

COUNTY OF DORSET

ENGLAND

**DECLARATION OF CLIVE A. STAFFORD SMITH**

COMES NOW, CLIVE A. STAFFORD SMITH, under oath, and deposes and states as follows:

I am an attorney licenced to practice law in the State of Louisiana, as well as the United States Supreme Court and various other inferior U.S. courts. I have been licenced to practice law since 1984.

I am currently the director of the London-based legal action charity, *Reprieve*. I am a dual US-UK national. I have been representing prisoners in Guantánamo Bay since 2002, when I was working in Louisiana. I continue to represent a number of prisoners there.

On Friday, March 29, 2013, at approximately 11 am EST, I spent ninety minutes on an unclassified phonecall with my client Shaker Aamer, whose Internment Serial Number is 239. We spent most of the phonecall on the subject of the hungerstrike.

Shaker gave me a detailed chronology of what is happening. I set forth my notes on our conversation on this subject below. When I use quotes, that is my best reconstruction of what Shaker reported being said, but it is clearly not verbatim. I regret that I have not, given the time constraints, been able to check my notes and my memory with my client, but I am confident that my notes are as accurate as I could reasonably manage.

I should note that I concentrated on matters that took place after my last call with Shaker, which took place on March 1, 2013.

February 6<sup>th</sup>: The incident with the Qur'ans began the current problems at the prison.

February 7<sup>th</sup>: The hunger striking began.

February 15<sup>th</sup>: They came to Shaker's block in Camp V. (Note that I am generally not allowed to identify cell locations on a call such as this.) They FCE'd him (this means that they conducted a 'Forcible Cell Extraction', which is the current euphemism for sending in what has been known as the ERF, sometimes called the Emergency Reaction Force). They FCE'd the two others there also. They FCE'd all three men during prayer time. All three were injured in the FCE assault. One of the three was rendered unconscious and was taken to the hospital, where Shaker understands that he remained unconscious for four days. He is still in the hospital today.

March 12<sup>th</sup>: They came again to Shaker and FCE'd him during prayer time.

March 15<sup>th</sup>: The sleep deprivation began. The guards on the night shift began a

concerted effort to make sleep difficult.

March 18<sup>th</sup>: The sleep deprivation got much worse. Shaker was moved to another block, with another person who has been a striker for many years. Shaker was placed in the first cell on the block which is designated for disabled prisoners, and has not been used for several years. It is only a few feet from where the guards use the toilet, shower, eat and so forth.

The female psych who calls herself 'Helena' came to see Shaker. He had just been moved to the noisy cell, and she asked him whether he planned to "harm himself"? He does not talk to those among the psychs who are only taking part in the abuse, so he did not initially respond to her. However, she went on to say that guards had reported that he wanted to harm himself. Shaker did reply then, as he did not want this excuse to be on the record for further abuse of him. "I have a wife and kids and I expect to be released sometime in the near future as I have been cleared for more than five years. It is not me who wants to harm me, but the Administration that is harming me."

Shaker lodged a complaint with her about being in the new cell, as it is made for a disabled person ("I am not disabled yet"), and is too noisy for sleep. He pointed out that if the guards were genuinely concerned about him self-harming, there was an observation cell half way down the block with a plexiglass door where they could monitor him 24 hours a day, and where he might be able to get some sleep.

'Helena' said to Shaker that this was "not my business." Shaker replied that it clearly was – he was being abused and denied sleep. She has not returned since that time.

March 19<sup>th</sup>: Adel Hakeemy (ISN 168) from Tunisia, also a *Reprieve* client, attempted suicide. He was being held where Shaker "used to be" (I understood this to be Camp V Echo, which is the most abusive of all the cell blocks in the camp – Shaker has detailed the mistreatment unique to this block in our earlier conversations). Hekeemy was taken to hospital and only returned on March 28<sup>th</sup>. He has been brought back to Camp V Echo again, which is obviously the worst thing they could do with a detainee who has been self-harming. Shaker asked that we get something done about this as soon as possible.

