

## **PEOPLE**

Jason: Author and aggrieved

Jessica: my wife

Whitney: Jessica's little sister

Michelle: Jessica and Whitney's mother; my mother-in-law; I believe her to be behind Whitney's allegation

Autumn: Ex lover, planted illicit porn in an extortion plot

SFC England: supervisor to whom I reported Autumn's actions

SSG Durham: supervisor, reported me for illicit digital content

SFC Hale: investigator, perjurer

CPT Kyle: my government-provided attorney

Mr. Wilson: my hired civilian attorney

CPT Kotilnek: lead prosecutor

CPT Lichvar: co-prosecutor

Judge Hart: resided over my trial, no impartiality

Matthew Forst: Army Special Victim prosecutor that recused himself from my case for ethical misgivings.

## **WHITNEY**

In 2006 Jessica and I host Whitney, then 8, in Oklahoma for Christmas, down from Nebraska. Things were fun and normal! After she gets home, Michelle calls Jessica stating that I brutally and forcefully raped Whitney over the entire duration of the 2 week visit, including just the night before.

A rape examination and a forensic interview are both conducted. The exam returns negative for any of my DNA on her person and negative for any signs of penetration or other molestation. The forensic interview returns with Whitney being wildly flamboyant and contradictory throughout. At the time, I didn't have any official results and only had secondhand news of what Michelle said, with her claiming the other way, which was vexing and concerning.

My chain of command is well aware of the allegations because I told them, and Lawton police also contacted them. This establishes the military's knowledge of the alleged crime back in early 2007.

When I was called into the police station to give a statement I, being of sound mind, exercised my rights and declined to speak.

No one presses charges upon me because of a distinct lack of criminal evidence. I still didn't have any official results from the aforementioned tests but assumed the proper conclusions.

## **AUTUMN**

Jessica and I separated in 2011, thinking we were heading to divorce. Needing cheaper rent I found a room being rented by Autumn and her parents. I moved in and eventually started dating her, which did turn into a sexual relationship pretty quickly. I violated the UCMJ adultery law because I was still married to Jessica.

At some point later in 2011 I wanted to salvage my marriage. I broke up with Autumn amicably. I had a several month long military training mission fast approaching. We agreed that she would keep my pets and household goods safe as long as I paid rent while I was gone. I did so. Being a computer geek with a surplus of devices I had no issue letting her use my computers and video games for the duration. Nothing was password protected because I didn't keep any sensitive material locally; that is, I had nothing to hide.

I left for military training in San Antonio in January 2012. I was traveling via my own car. Aside from military gear and cell phone, I took my main laptop and my Nintendo DS. Every other device was left at home.

I rapidly reconnected with Jessica and my son.

Autumn started to demand items and cash, stating she would report me for adultery. I was unaware at this time, but she planted large caches of child pornography on my various devices. These file deposits date to February 2012, while I was hundreds of miles away.

I speculate two things at this point. I believe that Autumn obtained these files from some stash her brother had, who was and is incarcerated for both digital and real-life sexual crimes against children. I also believe that Autumn somehow gained knowledge of my past legal issues with Whitney and that this acted as the seed for her extortion plan.

I did not complete training, having become injured to the point where a medical evaluation board (MEB) became needed. When I returned home Autumn's demands increased. I had a suicide attempt around April of that year while still in that home. It was a prescription medication overdose. Out of my mind on various drugs I had an extremely negative behavioral display towards the police officer that happened to be called when I had awakened in the hospital. I was screaming for him to get away and was basically trying to crawl into the wall. In my weakened and not especially lucid state I did not have a proper handle on my fear of police. My unit found out about this fear at this time.

## **DIGITAL**

Autumn's demands yet increased. I finally said "no" on May 10, 2012 sometime late in the evening. She took me to my desktop computer in the living room and revealed both the illegal materials she had planted and her plan to use them against me. Horrified, I said some token statement of acquiesce to appease her for the night then locked myself in my room.

My computers were all intimately networked so that I could seamlessly switch between them to monitor projects and scripts and so on. I spent the night scouring my devices and securely deleting every bit of vileness I could find. Then I did it again. I elected to do this comb-through method because of the volume of non-vulgar media I had and did not wish to delete, close to 20 terabytes across all devices.

