

Wednesday, 30 September 2009

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(10.00 am)

THE CHAIRMAN: Good morning, ladies and gentlemen.

Mr Elias, your next witness is Mr D002, as I understand it.

MR ELIAS: That is right. He will, of course, be known publicly as D002.

THE CHAIRMAN: Everybody will have noticed that sitting next to him is a lady who is, in fact, as I understand it, his interpreter. She won't be interpreting his evidence, but you will have seen the medical reports and the way in which the doctor advises his evidence should be taken.

There is some recent confirmation of the fact that he is liable to have episodes. I don't know whether you have been told about that, but the result of this is that I have agreed that he can have his personal interpreter sitting next to him throughout all his evidence, not of course to help him with his evidence, but simply to be there if it looks as if he is about to have an attack. I hope that is satisfactory to everybody. Even if it is not, that's the direction that I am going to make in this matter.

Very well. He is going to be sworn in now. D002, can I ask, is what I am saying being

1 interpreted to you?

2 THE INTERPRETER: I could not hear what he said.

3 THE CHAIRMAN: I shall take it as "yes" since he nodded his
4 head.

5 May I ask you, please, to stand up because you are
6 going to be asked to take the oath. I will ask that the
7 oath is read out to you and translated to you, and if
8 you would be kind enough to swear to it when it has been
9 read out to you. Very well.

10 D002 (sworn)

11 THE CHAIRMAN: Thank you. Please sit down. If you prefer
12 to stand you may, but I assume that you want to sit
13 down.

14 Now, Mr D002, before you are asked any questions may
15 I explain, we have all seen a medical report on your
16 condition. If at any time you feel you are not able to
17 continue, will you signify that? If you want to take
18 your coat off at any time, as it gets quite hot in this
19 room, please do it. Do not bother to ask anybody, just
20 do it. All right?

21 If you don't understand any question that is asked
22 of you, again, would you signify? Thank you.

23 Questions by MR ELIAS

24 MR ELIAS: D002, would you give us your full name, please?

25 A. (Name given).

1 Q. You have made a statement for this Inquiry; is that
2 right?

3 A. Correct.

4 THE CHAIRMAN: Pause a moment. Is it possible to move the
5 loudspeaker closer to him, otherwise he has to lean over
6 the whole time and he is probably marginally
7 uncomfortable.

8 Thank you.

9 MR ELIAS: Mr D002, I think that microphone will pick up
10 your voice without the need to move close to it.

11 You made a statement to this Inquiry. I would like
12 you, please, to look in the red folder that's on the
13 desk in front of you. Could you take the folder please?

14 THE CHAIRMAN: Is it not there?

15 A. I don't see a red folder.

16 MR ELIAS: I think the last page of the document in that
17 folder has been flagged for you. If you have that
18 flagged page, do you see your signature on it? It's our
19 BMI01974.

20 A. There is no signature.

21 Q. Do you have the last page of the document? I can see
22 shaking heads from the other side of the room. It's the
23 last page, the page with a flag on it, I think, to try
24 to help you.

25 A. Okay, okay.

1 Q. Is that your signature on that page?

2 A. Yes.

3 Q. It is dated, as we can see, 9 June of this year. When
4 you signed that document, I take it that it had been
5 read over to you in Arabic and when you signed it you
6 were signing it as the truth. Is that correct?

7 A. Correct.

8 Q. Thank you. Then you can put that aside please.

9 Mr D002, the chairman has read your statement and
10 the other documents that relate to you and your evidence
11 and I am not going to ask you about everybody aspect of
12 what you say in that statement. Do you understand?

13 A. Yes.

14 Q. But I am going to take you to certain parts of your
15 account.

16 I want to go first of all to the hotel that you
17 worked at, the Ibn Haitham Hotel. You were a night
18 guard at that hotel at the time when the soldiers came
19 and arrested you, weren't you?

20 A. Yes.

21 Q. For how long had you been working at the hotel before
22 the soldiers came?

23 A. About six months.

24 Q. Did you work every night at the hotel?

25 A. Yes. At night, all night.

1 Q. And did you work with any other employee in particular
2 as a night guard?

3 A. Yes, yes.

4 Q. Who was that?

5 A. In the hotel or -- in the hotel?

6 Q. In the hotel.

7 A. D001.

8 Q. That is D001, as we know him. Was he also a guard?

9 A. No, he was helping me in my job as a guard.

10 Q. As a guard in the night at the hotel, did you have any
11 weapon?

12 A. We had two weapons, but they belonged to the hotel, not
13 to me.

14 Q. Were those rifles?

15 A. Yes, rifles.

16 Q. Would you carry a rifle at night on guard duty?

17 A. Yes.

18 Q. When you were not using that rifle at night, do you know
19 where it was stored, where it was kept?

20 A. In the information desk area.

21 Q. The reception desk?

22 A. Yes, reception desk.

23 Q. And do you know more precisely where it was kept in the
24 reception desk area?

25 A. They would leave them in -- where they are in the

1 cabinet where the hotel puts their papers.

2 Q. Now I think you know that apart from the rifles or the
3 rifle that you as a guard used, when the soldiers
4 searched the hotel they found quite a number of other
5 weapons. You know about that, don't you?

6 A. No.

7 Q. Well you know now, don't you, that the soldiers found
8 weapons?

9 A. I didn't know about that.

10 Q. You didn't know about it at the time, is that what you
11 are saying?

12 Can we then look please at some photographs? Look
13 at the screen to your right, MOD031392 please.

14 Can we go on, please, to the next photograph? Do
15 you recognise any of those guns?

16 A. These are two Kalashnikov weapons, two.

17 Q. Are they the two guns that you were referring to earlier
18 that the guards would use?

19 A. Yes.

20 Q. If we go on to the next photograph please, there are
21 more than two guns obviously in that photograph, aren't
22 there?

