

Tabled by Senator Roberts
24 October 2023
4.53 pm

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Form 59
Rule 29.02(1)

Affidavit of John Bret Hamilton

No. NSD745 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

HESTON RUSSELL

Applicant

AUSTRALIAN BROADCASTING CORPORATION

First Respondent

JOSHUA ROBERTSON

Second Respondent

MARK WILLACY

Third Respondent

Affidavit of: **John "Bret" Hamilton**
Address: **Stafford, Virginia, United States of America**
Occupation: **Senior Manager, Threat Management Team**
Date: **July 2023**

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I Bret Hamilton say on oath:

Filed on behalf of (name & role of party) Heston Russell, Applicant
Prepared by (name of person/lawyer) Rebekah Giles, Solicitor
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1. From July, 1995 until November, 2018 I was employed by the United States Government at the Drug Enforcement Administration (**DEA**). This acronym is often erroneously confused with the Drug Enforcement Agency. I also served in the United States Marine Corps and prior to that was a police officer.
2. I met the applicant Heston Russell in 2012 when I was a Team Leader with DEA's Foreign-deployed Advisory and Support Team (**FAST**). FAST was formed to conduct intelligence driven counter-narcotics operations in Afghanistan with Afghan National Police. As the commander of my FAST team, part of my role was to liaise with other federal agencies or military commands involved in these operations. It was in this capacity that I met the applicant who was the Commander of November Platoon, 2nd Commando Regiment, Australian Defence Force.
3. During these operations the DEA FAST would imbed within a full commando platoon or a full company bracket (which is two platoons) approximately 2 – 3 times per month. The intention was to provide intelligence on the location of drug labs and other narcotic locations and physically attend to these locations together with these platoons who would provide DEA FAST Agents with on the ground military support and security.
4. The November Platoon was one such platoon that I worked with during my deployment to Afghanistan in 2012. I led my DEA FAST team on several operations with November Platoon in 2012. I also worked quite closely with Oscar Platoon, 2nd Commando Regiment.
5. In October 2020 I became aware of the following article published by the Australian Broadcasting Corporation (**ABC**): <https://www.abc.net.au/news/2020-10-21/soldiers-killed-man-who-could-not-fit-on-aircraft-says-us-marine/12782756> (**October 2020 Article**). I remember reading the article and thinking the account from "Josh" was highly implausible as it would be impossible for anyone to hear a suppressed weapon on the ground discharge from a helicopter circling above. Even if the helicopter had landed and "Josh" had been standing next to it, he still would be unable to hear a suppressed weapon discharge. Furthermore, if there were an audio recording of such an event (as "Josh" suggests in the article), the Marine Corps would be legally obligated to release the recording to the Australian Defence Force. I was not contacted by any reporter from the ABC about this article before it was published.
6. My experience of the Australian Defence Force was overwhelmingly positive. It is very important to me that the Australian public know that I considered it an honour to work alongside the Australian Commandos. They had a reputation amongst those with whom I was deployed in Afghanistan as a professional group of soldiers who conducted themselves admirably.

7. I have become aware of an allegation that US troops refused to work with them. That does not accord with my experience of November Platoon. They were highly professional and motivated. This was the view I held of their Commander, Mr Russell. I never witnessed nor was told of any wrongdoing committed by Mr. Russell or any member of November Platoon. Nor did it mean I believed November Platoon was ineffective.
8. I have been informed I've been attributed as saying "*we're not going out with those fucking guys (November platoon) ever again*" by a confidential source. I deny saying these words or ever being asked by any person whether I said those words. I do not recall Mr Willacy asking me if I said these words, which were used in the October 2020 Article. Had he asked me I would have denied saying those words or being of that view.
9. I have also been informed that it has been suggested that a member of DEA FAST told a member of Oscar platoon "*in no uncertain terms*" that the DEA "*won't operate with November platoon anymore due to their behaviour in the field*". I did not say this nor am I aware of anyone within DEA saying this about November platoon.
10. We worked with both Oscar and November platoons during my deployment. During the relevant period, I certainly expressed a preference to work with only one platoon for the sake of efficiency. My preference was to work with Oscar platoon due to my relationship with the Oscar Platoon Commander and because of the number of missions we had already conducted.
11. The first contact I had with the ABC was during June 2022 when I received an email from Mark Willacy who told me he was a journalist with the Australian Broadcasting Corporation reporting on the DEA and 2nd Commando Regiment partnership in Afghanistan. He asked if I would be willing to be interviewed.
12. I told Mark Willacy I had nothing but positive words for all members of the 2nd Commando Regiment and I would be happy to give an interview to explained that I and every member of DEA FAST that I'm aware of was very happy to work with them.
13. I liaised with Mark and his producer Alex McDonald. **Annexed and marked BH-1 is a series of emails I exchanged with Mark and Alex in relation to the interview.**
14. In September 2022 Alex sent me a link of the edited interview. After watching it I recall being disappointed by the edits which falsely suggested I believed November platoon had committed wrongdoing.
15. A link to the transcript of the 7.30 programme that aired on 21 September 2022 is at the following URL: [Australian commando under investigation over 2012 Afghanistan rotation - ABC News.](#)

Sworn by the deponent
at Stafford, Virginia
on July 2023
Before me by AVL:

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Signature of deponent

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Signature of witness

Rebekah Giles, Solicitor

This affidavit was sworn and witnessed in counterpart and witnessed over audio visual link in accordance with s 14G the of the *Electronic Transactions Act 2000 (NSW)*