At about 4am in the morning on 11 May 2012 I called both Jessica and SFC England to inform them of everything that had transpired. In SFC England's case I said I preferred to discuss in person. He sent me a text with his address.

Stemming from this conversation the chain of command got me an emergency loan to move. Then, several members of the unit helped me physically move.

I informed my therapist of Autumn's actions.

The MEB progressed, my pain raged on, my depression ran rampant. Another suicide attempt occurred in early October 2012.

I spent 6 weeks in a facility called UBH, where I discussed my physical pain, my geographic separation from my wife, and all the craziness with Autumn - to include specific mentioning of what Autumn did to me. I ultimately did not pass the program and came out little better than when I went in.

The final week of November 2012, less than 2 weeks after my fail out of the mental health program, SSG Durham and I had an easy mission to watch some military equipment each night that week. We were authorized to watch movies on our laptops. My laptop was stronger so we used mine.

Because of the sudden but temporary change in my sleep schedule I did not take my sleep meds between shifts. I was unaware of the rebound effect and fell prey to massive insomnia that week.

The final day of our particular week, Thursday, I tried and failed to sleep. I decided to do a more or less routine cleaning out of my download folder. I came across an ambiguously named archive - that is, a single file containing one or more compressed files. I extracted it to examine the contents. For context, it is routine for me to acquire a number of related but independently released tools when developing a new script - I compare and evaluate to see which program would fit my needs, and these are usually distributed via archives due to space and bandwidth considerations. It is not unusual for me to have an "Eureka!" moment with the one that works and leave the rest of the files littered about the download folder.

In this case the archive contained child pornography. I panicked and adrenaline flushed through me. I moved the archive and the extracted files to my previously established location to point my secure delete program at. I executed the secure deletion routine.

In my sleepy but twitchy state I neglected to pickup on the fact that one file was a torrent. My torrent client automatically detected it (the torrent file) in the download folder and did the job it was preconfigured to do. A torrent is a binary file that acts as a sort of pre-made playlist of files to download and also lists potential sources from which to do so. The client downloaded another illicit archive without my awareness of the matter. This all occurred within an hour or so of SSG Durham's expected arrival at my house so that we could go to work.

Now that the adrenaline had left my system I was sleepy so I simply sat back and closed my eyes until it was time to go. Perhaps I slept, but not deeply and not for long.

I took my seemingly clean computer to work for our enjoyment on the detail.

At around 7am, as I did checks, SSG Durham was alone with my laptop and went looking for a new movie. Unsurprisingly, he found the criminal file in the preconfigured download folder. This is the only instance of the archive file being opened, as well.

Unbeknownst to me, SSG Durham correctly reported the find. After the shift we went to the organizational headquarters and I was ushered into a room with a police officer who begins talking about content on my computer. Records indicate I waived my right to silence but I don't remember explicitly doing so. I do recall panicking and talking a lot. Recall my earlier issue with police, which was known to the unit. Put that together with my profound lack of sleep that week, my generally weak mental health at the time, and the realization that I was about to take the fall for someone else's misdeeds; the result was that I was a mess. I wasn't hysterical in the traditional sense but I certainly wasn't in control.

After a short amount of time I was arrested and transported to the Criminal Investigation Department for interrogation.

At this time, I have been up for around 3 days with maybe a few micronaps. I was in a windowless room with no clock. Records indicate that I waived my rights to privacy, council, and silence, though I do not recall explicitly doing so. I repeated everything to this new military officer, SFC Hale, including confessing the adultery with Autumn. Contrast this with the Whitney proceedings from before and it is a very clear indication that I was not sound of mind, that I was in fact in an altered state of mind.

After some time alone, wherein I did actually sleep a little, I was asked about granting access to my house. I was finally lucid enough to realize I should exercise my right to refuse.

I ask for a lawyer at this point, one is never provided.

Some time later they return with a claim that they have a search warrant on my off-post residence. I ask multiple times to see the warrant, they refuse.

One of my superiors arrives to take me to the house so I can let them in. I was so exhausted that I was essentially following orders on auto pilot. I comply.