23 A. I don't know anything about that rifle.

24 Q. If we go on, please, to the next photograph. Do you
25 recognise that room that is shown in the photograph?

1 A. I don't know that room because I didn't get inside the
2 hotel myself.

3 Q. The next photograph, please, and the next. You know
4 what those are on the top of that cistern, Mr D002, do
5 you?

6 A. These are grenades.

7 Q. Yes. Did you ever know about grenades being kept in the
8 hotel?

9 A. No.

10 Q. The room, if we can go back two photographs, please --
11 I don't think anyone doubts it, Mr D002, but this is
12 a toilet or a bathroom on the ground floor of the hotel.
13 Was that a room that you ever went into?

14 A. No.

15 Q. And if weapons were stored there, you knew nothing
16 about it, did you?

17 A. No.

18 Q. Apart, Mr D002, from the two rifles that were used for
19 the guards, had you ever seen other weapons at the
20 hotel?

21 A. No.

22 Q. I would like you to think carefully about this, please.
23 Do you remember photographs being taken of members of
24 staff with weapons?

25 A. I was sleeping. I didn't know myself.

1 Q. Was there an occasion when you were working at the hotel
2 when C001 produced a camera and took photographs of you
3 and other members of staff with weapons?
4 A. I don't know. I was sleeping but during -- during.
5 THE CHAIRMAN: I think you can see if you can help now.
6 (Pause due to witness distress)
7 THE CHAIRMAN: I will rise for a moment and you can take him
8 outside. Please see that he does not talk about his
9 evidence. I am sure you understand.
10 Very well.
11 (10.19 am)
12 (A short break)
13 (10.45 am)
14 THE CHAIRMAN: Yes.
15 MR ELIAS: Sir, I am grateful for the adjournment. The
16 position would seem to be this: the witness is patently
17 unwell.
18 THE CHAIRMAN: Yes.
19 MR ELIAS: The doctor has been called to him, but is not yet
20 here. I understand from my learned friends that they
21 are understandably not able to take any instructions
22 from him. The better course, it is thought, if you,
23 sir, would approve it, is that at this stage we adjourn
24 hearing any further from this witness and we shall
25 determine, when he is fit and when my learned friends

1 have had an opportunity of speaking with him, how we
2 should take matters forward, but that of course cannot
3 be today.

4 THE CHAIRMAN: No. Well, when you say "cannot be today", we
5 will have some idea, presumably, at some stage during
6 the course of the day, as to his condition. Is that
7 right, Mr Friedman?

8 MR FRIEDMAN: As I understand it, the doctor who is the
9 author of the report you have is coming, so we will have
10 a clinical understanding today, and if it is possible
11 for me to take instructions about the way forward,
12 I will do.

13 THE CHAIRMAN: I would be grateful if you would and let us
14 know.

15 MR FRIEDMAN: All of my learned friends, indeed for other
16 parties as well as counsel for the Inquiry, have
17 indicated that there are a range of options available.
18 I will certainly canvass those options with my client.

19 THE CHAIRMAN: Perhaps you can let the Inquiry know as soon
20 as possible. I don't want to put you under pressure to
21 do so, but from the point of view of making future
22 arrangements, it is important --

23 MR GARNHAM: Sir, I wonder if I could ask if you could have
24 your microphone on. We can't hear you.

25 MR FRIEDMAN: I am extremely sorry. I was indicating --

1 THE CHAIRMAN: You can't hear me or you can't hear
2 Mr Friedman?
3 MR GARNHAM: I couldn't hear you, sir.
4 THE CHAIRMAN: Well, I am very sorry about that. I am not
5 very good technically, but I think my machine is
6 switched on.
7 As soon as you know the position, you will perhaps
8 in some way let the Inquiry know so that we can
9 determine future arrangements.
10 MR FRIEDMAN: Yes, sir.
11 THE CHAIRMAN: I don't think I said anything other than
12 that, Mr Garnham, but rather more lengthily.
13 MR ELIAS: Sir, the witness, Mr Fearon, was due to be here
14 at 2 pm. I think we have made arrangements that he will
15 be here for 12 o'clock if that is convenient.
16 THE CHAIRMAN: It is certainly convenient to me. I hope it
17 is convenient to everybody else.
18 MR ELIAS: I have sought to notify the core participants of
19 that possibility. We propose therefore to call him at
20 12.
21 THE CHAIRMAN: Good. Thank you very much. We will
22 reassemble at 12 o'clock.
23 (10.47 am)
24 (A short break)
25 (12.00 noon)

1 THE CHAIRMAN: Yes.

2 MR ELIAS: Sir, before I call the next witness, may I just
3 indicate what the position is with the last? He is
4 being medically examined as I speak and it is hoped that
5 the result of that examination will be available to the
6 Inquiry later today. I know Mr Friedman hopes to be
7 able to indicate also to us what the likelihood is of
8 the witness continuing or whatever course may be
9 suggested is appropriate.

10 THE CHAIRMAN: I am grateful to you, Mr Friedman. If you
11 can let us know, I will be grateful for that.

12 MR FRIEDMAN: Yes, sir.

13 MR ELIAS: Sir, I call David John Fearon, please.

14 DAVID JOHN FEARON (called)

15 THE CHAIRMAN: Are you still in the army, Mr Fearon?
16 A. Yes, sir.

17 THE CHAIRMAN: I ask you please to stand while the oath is
18 administered to you, which will happen now.

19 DAVID JOHN FEARON (sworn)

20 THE CHAIRMAN: Mr Fearon, if you would like to sit down,
21 please do. If you want to stand at any stage, just
22 stand up. Don't bother to ask anybody. Sit or stand as
23 you choose. Now it gets quite hot in this room from
24 time to time. If you want to take your coat off, please
25 do so to make yourself as comfortable as you can in the

1 witness box. You want to sit down?

