

Boston, Ward - Affidavit

On October 22, 2003 a remarkable affidavit of Captain Ward Boston, USN JAG (ret) was released. An affidavit is a statement under oath.

The essence of the affidavit from Boston is that 36 years ago when he was counsel to the United States Navy Court of Inquiry, investigating the attack on the USS Liberty (which occurred on June 8, 1967 in the Eastern Mediterranean), the President of the Court, Admiral Isaac Kidd, Jr., told him that President Lyndon Johnson and Secretary of Defense Robert McNamara ordered Admiral Kidd to conclude that the attack was a case of “mistaken identity.”

Boston was in fact the counsel to the Court and he, along with Admiral Isaac C. Kidd, Jr., Captain Bert M. Atkinson, Sr. and Captain Bernard J. Lauff as Court members, Lieutenant Commander Allen Feingersch, Assistant Counsel to the Court, and YNC Joeray Spencer, U.S. Navy, reporter took an oath at the opening of the Court, (page 106 of AJC and JAG pagination, page 1 of original record pagination) pursuant to article 135 of the Uniform Code of Military Justice “to faithfully perform their duties in the conduct of the Court of Inquiry”. (Go to Documents on this website, then to U.S. Navy Court of Inquiry where the entire record of proceedings is displayed and scroll to page 279 of AJC and JAG pagination, page 174 of the original record pagination where the signature of Ward Boston appears signing off on the Court proceedings.)

Ward Boston completed a distinguished career in the U.S. Navy and retired. He was a competent lawyer. That is why it is so strange that he should close his record with an act that dishonors himself by admitting to lying under oath, that is, filing a false report in a U.S. Navy Court of Inquiry after taking an oath to faithfully perform his duty as counsel for the Court of

Inquiry.

In the legal arena lawyers struggle to impeach (destroy the credibility of) a witness's testimony. Impeachment is accomplished by establishing a prior inconsistent statement made by the witness and then asking the witness "were you lying then or now?" The testimony of an impeached witness is given little consideration because it has been established that the witness is a liar.

Why did Ward Boston sign an affidavit impeaching himself? Why did a man with a distinguished military record swear under oath that he did not faithfully perform a duty he took an oath to faithfully perform? It can only be suggested that memory changes with time. I can not imagine why Boston signed this self-destructive affidavit.

The affidavit also offers statements of hearsay reputedly made by President Lyndon Johnson, Defense Secretary Robert McNamara and Admiral Isaac Kidd. As a lawyer, Boston is aware of a principle of evidentiary law known as "the dead man statute." Simply stated, testimony about statements of deceased persons is not accepted in evidence for the simple reason that the deceased person is not able to respond and confirm or deny the alleged remark. President Johnson and Admiral Kidd are both deceased. They cannot respond. The record is clear that President Johnson, during his lifetime, never confirmed Boston's claim. The documentary record is even stronger that Admiral Kidd fully supported the validity of the findings of the Court of Inquiry to his dying day. As a close friend of "Ike" Kidd, I could also repeat statements made by "Ike" to me, but those statements would be equally in violation of the dead man statute.

Secretary Robert McNamara is alive and well and as of my last conversations with him

on May 8, 2003 and October 28, 2003, his mental faculties were of the same brilliant quality that persuaded President John F. Kennedy to appoint him as Secretary of Defense in 1961. On October 28, 2003 he declined to comment publically on this matter. He is probably right. His comment would only leave us with a claim and a denial when the best evidence of the quality of the report is the document itself which may be reviewed at www.thelibertyincident.com.

At this point it is appropriate to consider events leading up to the Boston affidavit. It states that it was generated “in particular, [by] the recent publication of Jay Cristol’s book *The Liberty Incident*.” Without dispute, Ward Boston was counsel for the Court of Inquiry in 1967. He was recommended for the assignment by Admiral Isaac C. Kidd, Jr., who was appointed President of the Court by Admiral John McCain, Jr. (the father of Senator John McCain). Admiral McCain, as Commander in Chief of U.S. Naval Forces, Europe convened the U.S. Navy Court of Inquiry.

In June 1967 McCain was in London. Kidd and Boston were in Italy. They flew to London on June 10, 1967. They opened the Court proceedings 46 minutes before midnight on June 10 and stayed in session until 2:50 AM on the morning of June 11. Then Kidd, Boston and a court reporter flew to Souda Bay, Crete and traveled by destroyer out to sea where they boarded the USS Liberty the next day, June 12. The other members of the Court flew to Valletta, Malta and met the ship there. On the morning of June 14, 1967 the Court convened and took testimony and received evidence for two days, including over 150 pages of sworn testimony from 14 Liberty crew members. Then the Court flew back to London, took additional testimony in London until 4:15 PM on June 16, closed, deliberated for two days and presented its record, including its findings of fact to the Commander in Chief, U.S. Naval Forces, Europe, Admiral

John S. McCain.

