

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 11am 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 6th: The incident with the Qur'ans began the current problems at the prison.

February 7th: The hunger striking began.

February 15th: 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 12th: They came again to Shaker and FCE'd him during prayer time.

March 15th: The sleep deprivation began. The guards on the night shift began a

concerted effort to make sleep difficult.

March 18th: 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 19th: 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 28th. 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 19th: 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 29th, there has been no response to his complaint.

March 19th: 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 19th: 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 20th: Shaker complained to the medical corpsman about his abuse on March 19th, 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 21st: 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 22nd: 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 23rd: 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 25th: 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 25th, 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 29th: 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 29th, 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 31st day of March, 2013.

A handwritten signature in black ink, consisting of a stylized initial 'C' followed by a long, horizontal, slightly wavy line.

Clive A. Stafford Smith

The New York Times
April 14, 2013

Gitmo Is Killing Me

By SAMIR NAJI al HASAN MOQBEL

GUANTÁNAMO BAY, Cuba

ONE man here weighs just 77 pounds. Another, 98. Last thing I knew, I weighed 132, but that was a month ago.

I've been on a hunger strike since Feb. 10 and have lost well over 30 pounds. I will not eat until they restore my dignity.

I've been detained at Guantánamo for 11 years and three months. I have never been charged with any crime. I have never received a trial.

I could have been home years ago — no one seriously thinks I am a threat — but still I am here. Years ago the military said I was a “guard” for Osama bin Laden, but this was nonsense, like something out of the American movies I used to watch. They don't even seem to believe it anymore. But they don't seem to care how long I sit here, either.

When I was at home in Yemen, in 2000, a childhood friend told me that in Afghanistan I could do better than the \$50 a month I earned in a factory, and support my family. I'd never really traveled, and knew nothing about Afghanistan, but I gave it a try.

I was wrong to trust him. There was no work. I wanted to leave, but had no money to fly home. After the American invasion in 2001, I fled to Pakistan like everyone else. The Pakistanis arrested me when I asked to see someone from the Yemeni Embassy. I was then sent to Kandahar, and put on the first plane to Gitmo.

Last month, on March 15, I was sick in the prison hospital and refused to be fed. A team from the E.R.F. (Extreme Reaction Force), a squad of eight military police officers in riot gear, burst in. They tied my hands and feet to the bed. They forcibly inserted an IV into my hand. I spent 26 hours in this state, tied to the bed. During this time I was not permitted to go to the toilet. They inserted a catheter, which was painful, degrading and unnecessary. I was not even permitted to pray.

I will never forget the first time they passed the feeding tube up my nose. I can't describe how painful it is to be force-fed this way. As it was thrust in, it made me feel like throwing up. I wanted to vomit, but I couldn't. There was agony in my chest, throat and stomach. I had never experienced such pain before. I would not wish this cruel punishment upon anyone.

I am still being force-fed. Two times a day they tie me to a chair in my cell. My arms, legs and head are strapped down. I never know when they will come. Sometimes they come during the night, as late as 11 p.m., when I'm sleeping.

There are so many of us on hunger strike now that there aren't enough qualified medical staff members to carry out the force-feedings; nothing is happening at regular intervals. They are feeding people around the clock just to keep up.

During one force-feeding the nurse pushed the tube about 18 inches into my stomach, hurting me more than usual, because she was doing things so hastily. I called the interpreter to ask the doctor if the procedure was being done correctly or not.

It was so painful that I begged them to stop feeding me. The nurse refused to stop feeding me. As they were finishing, some of the "food" spilled on my clothes. I asked them to change my clothes, but the guard refused to allow me to hold on to this last shred of my dignity.

When they come to force me into the chair, if I refuse to be tied up, they call the E.R.F. team. So I have a choice. Either I can exercise my right to protest my detention, and be beaten up, or I can submit to painful force-feeding.

The only reason I am still here is that President Obama refuses to send any detainees back to Yemen. This makes no sense. I am a human being, not a passport, and I deserve to be treated like one.

I do not want to die here, but until President Obama and Yemen's president do something, that is what I risk every day.

Where is my government? I will submit to any "security measures" they want in order to go home, even though they are totally unnecessary.

I will agree to whatever it takes in order to be free. I am now 35. All I want is to see my family again and to start a family of my own.

The situation is desperate now. All of the detainees here are suffering deeply. At least 40 people here are on a hunger strike. People are fainting with exhaustion every day. I have vomited blood.