March 19<sup>th</sup>: Shaker lodged an official complaint with the OIC about the sleep deprivation. He pointed out that he suffers from tinnitus and that they have known for many years that he is a very light sleeper and has sleeping problems. There are 12 empty cells in the block, so he could be moved to any of them and the noise problems would be at least reduced. However, as of March 29<sup>th</sup>, there has been no response to his complaint.

March 19<sup>th</sup>: Shaker reports that there is a new "Code Matrix" being used in the camp (i.e., Code Yellow means that someone has collapsed from the hunger strike, Code Snowball means that someone is committing self-harm, Code Orange Crush is where there is an open door for some unauthorized reason, and Code Matrix is apparently what they are using to avoid cameras and FCE teams). The evil impact of these codes is that the guards rush in and assault people without the normal cameras that are used with the FCE team (which, in theory at least, record what is done to the

detainee).

One prisoner was subjected to the new Code Matrix for being “in possession of a bottle of water” and was beaten up without cameras.

There is also a new practice that has been brought in which involves using a dog leash on the detainees. Normally, they would have the hand and leg shackles (which are still in use) and the hands would be held by a guard from behind as they walk (or, more generally, push) the detainee along. But now they are attaching a cloth dog leash to the waist chain, clipping it on as they might an animal. A Sergeant tried to make Shaker a victim of a Code Matrix today when Shaker refused to have a dog leash, and be treated like an animal. However, in the end they backed off and went for the FCE team.

The authorities have begun a concerted campaign to FCE prisoners in a more abusive way. Shaker had been conducting the non-violent protest that he has done for many months (sitting in the Rec yard and asking to stay there for a week as a protest against the fact and conditions of his confinement; on this day, Shaker added the demand that he should be moved out of the noisy cell as well). This non-violent protest is essentially the only protest available to Shaker. For the months gone by, the FCE has been done the regular way, but they have now started a new method, which is being applied to all prisoners except those being taken to hospital.

The new FCE method is as follows: they no longer use the board, but they have six large people who come into the area where the detainee is and shackle his feet, and his hands behind his back. They then lift him up “like a potato sack” and simply carry him to where he is being taken (in Shaker’s case, through six or seven doors, about 150 yards to his cell). This is excruciatingly painful, particularly because of Shaker’s long-term back injuries (which were originally caused by mistreatment by the US in Bagram Air Force Base).

March 19<sup>th</sup>: Two Generals came to visit Camp V. (Shaker believes, but cannot be sure, that one was a Gen. John F. Kelly, currently head of Southcom.) There was an entourage with them. Just before they arrived, an ambulance pulled up outside the camp, with doctors, nurses and a stretcher. They were in civilian clothes. They had all sorts of equipment, including an oxygen tank.

They loaded a man with a light beard who was *not a detainee* on the stretcher. He had no cuffs, but was just strapped down to the stretcher so that he would not fall off. They carried him out to the ambulance in full view of the generals, and drove off towards the hospital. This was all an act for the generals to try to impress them with how good everything was. (Shaker believes that, if challenged, the authorities would state that this was a normal thing – perhaps a training operation.)

Shaker reports that visitors are coming by the camp every two or three days, as there is a concerted effort to convince people that treatment is fine. In truth, in the daytime it is much quieter, as it is mainly at night that the worst abuses happen.

“The Night Shift are back on ‘Miller Time’ [what Shaker calls the behavior and strategies of General Geoffrey D. Miller, in 2002-03]. They are stomping up and

down the tier, talking, singing (one woman in particular), doing the garbage, banging the doors which are hydraulic and make a very loud slamming noise 20 or 30 times a night, dragging chair around, crashing about with the ice chest. They have brought a big fan back to make noise.”

It is clear to Shaker that there are particular orders for the Night shift to do all this. For example, only the Night Shift does not use the board; the Day Shift still does. Shaker demanded why they were not using the board to carry him after what the doctors had said about his back. He was told that there was no rule requiring them to use the board.

