

MOD-83-0000281-A

Filed on behalf of the Claimants
Deponent: Entesar Abdullah Al-Mahzem
First Witness Statement of Deponent
Dated: 18 February 2013

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Claim No.

BETWEEN:-

ENTESAR ABDULLAH AL-MAHZEM

Claimant

- and -

MINISTRY OF DEFENCE

Defendant

**FIRST WITNESS STATEMENT OF
ENTESAR ABDULLAH AL-MAHZEM**

**I, ENTESAR ABDULLAH AL-MAHZEM of Al-Jubaila, Andalus, Basra, Iraq
WILL SAY AS FOLLOWS:**

1. My name is **ENTESAR ABDULLAH AL-MAHZEM** This is my first witness statement in these proceedings. Insofar as the contents of this statement are within my knowledge, they are true; insofar as they are not within my knowledge, they are true to the best of my knowledge, information and belief. I make this witness statement in support of my civil claim against the Ministry of Defence for its actions in relation to the death of my brother in law that I detail below. I bring these proceedings in my own name.

Personal Background

2. I was born on 15 July 1958 in Basra, Iraq. I attach a copy of the photopage of my passport as my Exhibit MZDA/1. I am a trained lawyer. I worked in the Court for seventeen years as an administrative assistant and then qualified as a lawyer. However, I have never actually worked as a lawyer as I met my husband -- Mahmood Zuboon Dahsh Al-Akhrass - in 1996 and we married. I have no children. I currently live in our family home in Basra.
3. Fatimah Zuboon Dahsh Al-Akhrass is my sister-in-law. However, our relationship is such I consider her to be my actual sister. I have one sister and she has lived away from me for a lot of my life. She previously lived in Saudi Arabia and now lives in Egypt. Accordingly, in my eyes, Fatimah has played the role of my sister. We are very close and I will see Fatimah most days. We go to the market together, travel together, go everywhere together. I visit her when my husband, Fatimah's brother, is unable to go to her house to assist her with tasks.
4. Before Fatimah's husband died, we would see each other more as our houses were very close together, within a couple of streets of each other. I could walk between the houses in five minutes and so I would see her and her husband almost every day. Fatimah was, of course, a lot happier when her husband was alive. She was a lively person who enjoyed going out and I would almost always accompany her.
5. I cannot really describe Mohammad, Fatimah's husband. I struggle to provide the words to do his memory justice. He was such a decent man, very pious. He was always helpful and coming to my house and assisting me. For example, he would fix machines in my house that were broken, do general repairs and would help me with tasks around the house. During the whole period of their lives together, I never saw them argue. They were always happy together, overjoyed in each other's company. He was kind, sincere and gentle. He was always

willing to help and his door would be open to any person who required assistance. He demonstrated qualities that are sometimes not always found in men in Iraq. He was tolerant, gentle and allowed Fatimah to be her own person. My own relationship with Mohammad was very close too. We spent a lot of time together whilst with our respective spouses. My husband is a lawyer and often very busy. If I needed support in his absence though, I was always able to rely upon Mohammad to assist me with tasks.

5 November 2003

6. I remember that it was Ramadan. Mohammad, my husband, my nephew – Ahmed Ibrahim - and myself we were in our family home eating fruits having broken the fast. I do not remember exactly when Mohammad had arrived at our house. I believe he had broken the fast at his own home and then came to see myself and my husband afterwards. It was intended that Fatimah was supposed to come as well but she stayed at home to look after the children and help them with their studies.
7. Some time after Mohammad had arrived, I don't know how long but at least an hour, we heard a large explosion outside our house. We were all sitting in the hall eating and talking and the explosion took us all by surprise. Mohammad got up and began to climb the stairs so that he could go to the balcony and see what had happened. We would later learn this was a tank breaking through the iron gate that allows entry into our property.
8. As Mohammad was climbing the stairs, our front door burst open. We suddenly heard a great amount of activity immediately inside our house. I will never forget the sound of rifles being locked and loaded. It was such a menacing sound and one which filled me with such fear. As we sat around the hall, a great many British soldiers suddenly burst through the two doors that allowed entry into the room. They were

shouting out before we could see them although we could not understand what they were saying. We could hear their boots pounding through the rooms of our house. They entered in great numbers and at great speed. I can only estimate that there were about twenty or more.

I cannot be sure because all of this happened so fast. They were wearing their full battle equipment. It was a great and chaotic mix of armour and rifles. It was as if they were about to start a war. I can say that I have never been so scared as I was in that moment. I ran towards the wall in an attempt to get away from the soldiers. I was terrified and could barely stand my legs were so unsteady with fear. I was convinced I was going to die. I was sure they were going to shoot and kill all of us. I know a small amount of English having learned it at school and so I was able to stumble out the words: 'Please, please don't shoot'. No one paid any attention in all of the confusion however.