And there is no end in sight to our imprisonment. Denying ourselves food and risking death every day is the choice we have made.

I just hope that because of the pain we are suffering, the eyes of the world will once again look to Guantánamo before it is too late.

Samir Naji al Hasan Moqbel, a prisoner at Guantánamo Bay since 2002, told this story, through an Arabic interpreter, to his lawyers at the legal charity Reprieve in an unclassified telephone call.

<http://www.nytimes.com/2013/04/15/opinion/hunger-striking-at-guantanamo-bay.html? r=0&pagewanted=print>

SUMMARY OF POSITION OF SHAKER AAMER

Background

Mr Aamer travelled to Kabul in the first half of 2001. He was lawfully resident in the UK, married to a British citizen. (His country of origin was Saudi Arabia where he was regarded as a dissident – liable to imprisonment. By marrying a non Saudi national without royal consent he would be deemed to have committed a further criminal offence.) Mr Aamer's wife and young family joined him in Kabul from London in the summer of 2001 to found a school for both boys and girls. When war broke out in October 2001, and Kabul became the object of sustained bombing by US and UK forces, Mr Aamer and his family fled, seeking refuge and living in their car for a month.

Mr Aamer's pregnant wife and their three small children were given shelter by an Afghan village leader but Mr Aamer was sold by Afghan bounty hunters to an Afghan warlord, who in turn sold him on to the Northern Alliance. Northern Alliance forces brought Mr Aamer to Kabul, at that time under joint US and UK control, where he was held for several weeks in an underground prison.

On or around 25 December 2001, Mr Aamer was transferred from the Kabul prison, sold to US forces at Bagram Airforce Base. After a month, he was transferred to Kandahar Airforce Base, also under US control. He was detained at Kandahar until 13 February 2002, when he was rendered to Guantanamo Bay.

During his time in US detention, in Afghanistan as well as in Guantanamo Bay, Mr Aamer has been subjected to sustained torture and cruel, inhuman and degrading treatment. Abuses suffered by Mr. Aamer in US detention include prolonged arbitrary detention, beatings, lengthy interrogations, exposure to extreme cold, sensory deprivation, stress positions, white noise, sleep deprivation, long-term solitary confinement and forced feeding.

Mr Aamer's situation is worsening

In his 11th year in US detention, at Guantanamo Bay, Mr Aamer's condition is rapidly deteriorating. Mr Aamer is currently on hunger strike and has described a litany of new abuses being inflicted on himself and fellow prisoners. (for further information please see appended "CSS Declaration on Shaker Aamer 2013_03_29 and "CSS Declaration on Shaker Aamer 2013_04_11").

As the crisis at Guantanamo deepens, Mr Aamer is under increasing mental and physical strain, and has recently stated to his lawyer Clive Stafford Smith: *"It's hard to keep calm. They are killing us, so it is hard to keep calm. It is hard to understand what they are doing or why...No matter how much I show you I am tough, in reality I am dying inside. If you want us to die, leave us alone. But they do not want us to die, and they do not want us to live like a human being. What is worse than that?"*¹

¹ 2013_04_11 CSS Declaration on Shaker Aamer Report.

Unlawful and arbitrary detention

At Kabul, Bagram and Kandahar, Mr Aamer was subjected to indefinite, arbitrary, incommunicado detention, amounting to inhuman and degrading treatment of a severity constituting torture.

Following his transfer to Guantanamo Bay on 13 February 2002, Mr Aamer continued to be unlawfully and arbitrarily indefinitely detained. Mr Aamer has been cleared for release from Guantanamo Bay since 2007. A Task Force established by the administration of President Obama confirmed again in 2009 that there would be no further legal action against him and that he was approved for transfer out of Guantanamo, i.e. he is being held as a prisoner without any future judicial proceeding to justify detention. This indefinite and arbitrary detention by now in itself amounts to inhuman and degrading treatment of a severity constituting torture.

Legal process and access to lawyers

Mr Aamer was not brought before any tribunal or court until November 2004, over three years after he was first detained by allied forces in Kabul.

Following the establishment of Combatant Status Review Tribunals by the United States Government in the wake of the decision of the United States Supreme Court in *Rasul v Bush* 542 U.S. 466 (2004), 29 June 2004, Mr. Aamer was summoned to appear before a Guantanamo Bay CSRT for his classification as an enemy combatant (the basis upon which the US sought to claim entitlement to detain Mr Aamer) - to be reviewed.

