

Warfaa v. Ali Legal Monitoring, Day 1

Monday, May 13, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

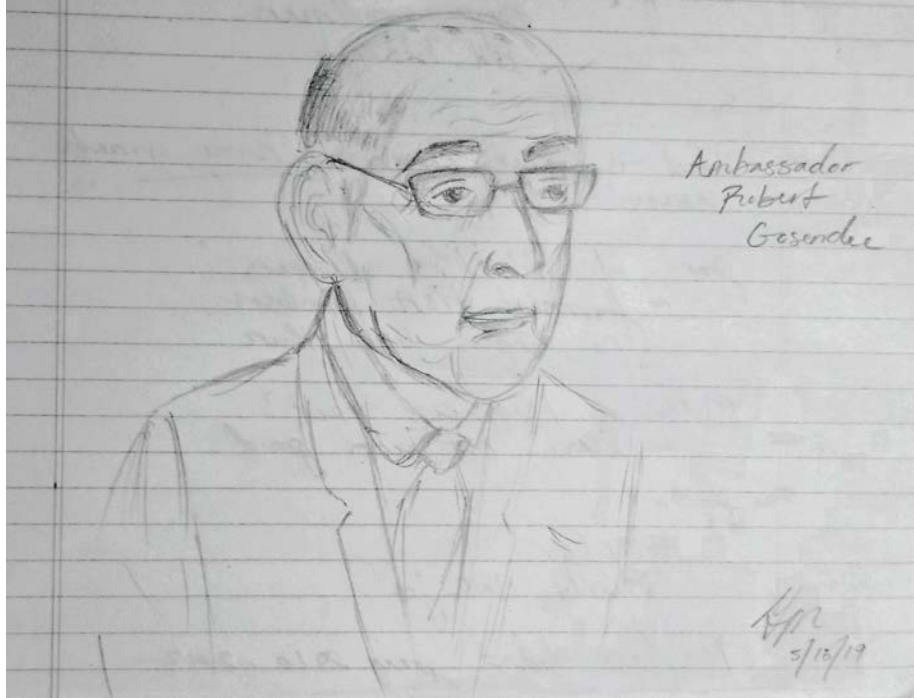
This account summarizes what occurred on the first day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial is set to continue over the next three days in the Federal Courthouse in Alexandria, Virginia. The Center for Justice and Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.¹

District Judge Leonie Brinkema of the Eastern District of Virginia began the trial at 10:00 a.m. Counsel Benjamin Klein (DLA Piper) gave the Opening Statement for the Plaintiff, which focused on Mr. Warfaa's perseverance through trauma, abuse, and attempted extrajudicial killing perpetrated by Mr. Ali. Klein recounted how Mr. Ali came to Gebiley in 1987, accused the people of the village of seizing a government water truck, and returned two days later to arrest seventeen men, including Mr. Warfaa. Klein emphasized the torture Mr. Warfaa endured while in custody. During what would be his final interrogation, it is alleged that Mr. Ali shot Mr. Warfaa at point blank range: "**BANG! BANG! BANG!**," and left him for dead. Klein concluded by reminding the jury of the plaque over the door of the courthouse which reads, "***Justice delayed, justice denied.***" Mr. Klein stressed that there was no doubt this is a story of justice delayed, but it does not need to be a story of justice denied.

¹ This report is the product of the students of the Human Rights & Conflict Resolution Clinic and is not attributable to the Center for Justice & Accountability or Stanford Law School.

Counsel Joseph Peter Drennan next opened for the Defense. He claimed that his client, Mr. Ali, was indeed enlisted in the Somali National Army (SNA), and was a **“promising young soldier”** who served Somalia honorably, fought against the **“murderous Somali National Movement”** (SNM) guerillas and was trained by both the Soviet Union and American Army. Mr. Drennan argued that Mr. Warfaa was indeed likely tortured, but not by Mr. Ali. Rather, he claimed the Plaintiff would present a **“curiously detailed”** and **“scripted out case against [his] client;”** an act of vengeance against Mr. Ali and his clan. Mr Drennan concluded by stating, **“[t]here is a hidden agenda here.”**

The Plaintiff’s first witness, **Ambassador Robert Gosende**, took the stand at 12:29 p.m. Plaintiff’s Counsel Lindsay Barnes (DLA Piper) questioned the witness. His testimony straddled the one-hour lunch break and ended at 3:39 p.m. Ambassador Gosende, a self-described **“Somalia junky”**, first worked in Somalia in 1968 as a cultural affairs officer and was named Special Envoy to the country in 1993. In the intervening period, he served as the State Department’s Deputy Area Director and Area Director of Sub-Saharan African Affairs, where his portfolio included Somalia. Because of the deep knowledge of Somali history, politics, and culture he gained through this work and his postings in Somalia in the late 1960s, early 1970s, and early 1980s, Ambassador Gosende was certified as an expert witness. His testimony drew from an expert report that he first prepared for this case in 2005, based on his review of United States government records documenting human rights issues in Somalia, diplomatic cables, and a document on Somali refugees referred to as the Gersony Report.