2 A. Yes, Sir.

3 THE CHAIRMAN: By all means.

4 Questions by MR ELIAS

5 MR ELIAS: Mr Fearon, please give the Inquiry your full
6 name.

7 A. David John Fearon.

8 Q. I think you will find a folder on the bench in front of
9 you, a red folder, and inside a copy of the statements
10 you made to this Inquiry. If you go to the last page,
11 I think it is dated 15 June 2009. Can you confirm that
12 that is your signature at the end of the statement?

13 A. Yes, sir.

14 Q. When you signed that statement, had you read it over so
15 that you were able to confirm that what you were signing
16 for was the truth of the statement?

17 A. Yes, sir.

18 THE CHAIRMAN: Can everybody hear? You can't.

19 It is the first time. Mainly we have been having it
20 all broadcast through interpreters. It is not quite as
21 easy as I thought. Could you pull that microphone close
22 to you. I am sure you are used to speaking quite
23 loudly. Could you do so?

24 Yes.

25 MR ELIAS: You are still in the army, Mr Fearon?

1 A. Yes, sir.

2 Q. What rank and what post do you hold at present?

3 A. I am a lance corporal and I am at a recruiting centre at
4 the moment for the Duke of Lancaster Regiment.

5 Q. Working at a recruiting centre.

6 I want to take you back to your tour of duty between
7 about March to November 2003, Op Telic 2. At that time,
8 what was your rank?

9 A. I was a private then.

10 Q. In Iraq, were you part of a multiple with the call sign
11 G10 Alpha?

12 A. I was.

13 Q. Who commanded that multiple?

14 A. Lieutenant Rodgers.

15 Q. Within the multiple, you yourself were a team commander,
16 were you?

17 A. I was.

18 Q. And you had three privates under you, is that what it
19 meant?

20 A. Yes.

21 Q. Were they Privates Allibone, MacKenzie and Bentham?

22 A. They were.

23 Q. Were you team commander throughout your period in Iraq
24 with those men under you?

25 A. Up until the Salerno operation, yes.

1 Q. So up until the Operation Salerno, the searching of the
2 hotel, from the time you were in Iraq you were the team
3 commander with those three under you?

4 A. Yes.

5 Q. I don't want to go into a lot of detail, but does it
6 mean that so far as those three were concerned, you
7 would work with them, you were in command of them --

8 A. Yes.

9 Q. -- and essentially, where they were, so were you?

10 A. Yes.

11 Q. Now, we are going to come on, of course, to ask you
12 a little about Operation Salerno in a moment or so. But
13 before we get to that, in the weeks and months before
14 that, was the multiple involved in confronting civilians
15 from time to time or being confronted by them?

16 A. We confronted civilians on occasion, yes.

17 Q. Did you ever witness, prior to Operation Salerno, any
18 occasion when any member of the multiple ill-treated any
19 civilian?

20 A. Not as far as I recall.

21 Q. Just so the Inquiry understands that answer: what
22 exactly does it mean, not so far as you recall?

23 A. I don't remember seeing anybody ill-treating anybody.

24 Q. Over that period from March to September, up to
25 Operation Salerno, were you aware of any member of the

1 multiple being disciplined for any ill-treatment of any
2 civilian?

3 A. No.

4 Q. Did Lieutenant Rodgers go out with the multiple from
5 time to time?

6 A. Yes.

7 Q. Do you ever remember any occasion when he,
8 Lieutenant Rodgers, was struck by any civilian?

9 A. No.

10 Q. Was there any particular term used by soldiers to
11 describe Iraqi civilians?

12 A. Not so far as I know.

13 Q. Again, what does that mean, not as far as you know?

14 A. There might be, but I don't know it.

15 Q. Had you ever heard the term "Ali Baba" or "Ali Babas"
16 used by soldiers?

17 A. No.

18 Q. Never heard it?

19 A. I know what an "Ali Baba" is. The children used to say
20 it about -- that was the name for thieves.

21 Q. But you never heard the term used by any soldier, did
22 you?

23 A. No.

24 Q. No member of your multiple, for example?

25 A. Not that I remember, no.

1 Q. Before going to Iraq, had you received in the army,
2 either in your early training or subsequently, any
3 training in prisoner-handling?

4 A. Yes, on exercises we had done prisoner-handling.

5 Q. Had you been given any training in relation to, for
6 example, hooding prisoners?

7 A. No.

8 Q. That is to say either trained as to whether you should
9 or should not?

10 A. Not that I remember.

11 Q. Does the term "conditioning techniques" mean anything to
12 you?

13 A. No.

14 Q. Never heard it?

15 A. No.

16 Q. Never heard it before today?

17 A. I got asked off my solicitor if I had heard it before,
18 but I had never heard it before they questioned -- they
19 asked me about it.

20 Q. Do you know what the term "stress positions" refers to?

21 A. Yes.

22 Q. Were you given any training before you went to Iraq at
23 any stage in your career as to the use or otherwise of
24 stress positions for prisoners who may be taken?