At the hearing Mr Aamer was made aware that the United States authorities were relying upon confessions that he had made that he had attended training camps and had met Osama Bin Laden. Those confessions were false and were made by Mr Aamer under conditions amounting to torture and oppression. On the basis of these false confessions made under torture, on or around November 2004 the CSRT concluded that Mr. Aamer was an "enemy combatant". He was not represented by lawyers. Despite Mr Aamer's denials, his status as an "enemy combatant" was upheld before a CSRT on the same basis in or around October 2005, and October 2006.

The British government has indicated that it will accept Mr Aamer in the UK, and has made representations to this effect to the US. However, UK Foreign Office officials informed Mr Aamer's legal team that requirements contained in the US National Defence Authorisation Acts (NDAA) requiring the Secretary of State for Defence to give a personal guarantee in order to effect the release of a Guantanamo prisoner have constituted an impassable obstacle to securing Mr Aamer's release (even though the requirement in 2012 was modified to allow for waivers). This claimed impediment to release is an executive discretion. Neither courts nor lawyers have access to its application.

Mr Aamer has never been able to meet with his British legal team, as non-American citizens they are not eligible to be granted security clearance to visit

Guantanamo Bay. His written communications produced with US security cleared lawyers have to go through censors as do his letters to his UK lawyers. These restricted communications include all statements forming the basis of legal proceedings as well as all statements provided already or to be provided in the near future to UK police by Mr Aamer. Uniquely, he is the only Guantanamo detainee with UK citizenship or residency whose torture at the hands of US military interrogators has been made the subject of an active ongoing inquiry by the UK Metropolitan Police into the involvement of UK intelligence agents. The UK police investigation is able to interview its key witness only in Guantanamo Bay and only in the presence of US military personnel, Mr Aamer's UK lawyers being unable to be present, and any witness statement taken from Mr Aamer being required to go through US military censors.

Physical ill-treatment amounting to torture and cruel, inhuman and degrading treatment

In Kabul, during December 2001, Mr Aamer was not provided with any bedding or blanket. He was starved, severely beaten and tortured. As a result of torture in a number of different sites of unlawful detention, Mr Aamer falsely confessed that he had worked with Usama Bin Laden, and put his signature to some documents to that effect.

Aside from the ill-treatment constituted by the length of time of detention per se, Mr Aamer has made complaints of serious physical and psychological harm in Bagram, Kandahar and Guantanamo Bay. The authorised techniques alone used by the US authorities from October 2001 to January 2009 would meet the criteria for the definition of torture in Article 1 of UNCAT.

However in Mr Aamer's case, he has been the subject of continuing grave physical and psychological ill-treatment including of a degree that constitutes torture throughout more than the last decade. The active current Metropolitan police investigation, overseen by the Director of Public Prosecutions, is frustrated in its attempts to interview Mr Aamer either at all or in appropriate conditions, as a key witness, a victim of British complicity in his torture. For further details of specific acts of torture, inhuman and degrading treatment at Bagram, Kandahar and Guantanamo, please see below.

Unlawful transfers

In the course of his detention, Mr Aamer has been subjected to three unlawful transfers with no judicial oversight.

In the course of Mr Aamer's transfer by US forces to Bagram Airforce Base (Bagram), and arrival there, Mr Aamer was forced, in the dead of winter, to remove his clothes, which were then tied around his head as a blindfold. Mr Aamer was given thin, inadequate clothing to wear and then thrown into a helicopter and chained to the floor. Upon arrival at Bagram, Mr Aamer was thrown off the helicopter on to the airport runway. He had no shoes and very thin clothes and no food or water. He was left lying on the ground for a substantial period of time, and then again forced to strip naked and

threatened with beating and being shot if he did not comply. He was kept awake for the next nine days and nights until he started hallucinating. He was barely fed and then with only cold food. He was forced to stand in stress positions – with his arms straight out ahead of him – for 16 hours and hit if he let them fall. Sometimes he was hog tied with wires tied to his wrists and feet, which caused him to strangle himself if he moved. Other times he was hung 'strappado' by his wrists to the gate of his cage. The guards used a laser beam and pointed it at his joints that caused intense pain. They would pour freezing cold water over him and make him stand soaking wet, barefoot on the concrete floor for hours. As a result, his feet developed frost-bite. Then the guards would beat his feet. He was periodically subjected to sexual abuse by the insertion of fingers up his anus and on one occasion, the barrel of a M16 gun.