Questions:

If President Johnson or Secretary McNamara sent orders to Admiral Kidd, how were the orders transmitted?

If the Court, as Boston alleges, did not faithfully perform its duties, who was in on this infidelity?

Just Kidd? Kidd and Boston?

What about Captain Atkinson, Captain Lauff, Lieutenant Commander Feingersch and the court reporter, Chief Joeray Spencer?

Boston's affidavit is accurate in its statement about the investigation, "We gathered a vast amount of evidence, including hours of heartbreaking testimony from the young survivors."

The entire Court of Inquiry record may be viewed on this website. Go to Documents - Court of Inquiry. The entire report is there including the "heartbreaking testimony" of the crew, referred to by Boston, as well as all the contemporaneous endorsements of the report. The testimony and record do not support the comments in Boston's affidavit. If any reader finds a discrepancy between the actual court record and my book, *The Liberty Incident*, I would be glad to acknowledge the appropriate correction upon being advised thereof.

In the preparation of the book, *The Liberty Incident*, I had occasion to talk to Ward Boston on two occasions. My notes on those conversations follow:

Telephone conversation with Captain Ward Boston, Jr., 23 July 1990

I called WB at 619/423-6428. We talked from 1600 to 1810. He advised me that he was

in the OpCom center in Italy when the Liberty incident occurred and that he heard some of the radio traffic relating to the event.

He said he got a call from Isaac Kidd who told him that Jack McCain had appointed Ike to be the president of a U.S. Navy Court of Inquiry. Ike asked him to be counsel to the Court of Inquiry.

Shortly thereafter they left for London. There they met two other captains who were appointed to the court.

They commenced proceedings on the evening of their arrival in London and started with the testimony of the captain in charge of communications in London.

After the court adjourned, WB and Ike flew to Crete, where they took a destroyer out to the Liberty. They boarded the Liberty while she was en route to Malta. He recalled there were still 27 bodies in the hold (I believe he meant 25). The other 2 captains followed and met the ship at Malta. They worked 7 days and 7 nights with little or no sleep.

Then they flew back to London. WB advised that they had one chief as a court reporter who worked with Steno Mask. In London, Admiral McCain's writer and 20 typists put the Court of Inquiry record together in 6-8 hours.

WB mentioned "one nitpicker legal type" (this was Merwin Staring) who bitched about typos in the transcript.

WB remembered that when they got to London, they encountered "some idiot" at CINCUSNAVEUR who was trying to slow them up. "He had a long cigarette holder and Ike said he would take it from him and stick it up his ass".

He commented about Staring going through the record which was sort of rough and complaining about typos. WB was of the opinion that at that time Staring had only worked for McCain about a week. When the Court of Inquiry record was finished, it was 4 or 5 inches thick and he recalls only 3 or 4 copies were made (I believe actually 6 copies were made). In London, both Ike and Boston had dinner with Admiral McCain.

After the deliberations were complete, Admiral McCain said Ike had to fly back to the United States with the record.

After Ike left for the United States, Boston returned to Naples a few days later.

WB said that Ike and he were the only outsiders on Liberty as she sailed to Malta. McGonagle was in bed. WB remembers shaking his hand and encountering a piece of shrapnel. He also recalls a Russian trawler following the Liberty and a U.S. trawler (probably the Papago) following it.

WB had recollections of a few bodies coming out of the torpedo hole and that he vomited when he saw them.

He mentioned that Ike tried to get permission for a quick trip to Israel which the State Department denied.

He indicated that the incident involved 2 or 3 areas of national interest. He also mentioned that he had worked 2 other matters as counsel to Ike, one being the Bache, aground in Rhodes and another involving the Russians and the United States.

WB said the Court of Inquiry did the best possible job under the circumstances. He stated that they worked as fast as possible because Washington wanted to know what had happened.

He indicated that the only persons that they didn't put on the witness stand were people

who were below decks.

He said he was aware of the other side of the coin in regards to claims of whitewash and that he was offended by the allegations of coverup. He said "we put all the evidence we had available into that record."

WB also said that the government fully supported the crew and saw to it that they were decorated.

WB said he read "Assault on the Liberty," and that there were many errors in the book and that it misstated his name as Ward M. Boston, Jr.

WB mentioned that Ike Kidd had a classmate who lost a son on the ship (that would have been Stephen Toth, the son of Captain Joe Toth).

WB said a JCS team went to Malta and they were very concerned about communications. They stayed a very short time. [That was Major General Russ]

WB said as far as he is concerned old "Ike" is number one.