25 A. No.

1 Q. Let me ask you the same questions in relation to the
2 time that you were in Iraq. Did you receive any
3 training or instruction in relation to the use of hoods
4 or stress positions when you were in Iraq?
5 A. No.
6 Q. Were you aware, Mr Fearon, of your responsibility, your
7 personal responsibility, as a soldier to treat prisoners
8 humanely?
9 A. Yes.
10 Q. How were you aware of that?
11 A. Just common decency. You treat others how you would
12 like to be treated.
13 Q. Was that a message that you were given in any part of
14 your training that you recall?
15 A. Yes, there's a thing called "MATTs" that we do. It's
16 a mandatory -- they are like mandatory training tests
17 that you get and it's -- what's the word I'm looking
18 for?
19 Q. Is this the annual refresher, as it were?
20 A. Yes. It's -- I can't think of the name of it. It's
21 like you get shown a video on -- I think it's the Geneva
22 Convention, that you've got to be treated in such
23 a manner, if you will.
24 Q. So you think you saw that on a video?
25 A. Yes.

1 Q. I want to ask you a little about Operation Salerno.
2 Were you given a briefing on Operation Salerno?
3 A. Yes.
4 Q. Because you were a team commander?
5 A. Everybody got the briefing.
6 Q. So everyone had the briefing in the multiple?
7 A. Yes.
8 Q. Who gave the briefing?
9 A. I'm not sure if it was the OC or Lieutenant Rodgers who
10 give the briefing because it was a company operation.
11 Q. A company operation. So you don't remember whether it
12 was Lieutenant Rodgers --
13 A. He would have give us a briefing --
14 Q. Yes.
15 A. -- but I should imagine that the OC would have give us
16 a briefing as well.
17 Q. Do you remember the briefing that Lieutenant Rodgers
18 gave to your multiple?
19 A. Not specifically, no.
20 Q. You recall the operation, do you, the raid on the hotel?
21 A. Yes.
22 Q. I am not suggesting it was the case, Mr Fearon, but do
23 you recall in that briefing anything being said about,
24 for example, possibly picking up Iraq civilians who had
25 been involved or may have been involved either in

1 Captain Jones' death or in the murders of Royal Military
2 Police?

3 A. Not as far as I remember, no.

4 Q. What was the role of your team to be at the hotel for
5 Operation Salerno?

6 A. When we went into the hotel, we were left in the main
7 entrance and we were just guarding the doors so nobody
8 entered -- so nobody left or come or went sort of thing.

9 Q. So your role was in part, anyway, to be part of the
10 team, I should say, to seal off the hotel, if you
11 like --

12 A. Yes.

13 Q. -- while the search was taking place. Did there come
14 a time when you were told to move into the hotel with
15 your team?

16 A. Yes.

17 Q. And you did so?

18 A. Yes.

19 Q. Did you carry out any part of the search inside the
20 hotel?

21 A. I can't remember.

22 Q. When you went into the hotel, were civilians already
23 gathered by the soldiers into the hall or the lobby area
24 of the hotel?

25 A. I don't remember.

1 Q. When you went in, you went in with the members of your
2 team, did you?

3 A. Yes.

4 Q. What did your team do?

5 A. We went into the reception area of the hotel and we was
6 posted on each of the doors and we was stopping people
7 coming in and leaving -- coming in and going out.

8 Q. Now there came a point, didn't there, when you took some
9 money from a safe?

10 A. Yes.

11 Q. Where was the safe?

12 A. It was in one of the rooms off to the left-hand side of
13 the reception.

14 Q. Did you have to break into the safe?

15 A. Yes.

16 Q. Did you do that?

17 A. I helped.

18 Q. Who else was there breaking into that safe?

19 A. I am not sure of everybody who was there, but I -- I'm
20 90 per cent sure that Corporal Redfearn was there as
21 well.

22 Q. 90 per cent sure Corporal Redfearn was there. What
23 about the other members of your team, were they not with
24 you?

25 A. No. I don't believe so, anyway. I think they were left

1 in the reception area.

2 Q. So had you been instructed to break open the safe?

3 A. I think so, yes.

4 Q. By whom?

5 A. I'm not sure. I should imagine it would have been the

6 platoon multiple commander, sir.

7 Q. By the multiple commander?

8 A. I should imagine so, yes.

9 Q. Lieutenant Rodgers?

10 A. Yes.

11 Q. Do you remember that or is that something that you

12 simply say you assume?

13 A. I assume.

14 Q. What did you use to break into the safe?

15 A. It was like a long metal bar, like a big crowbar.

16 Q. How many soldiers were involved in that operation?

17 A. The safe or the overall operation?

18 Q. Breaking into the safe.

19 A. I'm not sure, to be honest. I think there was a few of

20 us, but I can't remember how many exactly.

21 Q. So you got the safe open and there was quite a lot of

22 notes inside, apart from anything else, wasn't there?

23 A. Yes.

24 Q. What did you do with the notes?

25 A. I took a few of the notes and I put them in my pocket

1 and the rest -- I believe everybody else was putting
2 them into evidence bags.

3 Q. So other soldiers who were with you were putting money
4 into evidence bags. What sort of bags would those have
5 been?

6 A. It would have been a see-through plastic bag.

7 Q. What did you do with the notes that you took?

8 A. I put them in my pocket.

9 Q. Intending to keep them?

10 A. Yes.

11 Q. Why did you do that?

12 A. I was making a collage of Iraqi notes -- dinar notes.

13 Q. You were making a collage?

14 A. Yes. I wanted them to make a collage.

15 Q. Do you mean you had already started making the collage
16 or this came into your mind at this time?

17 A. I had already started previously. I hadn't stolen the
18 ones previously. I had bought them off one of the
19 Iraqis for dollars, for American dollars.

20 Q. So what you tell the chairman is that in the midst of
21 this operation, you decided to take some notes for your
22 collage?

23 A. Stupidly, yes.

24 Q. You were not just taking money because it was money?

25 A. No. It wasn't worth very much, from what I recall.

1 Q. So how many notes do you say you took?

2 A. I can't remember, to be honest.

3 Q. Are we talking of one, two or three or 20 or 100?

4 A. No, it was -- I would say one, two or three. It wasn't

5 much.