On a date believed to be in January 2002, Mr. Aamer was moved on a United States aircraft to Kandahar Airforce Base in Afghanistan. During the flight, which lasted about two hours, Mr. Aamer suffered the following forms of abuse, torture and inhuman and degrading treatment:

- Before boarding the aircraft Mr. Aamer was hooded and shackled by the hands and feet in a painfully tight manner and all the prisoners were tied together like a 'train'. They were kept waiting for many hours outside in the freezing cold before boarding the airplane. They were made to hold their hands up in the air above their heads for the entire time. If their hands wavered or fell they would be beaten around the head.
- Whilst on the aircraft Mr. Aamer was hooded, his ears were blocked, his mouth was muzzled, his hands and feet were tightly shackled and he was further strapped to the floor of the airplane in a painful stress position.
- Throughout the journey the soldiers beat them hard with their M16 rifle butts around the head and shoulders.

On 13 February 2002 Mr. Aamer was again subjected to unlawful rendition when he was transferred to the United States detention facility in Guantanamo Bay. The process of transfer was similarly brutal to Mr Aamer's previous transfers. The journey took over 20 hours and was an ordeal of extreme discomfort, stress, anxiety and agony.

- He was further denied use of the toilet throughout the journey.
- He was not allowed to pray during the journey.
- He was force fed unidentified tablets.
- He was shackled in a stress position throughout the journey and secured to the floor of the aircraft and to a wooden board so severely that he could not move at all.
- He was unable to see, hear or touch anything.

Abusive interrogations

Whilst at Bagram Mr. Aamer was repeatedly interrogated by the United States authorities during the course of which he was frequently beaten.

United Kingdom officials including agents of the Security Services attended the detention facilities at both Bagram and Kandahar.

The unlawful circumstances and conditions of detention were visible to all who attended. Prisoners at Bagram were detained in an open former aircraft hanger, separated only by barbed wire in small groups. The prisoners were clothed in thin, inadequate clothes, they were forced to sit without moving or talking, they were required to remain in stressful positions on concrete floors with thin, if any, cover. Many prisoners suffered from frostbite by the time of the next transfer to Kandahar. The regime of imprisonment comprised humiliation and degradations, not only because of the physical conditions but as a result of the requirement to comply with degrading and humiliating commands. The higher walkway on which the interrogation rooms were positioned allowed all to see and hear what transpired, including punishment of prisoners. Food was at almost starvation level; Mr Aamer lost 65 pounds in weight in one month at Bagram. He developed arthritis, kidney and stomach problems, a continuous headache, a swelling of his feet and a ringing in his ears all of which were still continuing many years later. He was forced to agree to propositions and statements which were false which were thereafter relied upon in Guantanamo Bay to justify his continued detention. Although "cleared for release", having never been charged with any offence, his consequential detention continues to the present day.

After Mr Aamer had been detained at Bagram for a number of weeks he was in particular further interrogated at a session which was attended, inter alia, by a British member of the Security Services. The key features of the interrogation are as follows:

- It took place after Mr Aamer had been subjected over a number of weeks to the torture, inhuman and degrading treatment outlined above.
- It would have been obvious from Mr Aamer's appearance that he had been subjected to inhumane and oppressive conditions.
- It was deliberately intimidatory: ten or more people were in attendance including the British individual and they simultaneously shouted at him in a number of different languages including English, Arabic and French.
- One of those present grabbed Mr Aamer's head and beat it repeatedly and with great force against the back wall while others shouted that they would kill him and that he would die.
- Those in attendance then left the room together, leaving a gun on the table. Mr Aamer was terrified and did not understand what their intention was in leaving the gun. He wondered whether they intended that he would use it to kill himself or did they want him to touch it so that they would have an excuse to shoot him.

Mr Aamer was interrogated by Americans while at Kandahar and again, as in Bagram, he was interrogated by members of the British Security Services, "John."

Personal information clearly provided by the UK was used by US interrogators.