To the best of my understanding, per military policy when dealing with a search warrant in an off-post residence, the local police department must come to the site to observe, oversee, and actively participate in the search. What happened in this case is that the CID agents explicitly told her to wait outside. The Lawton officer remained in or around the car for the entire duration of the warrant's execution. Every single writable hard disk was taken, as well as hundreds of CDs and DVDs. I estimate the combined total of storage across all disks and devices to have been 20 terabytes of data, mostly occupied. I recall later being somewhat amused, in a melancholy way, that they took my PSP, which I hadn't used in a couple years, and then only for gaming.

I am not provided with a receipt of items until the following Monday, which is against military search and seizure policy. The receipt should be directly provided at the site of warrant execution if an occupant is present or otherwise left in a safe but immediately obvious location. No items should leave the grounds until the receipt is done.

## **PRE-CHARGING**

My unit executes multiple limiting orders against me that substantially curb my freedoms and enjoyments, such as prohibiting me from taking my son to parks and denying my ability to use virtually all electronic devices. I am required to use an expensive burner phone, paid for with my own finances. These remain in effect until just a couple months before the trial, most of two years later.

The unit gossips. Multiple people are transferred because they simply cannot work around me. I am flagged for No Favorable Action. I routinely get the less desirable details, including 24 hour duties upto 15 times per month.

I am not allowed a post lawyer because I haven't been charged.

I take my pills and attend therapy. The MEB progresses. I am supporting 2 households this entire time while on E-4 pay. Despite all the stress my overall mental health rebounds.

Around 5 months after the initial arrest I am called into CID for questioning about Whitney. Once again in something like a sound state of mind I invoke my rights and decline to talk. I assumed CID learned of Whitney via communication with the Lawton Police. Much later, as part of the record of trial, I discover that it was Autumn that informed CID of Whitney while being

interviewed. In that interview Autumn claims I told her about that case. I argue that it would have been truly weird to talk about with someone that I met, dated, and dumped in about 6 months. I certainly wouldn't have discussed it with Autumn after the extortion began.

I am still as dirt at my unit and have trouble getting leave for anything, including a death in the family.

July 3, 2013, the MEB concludes, returning with a 60% disability rating from the Army and a 80% disability rating from the VA. I accept these numbers and sign the paperwork. Under normal circumstances I would have left the military very soon, probably within a month.

October 2013, the last piece of evidence in my case is gathered into the files. If memory serves correctly, this is the forensic report of my computer devices.

I am still diligently supporting 2 households.

April 2014, there is a post change of command. I speculate that the outgoing general did not approve of prosecuting my case. I don't see any other reason for the delay.

May 14, 2014, my birthday. CID attempts to charge me. The unit has a training mission so the commander is unavailable and it does not occur. In retrospect this appears, to me, to be the first step in a sustained malicious prosecution - I believe this to be an attempt to demoralize or intimidate me.

May 15, 2014, I am formally charged; 18 months after my arrest; nearly a year after I would have left due to medical discharge; 7 months after any more evidence was logged. By any measure this is well outside the 120 day speedy trial clock of arrest-to-trial that the United States Supreme Court placed on the UCMJ Courts. I am charged for possession of child pornography and sexual crimes against Whitney. Notably absent is the one sex crime I actually confessed to: adultery.

News to me but obvious in retrospect is that one specification of the child pornography charge states it was found on the PSP. This explains why it was taken. It never occurred to me to check the gaming devices when I was combing for illegal materials because I only used them for games.

## **PRE-TRIAL**

Coinciding with a large reduction in hour availability at Jessica's job, my wife and son move back in with me in June 2014. This support is probably the reason I am alive today.

The prosecution continues to play games. They "lose" a package that was intended to be sent to the defense computer expert. The contents of this package was digital copies of the offending

disks. The claim was they sent it through normal mail without any kind of signature or tracking. This meant that a new shipment had to be put together and a trial extension had to be granted so our expert could examine things.

The defense computer expert discovers that some timestamps on the PSP disk occur long after the device was in custody, meaning at least some data has been modified by the authorities. That aside, the illegal content timestamps date to February 2012, in the exact timeframe that I accuse Autumn of planting the data, and more than a year removed from any earlier timestamps, which indicates a general disuse. Our pre-trial motion to dismiss the related specification on the basis of tainted evidence and lack of evidentiary confidence is denied.