6 Q. One, two or three; is that right?

7 A. I can't remember exactly, no. I don't think it was

8 a great deal, no.

9 Q. "A great deal" may mean almost anything, Mr Fearon. Can

10 you be a little more specific for the chairman?

11 A. I can't remember.

12 Q. No idea how many?

13 A. No.

14 Q. Where did you put that money that you took?

15 A. I believe I put it in my pants pocket -- my trouser

16 pocket.

17 Q. Your trouser pocket. Did anyone else put money into

18 their pockets, as opposed to into the evidence bag, that

19 you saw?

20 A. No, I didn't see anybody, no.

21 Q. Did you come out of that room where the safe was, back

22 into the hotel lobby?

23 A. Yes.

24 Q. And were you confronted by an officer or officers in

25 relation to the allegation that you had stolen money?

1 A. Yes.

2 Q. What I want to ask you, please, is this: did you come
3 out of that room and were you then confronted with that
4 allegation or were you called out of that room where the
5 safe was to be confronted with it? Do you understand?

6 A. I believe I was called out of the room.

7 Q. Do you remember which officer confronted you about the
8 theft?

9 A. I think it was Mr Rodgers.

10 Q. What happened in that confrontation?

11 A. He said, "Somebody's been seen taking money". I said,
12 "It was me, sir". Then I got taken into the dining
13 room. He said, "Empty your pockets", which I did. From
14 there I got taken to the back of a Land Rover and went
15 back to camp -- I got taken back to camp, should I say.

16 Q. Do you say that Lieutenant Rodgers accompanied you into
17 the dining room when you turned out your pockets?

18 A. Yes. I think so, anyway.

19 Q. You say you got taken to a Land Rover and were then
20 taken away. Who sent you away?

21 A. I think it was Mr Rodgers. Mr Rodgers took me to the
22 Land Rover and then I -- I don't know who sent me from
23 there.

24 Q. So, putting it shortly, your recollection is that it was
25 Lieutenant Rodgers, the multiple commander, who both

1 confronted you and, as it were, dismissed you from the
2 hotel --

3 A. Yes.

4 Q. -- and sent you back?

5 A. I think so, yes.

6 Q. Do you know a Major Englefield?

7 A. Yes.

8 Q. Do you remember him being in the hotel in the lobby when
9 you were there?

10 A. No.

11 Q. Sorry?

12 A. No.

13 Q. Do you remember him having any conversation with you
14 about having taken money from the safe --

15 A. No.

16 Q. -- or you producing it to him?

17 A. No.

18 Q. Do you remember a Lieutenant Crosbie?

19 A. Yes.

20 Q. Did you have any dealings with him or he with you in
21 that hotel in relation to the money?

22 A. Not so far as I remember, no.

23 Q. Did you know who it was who had made the allegation
24 initially that you had stolen money?

25 A. No, they just said somebody had seen me through the

1 window and --

2 Q. Who said that to you?

3 A. I'm pretty sure it was Mr Rodgers when he came in.

4 "Somebody has seen somebody stealing through the

5 window", I believe he said.

6 Q. And so you were dismissed from the hotel. Where did you

7 go or where were you taken?

8 A. Back to Camp Stephen.

9 Q. Back to Camp Stephen where you were then based?

10 A. Yes.

11 Q. Were you disciplined in relation to that incident?

12 A. Yes.

13 Q. By whom?

14 A. I think it was the sergeant major.

15 Q. Was that the acting sergeant major, Hollender?

16 A. I am not sure. It might have been.

17 Q. But you just don't remember, do you?

18 A. No.

19 Q. Were you called up in front of him? What happened when

20 you were disciplined?

21 A. I think I got pulled into his office, asked why I'd done

22 it. I explained why. And he said -- and then I got the

23 punishment.

24 Q. What did you tell him as to why you'd done it?

25 A. The same reason I have just told you.

1 Q. What, you were making a collage?

2 A. Yes.

3 Q. And what was the punishment that he ordered?

4 A. I filled sandbags.

5 Q. You filled sandbags.

6 A. Yes.

7 Q. How many?

8 A. I think it was about 250.

9 Q. That's the sandbag that soldiers were issued with. Is
10 that the bag we are talking about?

11 A. Yes.

12 Q. And filled them with sand?

13 A. Yes.

14 Q. So I don't suppose the filling of 250 bags took you very
15 long, did it?

16 A. It took a fair while, yes.

17 Q. How long?

18 A. I think it was about a day or two.

19 Q. A day or two?

20 A. Yes.

21 Q. Was that the end of the matter then, after that
22 punishment?

23 A. Pretty much, yes.

24 Q. Did the multiple commander speak to you about that
25 incident at any time afterwards?

1 A. He asked me why I'd done it once. I said it was
2 a stupid thing to do and I was making a collage.

3 Q. Did any other officer speak to you about it?

4 A. Not so far as I remember.

5 Q. Did you know whether the commanding officer was told
6 about it?

7 A. Yes.

8 Q. You knew that he was?

9 A. Yes.

10 Q. Did the commanding officer speak to the companies about
11 the theft?

12 A. I don't know about the other companies, but he spoke to
13 my company.

14 Q. And you were present, were you?

15 A. Yes, he named me. He explained what had happened and
16 that somebody had been caught stealing and it was me.

17 Q. Were you, from the time of Operation Salerno on, known
18 by your colleagues in the multiple by any nickname?

19 A. Occasionally, yes.

20 Q. What was that?

21 A. "Dinar Dave".

22 Q. Was that any indication that your colleagues didn't take
23 the matter very seriously?

24 A. No.

25 Q. Your multiple G10 Alpha, did the multiple have

1 a nickname?

