was. That was one of my
20 responsibilities.

21 Q And if you can, to the best of your
22 ability, can pinpoint how soon after Mr. Hughes

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1 came to his position was he asked to provide this
2 testimony?

3 A Two or three weeks would be my
4 recollection.

5 Q Who was the--to whom was the testimony
6 presented?

7 A I don't recall whether it was the House or
8 the Senate Foreign Relations Committee, at this
9 point.

10 Q Okay, but it was a Congressional Foreign
11 Affairs Subcommittee?

12 A Yes.

13 Q And what did the testimony relate to?

14 A The Administration's proposed sale of F-
15 16s to Pakistan.

16 Q Was there any more specific focus of
17 Mr. Hughes's testimony?

18 A I haven't reviewed it in a long, long
19 time, so I...

20 Q Okay, then do you recall that there was
21 some testimony prepared for Mr. Hughes that dealt
22 with the ability of the F-16s to deliver nuclear

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1 weapons for Pakistan?

2 A Yes. That was the same statement.

3 Q Okay, sorry. Maybe you're speaking in the
4 language that I want to make sure I understood it
5 correctly.

6 On the question of the F-16 capability to
7 deliver nuclear weapons, sir, would you
8 characterize that as a technical question, or a
9 policy question?

10 A Oh, technical.

11 MR. KIRSCHMAN: Objection. Vague.

12 JUDGE BRUGGINK: If you can answer it, go
13 ahead.

14 THE WITNESS: I would consider it a
15 technical question.

16 BY MR. MILLER:

17 Q Can you explain what you mean by "a
18 technical question," or with your answer what you
19 meant by a technical question?

20 A It might be easier to explain what I would
21 mean if it was a policy question.

22 Q Fair enough.

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1 A A policy question would be whether I wish
2 it to be so or not. A technical question is
3 factual.

4 Q It's a matter of science? Is that
5 correct?

6 A (Nods in the affirmative.)

7 Q Now when Mr. Hughes was asked to present
8 this testimony, are you aware did he have an
9 independent knowledge base upon which to testify?

10 A He did not.

11 Q What was your role in preparing this
12 testimony?

13 A I would have written a first draft. I
14 would have solicited input from other offices that
15 had something to bring to--incorporated their
16 contributions, written the smooth statement,
17 recleared it with various offices in the Pentagon
18 including for security review, probably shared it
19 with the State Department.

20 Q Who asked you to prepare this testimony?

21 A I really can't say. The hearing was
22 scheduled, called by the Committee Chairman, and we

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1 want so-and-so to testify and give a statement. It
2 was my job to do it.

3 Q So you can't recall any specific office
4 within the Department of Defense or individual who
5 was responsible for this assignment?

6 A Office of the Assistant Secretary for
7 Legislative Affairs.

8 Q Do you recall what your instructions were
9 regarding this assignment?

10 A The instructions were to write a statement
11 that supported the Administration's proposal to
12 sell F-16s to Pakistan.

13 Q And who gave you that instruction?

14 A (Pause.)

15 I would not have received a specific
16 instruction to write the statement. The
17 Administration had submitted formal notification to
18 the Congress of its intent to make the sale in
19 accordance with Section 36(b) of the Arms Export
20 Control Act. The relevant committee decided to
21 hold a hearing on the Administration's plan.

22 They called for witnesses. Mr. Hughes was

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1 to be the witness. Somebody had to write his
2 statement.

3 Q Well, sir, I think we had covered one of
4 the questions that was on the agenda was the
5 technical question about the capability of the F-
6 16. Isn't that correct?

7 A That is correct.

8 Q And prior to being asked to handle
9 drafting the testimony, did you already know the
10 answer in terms of the technical question of the
11 capability of the F-16?

12 A From general discussions of the subject in
13 the arms sales community over the past year, yes.
14 The language, the specific language in Mr. Hughes's
15 statement was probably contributed by another
16 office with technical capability and incorporated
17 by me in the overall statement.

18 Q Well, sir, what I'm interested in
19 exploring with you is your statement that your
20 instructions were to draft a paper that supported
21 the Administration's position.

22 Did you engage in any efforts to make sure

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1 that the answer to the technical question we've
2 been discussing was consistent with the
3 Administration's position?