During his detention in Kandahar Mr Aamer was told by another prisoner that he (that prisoner) had been given a choice. He could either work for the British Security Service as an informant and return to the United Kingdom or he would be sent to Guantanamo. This man was indeed not transferred to Guantanamo, and is known to have returned to the United Kingdom. Mr Aamer was similarly told by the UK agents that he had a choice. The detail of this was told by Mr Aamer to his US lawyer whom he met in 2005, following the decision of the US Supreme Court in Rasul v Bush requiring access to lawyers by detainees in Guantanamo Bay.

There were continued abusive/unlawful interrogations at Guantanamo Bay by US military during the years that followed.

On arrival at Guantanamo, he was initially placed in an open air cage, where snakes, spiders and other venomous insects could enter. He was interrogated in a section of the camp called the "Gold Building"; in a sound proof room, with a freezer type door, without windows, and in which there was a powerful AC unit. Pornographic pictures were all over the walls and a stereo played loud music. He was interrogated in one of these rooms for up to 18 hours. Later he was transferred to Camp V where he was held in a cell 6 x 8 feet, with a walking space of only 3 x 4 feet. The guards controlled everything; air, light, water, food and sleep; and used their control to try and break him. Sometimes pine oil was put into the ventilation system to stifle him and other times the AC was turned up high for up to 16 days, with Mr Aamer only wearing shorts. The water in the cell was cut off for days. The fans were turned up high to prevent him being able to communicate with other detainees. Bright halogen lights were kept on all night to prevent him sleeping. Food was limited. The guards humiliated him and interrupted his prayers. Water hoses were used to soak him in his cell.

Mr Aamer has experienced the nightmare of forced ('enforced') feeding administered by medical staff in response to his almost continuous hunger protests. This is a painful and humiliating procedure which involves Mr Aamer being strapped to a chair while a feeding tube is roughly inserted through his nose into his stomach and roughly extracted. He remains strapped to the chair for several hours afterwards, in an attempt to prevent him from regurgitating the food.

For most of his ten plus years of detention, Mr Aamer has been in isolation. For the last 3 years he has been detained in a steel cell. This causes complete sensory deprivation. The Emergency Removal Force (ERF) almost daily remove Mr Aamer from his cell in response to Mr Aamer's passive peaceful resistance to his detention which he manifests by refusing to comply with the petty orders of his harsh regime. Each time he is ERF'd, he receives

gratuitous blows and punches from the guards. These are only some of the instances of brutal ill treatment meted out individually to him.

The medical impact of Mr Aamer's torture

As described above at page 6, as a result of his torture and ill-treatment in Bagram, Mr Aamer developed arthritis, kidney and stomach problems, a continuous headache, a swelling of his feet and a ringing in his ears all of which ARE still continuing many years later.

Over several years, Mr Aamer has consistently expressed the worry that he has prostate cancer. Mr Aamer has now been examined by a medic at Guantanamo. The provisional diagnosis (pending confirmation and further examination by a specialist urologist) is a very uncomfortable medical condition called Benign Prostatic Hyperplasia vs. Chronic Bacterial Prostatitis. However, due to his torture and abuse in US custody, Mr Aamer now finds himself unable to accept this diagnosis, or to trust the Guantanamo doctors' recommendations sufficiently to accept the treatment they have prescribed. Such recommendations include seeing a specialist urologist who would be able to confirm the diagnosis and confirm the absence of cancer. The extreme and continued stress suffered by Mr Aamer in detention and as a result of his torture has been contributory, and continues to be an aggravating factor in respect of this serious medical condition.

Failure to facilitate access to a medic of his choice

Despite Mr Aamer's medical condition and the fact that he has requested since a medical examination by, over one year later it has so far proved impossible for his legal team to actually facilitate an independent medical assessment by a nominated doctor with appropriate expertise, Dr Crosby or any other independent civilian physician.

The impact on Mr Aamer's family: cruel, inhuman and degrading treatment and psychiatric illness

Mr Aamer's wife Zineera Ahmed and their four children, all British citizens and resident in the UK, have suffered greatly because of Mr Aamer's lengthy indefinite detention. Mrs Ahmed was a capable, intelligent, healthy woman, mentally and physically before Mr Aamer's unlawful seizure in 2001. An expert medical report of October 2010 and a recent expert report from a family therapist confirms that Mrs Ahmed's mental health has been seriously affected by Mr Aamer's treatment, and testifies to the intense emotional suffering of the children as a result of this and the absence of their father from the family.

