

# THE BAHA MOUSA INQUIRY

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## SUPPLEMENTARY SUBMISSIONS: GARRY READER

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### Introduction

1. These supplementary submissions address a single issue, namely the suggestion that Mr Reader's alleged mistreatment of D005 contributed to D005's PTSD.
2. It is correct that this suggestion is not one that has previously been made to Mr Reader and is not therefore one which he has previously had the opportunity of addressing in his own evidence, in questioning other witnesses, or in written or oral submissions.
3. Mr Reader does not:
  - (1) Suggest that it is necessary for the Inquiry to receive further evidence (whether in written form or orally) from him, Mr Reader, in relation to this issue;
  - (2) Suggest that it is necessary for the Inquiry to receive further evidence (whether in written form or orally) from any other person in relation to this issue.
4. Instead, the suggestion set out above may be addressed by these short written submissions.

### Submissions

#### *The mistreatment of D005*

5. The issue of the mistreatment of D005 by disorientation has been addressed in the evidence (by D005, by Mr Reader, by Pte Appleby and by Sgt Smulksi) and in our closing written submissions, where we said as follows:

*Disorientation of D005*

348. Pte Reader described a particular incident involving Sgt Smulski, Pte Appleby and in relation to D005 during one of his stag duties. He states that he and Pte Appleby were on guard and were instructed to take D005 out of the TDF and to march him about and that he was physically dragged along [Reader, BMI 28/150/4]. He assumed this was to disorientate him [Reader, BMI 28/151/3]. He was not struck by either him or Pte Appleby at the time, merely manhandled or dragged [Reader, BMI 28/151/12].

349. Pte Reader, in his evidence to the Inquiry, thought that it was CSgt Livesey who had given them this instruction [Reader, 28/150/16], in fact he was obviously mistaken as to that, because Sgt Smulski accepts that it was him who gave the order to the guard that D005 be taken out of the TDF to disorientate him [Smulski, BMI 41/64/6]. Further, he accepted that he may well have given the order that this move be carried out in a "robust" way and that they should possibly have understood this to be forced [Smulski, BMI 41/64/10].

350. Pte Appleby's account also corroborates what Pte Reader describes, that they were told to grab the young detainee and drag him outside, shout and swear at him and then bring him inside [Appleby, BMI 25/63/5]. This was the same small man with the glasses, who had used the metal bar, that gave the order (this is undoubtedly Sgt Smulski [Smulski, BMI 40/208/5]).

351. Sgt Smulski said that the guards would have understood this order as an order from a senior officer (or supervisor at least) which they should implement [Smulski, BMI 41/64/21]. It is submitted that Pte Reader and Pte Appleby had no option but to follow this order in the circumstances. It is submitted that the same comment applies equally to sleep deprivation generally in relation to the detainees and to the use of the metal bar in particular.

6. The conclusions which the Inquiry is invited to draw are, accordingly, that:

- (1) Mr Reader *did* engage in an incident, with Pte Appleby, in which D005 was marched and dragged;
- (2) The purpose of this treatment was to disorientate D005;
- (3) Mr Reader (and Pte Appleby) afforded this treatment to D005 because they were given a direct order to do so by Sgt Smulski;
- (4) Mr Reader (and Pte Appleby) would be expected, and were expected by Sgt Smulski, to follow this order; and
- (5) In the course of the incident, D005 was not struck, punched, hit, or kicked.

***Causation of D005's PTSD***

7. The Inquiry should not find that the treatment described above contributed to D005's PTSD. This is for three reasons.
  
8. First, the medical evidence adduced in support of the suggestion that D005 suffered from PTSD does not suggest that it was caused or contributed to by the disorientation exercise undertaken by Mr Reader and Pte Appleby. Thus, the report of Dr Essali [PIL000478-000488] does not specifically state that the disorientation incident was a causative or contributory factor to D005's PTSD. Indeed, when D005 narrated the "index event" to Dr Essali (see pp4, 5 and 6 of the report [PIL000481-00483]), D005 failed even to *mention* the disorientation incident. In these circumstances, it would be wrong and unfair to conclude that an incident not mentioned by D005 and not considered by the medical expert relied on by the Inquiry in relation to causation in fact caused or contributed to D005's PTSD.
  
9. Second, D005 does not suggest himself that the disorientation incident caused or contributed to his PTSD. Indeed, it is notable that D005 does not even describe the disorientation incident in his 48-page Inquiry statement [BMI02303- 02350], the 43-page statement served within the civil proceedings against the MoD [PIL000255-000297], the 7-page supplementary statement served within the civil proceedings against the MoD [PIL000298-000304], the 23-page transcript of interview with Mazin Younis [PIL000621-000643], or in his oral evidence to the Inquiry [Day 17/1/21 – 17/47/11]. Garry Reader does not by these submissions seek to suggest that the disorientation incident did not happen (simply because D005 failed to describe it) – it plainly did, on his own and Pte Appleby's account. Rather, it is respectfully suggested that where a person does not recall an incident such as this even occurring, it is exceptionally unlikely that it plays any part in the causation of his PTSD.
  
10. Third, D005's PTSD is more likely to have been caused by other complaints of more serious mistreatment made by him, namely that (i) whilst at Camp Stephen he was forced to kneel, bare-kneed, on pebbles in the baking hot sun; forced to

adopt stress positions; was made to jump up and down; and was kicked and hit whilst there; (ii) whilst in the TDF he was hooded, made to adopt a stress position, was beaten, was kicked in the kidney area and was hit on the shoulders repeatedly, (iii) that in his first TQ session he was slapped hard across the face by the translator (and, whilst hooded, felt something touch or lick his face – which he thought was a dog), (iv) he was made to kneel over the toilet in the TDF, and that whilst there he was beaten, kicked, and punched in the back, head, shoulders and legs, (v) he was forced to drink urine, and (vi) that he was placed next to a generator (where hot water splashed onto his face and body, which scalded his skin).

11. In conclusion, Garry Reader submits that the Inquiry cannot reasonably conclude on the evidence before it that the disorientation incident caused D005's PTSD.

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7<sup>th</sup> March 2011