

By DX and Email

FAO: Mayur Patel

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Your Ref:

Our Ref: SAP/KCA/81386.2
Date: 3 October 2011

Dear Sirs

Re: Claim on behalf of Mr Sami Al-Saadi against the Security Services & Ors

A. Claim Summary

Claimant Details:

Name: Mr Sami Al-Saadi (also spelled "Sami Assaadi") (aka "Abu Munthir/Abu Mundir Assaadi", "Said Mostafa Assaadi", "Yusuf Azziwani" or "Hisham Mohammed")

DOB: 21 March 1966

Address: Uthamn Ibn Affan Street, Tripoli, Libya

We have been instructed by Mr Al-Saadi to bring a claim for damages from (1) The Security Service, (2) The Secret Intelligence Service, (3) The Attorney-General, (4) The Foreign & Commonwealth Office and (5) the Home Office, for their alleged complicity in his extraordinary rendition from Hong Kong to Tripoli in March 2004; his subsequent unlawful detention, torture, inhuman and degrading treatment, batteries and assaults perpetrated by the Libyan authorities; and for his personal injuries and consequential losses arising thereof. The above named potential Defendants are hereafter referred to as "your clients". Potential Defendants 1) and 2) above are jointly referred to as "The UK Security Services".

B. Background

We outline below the circumstances giving rise to the claim based on the evidence that we have thus far obtained.

Mr Al-Saadi is a Libyan citizen and former resident of the UK. He fled Libya in 1988 following persecution by Colonel Gadaffi's regime. In 1993, he came to the UK as

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Sally-Jean Nicholes

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an asylum seeker and was granted indefinite leave to remain in 1994. He subsequently left the UK, and eventually moved with his family to China.

In early 2004, Mr Al-Saadi decided to try to return to the UK. On enquiring whether his exceptional leave to remain was still valid he was made to understand by the UK authorities that he would be permitted to travel back to the UK provided he first went to Hong Kong to be interviewed by the UK Embassy.

Mr Al-Saadi subsequently travelled to Hong Kong on or about 15 March 2004, together with his wife and four children, all of whom were minors. On arrival, he and his family were all immediately arrested by the authorities of the Hong Kong Special Administrative Region and detained at the Hong Kong airport for approximately thirteen days.

On or about 28 March 2004, Mr Al-Saadi and his family were then flown from Hong Kong to Tripoli via Bangkok. Our client and his family were unlawfully rendered to Tripoli on this flight. Our client reports that the flight was empty with the exception of the cabin crew, whom he believes were Egyptian, several Libyan agents and a Libyan doctor.

On arrival at Tripoli, Mr Al-Saadi was transferred to what he believed to be the External Security Office of Tajoura Prison. From this point, he was separated from his wife and children, whom he only sporadically saw over the following six years.

Mr Al-Saadi was held in Tajoura for approximately three years from 2004 to the end of 2007. For much of this time, he was held in isolation and was subjected to a regime of intensive interrogation and torture by agents of the Libyan security services. On at least a dozen occasions, he was severely beaten by agents who kicked, punched and beat him with batons or flogged him with a whip. He was also subjected to electric shocks to various parts of his body, which caused him extreme pain. He was denied proper medical treatment for his diabetes.

On at least two occasions during his detention, he was visited by the head of the Libyan intelligence agency, Moussa Koussa, who informed him that the Libyan security services were working closely with the US and UK Security Services.

During a number of his interrogations, Mr Al-Saadi was asked questions about and shown photographs of Libyans based in the UK. On one occasion, he was visited by two agents of the UK Security Services, who questioned him. A Libyan interrogator was present throughout this meeting and Mr Al-Saadi did not feel able to inform the UK agents of his maltreatment. It had been made clear to him that if

he informed the British agents of his maltreatment, he would suffer further and harsher mistreatment.

While he was held at Tajoura, Mr Al-Saadi also reports being visited on two occasions by agents of the US Central Intelligence Agency (CIA), who interrogated him and accused him of having links to Al-Qaeda.

In around December 2007, Mr Al-Saadi was transferred from Tajoura to Abu Salim prison, where he was held until March 2010. For approximately fourteen months of his detention at Abu Salim, he was held in a tiny cell in virtually complete isolation. During this period, he was again subjected to interrogations by the Libyan authorities, frequently accompanied by severe beatings. He was punched and kicked and beaten with batons and sometimes whipped. He eventually conceded to making false confessions.

In 2009, Mr Al-Saadi was charged with a range of crimes and sentenced to death. He remained in prison on death row until March 2010, when he was released by the Libyan authorities.