9. As the British entered, Mohammad came back down the stairs. He stopped on about the second or third step of the staircase. He was shot immediately.

10. There was perhaps two metres between Mohammad and the soldier who shot him. No one said anything to Mohammad and this all happened in a matter of seconds. It happened so fast that I do not even recall hearing the bullet. Mohammad was shot on the side of the stomach and collapsed on to the staircase.

11. I still cannot work out what possibly caused the soldier to shoot so suddenly and with such little consideration. I am sure the soldier had enough time to assess the situation and see that Mohammad was not a threat. He was close enough to look Mohammad in the eyes. Mohammad simply had his hands in the air asking what was going on. There was no reason for him to be considered a threat or a risk. Having been shot, Mohammad initially sat down on the third stair and then later fainted and collapsed so that he was lying down on the staircase.

12. The soldier who shot Mohammad was bald. As soon as he shot Mohammad, he then looked at me and started shouting. I understood him to want me to go into the bedroom and another soldier tried to grab my hand. The soldier who was pulling my arm was saying that the other soldier was a bad man and that he would hurt me if I did not follow his orders. He was pleading with me to follow the order of the soldier. Having just seen a man very dear to me shot for no reason I was obviously very scared. However, I was not prepared to leave my husband and nephew because I was sure they should not meet the same fate as Mohammad.

13. The troops surrounded my husband and nephew. I will never forget the look of terror on their faces. My husband is known to be a courageous and brave man. His job requires him to be dignified and calm. I have never seen him look like he did in that instant. All colour drained from his face. They forced my husband and my nephew to the floor. My husband looked to one side at the soldier and asked if Mohammad had been shot. At this point, soldiers came and pointed rifles at my husband and nephew's head. I was sure they would be executed.

14. I was near to the interpreter the British had brought with them. However, he was terrified and was not speaking. He was not able to speak he was so fearful of what was going on. I was begging with him to help us and talk to the British to explain that we were good people, innocent of whatever crimes the British thought we had committed. However, he simply ignored me before leaving the room. I think he was unable to comprehend the horror that was taking place in front of him. I then had no choice but to try get the British to help Mohammad myself. I pleaded with them, kissing their boots and begging them to do something for my dear relative. However, the British did nothing to help him at all. They simply stood with rifles pointed at all of us.

15. My husband and nephew were taken outside and handcuffed to the back with nylon cuffs. They were made to squat on the floor, I cannot

remember if they were made to kneel or squat but they were placed facing the wall in a position that looked very uncomfortable. I was left guarded by a couple of soldiers in a bedroom. After troops left the bedroom, I was free to go outside and this is when I saw my husband and nephew in the position described above. I also remember that I saw Mohammad at this stage. He was in the same room but had obviously been moved. He was slumped with his back against a wall and his feet trailed out in front of him. He looked at me with fear and anguish in his eyes. He said to me that he could not bear the pain any more. He still was receiving no assistance from the British.

16. The British tried to get me to return to the house but I refused as I was not prepared to leave my husband and nephew as I thought they would be arrested and taken away for many months.

17. Eventually, a big soldier came from the tank and told the officer that the three of us could return into our house. I think it was because they had now finished searching the house. Mahmood and my nephew went to the guest room and I was taken to the kitchen. I was begging for Mohammad to be taken to the hospital convinced he was going to die. It seemed like hours later that Mohammad was eventually moved and taken to the military vehicles. I saw this from the kitchen. It was at this time, when I finally knew that Mohammad was going to be taken to hospital that I lost all control of my senses and fainted. I think I had been sustained by worry for Mohammed and my husband such that I had been able to stay conscious. However, all at one moment, I felt overwhelmed and collapsed. I do not know how long I was unconscious for. When I woke up, Ahmed was with me and was touching my face trying to get me to wake up. Apparently the British had fetched him in order to help me wake up.

18. Mohammad was taken to the hospital but the British troops remained in our house for a long period. They did not appear to be doing anything beyond sitting around waiting for something to happen. I do not recall

exactly when but I recall that the soldier who had shot Mohammad approached me during this period. I was stood at the wooden door into our house which had been burst open. The soldier apologized for shooting Mohammad. He obviously felt guilty for what he had done. I asked him what the worth of his apology could be given that Mohammad was already injured. I asked why we could not all have just been put in a room whilst the British searched the house. I could not understand why the British had needed to act so senselessly. I could not accept that there was any need to shoot an innocent man.