4 A I'm not sure I understand the question.

5 JUDGE BRUGGINK: I think what he's asking
6 is: Did you have to jigger the facts in order to
7 come up with the right answer?

8 MR. MILLER: Your Honor, if I can
9 interject, that's not where I'm trying to go with
10 this.

11 JUDGE BRUGGINK: Oh? All right.

12 MR. MILLER: I'm trying to ask--

13 THE WITNESS: My answer to that, Your
14 Honor, is: Hell, no.

15 JUDGE BRUGGINK: Okay.

16 BY MR. MILLER:

17 Q Well first I was going to ask, did you
18 engage in any efforts to make sure that the answer
19 that you were providing to that technical question,
20 was accurate as of the date of Mr. Hughes's
21 testimony?

22 A I received the information from people who

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1 should have had--did have the technical expertise
2 to write the statement in the testimony that you're
3 referring to.

4 Q And is that the entire scope of your
5 efforts to confirm the accuracy of that technical
6 question?

7 A I recall making no further effort. I
8 recirculated the paper for everyone else's
9 clearance. Nobody said, whoops.

10 Q And is that part of the process of
11 confirming the accuracy, is the clearing of the
12 paper by others?

13 A Yes.

14 Q Okay. You'll notice in front of you, sir,
15 a black notebook that's called Plaintiff's Trial
16 Exhibits. And we'll get there in a second. But
17 first let me ask you: Do you know what The
18 Pentagon Early Bird is?

19 A Certainly.

20 Q What is that?

21 A It's a news clipping service that comes
22 out every morning with 20 or 30 pages of defense-

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1 related news stories.

2 Q And is it something that you received in
3 1989 in your position as Country Director?

4 A Yes.

5 Q And is this something that came out daily?

6 A Yes.

7 Q Something that you would read when it came
8 across your desk?

9 A Yes.

10 Q Did you consider the information in it
11 reliable?

12 A As reliable as The Washington Times and
13 The Washington Post and The New York Times.

14 Q Would you consider information in The
15 Pentagon Early Bird related to your job something
16 that you would need to investigate?

17 A Yes.

18 Q Okay, sir, if you'll turn in that black
19 notebook to I think it's Exhibit No. 11, and ask
20 you to review the short piece in the middle of the
21 page about, from The Christian Science Monitor,
22 entitled "Pakistan's Jets Said To Be Nuclear

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1 Capable."

2 My question would be, sir, have you ever
3 seen that article before?

4 A (Pause.)

5 I don't recall it today, but I would
6 accept the idea that I saw it.

7 Q It's probably something that came across
8 your desk in late July?

9 A Yes.

10 Q Without specific reference to this
11 article, were you aware in late-July/early-August
12 as you were drafting Mr. Hughes's testimony about
13 information of a similar nature to what's referred
14 to here, which is that Pakistan has developed
15 sophisticated computer and electronic technology to
16 outfit American-made F-16 fighter jets with nuclear
17 weapons?

18 Was that information that you were aware
19 of in late July/early August 1989?

20 A I don't know if I read this on July 25th.
21 I suppose I was aware of it, yes.

22 Q And was that information consistent with

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1 the answer to the technical question that you were
2 preparing for Mr. Hughes?

3 A No, it is not.

4 Q So at the time that you were preparing
5 Mr. Hughes's testimony, is it fair to say that you
6 had an awareness of some information that was
7 contrary to the position the Administration was
8 taking on the technical question of F-16
9 capabilities?

10 A Yes.

11 Q Did anyone assist you in preparing the
12 statement given by Mr. Hughes?

13 A Yes.

14 Q And who assisted you?

15 A Officers in the Defense Security
16 Assistance Agency, the Air Force office that
17 handled foreign military sales.

18 Q Does the name Sam Severe (See-ver) ring a
19 bell?

20 A It's Sam Severe (Sa-veer).

21 Q Sam Sever, ring a bell?

22 A Yes.

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1 Q Was he the individual that helped you?

2 A I believe so.

3 Q What would Mr. Severe's role have been
4 with regard to the testimony for Mr. Hughes that
5 you were preparing?

6 A He would have reviewed it in the first
7 instance. He--I probably asked him to elaborate on
8 any technical issues that I had made a feeble
9 attempt at explaining, or I may have asked him to
10 please give me a paragraph about the nuclear
11 weapons capability in the aircraft.