The indefinite nature of Mr Aamer's detention increases incrementally the suffering of his family who have developed a growing sense of hopelessness of ever seeing their husband and father again. It is recognised within the psychiatric literature, that indefinite detention has a debilitating and harmful effect on mental health of both prisoners and their families.

The suffering of Zineera Ahmed and Mr Aamer's four children occurs as a direct result of Mr Aamer's prolonged arbitrary detention and other torture, and itself amounts to at least cruel, inhuman and degrading treatment.

The UK's special responsibility

Whilst the ongoing failure to secure Mr Aamer's release to the UK represents a flouting by the US of its most binding and important obligations, those regarding the prohibition on torture and on arbitrary detention, the UK has direct knowledge of Mr Aamer's treatment in breach of UN prohibitions against torture and arbitrary detention, and not only because UK personnel were present during some of the worst of that treatment. In addition, Mr Aamer's first place of detention, from which he was transferred to Bagram, was under the joint control of UK and US forces. Whilst in US detention in Bagram, Mr Aamer's fate was clearly susceptible to UK interference, influence and control. Mr Aamer reports that British agents were present whilst American interrogators physically abused him in Bagram. UK agents provided information (much of it wrong and misleading) to US officials so that it could be used in his interrogations and in turn received the product of those interrogations from the Americans. The UK clearly had the ability to influence Mr Aamer's removal to Guantanamo. And UK agents further directly participated in several meetings with Mr Aamer in conditions of arbitrary detention, amounting themselves to torture, in Guantanamo Bay. The UK colluded with Saudi Arabia and the USA to ensure that instead of returning to the UK as all other UK citizens and residents had done (even those who unlike Mr Aamer had been charged and were due to be tried by Military Commissions in Guantanamo or who were without family in the UK or who had no right of residency in the UK) that Mr Aamer be sent to Saudi Arabia where he would be subjected to indefinite arbitrary detention. Internal government memoranda evidencing the UK's role were disclosed during the course of the litigation of Mr Aamer's civil claim.

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 Thursday, April 11, 2013, at approximately 9am EST, I spent sixty 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 an account of much of what is happening. However, we were only allowed to talk for sixty minutes, and it would have taken much longer to conclude what he had to say.

Shaker said he was very willing to appear as a witness before Judge Hogan.

I set forth my notes on our conversation on this subject below. When I use quotes, that is a direct or very close reconstruction of what Shaker actually said. My notes are much more accurate in this account than others, as I set up the phone so I could type almost verbatim notes. Despite this 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.

Shaker began by telling me that nobody told him about the impending call. He was woken up shortly before nine am and hustled over. As a result, he did not have the materials he needed.

Shaker was not allowed writing implements for some time, so he was unable to take notes of things, but another prisoner on his block has been taking notes for him where necessary. "I was going to bring it all with me. My brother across the hall has been registering all the things when I have had no pen, no paper, no books, no medical materials..."

Shaker did get paper yesterday [April 10] for the first time in a while, but did not know that there was a call today (he was not given the 24 hours notice that he is meant to get). So he had not done up notes, and did not have the chance to get what the other detainee had done for him.

The authorities are making it harder for prisoners to work with their lawyers. In addition to failing to follow their own procedures in telling the detainees in advance when they are getting calls, "they have brought a new humiliation transportation van." Shaker describes how the bench is high and ceiling is low so that you have to crouch near your knee to get in there. The whole van is blacked out so he can see nothing. "It is for midgets. The only human being who could sit in there is someone who is four feet tall." Shaker states that this is bad for the guards as well, as they are big people. The van has freezing air conditioning and neon lights.

Shaker is being punished as a consequence of his calls with his lawyers. "Each phonecall [from a lawyer] is a curse," Shaker said. "I receive harsh treatment that day. As soon as I came back various things change. They hear what I am saying to you and use that against me to make things worse. That is the sad thing about the phonecalls."

Shaker reported being FCE'd (subjected to a Forcible Cell Extraction) for almost everything now. "On [April] the 8th, there were 20 FCE's in the whole of Camp V, and three of them were me."

Shaker was FCE'd when he demanded his legal materials back. "After my last call with you, my lawyer, they took everything. I took rec that day as I had not been there for a while. When I came back in everything had been thrown in the cell, like garbage. Papers were all over the floor." They had taken everything in Shaker's cell, his legal materials, his other documents, "even my kids' drawings. They ripped them off the wall."

"They took all my medical stuff." The guards took his two isomats, his pillow, his 'donut' that the doctors ordered for him to sit on his hemorrhoids, his back brace and so forth.