C. Evidence in Support of the Claim

In addition to our client's own testimony, as you are no doubt aware, documents held by the Libyan security services which have come to light subsequent to the fall of Colonel Gadaffi's regime provide further evidence of the complicity of the UK Government in our client's rendition to Libya. We attach copies of a number of these documents and highlight particularly relevant extracts below:

- Correspondence from the British Security Service to the Libyan Security Service dated 10 June 2003 forwarding intelligence and personal details of a number of Libyan Islamists living in the UK, and noting one member was '*a close associate of Sami Assadi, who was at that time the leader of LIFG in the UK*'.
- A fax from the UK Secret Intelligence Service to Mr Sadeq Krema, of the International Relations Department of the Syrian security services dated 13 November 2003 discussing agreement to look with the Syrians '*as to how we might engage the Chinese Services on the Islamist extremist target in China*' and noting that the British had '*already embarked on this project*' and were in need of further information on '*LIFG associated individuals in Syria*'.

- A fax from the CIA to the Libyan security services dated 23 March 2004 noting Mr Al-Saadi and his family had been detained by the Hong Kong authorities and that they were aware that '*...your service had been cooperating with the British to effect Abu Munthir's removal to Tripoli, and that you had an aircraft available for this purpose in the Maldives*'. This fax also states that the US would be willing to underwrite the costs of the flight and suggests ways the Libyans could help persuade the Hong Kong authorities to render Mr Al-Saadi.
- Further documents attached set out the subsequent correspondence between the Libyan security services and the security services in Hong Kong discussing the details and requirements for Mr Al-Saadi's rendition.

D. Legal Claim

It is our client's case that the actions and omissions outlined above on the part of your clients, acting through their officers, servants and/or agents amounted to:

i) Complicity in torture, conspiracy to injury and trespass to the person:

Our client alleges that the above-named intended Defendants, their servants or agents assisted, encouraged, acquiesced in and were otherwise unlawfully complicit in his unlawful rendition to Libya and in the torture, inhuman and degrading treatment, batteries and assaults inflicted upon him by the Libyan authorities.

For the avoidance of doubt, our client alleges that your clients, their servants or agents were further complicit in his prolonged unlawful detention and treatment, by providing the Libyan authorities with material to be used in his interrogations and by directly questioning him themselves, while he remained in Libyan custody.

ii) Misfeasance in public office:

The above-named intended Defendants, their servants or agents were acting in purported exercise of their powers as public officers. Our client alleges that their knowledge or at least reckless indifference to the injury caused to him by their conduct amounts to misfeasance in public office.

iii) Negligence:

If it is alleged by your clients that above-named intended Defendants are not in law vicariously liable for all and any of the intentional torts described above, then our client will assert that there were negligent omissions on behalf of your clients in failing to prevent the passing of information and assistance in respect of Mr Al-Saadi to the Libyan and/or US authorities where it should have been apparent that our client faced a real risk of unlawful treatment as a consequence.

Our client reserves the right to claim against other HMG entities, officers and/or agents on receipt of further evidence, including disclosure from your clients.

E. Quantum

As a result of the abovementioned unlawful acts and omissions, our client has suffered personal injuries and consequential losses, further details of which will be provided in due course.

F. Limitation

Without prejudice to any arguments on limitation which may subsequently be raised by any party to the anticipated proceedings, please confirm within 14 days whether your clients agree to a limitation holiday applying to Mr Al-Saadi's potential claims as outlined above, failing which we are instructed to issue proceedings and/or an application for pre-action disclosure in respect of the same without further notice to yourselves.

G. Disclosure

Should your clients deny liability in this matter, in accordance with the Pre-Action Protocol for Personal Injury claims, on notification of such denial, we expect you to provide us with copies of the following documents which are or have been within your clients' control, within the meaning of CPR Part 31.8:

- All communications (including attachments) sent from your clients and/or their servants or agents to the former Libyan government/ authorities and/or their servants or agents, pertaining to our client;
- All communications (including attachments) sent from your clients and/or their servants or agents to the US authorities and/or their servants or agents, pertaining to our client;

- All communications (including attachments) sent from your clients and/or their servants or agents to the authorities of the Hong Kong Special Administrative Region and/or their servants or agents, pertaining to our client;
- All communications (including attachments) sent between your clients and/or their servants or agents including to other branches of Her Majesty's Government and/or her servants or agents, pertaining to our client;

We enclose a signed authority from our client authorising us to receive records in respect of this matter.

Please also confirm within 7 days that your clients have been notified of their need to preserve documents as per CPR PD 31B, Paragraph 7.

H. Funding and Costs

We confirm that we have entered into a Conditional Fee Agreement with Mr Al-Saadi on 19 September 2011 in respect of this matter, which provides for a success fee within the meaning of section 58(2) of the Courts and Legal Services Act 1990.

Our client does not yet have ATE insurance cover in place in respect of his potential claim. Should your clients not fully admit liability in this matter, please confirm whether they will agree to one-way costs shifting, failing which our client will take steps to obtain such cover. We will revert to you on this issue should your clients not agree to the limitation holiday sought above.

Our client reserves the right to draw this letter to the attention of a costs judge on any subsequent application for pre-action disclosure or generally on the issue of costs.

We look forward to your prompt acknowledgment of this letter.

Yours faithfully

Leigh Day & Co

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