Around this time we also motion to dismiss the Whitney charges based on the fact that two jurisdictions had years to prosecute, both actively declining. The prosecution states the military didn't have any knowledge of the allegation before current events. The motion is denied.

Near the new trial date the prosecution calls CPT Kyle, asking me to come in to talk about a plea deal. On the phone CPT Kyle gives me the general terms. Jessica and I agree that listening doesn't hurt, and so we immediately go in to the office. We live very close by. Upon arrival the prosecution states that we took too long, that deal is off the table and it was replaced with one much worse. It became blindingly clear that the prosecution was toying with me. I hired Mr. Wilson, which required a second extension as he came up to speed on the case.

As part of Mr. Wilson's research in the case it is discovered that Michelle appears to have a long history of accusing people she doesn't like with some sort of sexual impropriety.

At 2100 the Thursday evening before my Monday trial CPT Kotilnek and his assistant are walking around my house, peeking in my windows. They come to the door, requesting to get a statement from Jessica, who is unavailable at the time. CPT Kotilnek berates me for what he believes to be a lie. Visibly upset, he leaves. I call CPT Kyle and inform him of the exchange. He advised me to not call the cops, saying we would bring it up in trial. To the best of my current recollection it is never brought up.

At around this same time there is a last minute judge change that we instantly disputed. Judge Hart is known to have been sexually assaulted as a child. He refused our motion for recusal, stating that his particular childhood incident would not interfere with his judgement in my trial.

It is also in this general time frame that my attorneys inform me that Matthew Forst recused himself from the case because he didn't believe in the merits of the case. To reiterate, the Army's Special Victims prosecutor got himself removed from my special victims case because he didn't believe it was worthy of trial.

December 9, 2014, the day of the trial but before it has commenced, CPT Lichvar sits down with Jessica to get a statement. She is in tears before the trial had begun.

## TRIAL

It isn't necessary to go through every talking point at trial, but here are some highlights. All of these statements come from words uttered while the person was under oath.

*SFC Hale:* perjures himself by stating, even clarifying, that he gave me an item receipt at the time of the search and seizure. While I did not have access to them at the time, his own logs betray his words under oath and match up with what I claim.

*Mr. Ortiz:* stated in no uncertain terms that there is nothing that indicated I searched out, viewed, or even knew of the existence of the illicit images on my computer. Among other things, this draws on data from file opening timestamps and an intact internet search history. He also explained, after we brought it up, that data on the PSP disk was altered after it was in custody. The timely motion to dismiss the related specification was denied.

*Whitney:* She couldn't recall any aspects of the alleged assault that she claims to know have happened. She merely read portions of her forensic interview from 8 years prior. She stated she learned the word "rape" from the television show Law and Order: SVU, immediately following up with the words: "I love that show." She appeared shocked to learn her rape kit was entirely negative and she further seemed unaware it even existed. The last two topic exchanges, and more, were seamlessly deleted from the middle of Whitney's testimony in the record of trial. Only someone there at court would notice it was missing when reading the transcript. It took approximately 3 years to convince the courts to reexamine the audio. Once done, they affirmed my claimed and attached the missing transcript portion to the official record of trial.

*Whitney forensic interview video:* For context, this video occurs within 2 days after I allegedly spent two weeks brutally raping her. It is played for the court. Whitney is seen doing cartwheels around the room, and seems generally bored. Unprompted, she sits down and draws a picture of a penis. The interviewer asks a few questions, Whitney's answers blame me, and the interviewer leaves the room. The prosecution had supplied this particular version of the video and that's where it stops, apparently edited to end here. Defense supplies the entire video, navigating to and starting from the first video's ending point. In the approximately 1-2 minutes the interviewer is out of the room Whitney draws an unprompted picture that says "I love to help you," surrounded by a big heart. Smiling, she holds this up to the camera. The interviewer returns to ask more questions, and Whitney casually states that she made up everything before and that maybe she had a dream about it.

*Whitney's forensic rape examination:* this was not admitted into evidence and was not read in court at all. The prosecution objects to its inclusion on the grounds that it is a routine business document. The judge sides with the prosecution.