19. I know that Mohammad was taken to a local hospital. The men in ours and Mohammad's family went to this hospital on a number of occasions in order that they could see him. Every time the British refused anyone access to see Mohammad.

20. On the Friday after the shooting, I was told that Mohammad had died. Mahmood had been at the hospital and had been told that he had passed away. He came back and told me. Words cannot describe how I felt. I felt empty and broke down.

21. Fatimah was in our house at this time as well and she would later see me weeping. She must have known instantly what had happened. She shouted and screamed. She wailed and wept. It was like she had gone insane. She was pleading with God, pleading with him not to have taken Mohammad away. Although the pain I felt in my heart was severe, Fatimah's grief overwhelmed her entirely.

Events Following Mohammad's Death

22. I recall that there were difficulties between our family and Mohammad's family after his death. Mohammad's family blamed Mahmood for what happened. I believe Mahmood was required to pay a sum of money to them in compensation. Mahmood was unable to attend the funeral organized by Mohammad's family because of these difficulties.

Mahmood was therefore required to organise another funeral ceremony to allow us to mourn.

The Effect on Fatimah of Mohammad's Death

23. Fatimah was such a happy woman before Mohammad's death. She is now much changed. She seems miserable, tired and depressed at all times. She now faces such hardship. People need to understand that life in Iraq is very hard for a woman regardless of their circumstances. However, when someone has lost a husband and becomes a widow, these difficulties are compounded. It is difficult for me to explain fully the tragedy that has now befallen Fatimah and the pain and suffering she has experienced, and will continue to experience, throughout her life.

24. It is clear that Fatimah has not even come close to recovering from and dealing with Mohammad's death. Only two months ago, I went with Fatimah to Al-Najaf to visit Mohammad's grave. If I could have had a recording device with me to capture the sound of Fatimah's wailing. It was a bitter, continuous, uncontrollable wailing. It sounded like it came from the depths of her soul. This is many years after the death of her husband and yet this is how much her husband is still in her heart. This is how much he meant to her. I cannot think of any better way to describe the impact on her.

The Impact on My Husband Mahmood

25. Mahmood now spends a lot of time with Fatimah. I think, although Mohammad's death had nothing to do with him, he still feels some responsibility for what happened. There is a great part of Fatimah's life that is missing and Mahmood is trying his best to compensate for that. He will spend all his time with her, at least as much time as he spends with me. The strain on my husband of bearing this responsibility is more than just financial. He feels the emotional burden of having to

care for Fatimah and her children as he knows this is what Mohammad would have done for him.

26. Immediately after the incident, Mahmood changed a lot. He seemed to feel humiliated and was not the same person as before. He was previously so controlled and assured. He was calm and dignified. He seemed to lose this part of his character for a period. He became uncertain and lacked confidence in himself. He was unable to work and could not concentrate. It was strange to see him like this as he had been such a strong man and such a powerful individual. He has recovered some of his character although still has medical problems.

The Effect on Me

27. I do not want to distract from the great tragedy that has befallen Fatimah. Although I have lost a man who was very dear to me, I still have the support and love of a good husband. This is obviously very different to the difficult situation in which Fatimah finds herself in.

28. That being said, I remain changed profoundly by what I saw that day. I will never forget the horror I witnessed until the day of my death. If the memories of seeing Mohammad shot and watching his pain creep into my mind I immediately try to forget them and pretend that I am happy. However, this is not always possible and when the incidents of that night replay in my mind, I cannot control my emotions. For example, if I see soldiers breaking into a house on the news or in a movie I feel fear, dread and helplessness take over my body and I break down. I have cried repeatedly through providing the detail of this statement. It is something that I am simply unable to control.

29. Something that also affected me was having to go through the house after the British had finished their search and had left. I remember it distinctly. It was as if an earthquake had hit the inside our house. Nothing was left in its rightful place and nearly everything was


destroyed. It was senseless, thoughtless devastation. For example, I remember distinctly that the officers had even gone through my underwear whilst searching through the house. This is a great insult to me and my faith and caused me great offence. It felt like my home had been violated and my husband and I were left to pick up the pieces. The memory of surveying this scene is still clear in my mind.

30. I have not visited with a doctor or psychiatrist since the incident. Things became lost in the chaos after Mohammad's death. There was too much to organise after the death; the end of Ramadan, the funeral for Mohammad, trying to restore relations between the two tribes. It did not seem appropriate and there was not time for me to make such demands. We needed to get on with our lives and I needed to support my husband, Fatimah and her children. I have perhaps done this at the expense of my own health.

