



MOD-83-0000499-A

**WITNESS STATEMENT**

Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5b

Statement of: DELANEY, RUSSELL JAMES

Age if under 18: (if over 18 insert 'over 18') Occupation:

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: R J DELANEY

Date: 29/06/2017

Tick if witness evidence is visually recorded  (supply witness details on rear)

RE: IHAT Reference 87

**PROFESSIONAL STATEMENT**

I am a fully registered medical practitioner (GMC number [REDACTED]) and my name appears on the GMC Specialist Register for Histopathology (Forensic Pathology). I hold the degrees of Bachelor of Medicine and Bachelor of Surgery awarded by The University of Birmingham in 1996. I am a Member of the Royal College of Surgeons of England and a Fellow of the Royal College of Pathologists by examination in Forensic Pathology. I was appointed to the Home Office list of Forensic Pathologists in March 2009. I am currently a full time Forensic Pathologist working in the South West of England as part of the South West Regional Forensic Pathology Group Practice.

This report has been subjected to a Critical Conclusions Check in accordance with the Code of Practice for Home Office Registered Forensic Pathologists held by the Forensic Science Regulator.

I, Dr Russell James Delaney declare that:

- 1. I understand that my duty is to help the court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing

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reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.

2. I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.
3. I know of no conflict of interest of any kind, other than any which I have disclosed in my report.
4. I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.
5. I will advise the party by whom I am instructed if, between the date of my report and the trial, there is any change in circumstances which affect my answers to points 3 and 4 above.
6. I have shown the sources of all information I have used.
7. I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.
8. I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.
9. I have not, without forming an independent view, included or excluded anything which has been suggested to me by others including my instructing lawyers.
10. I will notify those instructing me immediately and confirm in writing if for any reason my existing report requires any correction or qualification.
11. I understand that:
  - (a) my report will form the evidence to be given under oath or affirmation;
  - (b) the court may at any stage direct a discussion to take place between experts;
  - (c) the court may direct that, following a discussion between the experts, a statement should be prepared showing those issues which are agreed and those issues which are not agreed, together with the reasons;

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- (d) I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert.
- (e) I am likely to be the subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

12. I have read Part 19 of the Criminal Procedure Rules and I have complied with its requirements.

13. I confirm that I have acted in accordance with the Code of Practice for Experts.

14. I confirm that I have read guidance contained in a booklet known as Disclosure; Experts' Evidence and Unused Material which details my role and documents my responsibilities, in relation to revelation as an expert witness. I have followed the guidance and recognise the continuing nature of my responsibilities of disclosure. In accordance with my duties of disclosure, as documented in the guidance booklet, I confirm that:

- (a) I have complied with my duties to record, retain and reveal material in accordance with the Criminal Procedure and Investigations Act 1996, as amended;
- (b) I have compiled an Index of all material. I will ensure that the Index is updated in the event I am provided with or generate additional material;
- (c) in the event my opinion changes on any material issue, I will inform the investigating officer, as soon as reasonably practicable and give reasons.

I confirm that the contents of this report are true to the best of my knowledge and belief and that I make this report knowing that, if it is tendered in evidence, I would be liable to prosecution if I have wilfully stated anything which I know to be false or that I do not believe to be true.

**INSTRUCTION**

I have been asked by **IHAT 8** of the Iraq Historic Allegations Team (IHAT) to provide a report regarding injuries sustained by Saeed Shabram. I have been specifically requested to comment on:

A. Number and types of injuries.

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B. The degree of force/attack required to inflict the injuries.

C. Any evidence of defensive injuries/wounds.

D. Were the injuries caused before or after the drowning and recovery of the body?

E. The likelihood of the injuries sustained by the deceased, being consistent with witness accounts and the use of an SA80 rifle.

#### DOCUMENTATION RECEIVED

On Thursday 18th May 2017 I met with [REDACTED] IHAT 8 and [REDACTED] IHAT 4 at the IHAT Offices, Trenchard Lines, Upavon. I was provided with copies of the following:

1. IHAT 87 briefing document

2. Photographic supplement consisting of copies of exhibits [REDACTED]/7, [REDACTED]/6, [REDACTED]/8 and [REDACTED]/2.

3. Partial post mortem examination report

4. Witness statements of:

- Ali Hassan Solel

- Munaam. A. Bali Al Akaili (known as Munem Auda)

- Cpl [REDACTED] dated 24th April 2017

- Saeed Abdul Razar

5. Preliminary proceedings transcript

6. Interview transcripts Samah Mohahham Ali ([REDACTED] 12a, 13a, 14a, 15a), Abdul Nabi Hamid Abdullah ([REDACTED] 1a, 2a, 3a, and [REDACTED] 11a, 12a) and of Munem Auda

I was subsequently also provided with photograph discs of Saeed Shabram's post mortem, images of an SA80 rifle and a copy of exhibit [REDACTED]/4 (post mortem report for Saeed Shabram).

BACKGROUND TO THE CASE (taken from the above documentation)

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The briefing document provides a summary of the alleged incident and of witness evidence. It indicates that at approximately 1100hrs on 23rd May 2013 four British Soldiers from 26 Armoured Engineer Squadron (AES) drove two of their vehicles from their base to the nearby dockside on the Shatt Al Arab river to wash them. While at the dockside one of the soldiers came across two Iraqi males who he believed were trying to steal electrical cable. Both Iraqi males were taken to the vicinity of where the British vehicles were parked. It is alleged that both Iraqi males were forced or pushed into the river by the British Soldiers. One of the British Soldiers is alleged to have used his weapon to push/force Saeed Shabram into the water. Saeed Shabram's body was recovered from the river later that day. A post mortem examination was conducted on his body the following day.