Judge Hart found me not guilty on any Whitney charges and guilty on both specifications of the single digital charge.

I was sentenced to 2 years confinement, reduction to Private, and forfeiture of all pay and allowances.

We did not win any of the approximately 40 combined issues raised by both sides over the course of the trial.

I assert that Judge Hart made absolutely no attempt to appear impartial while presiding over my trial. I further assert that Judge Hart displayed a general lack of understanding of the key computer concepts at play, even after Mr. Ortiz had spoken at length about them.

More anecdotally, I have an exchange that speaks to my character. After sentencing, while exiting the courtroom, SSG Durham was in front of me. I wasn't yet in handcuffs or being particularly manhandled so I paused, looked him in the eye and held out my hand. As I shook the hand of the man that reported me for possession of such vile content I said, verbatim, "I disagree with the verdict but you did the right thing - and I'll never say any different." He only said "I'm sorry" while he looked to be holding back tears. That was the end of the exchange.

## **INCARCERATION**

While I was incarcerated I was subject to another additional restriction. I was to have no contact with my child until I "accepted responsibility" for my convicted crime. Per Fort Leavenworth's published post policy: no visits, no phone calls, no letters with my 4 year old son until I admit guilt or leave confinement. I asserted then and maintain now that stance was coercion. No amount of phone calls or letters from Jessica or from me would change post policy on this. According to the same rule I could not advance to minimum security with more privileges, which is again coercion.

I made the correct choice to maintain my innocence - keeping my appeal chances intact - but it exerted a massive toll on my family.

Jessica was pregnant at the time of my conviction. She visited me in prison every weekend until the birth of our second son, who I also could not see. Thus, my entire family was denied to me.

It took eight months to get my record of trial, fully double the standard guideline of no more than 120 days. I was given 1 month clemency with no reason cited.

## **AFTERMATH**

Once released I attempted to reintegrate with my family and general society. I was unsuccessful. I was paranoid that someone would recognize me and openly label me a sex

offender; I believed this hypothetical confrontation would cost Jessica job contacts and my sons' their friends.

I isolated.

I seethed.

It was difficult to maintain an active therapeutic and medicinal relationship with my nearest military installation hospital for many reasons, chief among them being lack of transportation.

I have not been able to get hired in 3 years, despite hundreds of applications and perhaps 50 interviews.

My family unit has decayed.

My actions after release from confinement are solely the result of my own choices. I could have tried harder to interact more, to love more, to be there in mind and not just in body. I should not have wallowed. This I accept.

Before that, however, I suffered for years. My wife and children suffered. *We* suffered for no particular reason other than happening to know two maliciously unwell women that the United States government was happy to crusade for.

I am not alone amongst military convictions; compared to civilian courts, a hyper-inflated percentage of guilty verdicts are being handed out in the UCMJ courts for any sort of remotely sexual based offense. Many of these cases are so weak a civilian court wouldn't even attempt to plea deal, such as a conviction on a single verbal testimony. I believe I stand out even here, though, for the sheer amount of corrective steps I took, the quantity and quality of directly exculpatory evidence, and the overtly malicious prosecution leveled against me.

I am formally requesting a presidential pardon to fix this extended wrong against my family and me.

In retrospect, I recognize that I may not have made the most appropriate choices to get me through life unscathed; upon my love of my family I swear and affirm I have always acted honorably.

I am a guardian of freedom and the American way of life.  
---Jason Close

## **ADDENDUM**

May 2019, I received a package from CID that contained most of the media logged as evidence. One of the harddrives is not mine. There doesn't seem to be any photos or real names to indicate the person it belongs to, but the username of the main administrator account is one I have never used, and the files types, naming schemes, and content quality are wildly different from anything I would retain. With a representative sample of my files versus these, one could tell on names alone that there is a substantial difference in administrative handling let alone more in-depth properties such as bitrate and the subjective yet relevant taste in content. This is clearly an egregious mishandling of property (not) relevant to the case - and yet, Jessica and I could only sigh and move on when we discovered it. To reiterate, the overall case has been so poorly handled that the very idea of improperly added "evidence" barely warranted a spark of anger. I have preserved this harddrive in the event it needs to be analyzed.