2 A. Not so far as I remember.

3 Q. I suppose you would remember if it had one, would you?

4 A. I should imagine so.

5 Q. Have you ever heard the name used of your multiple, the

6 "Grim Reapers"?

7 A. Yes, now that you mention it, I do.

8 Q. It comes back to mind, does it?

9 A. Yes.

10 Q. Do you know why that nickname was given to this

11 multiple?

12 A. No.

13 Q. Sorry?

14 A. No.

15 Q. Who used that term? Other soldiers or the multiple

16 itself?

17 A. I'm not sure.

18 Q. Well you heard it.

19 A. Yes, I heard --

20 Q. Can you help the Inquiry a little? Who would use that

21 term? Was it other soldiers or was it your multiple

22 members?

23 A. I'm not sure to be honest. It could be both or --

24 Q. It could be anything.

25 A. Yes.

1 Q. Did you use it?

2 A. No. Well, not so far as I remember.

3 Q. Was it a badge of honour? Was that how it was regarded

4 by the members of the multiple?

5 A. I don't know.

6 Q. What did it mean?

7 A. It was just a name, as far as I know.

8 Q. How did it come about, Mr Fearon?

9 A. I'm not sure.

10 Q. You can't help us, can you?

11 A. I don't know.

12 Q. You don't know?

13 A. I'm not sure where the name came from.

14 Q. I suppose you came to learn, did you, some days after

15 Operation Salerno -- a day or two -- of the death of one

16 of those people who had been arrested in it, Baha Mousa?

17 A. Yes.

18 Q. I suppose that you talked, did you, to members of your

19 multiple about what must have happened?

20 A. No. We were told we weren't allowed to ask any

21 questions.

22 Q. You, of course, had no part in guarding, did you --

23 A. No.

24 Q. -- those detainees?

25 A. No.

1 Q. You didn't speak to your team about what happened, how
2 this had come about?

3 A. No, we were under strict instructions to ask no
4 questions -- ask them anything about it.

5 Q. Under strict instructions?

6 A. Yes.

7 Q. You followed those instructions, did you?

8 A. Yes.

9 Q. And so not a word was said to you about how a detainee
10 had died?

11 A. Not so far as I remember, no.

12 Q. And you asked no questions about it of anybody?

13 A. No.

14 Q. Is that the truth?

15 A. Yes.

16 MR ELIAS: Thank you.

17 Questions by MR FRIEDMAN.

18 MR FRIEDMAN: Mr Fearon, I represent the father of
19 Baha Mousa and the other detainees that were taken to
20 BG Main.

21 You said to us that Mr Rodgers came to you in the
22 hotel and said, "Somebody's seen you stealing through
23 the window". Did there come a time when you learnt that
24 the man who saw you stealing was the father of
25 Baha Mousa?

1 A. No.

2 Q. Is this the first time that this has ever been raised
3 with you?

4 A. The solicitor mentioned it in a statement, but other
5 than that, no, I had never heard it before.

6 Q. When you were asked to turn out your pockets in the
7 hotel, were there any Iraqi civilians present?

8 A. No.

9 Q. It's right, isn't it, that when the SIB came to you in
10 February 2005, it was them that came to you, you didn't
11 go to them?

12 A. Yes.

13 Q. Now the relevant part of your statement has been drafted
14 into your Inquiry statement, but I just want to read out
15 one line from the statement that you gave. It says
16 this --

17 THE CHAIRMAN: Just tell me the page.

18 MR FRIEDMAN: Certainly. Paragraph 1, BMI01413.

19 THE CHAIRMAN: Thank you.

20 MR FRIEDMAN: It has come up on the screen helpfully. It is
21 up at the top, talking about Operation Salerno:
22 "... I was involved in an incident that was dealt
23 with by my unit authorities at the time."
24 Do you see that at the top?

25 A. Yes.

1 Q. Did you tell the SIB, when you gave this statement,
2 anything more about the incident?

3 A. I don't remember, to be honest.

4 Q. Did they ask you anything more about it?

5 A. I don't remember.

6 Q. So nothing about the collage?

7 A. I don't remember, to be honest. It was a long time ago.

8 Q. What happened to the collage?

9 A. I got -- it was taken off me.

10 Q. By who?

11 A. They have a thing called "Op Plunder". As you leave an
12 operational theatre they have a thing called
13 "Op Plunder" and they search your kit and the boxes that
14 you send home and you are not allowed to take anything
15 home that's like a -- what's the word I'm looking for --
16 like a collage or anything like that.

17 Q. So when the sergeant major, according to you, punished
18 you on that very day and you say you spoke to him about
19 the collage, he didn't ask to see the collage?

20 A. Not as far as I remember, no.

21 Q. He didn't take it off you then?

22 A. Not so far as I remember, no.

23 Q. I want to ask you about that day when you were back at
24 Camp Stephen. How soon after arriving back at
25 Camp Stephen had you seen the sergeant major and been

1 given the punishment?

2 A. I can't remember. I think it was a bit of a time

3 because --

4 THE CHAIRMAN: Sorry, you think it was what?

5 A. Pardon?

6 THE CHAIRMAN: I couldn't hear. You said "I can't remember,

7 I think it was ..." what?

8 A. Sorry, sir. I can't remember, but I think it was quite

9 a bit of time because I think they came back after the

10 operation had finished and I was back while the

11 operation was still going on.

12 MR FRIEDMAN: What were you doing whilst the operation was

13 still going on?

14 A. I was sat in -- I got put in the ops room.

15 Q. Did you see or hear about other prisoners being brought

16 to Camp Stephen while you were in the ops room?