#### Post Mortem Examination Report

The post mortem examination was conducted by Dr Saeed Abdol Razak Seedy on 24th May 2003.

The report describes positive signs of drowning in the form of white pinkish foamy froth from the nose, foamy froth in the trachea (windpipe), 'fluid swelling' in the lungs, which filled most of the 'rib cage', and haemorrhagic spots on the lung surface.

A number of abrasions were described:

- Two abrasions at the 'bottom of the dorsal left forearm', 1.5 x 2cm, and 1.5 x 0.5m.
- 'Bottom of the exterior side of the right forearm', 18mm x 1mm.
- Top of the right shoulder, 1.5cm x 6mm.
- Left lumbar area, 1mm x 6mm.

A comment was made that the abrasions were likely to have happened during life.

The cause of death was given as drowning.

The abrasions were considered to be not linked to the cause of death.

A comment was made that nothing was noticed 'to indicate the body had undergone any harshness'.

#### Post Mortem Photographs

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There are 29 photographs. None include a scale

The external and internal photographs confirm positive signs of drowning with dried froth around the nose and oedematous/expanded lungs.

The following injuries were identified:

- Two abrasions over the outer aspect of the right elbow and upper right forearm.
- A red-based abrasion over the outer aspect of the left elbow.
- A red-based abrasion over the back of the right shoulder/right side of the upper back. There was no apparent pattern or shape.
- Possible abrasions over the lateral parts of the lower back.

There was no visible injury to the face or the other parts of the body shown in the photographs.

#### Scene Photographs

Three of the scene photographs show Saeed Shabram's body lying in the back of a truck. There was froth around the mouth. He was wearing a t-shirt, which had been pulled up to expose the abdomen.

There were also a number of photographs of the dockside and the river. In places the ground was rough.

#### Statement of Ali Hassan Solel

Ali Hassan Solel was a self-employed diver. He describes recovering the body from the water. The body was lying face down around 8 - 9 metres from the jetty. There were 3 mortars near to the body on the riverbed. The water was around 7 metres deep. He lifted the body to the surface of the water. A rope was placed around the body underneath the arms and the body was pulled up on to the dockside.

#### Interview Transcript and Statement of Munem Auda

Munem Auda was detained with Saeed Shabram by British Soldiers. They were escorted to the dockside at gunpoint. They were both pushed/forced into the water. He witnessed a soldier placing a weapon into the back of Saeed Shabram and then push him into the river.

#### Interview Transcript of Samah Mohahham Ali

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He was swimming in the river around 5 metres from where the two men entered. There was a drop of about 1.5 metres from the dockside into the water. He saw Saeed Shabram try to escape, throw himself on to the ground and then on to his back. He was pulled by two soldiers to the river. He was facing the river and trying to push backwards. He was shouting that he could not swim. He was pushed hard in the back with a weapon and fell into the river.

Interview Statement of Abdul Nabi Hamid Abdullah

He was a guard at the docks. He described one of the Iraqi males resisting. He was pushed in the back with a rifle and forced into the water.

Statement of Cpl [REDACTED]

Cpl [REDACTED] is a qualified Class 1 Armourer. On 24th April 2017 he was shown a picture of three British Army Servicemen. Two of those were carrying weapon systems. Cpl [REDACTED] identified the weapons as SA80 A2.

Statement of Said Abdul Razar

This statement confirms the findings described in Dr Razar's post mortem examination report.

Photographs of SA80 Rifle

There are 23 colour photographs of an SA80 rifle. Some of the photographs include a scale. The end of the barrel has outer diameter 2.1cm and inner 1.7cm.

## COMMENTS

Saeed Shabram died as a result of the inhalation of water (drowning)

There were a limited number of minor external surface injuries consisting of abrasions over the outer aspects of the elbows, the right side of the upper back/shoulder and possibly both sides of the lower back.

An abrasion (graze) is a surface injury that indicates contact between the skin and a rough object or surface. There were no other areas of injury such as bruises or lacerations in particular over the face to suggest that he had been subjected to a blunt force assault.

The abrasions represent contact between the skin and a rough surface. A minimal amount of force may result in these injuries. It is not unusual to see abrasions of this nature over the bony prominences in

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individuals who are recovered from water with those abrasions being sustained by contact with structures either on entering the water or once in the water. The abrasions whilst not shown in detail in the photographs had appearances suggestive of being sustained whilst he was alive rather than after death in the water or during extraction from it. They could have been sustained in the water whilst he was alive or they could have been sustained prior to entry into the water by contact with the ground. They could have been sustained by contact with the dockside on entering the water. They could also have been sustained prior to the incident in question although there were no signs of healing to suggest that they were days old. There are no specific features to determine precisely how they were caused. It is not possible on the basis of the medical evidence in isolation to provide a reconstruction of the events.

The limited nature of the external injuries does not support a prolonged struggle on the ground.

In my opinion these are not a reflection of defensive-type injuries. No other injuries were visible to suggest that he had made an attempt at defending himself.

The injury over the back had no pattern or shape to confirm the use of an SA80 rifle as described. It appeared to be a non-specific abrasion similar to those over the arms.

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