

Republic of the Philippines
Department of Justice
National Prosecution Office
City Prosecution Office
Olongapo City

[REDACTED]

Complainant,

-versus-

I.S. No. 05-N-1999

For: **Rape**

L. Cpl. Daniel J. Smith, L.
Cpl. Keith Silkwood, L. Cpl.
Dominic Duplantis, L. Cpl.
Albert Lara, Cpl. Corey
Burris and S/Sgt. Chad
Carpentier.

Respondents.

x-----x

COUNTER-AFFIDAVIT

I, L. CPL. KEITH SILKWOOD, 22 years old, an American,
with postal address c/o the Embassy of the United States of
America, Roxas Boulevard, Manila, hereby depose and say
that:

1. I am a member of the United States Marine Corps,
which participated in the recent RP-US joint military exercises
at the Subic Bay Freeport Zone in Olongapo City.

Keith Silkwood

2. I did not rape or molest the Complainant [REDACTED] [REDACTED] (hereinafter referred to as the Complainant). Neither did I witness the said Complainant being raped or molested at any time.

3. There is no truth to the charges being leveled at me. The statements of the Complainant and her witnesses are full of lies and half-truths obviously meant to prop up and strengthen the fabricated charges, as will be shown hereunder:

a. In the evening of 01 November 2005, I, together with L.Cpl. Dominic Duplantis (hereinafter referred to as Duplantis) and L.Cpl. Daniel Smith (hereinafter referred to as Smith) went to the Neptune Club from another bar, I believe it was Dewey's Bar.

b. When we got to the Neptune Club, we saw a lot of friends from the ship and everyone was having a good time. I believe we arrived there sometime between 9:45 and 10:00 p.m. While there, all we did was drink some more and dance. I was not paying attention if Smith was drinking.

Keith Silburn

c. At some point, Staff Sergeant Chad Carpentier (hereinafter referred to as S/Sgt. Carpentier), showed up to give us a ride back to the ship. He asked me where everyone was at because it was time for us to get back to the ship for curfew. I then went around the bar and the dance floor trying to get everyone together.

d. I found everyone but L.Cpl. Albert Lara, USMC (hereinafter referred to as Lara), and Cpl. Corey Burris, USMC (hereinafter referred to as Burris). They apparently left to get something to eat. I found Smith sitting on a chair with a Filipino female sitting on his lap, whom I later found out to be the Complainant. Complainant was slouched, leaning against him with her back against his chest. I told Smith that we had to go and the driver, Jun was here.

e. I saw Smith start to stand up when I left to find the S/Sgt. Carpentier. We all left the bar at the same time.

f. The last ones to leave were Smith and the Complainant. They were walking side by side.

Smith

When everybody was in the van, S/Sgt. Carpentier jumped in the front, Duplantis and I were in the middle seat. I observed Smith and the Complainant get into the back seat. I do not know why she got in but I believe it was because she did not want to say good-bye.

g. After they got in, we started moving. Smith and the Complainant were in the back kissing. I knew this was going on because I could hear them.

h. At no time did I hear the Complainant tell Smith to stop and I did not hear or see any sign of a struggle. Also, neither I nor anyone else in the van cheered. When we approached the Yellow Cab Pizza Parlor, we saw Burris and Lara walking and carrying a pizza in the direction of the ship.

i. We stopped and they approached the van. I believe they opened the side door. I talked with them (Burris and Lara) about the pizza and how we had to get back to the ship soon to meet curfew. I believe since the backseat was full (with Smith and the Complainant) and Duplantis and I were in the

Burt Silberman

middle seat, they figured it would be easier just to walk, which they did.

j. The van then started moving again. While we were moving, I could hear Smith and the Complainant talking.

k. Duplantis and I were the first ones out. Smith and the Complainant followed us.

l. As soon as Duplantis, Smith, Complainant and myself were out, the van immediately pulled away.

m. At that time, there were a lot of people walking around, mostly older civilian men. Smith then started to holler down a taxi. While he was doing so, I kept telling Duplantis (who was drunk) that we had to go back to the ship (to meet curfew). Duplantis and I started moving toward the ship while Smith was trying to get a taxi. Smith eventually caught up with us. He told us then that that he could not get her a taxi. He did not say if she was upset and I did not ask.

Smith's friend

Handwritten notes:
Kurt's letter

n. While we walked back to the ship, we focused on making sure Duplantis got back okay. At some point, I told him (Smith) to go ahead and let them know we were coming. When we got to the ship, he was there waiting for us.

o. By the time we got to the ship, we were a couple of minutes late. A G/Sgt. (gunny) reprimanded us and we went up to berthing. At no time did Smith talk to us about the Complainant that night.

p. While the Complainant was in the van, I never laid a hand on her.

q. Regarding the Complainant, she appeared to me to have been drinking beers throughout the night but she appeared to be in control. Among us, Duplantis was the drunkest.

4. From the above narration and from the allegations in the complaint itself, it is clear that there was no "gang rape" committed here.

5. In the affidavit of the Complainant herself, the following is provided, to wit:

"3. T: [REDACTED], sa nong dahilan at ikaw ngayon ay narito sa tanggapan ng IIO, SBMA at nagbigay ng salaysay? ([REDACTED], why are you here at the Intelligence and Investigation Office of the SBMA giving your statement?)