Courtroom Sketch of Ambassador Robert Gosende

The Ambassador's testimony began with an overview of the history and geopolitics of the Siad Barre regime. According to this testimony, Mohamed Siad Barre became the leader of Somalia in 1969 through a military coup. **“Whatever was going on was supported by the Russians,”** recounted Ambassador Gosende. According to his further testimony, in the days following the coup, Russian ships docked off the coast of Mogadishu and Russian soldiers came ashore for leave. Like all Somali leaders, Barre was anxious to control the northern port of Berbera, which is the only source of foreign income in Somalia, as the point of export for the Somali herding industry. Most of the people of Somalia were pastoral nomads; they moved to raise their herds, which went to market in Berbera. The Ambassador explained that the area surrounding Gebiley, where the events at issue in this case took place, is strategically significant because it lies along one of the main roads followed by herders for the seasonal migration.

Ambassador Gosende emphasized the numerous human rights abuses committed under the Barre regime. Asked to characterize the human rights situation under this regime, he said that it was **“terrible.”**

The Ambassador then responded to further questions on Somali culture and history. Asked to explain clans, he described them as the social, familial groups that divide Somalia. Every Somali, he said, can trace their lineage back to a single ancestor. These groups are not referred to as “tribes” because there is linguistic unity in Somalia. The Isaaq are the predominant clan in the northwest. Barre was a member of the Marehan clan.



Courtroom Sketch of Ambassador Robert Gosende Testifying

In the period following the coup, there was a great shift in Somalia according to Gosende. Prior to the coup, there were about twelve people on death row in the country. Over the course of several weeks, Barre ordered them executed by firing squad, one by one, at a stadium in the capital and published pictures of the bullet-riddled bodies in newspapers. People were shocked, but the message, Ambassador Gosende asserted, was clear: **“If you oppose us, this is what we are capable of.”** The executioners were members of the SNA. Ambassador Gosende qualified

that this violence transcended clan lines, stating that “[t]his began long before 1982, against people other than the Isaaq.”

After Barre’s rise to power, the Constitution ceased to have any serious meaning, according to the Ambassador. Barre disbanded the Parliament, the Supreme Court, and political parties, and forbade political activity by anyone who was not a member of his regime. All media fell under the government’s control. Following the coup, the United States State Department’s judgment about Somalia’s independent judiciary was that it had ceased to exist.

The civil war centered on the former British Somaliland, as members of the Isaaq clan and others in the region grew restive under the dictatorial regime. The SNM formed in response to the oppression of the Isaaq clan as a political and military movement. The SNM focused on taking control of Burao and Hargeisa, and for periods did control them, but could not compete with the SNA’s superior firepower. In the end, the SNA used its air force, which the SNM lacked, to indiscriminately attack civilian populations in the north of the country and to launch artillery attacks. **“There was no other place in the world where a country was using jet aircraft to slaughter human beings. . . [t]hey were treating the local civilian population as if they were the enemy,”** the Ambassador testified.

The Defendant’s counsel began cross-examination at 3:12 p.m. After clarifying that the Ambassador was testifying in a personal capacity, and not as a representative of the United States government, Drennan’s questions seemed geared towards putting the United States’ involvement in Somalia in a wider geopolitical context. He asked if the United States was interested in Berbera. The Ambassador expressed skepticism, noting that Berbera is a shallow water port.

The cross-examination's focus then turned to the SNM. First, counsel probed whether the Ambassador had discussed attacks by the SNM on Ogadeni refugee camps in Somaliland. The Ambassador hadn't. Counsel then challenged the Ambassador's characterization of the SNM as **"ragtag,"** wondering if a force trained by the Soviets in Ethiopia that was able to capture and hold regionally important cities, Hargeisa and Burao, could be "ragtag." The Ambassador answered that he meant this characterization of their forces to be in comparison to the SNA.