17 A. No.

18 Q. I want to ask you just shortly about the conduct of your

19 unit and Anzio Company. When you went out on patrol,

20 generally, did you carry a bat or a baton with you?

21 A. Yes.

22 Q. I want to ask you about a particular date, which is

23 9 August 2003 --

24 THE CHAIRMAN: Now, unless there is a specific relevance --

25 MR FRIEDMAN: Yes --

1 THE CHAIRMAN: -- to this matter, which I am unaware of --
2 MR FRIEDMAN: Yes.
3 THE CHAIRMAN: -- I am not prepared to go into details of
4 incidents outside the one which I consider within my
5 terms of reference.
6 MR FRIEDMAN: Yes, sir. I was going to ask about three
7 matters that Lance Corporal Fearon may have been
8 involved in on that day -- may or may not have been.
9 If, Sir, you would prefer for that to be dealt with in
10 submissions -- it is a cross-reference to a diary that
11 we have, without going on the basis of that document --
12 I can return to it.
13 THE CHAIRMAN: You can put to him shortly the nature of what
14 you are suggesting, but I am not prepared to go into
15 a whole lot of detail about other incidents. Is that
16 clear?
17 MR FRIEDMAN: It is. I quite understand and I hope I can do
18 it that way.
19 THE CHAIRMAN: Well, you will have to.
20 MR FRIEDMAN: Yes.
21 I was going to ask you about 9 August and, to jog
22 your memory, that is the date that we know that there
23 was large-scale civil unrest because of there not being
24 enough petrol. Do you remember that event, if not
25 necessarily the date?

1 A. I remember events like that, yes.

2 Q. Three specific questions, if I may, about that date and
3 those events. Did Private MacKenzie from your team
4 headbutt a particular Iraqi male in the face?

5 A. I don't remember.

6 Q. Dealing with that same Iraqi male, did Private Cooper
7 from your multiple, but not from your team, hit the same
8 man three times?

9 A. I don't remember.

10 THE CHAIRMAN: I'm sorry, what did you say?

11 A. Sorry, I don't remember, sir.

12 MR FRIEDMAN: Did you then hit the same man with a bat
13 before he ran off?

14 A. I have hit a man with a hickory stick, what we get
15 issued, but I don't know if it was that man or that
16 incident. The man I hit -- I hit the bloke and he did
17 run off.

18 Q. Right.

19 A. I don't remember -- I don't know if it was that -- that
20 incident then or another public order occasion.

21 Q. Right.

22 Sir, it is a matter for you if I could ask the
23 circumstances of when that happened.

24 THE CHAIRMAN: No, I think you have put the point and we
25 will see what happens later.

1 MR FRIEDMAN: I am grateful, sir. Those are my questions.

2 THE CHAIRMAN: Yes. You want to ask questions, do you,

3 Mr Langdale?

4 MR LANGDALE: Sir, might I? The witness has referred to

5 something that was not in his earlier statement.

6 THE CHAIRMAN: I don't have a note that you wanted to ask

7 any questions. I will not stop you, but if you would be

8 kind enough in future to let us know whether you want to

9 ask a question and the nature of it, please,

10 Mr Langdale.

11 MR LANGDALE: Sir, absolutely. It is a topic which I shall

12 be referring to with other witnesses, albeit briefly.

13 Nothing had been said by this witness about it and it

14 would be convenient if I could ask it now. I am very

15 grateful.

16 Questions by MR LANGDALE

17 MR LANGDALE: I am asking questions on behalf of

18 Colonel Mendonca. After the incident when you had

19 stolen money, the entire company, Anzio Company, was

20 assembled, was it not, and the CO, the commanding

21 officer, addressed the company?

22 A. He did. I don't know if it was on the same day or not,

23 but he did address the company, yes.

24 Q. All right. But on some occasion after you had stolen

25 the dinars?

1 A. Yes.

2 Q. It was a short, sharp address, was it not?

3 A. Yes.

4 Q. He made clear his extreme displeasure at what had
5 happened --

6 A. Yes.

7 Q. -- and made it perfectly clear that the simple message
8 was that 1QLR were there to help the Iraqis, not to rob
9 from them or steal from them?

10 A. Yes.

11 Q. That was the general effect of it?

12 A. Yes.

13 MR LANGDALE: Thank you very much.

14 THE CHAIRMAN: Yes. Now, on my list, Mr Topolski, you want
15 to ask a few questions, do you?

16 MR TOPOLSKI: Yes, if I may.

17 Questions by MR TOPOLSKI

18 MR TOPOLSKI: Mr Fearon, I represent Ex-Corporal Donald
19 Payne. You tell the Inquiry in a statement to it, at
20 paragraph 39, that you don't recall seeing your multiple
21 for three days following Operation Salerno; is that
22 right?

23 A. Around about three days, yes.

24 Q. Operation Salerno itself, would you agree that it was
25 different to all previous raids as you had been told

1 that it may be in connection with people who had killed
2 Captain Jones?

3 A. I don't remember that, no.

4 Q. Do you agree that if such a thing had been said, that
5 would have served to give everyone the incentive to do
6 a particularly good job that day?

7 A. I believe everybody intended to do a good job every day.

8 Q. But there was a particular incentive, wasn't there, if
9 you had been told that this was something to do or might
10 be something to do with the death of a treasured
11 captain, Captain Jones?

12 A. I couldn't say.

13 Q. You couldn't say.

14 You told the chairman a few minutes ago that you
15 were under strict instructions not to ask the multiple
16 questions following the death of Baha Mousa.

17 A. Yes.

18 Q. You followed those instructions, did you?

19 A. Yes.

20 Q. Let me explore the word "instructions" in a slightly
21 different context. Could we have up on the screen,
22 please, a statement or part of from Private Cooper to
23 this Inquiry, BMI04373, paragraph 160 of his statement
24 to this Inquiry. As it is coming up, Mr Fearon, you
25 know Private Cooper, don't you?