"I was complaining. The guard said it was not him [who did it]. I tried to collect the papers together, but lots of things were missing. I complained to the SJA who said 'I will see what I can do.' Then they FCE'd me and brought some things back to me."

When supposedly everything had been returned, Shaker noticed pages missing from his legal documents and so forth. "The SJA came back and said: 'They [the guards] say they took nothing.' The SJA asked what was missing. How can I tell precisely what they took? There were 3000 pages." However, Shaker went on to describe how pages were missing on numbered documents (it would go 1, 2 and then be missing 3 and so forth).

Shaker is being FCE'd for water. "For three days now if I say I want more water – they FCE me just to give me water. The first day I got FCE'd three times and Code Yellow two times [when Shaker fell down unconscious]. Not even General Miller did this during 'Miller Time'."

They are FCE'ing Shaker for essentially everything. Yesterday [April 10] is an example. "They FCE'd me at 2pm to bring in lunch." This, even though Shaker was on hunger strike and was not going to eat it.

“I asked for thiamine and 60ml honey [and other medications], as the doctor said it was necessary. They FCE’d me. The Corpsman came in. ‘You FCE’d me for medication?’ [Shaker demanded.] The Corpsman said, ‘That’s the only way they will let you have it.’”

“They would not take the lunch away. They left it until dinner time.” This is apparently torturous for Shaker since he is on hunger strike and they are just trying to make him have food in his cell for hours.

Shaker asked for water. “They would not bring water until dinner time.”

Then: “They FCE’d me last night at 945pm to bring the dinner inside, even though I was not eating.”

Shaker has had almost no water for 24 hours as they would not bring water. “The nurse registered this. I made a declaration to the nurse.” Shaker reports that she has no number; the guards, corpsmen and nurses now use what appear to be pseudonyms which Shaker thinks are Shakespearean names. This makes it impossible for him to identify them.

Shaker reports that nurses and corpsmen are saying they can do nothing about water as that is for the guards. Shaker told them he is a trained nurse, and showed them the froth on his saliva, and asked: “What does it mean?” They told him to drink from a sink. They said it is potable. Shaker won’t drink it. “Look at the color of the water.”

[Note: I told Shaker that I have a recent photograph of one of the sinks at Guantánamo – where lawyers stay, rather than in the camps - which says clearly above it:

*“Non-Potable Water
Please do not consume
Safe for washing”*

I will enclose it with this declaration.]

Shaker said he would sue them all when he gets out. However, they are not intimidated by this because he is unable to identify them. *[Note that the agreement from several years ago was that the staff would wear numbers for precisely this reason – so that the prisoners could bring complaints against those who violate their rights.]*

Shaker reports that he has only been able to drink a sip of water since last evening.

Shaker has been refusing blood tests, the heart EKG, and so forth. He would have to accept being FCE’d to have this kind of testing at the moment anyway.

The guards told Shaker that they would FCE him if he wants to go to Rec.

“I have not showered for more than 9 days. They say they are busy. I will have to do it from the toilet as I was forced to one time before.”

Shaker is losing weight faster now than before. "In 11 days, I have lost more weight than before and I am around 150 lbs." Shaker believes that the stress from being FCE'd so much is making him drop weight fast.

Shaker reports that he is not able to get medical attention without being beaten up. "239! Do you need medical attention 239?" says the corpsman.

"I ask for water; you bring me FCE," Shaker replies. "I ask you for food; you bring me FCE. I ask you for rec; you bring me FCE. I ask you for medication; you bring me FCE."

Every time the FCE team (or even the medical Code Yellow team) come into his cell Shaker is getting injured. "I am getting scared because one of the guards stepped on my foot yesterday. I have bruises all over. The guy yesterday did not do it intentionally, they came running, it is a cell for disabled people, it is very tight. They fall on me, as I lie on the floor."

"I have bruises on my legs, knee, my arms where they carry me, as there is still no board. If we were on Skype you could see them. I think I bruise more easily now because I am not eating."

I asked Shaker how he feels through all this FCE mistreatment. "Thee is the tramp to the door, they smack the door ... even if you are used to it, your adrenaline rushes, your heart starts beating. I know that something is going to happen to me, it's scary. It is like a car race going 180 miles an hour, with a wall in front of you, you know that the brake might not work, you panic."

