

# Exhibit B

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

- - -  
SULEIMAN ABDULLAH :  
SALIM, MOHOMED AHMED : DOCKET NO.  
BEN SOUD, OBAID ULLAH :  
(as personal : 2:15-CV-286-JLQ  
representative of GUL :  
RAHMAN), :

Plaintiffs, :

v. :

JAMES ELMER MITCHELL :  
and JOHN "BRUCE" :  
JESSEN, :

Defendants. :

- - -  
Monday, January 16, 2017  
- - -

Videotaped deposition of JAMES E.  
MITCHELL taken pursuant to notice, was  
held at the law offices of Blank Rome,  
130 N. 18th Street, Philadelphia,  
Pennsylvania 19103, beginning at 10:13  
AM, on the above date, before Constance  
S. Kent, a Registered Professional  
Reporter and Notary Public in and for the  
Commonwealth of Pennsylvania.

\* \* \*

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1           could have waterboarded several  
2           times a day, and I think we had  
3           one waterboard session in the  
4           afternoon in the normal using I  
5           think walling or something, which  
6           we actually were able to get away  
7           from pretty quickly then.

8                     Does that answer your  
9           question?

10   BY MR. LUSTBERG:

11           Q.     I think so. I have to just  
12   unpack it a little bit.

13                     First of all, let's talk  
14   just a bit about waterboarding.

15           A.     Okay.

16           Q.     In your book you discuss how  
17   you actually forgot about waterboarding  
18   and then the night before you made the  
19   list, suddenly it came to you.

20                     Do you remember that?

21           A.     Yeah, it was the night  
22   before -- I don't if it was the night  
23   before we made the list, but it was the  
24   night before one of those meetings that

1 we had. I mean, I could have the timing  
2 off in the book or --

3 Q. And --

4 A. But still I was thinking  
5 that I wasn't going to be the guy doing  
6 it.

7 Q. At that time, you didn't  
8 think you would be the guy doing it.

9 Why is that important? I  
10 mean, you're recommending waterboarding  
11 and you thought that that was -- I mean,  
12 you thought waterboarding was a bad --  
13 was a painful thing, right?

14 A. No, I thought -- I thought  
15 it could be done safely. I thought he  
16 would be uncomfortable. It sucks, you  
17 know. I don't know that it's painful.

18 Q. Well, I saw an interview --

19 A. But it's distressing.

20 Q. I saw an interview with you  
21 where you said it was -- as between  
22 somebody breaking their leg and somebody  
23 being waterboarded, most people would  
24 chose to have their leg broken.

1 Do you remember saying that  
2 in an interview?

3 A. No.

4 Q. Okay. Well, let's -- we can  
5 play that.

6 A. It might have been  
7 hyperbole. I mean, if you've got an  
8 interview of me saying it, I'm willing to  
9 concede that I could have said it, but it  
10 sounds like hyperbole to me.

11 Q. So you exaggerated when you  
12 said that --

13 A. I mean --

14 Q. -- if it's hyperbole?

15 A. I mean --

16 Q. Do you want to see the clip?

17 MR. SMITH: Yes.

18 THE WITNESS: Okay. Show me  
19 the clip.

20 (Video played.)

21 THE WITNESS: Okay. Now,  
22 you're using the word painful, I'm  
23 using the word distressing.

24 BY MR. LUSTBERG:

1 times, and then you can take your hands  
2 completely off of them and start over.  
3 And you've got like mini -- little mini  
4 sessions of the larger thing because  
5 they're not going to want the next  
6 walling, but you can still work -- it's a  
7 lot harder to do with some of the other  
8 techniques.

9 Q. And why is -- why was  
10 walling sufficiently uncomfortable or --

11 A. You know, I've been walled  
12 hundreds, maybe thousands of times,  
13 because the only way that I can be sure  
14 that the people who we were training at  
15 the SERE schools or the people that --  
16 the interrogators back after, I don't  
17 know, 2004 or whenever it was that we  
18 started doing the training for the CIA,  
19 knew when they were doing it correctly  
20 was to let them do the techniques on me,  
21 right? Because I'm a pretty good judge  
22 of what it's like to be walled, and...