1 A. I remember him.

2 Q. You remember him. Aaron his first name was.

3 A. Was it?

4 Q. Yes, it was. A member of your multiple, wasn't he?

5 A. Yes.

6 Q. Yes.

7 THE CHAIRMAN: I don't know if you did it before -- you may
8 have done -- but if you could let the gentleman in front
9 of me know when you are going to refer to a document.

10 MR TOPOLSKI: It is my fault. I overlooked doing that.
11 I normally do. I am sorry.

12 THE CHAIRMAN: I do not imagine it will happen again then.

13 THE INTERPRETER: The interpreters would be grateful, Sir,
14 if the speakers would slow down a bit, please.

15 THE CHAIRMAN: Which one? The witness or Mr Topolski?

16 THE INTERPRETER: Mr Topolski.

17 THE CHAIRMAN: Mr Topolski, it takes time to get these
18 things up and the gentleman who sits in front of me
19 can't find the passage. Why don't you read out the
20 passage?

21 MR TOPOLSKI: Mr Fearon, would you listen carefully? This
22 is the statement of Aaron Cooper.
23 "What seemed a few weeks later, Lieutenant Rodgers
24 spoke to all of us in the multiple. He said we should
25 all stick to the same story or words to this effect. He

1 made it clear that he thought that Corporal Payne should
2 be blamed alone for the death and for the injuries to
3 the detainees."

4 As a team commander in that multiple, Mr Fearon,
5 were you there when Lieutenant Rodgers gave this
6 instruction?

7 A. I do not think so.

8 Q. You don't think so? What does that mean?

9 A. It means I don't think I was there.

10 Q. Were you or weren't you?

11 A. I don't remember.

12 Q. You are hardly likely to forget, are you, being
13 instructed by a lieutenant to blame someone for the
14 death of an innocent civilian? You are not going to
15 forget that, are you, Mr Fearon?

16 A. I always got told to tell the truth, so I don't --
17 I don't know what everybody else got told.

18 Q. You don't know what anyone else was told?

19 A. No.

20 Q. So no one in your multiple ever told you that you were
21 under instructions from your multiple commander that if
22 you were ever asked about it, you were to blame
23 Corporal Payne?

24 A. No, never.

25 Q. That's the truth, is it?

1 A. Yes.

2 MR TOPOLSKI: Thank you.

3 THE CHAIRMAN: Mr Beer, do you want to ask any questions or
4 not?

5 MR BEER: No thank you, sir.

6 THE CHAIRMAN: Thank you very much.
7 Mr Dingemans?

8 Questions by MR DINGEMANS

9 MR DINGEMANS: You have been asked about a bat or baton and
10 you have talked about a hickory stick. Who gave you the
11 hickory stick?

12 A. We were all issued them.

13 Q. What were you issued the hickory sticks for?

14 A. For riots and things like that. You would get these
15 huge shields and pads and like a -- it was like a face
16 shield that would come over your face.

17 Q. You were asked about the punishments that were inflicted
18 on you. After Operation Salerno, did you remain as
19 commander of the three privates?

20 A. No, I was stood down and I got put as being the multiple
21 signaller.

22 Q. You told us in your Inquiry statement that before you
23 went to Iraq, you had just been on a course to be made
24 a lance corporal. Were you made a lance corporal
25 immediately?

1 A. No, I was only -- I only got promoted last year.

2 Q. Do you know why there was such a delay?

3 A. I believe it's because of what I did on Op Salerno.

4 MR DINGEMANS: Thank you very much.

5 THE CHAIRMAN: Mr Elias?

6 MR ELIAS: I have no further questions, thank you, Sir.

7 Questions by THE CHAIRMAN

8 THE CHAIRMAN: Mr Fearon, presumably when you took the money
9 you believed you could get away with it. Is that right?

10 A. I must have done, yes, sir.

11 THE CHAIRMAN: You must have done?

12 A. Yes, sir.

13 THE CHAIRMAN: Yes. Did you feel no shame about what you
14 had done?

15 A. Yes, sir.

16 THE CHAIRMAN: You did? I am just wondering why you
17 actually did it. You say it was not for very much
18 money, but why did you do it?

19 A. Just a moment of stupidity, sir.

20 THE CHAIRMAN: Well, it was a bit more than stupidity. It
21 was a moment of dishonesty, wasn't it?

22 A. Yes, sir.

23 THE CHAIRMAN: Very well.

24 Yes. Well, that's it for today.

25 MR ELIAS: That's as far as we can take the evidence today,

1 sir.

2 THE CHAIRMAN: Thank you very much for coming to give your
3 evidence, Mr Fearon. You are now free to go.

4 A. Thank you sir.

5 THE CHAIRMAN: We are not sitting tomorrow, are we?

6 MR ELIAS: We are not sitting tomorrow, sir, and on Friday
7 the list will be as it has been published. Our efforts
8 to bring forward a witness from next week have proved,
9 up to date anyway, impossible to fulfil. If there is to
10 be any change, we shall notify the parties as soon as
11 possible, but I think probably Friday's list will stay
12 as it is.

13 Could I give some notice, however, that it is at the
14 moment likely that on Tuesday we shall add D005 to the
15 list of witnesses and possibly on Wednesday we shall add
16 D004 to the list of witnesses. We expect both of them
17 to arrive in this country on Friday of this week.

18 THE CHAIRMAN: Thank you very much. Then 10 o'clock on
19 Friday morning.

20 MR ELIAS: Thank you.

21 (12.48 pm)

22 (The tribunal adjourned until Friday, 2 October 2009)

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