"I can't read. I am dizzy and I fall down all the time. I do not call them, as it is humiliating. When they call Code Yellow, they step on your fingers, your hands, they scratch you, even then you are living in fear when they say they are treating you. Yesterday they tied me on the board and they threw me in a cell because the medical people were busy. So they only took me to another cell. You are lucky if you get a medical space."

Shaker reports that Code Yellows (when a prisoner collapses or passes out) in Camp V are now running at 10 to 15 times a day.

"My back and my neck are getting worse day by day. I don't want the end of this torture here to be paralyzed. I want to carry my kids when I get home; I don't want my kids to have to wash me. I don't want to be the third one paralyzed in this place."

I asked Shaker what effect it was having on him mentally to be hungry all the time. He described the hunger in general terms and then got more specific. "I try to go to sleep early in the night. Then you feel as if you have just died. I wake up at 5am to prepare for prayers. I have not had any rest, I feel I just went to sleep and was immediately woken up. I pray around 530am and then try to go back to sleep. I stay trying to sleep until they wake me up again just before 9am."

Shaker noted that he is still in the very noisy cell next to the guards [*as described in detail in my declaration concerning my last conversation with him*]. The guards have orders to do this. "I know the guards who try to be human beings, and they tell me that they cannot do anything."

There are other ways in which Shaker and others are being kept from sleeping [*in addition to what he described in my last conversation with him*]. "Nobody has an earpiece any more. We live in the radio traffic now, with constant loud commands coming over the radios, loud and clear all over the camp [Camp V]. This did not happen during Miller Time."

"For a whole week one female guard bothered us during the prayer. Before prayer we ask them to shut their radios, and so forth. But they carry on talking, pushing things around. But there is nothing left to us but our prayers."

Shaker reports that the physical conditions are bad, perhaps exacerbated by the weak conditions of the prisoners on hungerstrike. "In the night people are dying from cold. In the day they are dying from the heat. People cry from the heat and the humidity. I could not put the prayer schedule on the wall because it was so damp. It is systematic torture."

Shaker is not yet being force fed. He reports that the Administration are not doing force feeding to a number of people who have lost a lot of weight. Some people who are no more than 100 or 104 lbs are not being fed. "One detainee has lost 55 lbs, more than 25 percent of his weight, and they told him that he is now looking good."

Shaker would like to send several messages to President Obama:

* "If you are an honest man, send the same team as you sent down as a committee [to assess who should be cleared] to meet the detainees now and see what is really happening. The people visiting are mostly from the Department of Defense, and they are all seeing something like a movie [to make things look good]. No prisoners can talk to the visitors."

* "You need to hand over the 86 people who have been cleared."

* "You need to send a team from the UN. If you are not scared of what they will see, get someone to come in. Or send someone from your closest ally – England. They will be shocked and horrified to see the situation."

* "In the end this place has no solution except close it down, or transfer it to the UN and let them run this place. Or send all of us to the Hague for trial in the International Criminal Court. Say, '239 agrees to go to the ICC in the Hague'. They will laugh [at the Hague] because they know I am not a criminal."

Shaker instructed me to write a letter immediately to the British government concerning his treatment. He said he is going to refuse everything, if he is required to be beaten up by the FCE team to get it. "I am not taking more water or medication if they FCE me each time. I will take it if they want to give it to me correctly and fairly."

But I would rather die one time, than die fifty times.”

Shaker coughed really badly twice during our phonecall – he reports that he now has a chest infection that is making his other medical complaints worse. Also, on two occasions Shaker started laughing hysterically, which prompted my concern. At the end of our conversation, he appeared to be crying, or very close to crying, which is very unusual for Shaker, for he is a proud man who does not like to show weakness. However, it was clear that he genuinely fears dying in Guantánamo now, and he made me promise to deliver a message to his wife if the worst comes to the worst, and he does not see her again.

“It’s hard to keep calm. They are killing us, so it is hard to keep calm. It is hard to understand what they are doing or why.”

“No matter how much I show you I am tough, in reality I am dying inside. If you want us to die, leave us alone. But they do not want us to die, and they do not want us to live like a human being. What is worse than that?”

“I might die this time, I cannot give you numbers and names, but people are dying here. I cannot give you the details.” He said that when he has paper he will try to write this down and send it to me in a letter [though this can take weeks to get to me].

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 11th day of April, 2013.

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

Clive A. Stafford Smith