12 Q So Mr. Severe was the person with the
13 technical knowledge that was relevant to
14 Mr. Hughes's testimony?

15 A As were officers on the Air staff.

16 Q Did you and Mr. Severe ever discuss the
17 substance of The Early Bird article that we were
18 just looking at?

19 A I don't recall.

20 Q Or did you and Mr. Severe ever discuss the
21 intelligence related to Pakistan on the
22 capabilities of their F-16s?

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1 A No.

2 Q And did you and Mr. Severe ever discuss
3 the state of Pakistan's ability to make computer
4 modifications and hard-wiring changes to the F-16?

5 A (Pause.)

6 Possibly, but I don't recall.

7 Q And did you personally do anything to
8 investigate the accuracy of the report in The Early
9 Bird article, or similar reports about the
10 capabilities of Pakistan's F-16?

11 A I don't believe so.

12 Q Now with regard to Mr. Hughes's testimony,
13 sir, do you agree with me that a very relevant
14 piece of information with regard to approving the
15 F-16 sale was the status of the Pressler
16 Certification for that year?

17 JUDGE BRUGGINK: I think he's already
18 answered that question.

19 MR. MILLER: All right. Let me--

20 BY MR. MILLER:

21 Q Do you agree with me, sir that it was
22 important to that sale whether or not Pakistan had

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1 (The document referred to, was
2 marked Plaintiff's Exhibit No. 51
3 for identification.

4 JUDGE BRUGGINK: Mr. MacMurray, if I
5 could ask, do you have a pen, before we lose track
6 of things. I'd ask you to mark that just PX-51.
7 Sorry to have to get you to do that, but thank you.

8 All right, go ahead.

9 BY MR. MILLER:

10 Q And--

11 JUDGE BRUGGINK: Excuse me. Let me ask
12 you. How much more direct do you have with
13 Mr. MacMurray?

14 MR. MILLER: Five minutes.

15 JUDGE BRUGGINK: Okay. All right.

16 BY MR. MILLER:

17 Q Mr. MacMurray, I think for convenience I'd
18 like to direct you within this packet of material
19 to page 25. The pages are numbered, and there's a
20 page numbered 25. Do you see that page, sir?

21 A I do.

22 Q And looking at that page, can you identify

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1 what this document is?

2 A A statement by Arthur H. Hughes, Deputy
3 Assistant Secretary of Defense for Near Eastern and
4 South Asian Affairs Before The Subcommittees on
5 Arms Control, International Security and Science,
6 and Asian and Pacific Affairs, Committee on Foreign
7 Affairs, House of Representatives, August 3.

8 Q And is this the testimony that you
9 prepared for Mr. Hughes?

10 A It seems to be.

11 Q And realizing now that some pages that may
12 not have been particularly relevant are omitted,
13 but if you turn, the pages are numbered 30 at the
14 top. If you would turn to the bottom of page 30
15 and the top of 31, I'd like to read some testimony
16 and ask you if that is the testimony that you
17 prepared for Mr. Hughes to deliver. The statement
18 reads:

19 "The Committee also asked about the
20 nuclear delivery capability of F-16 aircraft. In
21 order to deliver a nuclear device with any
22 reasonable degree of accuracy and safety, it first

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1 would be necessary to replace the entire wiring
2 package in the aircraft. In addition to building a
3 weapons' carriage mount, one would also have to
4 redo the fire-control computer, the stores
5 management system, and mission computer software to
6 allow the weapon to be dropped accurately and to
7 redistribute weight and balance after release.

8 We believe this capability far exceeds the
9 state of the art in Pakistan and could only be
10 accomplished with a major release of data and
11 industrial equipment from the United States.

12 Is that an accurate depiction of the
13 testimony that you drafted for Mr. Hughes?

14 A It is.

15 Q So Mr. Hughes did not vary from what you
16 had prepared for him, did he?

17 A No.

18 Q When you used the phrase "reasonable
19 accuracy and safety" with regard to delivering a
20 nuclear device in that paragraph, can you tell us
21 what you meant by that?

22 A It's unlikely that this is my original

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