Shaker has a good relationship with some of the guards, and NCOs have told him that they do not want to do it but they have to.

Shaker is also concerned that they are doing all they can to cover up who is committing the worst abuses. The number system was instituted seven years ago or so in order to allow the prisoners to report abusive soldiers. Various strategies are being used to prevent this now. Although he got the number of one person (the 300 lbs man), by and large he cannot get the numbers of FCE teams as they are wearing white coveralls that obscure their numbers. The guards are also changing their numbers and recycling old numbers from the past.

Shaker reports hearsay (it was said by the Colonel to one of the other prisoners – who does not want his name reported for fear of reprisals) that the Colonel said: “I will bring this camp to how it was in the old times. I’ve got kids at home and I know how to deal with kids.” Shaker is worried for the Colonel’s kids, as there may be a need for social services to check on how they are being treated.

During the visits by outsiders, even in the day time, there are various strategies being used to cover up what is happening. Normally, Shaker reports, the food that was not used was left outside. Now, it is being put in the insulated containers in the block, to hide the fact that the detainees are refusing to eat it. This may, he thinks, also be done to make the smell of food lure more prisoners to go back to eating. Then all the unused food is thrown in the trash, so that the civilians who make it get the food containers back empty, and again cannot report on how much is not being eaten.

The Colonel has ordered other abusive tactics. Shaker understands (and the detainees believe) that the Colonel was deployed to Iraq or Afghanistan before coming to Guantánamo Bay, and is therefore taking a tough attitude, because that is what they apparently did there. He is only issuing half-isomats (three feet long rather than six) and so forth.

March 20<sup>th</sup>: Shaker complained to the medical corpsman about his abuse on March 19<sup>th</sup>, and so today he was carried on a board, since the medical officers said that the new method of FCE’ing was not permissible with Shaker because of his back injury.

March 21<sup>st</sup>: Today, and at all times since, they have reverted to the new method, and have refused to use the board. Indeed, today they introduced a new abuse on top of this. When the FCE team came in to get him, a particularly large soldier, who weighed about 300 lbs, kned him in the back and held Shaker down with his full

weight on top of him. This caused bruises on his back and hands. Shaker showed these to the corpsman, who said he would write it down and follow it up. However, nobody came to see him about his new injuries and nothing has been done.

March 22<sup>nd</sup>: This abusive FCE was repeated, with the 300lb soldier. Again he was bruised by the man, and he took down the soldier's number. This time, they held his hands and his legs, both crossed over, and the man pushed down until Shaker heard a cracking sound in his own back.

Shaker was not permitted to give me the soldier's number on an unclassified call.

When Shaker sought medical treatment for this injury, he was offered Tylenol. "This is not a reasonable response for that kind of injury," he said to me.

March 23<sup>rd</sup>: Shaker began refusing to go out of his cell, as he is very worried about being paralyzed in the same way as the Egyptian and the Syrian, who were paralyzed by the beatings that they got in Guantánamo Bay. (Note: the Egyptian was Sami al Laithi, ISN 287, represented by *Reprieve*, who was paralyzed when beaten in the hospital.)

March 25<sup>th</sup>: At 14:05 today Shaker was visited by 'Dr. Cordelia', who is one of the pleasant medical personnel. She said he was now recognized as a striker, though they had refused to accept that before. She told him the impact of the strike, reading off a piece of paper about how his kidneys might fail, he might go blind, he might cause permanent brain damage, and so forth. She said that he needed Thiamine, medication for his muscle spasms, and nutrients like honey and ensure.

Since March 25<sup>th</sup>, Shaker has been visited by a doctor or a nurse every day. However, they are doing nothing. He has lectured them all on how they are violating their medical ethics by taking part in the gratuitous mistreatment of the prisoners, but they have told him that they are following "orders from on high."

March 29<sup>th</sup>: 04:00 they did a Code Matrix on one of the skinniest hunger strikers (now 107lbs) who had a Tupperware box with him. He had tea in the box and they did a Code Matrix call on him. In the end, rather than be beaten up he gave it over to them.