He mentioned that a communications captain on duty in London was asked to put a statement in the record. (This is no doubt a reference to Captain Hanley and his statement on why he did not orally order Liberty withdraw. The statement of Capt. M.J. Hanley is attached to the Court of Inquiry record.)

WB remembers going up to Admiral McCain's office and when he walked in, Admiral Kidd and Admiral McCain were eating breakfast. He said Admiral McCain asked, "What can I do for you Ward?"

WB said that he told Admiral McCain that his JAG, Merwin Staring, did not think the record was smooth enough, although he, WB, thought all the facts were there. He said McCain jumped in the air and said "I'll fire the son of a bitch." He told WB to forget about Staring's objections and said that he already signed an endorsement as convening authority and that Ike was leaving in an hour for Washington.

He also stated that Staring's wife was the cousin of Secretary of the Navy Chaffee. He indicated that Staring was known as a person who couldn't make a decision and it was interesting that he was able to move from his job with Admiral McCain CINCUSNAVEUR in London to lawyer for the Secretary of the Navy and then become JAG.

He told me that the 4 most disliked guys at the JAG corps were Staring, Robertson, McDowell, and Miller.

WB advised that not only was he a naval aviator in WWII, but that he was a concert oboe player with the Detroit Philharmonic.

WB also told me that he was quite turned off by Bill Schachte (Schachte was the head of the international division of the JAG for a few years) over his remark that Kidd only took a cursory glance in connection with the Court of Inquiry.

He concluded by saying that he can't say anything but good about "Ike".

Telephone conversation between AJC in Miami and Ward Boston in Coronado, CA

On December 10, 1996, I called Ward Boston at 619/423-6428. I spoke first with his

wife, Emma, and then with Ward "Blackie" Boston.

WB told me that he had made three trips to Israel from Rome.

He said that Ike arrived in Naples as a newly frocked rear admiral. Admiral Reiera was the senior admiral and Ike was executive assistant to him.

A month after Ike's arrival, the Liberty incident occurred.

He confirmed that Ike had called him to be counsel for the court. He indicated that he and Ike boarded the Liberty about 2am while the Liberty was en route to Valletta, Malta. He remembered meeting Commander McGonagle. They shook hands and McGonagle winced.

WB said they had 6 days to do the legwork on the Court of Inquiry.

WB said that Ike wanted to go to Israel and he wanted to go to Israel but the State Department would not approve their going to Israel.

WB talked about his WWII squadron and indicated that 1/3 of his squadron was lost.

He told me he knows how emotional Liberty people get about the incident, even in 1996, but that the guy (Jim Ennes) who wrote the book didn't get it right.

WB told me he flew Hellcats and Corsairs and that he landed on 3 Jeep carriers as well as the Saratoga, the Ranger, the Yorktown, and Midway. He also mentioned flying F9s.

After WWII he said that he went to law school and then became an FBI agent. He went back into the Navy during Korea. He was promoted to captain with a star on his shoulder, that is he was a designated legal officer, but still a line officer in the days prior to the Judge Advocate General Corps.

He was planning trips to Las Vegas on the 15th of December and then going to Virginia on the 24th or 25th of December.

Ward Boston recently denied talking to me but later said we talked but only about his personal life. I made notes at the times of the conversations which were by telephone. I do not know if Boston made notes. Clearly, our memories of the conversations are not the same. I do not wish to play he said-she said with Ward Boston. I have not had time to go through all my audio tapes in my research files. A tape recording, if located, might help determine whose

memory of those conversations is more accurate.

As to the affidavit itself: the testimony of an admitted liar under oath is generally not given much attention. A few items in this affidavit are worthy of some analysis.

CLAIM: Boston says “the evidence was clear”.

QUESTION: He never says what evidence. What evidence?

CLAIM: He claims that both he and Kidd believed (that’s an opinion regarding Kidd) with certainty that the attack was a deliberate effort to sink an American ship.

QUESTION: If the attack was a deliberate effort to sink an American ship, why was it not sunk by a military force that was capable of destroying all Arab air forces in 80 minutes, defeating Arab armies from more than five countries, conquering the Sinai and the Suez Canal, the West Bank and East Jerusalem, all in a few days?

CLAIM: Boston is certain that the Israeli pilots and their superiors were aware that the ship was American.

QUESTION: On what evidence does he base this opinion?

CLAIM: He mentions killing 34 Americans sailors and wounding 172.

QUESTION: The Court of Inquiry and all official records reflect 171 wounded. Only in the last few years has Joe Meadors of the Liberty Veterans Association made the claim of 172 instead of 171 wounded. Where did Boston get the number 172?