31. I still have depressing thoughts in my mind. The memory of Mohammad and the experiences of that night are still alive for me. I try and solve my problems in the main by praying. Iraq is a pious country and people do not address their problems in public. We do not really share our problems or allow people to see that we are upset. It is not seen to be appropriate to do so. We keep our thoughts to ourselves and seek strength in our faith. This is all I have been able to do in the years since Mohammad died.

STATEMENT OF TRUTH


This statement is true to the best of my knowledge and belief and I am aware that it will be placed before the Court.

Signed 

ENTESAR ABDULLAH AL-MAHZEM


Dated18/2/2013.....

I confirm that immediately prior to signing this statement it was read out to me in Arabic by an interpreter and that I have understood and agreed the contents of this statement.

Signed ... 

ENTESAR ABDULLAH AL-MAHZEM

Dated ... 18/2/2013

Signed ...  (Interpreter)

Dated ... 18/2/2013

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EXHIBIT EAM/1

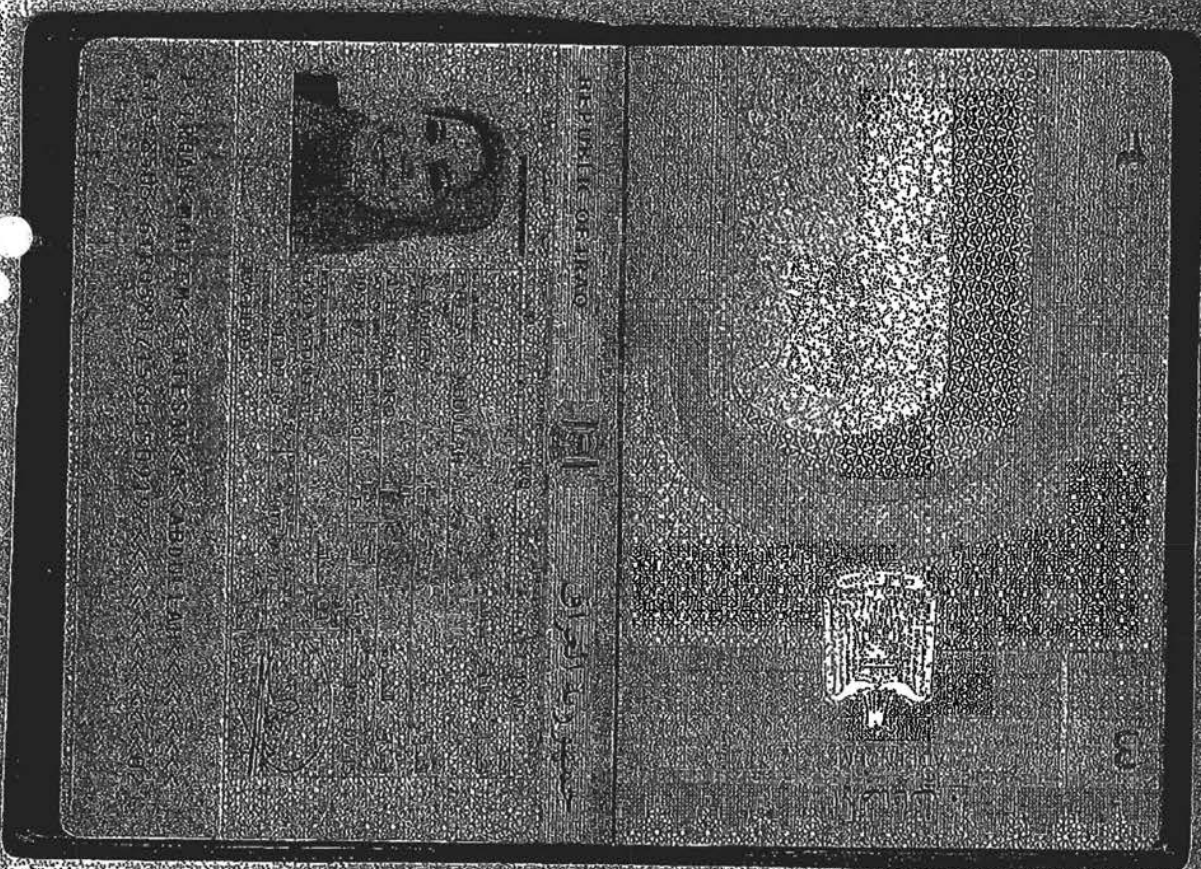
This is Exhibit 'EAM/1' referred to in the witness statement of ENTESAR
ABDULLAH AL-MAHZEM

Signed 

ENTESAR ABDULLAH AL-MAHZEM

Dated18/2/2013.....

Filed on behalf of the Claimants
Deponent: ENTESAR ABDULLAH AL-MAHZEM



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