09:15 With his phonecall, they did not tell Shaker the night before as the rules require. They told him only at 9:15am that they would be coming immediately for him. As a result he had not been able to prepare to tell counsel about the details of what was going on. However, there was an "operational delay" in the call – which Shaker reported as being a flat tire on the van – which allowed him time to gather his notes up and prepare to speak with counsel.

"Last night was one of the worst," Shaker reported. A Hispanic female was singing much of the night. The noise from next door in the toilet was constant and loud. Shaker got almost no sleep.

Shaker has lost 32lbs as of today. This is necessarily an estimate as he is not being accurately weighed, but he considers himself an accurate judge of his own weight

after the hunger strikes he has been on. His hand is shaking almost permanently because of the hunger strike.

Shaker has been badly punished for joining the strike. He has been denied various things that were ordered for medical reasons including his second isomat (for his back), his blanket (for arthritis), his knee brace (for his knee injury), his back brace for his back problems), and the pressure socks that are meant to help with the edema in his feet. He even went ten days without being allowed a toothbrush.

He has also been denied the medically ordered second bottle of water. In Camp V (as compared to Camp VI, where apparently bottled water has been cut off altogether) there is a new rule that they are only allowed one bottle at a time – whether they are using it for coffee, for washing for prayer, or drinking.

All the spices that Shaker had collected were thrown out; apparently there is a policy of throwing out the spices that detainees got through the ICRC.

There is currently a policy of nobody in authority talking to prisoners about their complaints. Shaker has asked to see the OIC, the AOIC, and so forth, but none will come, as the NCO reports them as saying it is not their responsibility.

As of March 29<sup>th</sup>, Shaker reports that there are 130 prisoners total on hunger strike in the whole prison. Of the 66 prisoners in Camp V, 45 are recognized as being on strike, though more actually are doing it (Shaker was only recently recognized himself). Shaker reports that 15 of them have blood sugar levels below 40 mg/dl. There is one prisoner with a blood sugar level of 17 mg/dl. Seven detainees are in hospital.

The authorities are playing with the prisoners' weights. They use the big scale now, and they weigh the prisoner with shackles, and often immediately after they have drunk a lot of water. They hide the weight reading from the prisoners, so there is no saying what is written down, though they sometimes say what it is. Shaker reports various 'miracles': With one prisoner, who weighed 127 lbs last week and has not eaten in the interim, they said he was 140lbs.

Shaker understands that one detainee is reportedly 85 lbs; another 107 lbs; and a third 117 lbs.

Shaker estimated that he is 158lbs, down from around 190lbs when this began. "You can see the bones in my chest. My body has taken a lot of shock." He is taking two or three spoons of honey a day to try to ameliorate the worst impact of the strike on himself, as his body had suffered a great deal of damage over the past eleven years.

Between six and ten detainees who are 'falling down' every day. They are told that this is because their blood sugar levels are between 20 and 40 (mg/dl). If this happens, they are being strapped to the board, and told that they have to take a mixture of honey and water. They may be left on the board for several hours until they agree to take the honey and water. They are using this method rather than the tube and the chair.

Prisoners are being mistreated in gratuitous ways, in addition to the mistreatment of Hakeemy (ISN 168). For example, the paralyzed Syrian has been denied his wheel chair for 6 weeks now. He is being isolated in Camp V Echo and he is there without his chair.

Notwithstanding this, Shaker reports that the detainees are more together than ever they have been, as they are determined to fight the abuse they are suffering through a non-violent hungerstrike.

While I would obviously prefer that Shaker Aamer should be permitted to testify to the facts that he related to me himself, the foregoing is as accurate an account as I am able to produce from my notes of my conversation with him about the current state of the hunger strike in Guantánamo Bay, and the unfortunate response by the authorities to it.

I declare under the pains and penalties of perjury under the laws of the United States that the foregoing is true and correct.

Done this 31<sup>st</sup> day of March, 2013.

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a long, horizontal, slightly wavy line that extends to the right.

Clive A. Stafford Smith