23 Q. Okay. So my question was:  
24 So why is it -- why is it effective?

1           A.     Oh, it's discombobulating.  
2     It's not painful. My guess would be that  
3     some of the people sitting here have been  
4     walled. It stirs up your inner ears, and  
5     it's like being on one of those whirly  
6     gigs or something, you know, you move  
7     around quite a bit, and you know, it's --  
8     in fact, if it's painful, you're doing it  
9     wrong.

10                         (Exhibit No. 24, Independent  
11             Review Relating to APA Ethics  
12             Guidelines, National Security  
13             Interrogations, and Torture, was  
14             marked for identification.)

15     BY MR. LUSTBERG:

16           Q.     Take a look. Have you seen  
17     this -- this report before?

18           A.     I have looked at the report.  
19     I haven't read this particular page.

20           Q.     Okay. So the question --  
21     the sentence I want to focus on is sort  
22     of halfway, a little bit more, down the  
23     first paragraph.

24           A.     Sure.

1 Q. Where it says:

2 "Mitchell said that he and  
3 Jessen never intended to study the  
4 effectiveness of the techniques  
5 themselves, but rather that their role  
6 was 'to find and pay an independent  
7 researcher not involved with the program  
8 to do the work.'"

9 Do you recall discussing  
10 that with anybody?

11 A. I recall saying that  
12 sentence.

13 Q. You do?

14 A. The way this paragraph is  
15 written, it conflates a lot of times and  
16 it conflates a lot of other things, so  
17 the paragraph itself is -- is misleading.

18 Q. How is it misleading?

19 A. Well, "In July 2002,  
20 Mitchell joined Jessen who had recently  
21 retired and other former GI" -- "JPRA to  
22 form Mitchell Jessen and Associates."

23 Mitchell Jessen and  
24 Associates wasn't formed in 2002. The



CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, JAMES E. MITCHELL, have the opportunity to read and sign the deposition transcript.

*Constance S. Kent*



Constance S. Kent, CCR, RPR, CLR  
Certified Court Reporter  
Registered Professional Reporter  
Certified LiveNote Reporter  
and Notary Public in and for the  
Commonwealth of Pennsylvania  
Dated: January 18, 2017

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)



1 ACKNOWLEDGMENT OF DEPONENT

2

3 James Mitchell, do  
4 hereby certify that I have read the  
5 foregoing pages, 1 - PGS, and that the  
6 same is a correct transcription of the  
7 answers given by me to the questions  
8 therein propounded, except for the  
9 corrections or changes in form or  
10 substance, if any, noted in the attached  
11 Errata Sheet.

12

13 James Mitchell 6 Feb 24 17  
14 WITNESS NAME DATE

15

16

17 Subscribed and sworn

18

19 to before me this 6 day of Feb, 20 17.

20

21 My commission expires: 4-27-2017

22

23

24

25 Connie M. Stewart  
26 Notary Public

27

28

29

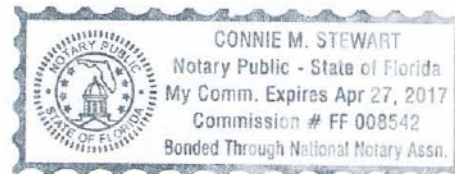
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Salim v. Mitchell - No. 2:15-cv-286-JLQ (E.D. Wash)

1 -----  
 2 ERRATA  
 3 -----

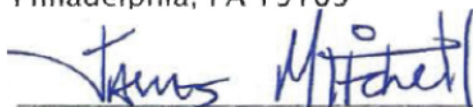
4	PAGE	LINE	CHANGE FROM	CHANGE TO	REASON
5	51	22	brokem	broken	misspelled "broken"
6	143	17	six months	three months	date is incorrect
7	164	24	2009	2001	date is incorrect
8	171	11	water	order	wrong word written
9	239	17	discard	discharge	wrong word written
10	283	24	taping	tapering	wrong word written
11	363	1	data	date	wrong word written

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DATE

6 Feb 2017