S: Para magreklamo po tungkol sa Sexual Assault/Abuse na ginawa sa akin kagabi nang isang U.S. servicemember. (To complain about the Sexual Assault/Abuse committed upon me last night by one U.S. servicemember)" [Translation, ours]

6. Thus, by the narration of the Complainant herself, she claims to have been assaulted by only "one (1)" person, whose identity she has even failed to ascertain.

7. This may be gathered from the affidavit of the Complainant, which provides:

with libel

"21. T: Maari mo ba itong i-describe at sa paanong paraan mo siya nakilala? (Can you describe and tell (us) how you met this person?)

S: May isa pong servicemember na nakipagsayaw sa akin. "Gerald" o "Genard" po ang pangalan niyang naibigay sa akin. Matangkad po siya, maputi, blonde hair, katamtaman ang laki ng katawan, matangos ang ilong, pagitan ng 20-23 ang taong gulang." (A servicemember danced with me. The name he gave was Gerald or Genard. He was tall, white, had blonde hair, was of medium built, had a straight nose and was between the ages of 20 to 23)." [Translation, ours].

8. Notably, nowhere in the statements of the Complainant and her witnesses can it be inferred that the Complainant was forced to ride the van.

9. To conclude or even speculate that the Complainant was "gang raped" would require one to stretch his imagination beyond the realm of reason and fairness.

Kath Silbroad

10. Significantly, the allegation that the Complainant was carried like a pig and left on the pavement, is a blatant lie.

11. Such act would have been the height of imprudence, considering that there were many people, marines and civilians, at the drop-off point where we all alighted from the van.

12. If indeed we had committed a crime, the presence of so many people who could have identified us would have deterred us from disposing of the object thereof, in full view of the public and in such a way as to attract unwanted attention. In other words, if we had raped the Complainant, we would not have dropped her off in the presence of so many persons or would be witnesses.

13. Also, the very same statement that the Complainant was "carried like a pig" (*binuhat na parang baboy*) found on two (2) different affidavits given by two (2) different persons, runs contrary to the normal course of things for it is unlikely that two (2) unrelated persons viewing the event/act from different perspectives, would describe said event/act in the same exact way.

Kurt Sibana

14. Furthermore, in the affidavit of Ma. Fe Castro, one of Complainant's witnesses, she claims, "*Napansin ko po na may bumaba na isang Negro mula sa van. Sumunod po ang tatlong US service member na Caucasian, at may buhat buhat na isang babae, na tila o parang lango sa alcohol (o anupaman) xxx*" (I noticed that "a Negro alighted from the van. After him, three Caucasian US service members followed carrying a woman who appeared to be under the influence of alcohol or some other substance.) [Translation, ours]

15. Whereas, in the affidavit of Timoteo Soriano, Jr., he claims, "*xxx at hawak nitong sina Smith, Borris na isang Negro at iyong dalawa pa nilang kasama na hindi ko alam ang pangalan ay binuhat itong si [REDACTED] na parang baboy xxx*" (Smith, Burris, and two other men whose names, I do not know carried the Complainant like a pig.) [Translation, ours].

16. Thus, in the affidavit of Castro "three (3) Caucasian service members" carried the Complainant and left her on the pavement, whereas in Soriano's affidavit, there were four (4) people who carried the Complainant - Burris, Smith and two (2) white men.

Smith, Burris

17. To confuse matters, some more, Fe Castro in her supplemental affidavit submitted on November 23, 2005, claims, *"Hinawakan ng lalaking PUTI na naka "blue-colored shirt" ang paa ng babae at may isa pang lalaki na PUTI rin mula sa van ang humawak sa may braso nito, naka "light-colored shirt" na puti, payat at halos hanggang balikang lang ng naka "blue-colored shirt" x x x Ibinaba ng dalawang puti ang babae sa parking lot malapit sa aming nakapark na sasakyan"*. (One white male wearing a blue colored shirt held the woman on her feet and another white male also from the van held her somewhere on her arm, he was wearing a light colored shirt and stood only at shoulder height of the white male wearing a blue colored shirt.) [Translation, ours].

18. Now, contrary to her first statement, Fe Castro claims that the Complainant was carried not anymore by three (3), but by two (2) white males.

19. These serious and irreconcilable inconsistencies only prove that these witnesses are lying. Be that as it may, if indeed the Complainant was carried like a pig, as her witnesses claim she was, then the Complainant herself would have mentioned it in her affidavit.

Heidi L. Wood

20. From the foregoing, it is crystal clear that no rape, whether individually or in conspiracy with others, was ever committed.

21. There is neither legal nor factual basis for the criminal complaint for rape filed by the Complainant against us, particularly with reference to myself. Thus, the said complaint should be dismissed.

25 November 2005, Manila



L. CPL. KEITH SILKWOOD

SUBSCRIBED AND SWORN TO before me, this
5 NOV 2005 at CITY OF MANTUA

I hereby certify that I have examined the affiant and I am satisfied that he executed the foregoing voluntarily and freely and they fully understood its contents.



RODOLFO TECINA
Administering Officer