CLAIM: He “heard testimony that made it clear that the Israelis intended there be no survivors.”

QUESTION: Where is that testimony in the transcripts of testimony of the crew taken under oath on June 14 and 15, 1967? (See Court of Inquiry record and transcript of

testimony.)

CLAIM: He says “Israeli torpedo boats machine-gunned three lifeboats . . .”

QUESTION: Where is that testimony in the transcript of testimony of the crew taken under oath on June 14 and 15, 1967? (See Court of Inquiry record.)

CLAIM: Boston says, “I am outraged at the efforts of the apologists for Israel in this country to claim the attack was a case of mistaken identity.” In particular, Boston is outraged by my book, *The Liberty Incident*, published in June 2002.

QUESTIONS:

Why was Boston not outraged on June 18, 1967 by the report of the Court of Inquiry signed, according to his definition by apparent apologists for Israel, Admiral Kidd, Captain Atkinson, Captain Lauff and Captain Boston?

Why was Boston not outraged on June 18, 1967 when apologist for Israel, Admiral John C. McCain, in Boston’s presence, endorsed the Court of Inquiry with the comment “15. The foregoing comments by the convening authority lead to an overall conclusion that the attack was in fact a mistake”?

Why was Boston not outraged in July 1967 when apologist for Israel, Defense Secretary McNamara before Senate Foreign Relations Committee stated, “In the case of the attack on the Liberty, it was the conclusion of the investigatory body headed by an Admiral of the Navy [Isaac C. Kidd, Jr.] in whom we have great confidence that the attack was not intentional. I read the record of investigation and I support that conclusion, and I think . . . it was not a conscious decision on the part of either the government of Israel . . . [t]o attack a U.S. vessel.” Released by U.S. Government printing office: 1967.

Why was Boston not outraged on February 27, 1978 when apologist for Israel, the CIA Director Admiral Stansfield Turner, stated in a letter to Senator Abourezk, “It remains our best judgment that the Israeli attack on the USS Liberty was not made in malice toward the United States and was a mistake.”

Why was Boston not outraged on September 19, 1978 when the Director of Central Intelligence, Admiral Stansfield Turner, stated on ABC television in a discussion about the Liberty incident: “. . .we released an evaluated over-all document which said very clearly that it was our considered opinion that the Israeli Government had no such knowledge at that time.”

Why was Boston not outraged on July 11, 1983 when apologist for Israel, the National Security Agency released in its partially declassified 1981 report “Liberty was mistaken for an Egyptian ship as a result of miscalculations and egregious errors”?

Why was Boston not outraged on September 5, 1991 when apologist for Israel, President George H.W. Bush’s (41) White House, wrote “. . . A thorough investigation into the USS Liberty incident was conducted and the conclusion was that it was a tragic case of mistaken identity.”

Why was Boston not outraged on May 10, 1995 when apologist for Israel, President William Clinton’s White House, wrote, “There is no information available that demonstrates that the attack was deliberate.”

Why was Boston not outraged on August 30, 1995 when apologist for Israel, Clark Clifford’s, July 18, 1967 report was declassified revealing the conclusion, “The weight of the evidence is that the Israeli attacking forces originally believed their target was Egyptian . . .2. The information thus far available does not reflect that the Israeli high command made a

premeditated attack on a ship known to be American.”

Why was Boston not outraged on October 2, 2002, when apologist for Israel, President George W. Bush’s White House, wrote “The results of the investigations . . . were considered satisfactory . . .there is no precedent to reinvestigate this case.”

Why was Boston not outraged on July 2, 2003 when apologist for Israel, National Security Agency further declassified a portion of page 64 of its 1981 Report, which stated, “While these reports revealed some confusion concerning the nationality of the ship, they tended to rule out any thesis that the Israeli Navy and Air Force deliberately attacked a ship they knew to be American.”

It is interesting to note that the person introducing the October 22, 2003 press briefing was Edward Peck, Chairman of the Council for the National Interest (CNI). Advance advertising on the Internet for the event was generated by a Berkeley, California organization operated by Allison Weir. The smallest amount of research by an interested person will expose the agendas of CNI and Ms. Weir.

The United States is a free country. Anyone is free to make up their own mind on any subject. Fairness dictates that before coming to a conclusion, all of the evidence should be considered. Final judgment should await hearing both sides of an argument. In this instance an interested person should examine at least the record of the Court of Inquiry (<http://www.thelibertyincident.com/USNcourt.htm>), the time line of events (<http://www.thelibertyincident.com/timeline.htm>), the National Security Agency Website (<http://www.nsa.gov>), and my book, *The Liberty Incident* as well as any other books or evidence available. Then a fair-minded person will be in a position to reach a reasoned conclusion or

opinion.