The questioning then returned to the issue of tension between the Ogadeni and the Isaaq. The Ambassador responded that this line of questioning was missing the major issue: the Barre regime's human rights abuses. **"I have stood at the edge of the killing fields outside Mogadishu [clarified on re-direct to be Hargeisa] looking at the white bones rising up from the ground."**

At 4:01 p.m., Plaintiff's Counsel Kathy Roberts (Center for Justice & Accountability) called Plaintiff **Farhan Mohamoud Tani Warfaa** to the stand. Mr. Warfaa began by identifying himself, then stating that the Defendant, known as "Colonel Tukeh," came to Gebiley as a Colonel in the SNA. The Plaintiff then stood to identify the Defendant by pointing at him and saying, **"He is there."**



Courtroom Sketch of Mohamoud Tani Warfaa

Mr. Warfaa proceeded to describe his life as the youngest of nine siblings, herding camels in the northwest of Somalia. He described how, when he was seventeen, Mr. Ali and his deputy, Mr. Musmar and the 5th Battalion rounded up the men and boys of the village and accused them of stealing a water truck. Plaintiff's counsel provided a demonstrative example of such a truck, which Mr. Warfaa said looked identical to the ones he saw in his town, except it was a different color. Mr. Warfaa alleged that, at the end of his speech, Mr. Ali stated that, if the persons responsible weren't identified, **"I will kill you one by one, and it will become a story that some people used to live here."**

Two or three days after his arrest, Mr. Warfaa claims he and sixteen other members of his family were awakened and walked at gunpoint to a tree, from which they were put in military

vehicles and transported to an army base in Gebiley. Plaintiff identified a photograph of a redroofed structure as Mr. Ali's office at the military base. Next to this structure, Mr. Warfaa alleged he and his family were kept in a cell like that of a shipping container with brick walls and a sheet metal roof. He testified that he was allowed outside to use the bathroom once daily and otherwise had to urinate into a pipe.

Mr. Warfaa claimed that, on over twenty occasions, soldiers would take him out of his cell and tie him and others in a "MiG" position, while Mr. Ali watched and gave the orders. Mr. Warfaa described this position as having one's hands and feet tied together behind the back, arching his body so much that he had difficulty breathing and was unable to close his mouth. **"You would be face down in the sand and often get sand in your nose,"** Mr. Warfaa claimed. This abuse made him nearly unconscious, and once released, he couldn't even take two steps. He would then be taken to Mr. Ali's office and be interrogated about the missing water truck.

On the last night of being interrogated in Mr. Ali's office after being tied in the MiG position, Mr. Warfaa was handcuffed. He described how there was a fight because SNM fighters attacked the base. Mr. Ali was moving a lot, on the radio, walking in and out. He was ordering his soldiers to attack over the radio, sometimes looking out the window; a lot of guns sounded in the area and then suddenly attack ended. Warfaa explained that, **"he looked at me, kicked me, looked at me, removed his pistol, then he shot at me. I don't know the number of times he fired, but at the hospital I saw five bullet wounds."** At this point in the testimony, Mr. Warfaa apologized to the jurors saying **"when I'm talking about that event my emotions change."**

Mr. Warfaa recounted his final moments of consciousness, where soldiers covered him in a blanket. Mr. Warfaa remembered hearing, **"take him."** He woke up on the roof of a truck, which drove him to his father, who paid a ransom for his return. His father's nieces took him to

the public hospital in Hargeisa the next morning, where he spent two and a half or three months until he recovered. Mr. Warfaa claims he left the hospital and spent three nights in a hotel, and on May 31, 1988, after the SNM captured the city, was arrested and taken to prison in Hargeisa, where he was held until the end of 1989. In that prison, he noted there was no physical punishment, but there was widespread hunger. After his cousin bribed the guards for his release, he escaped to a refugee camp in Ethiopia.

Court adjourned at 5:58 p.m., before the end of Mr. Warfaa's testimony. The proceedings are set to continue on Tuesday, May 14th at 9:30 a.m., when Mr. Warfaa is scheduled to complete his direct examination and stand for cross-examination.

Warfaa v. Ali Legal Monitoring, Day 2

Tuesday, May 14, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

This account summarizes what occurred on the second day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial is set to continue over the next two days in the Federal Courthouse in Alexandria, Virginia. The Center for Justice and Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.²

Court commenced at 9:33 a.m. with preliminary matters. The jury entered at 9:37 a.m. and confirmed to Judge Leonie M. Brinkema that they had no problems with exposure to information about the case since Court adjourned yesterday. The Plaintiff, examined by Kathy Roberts (Center for Justice & Accountability), Farhan Mohamoud Tani Warfaa, then resumed his testimony. He stated that, after returning from the Ethiopia, his village of Jifo was empty and destroyed; his home burned. Questioning returned to experience after getting shot. Plaintiff stated that he thought of “[d]eath... **When you’re in a coma you do not remember... only death. . . [e]ighty percent of my life is gone.**” When asked why he brought the present lawsuit, Plaintiff responded he did so, “[t]o find justice.”

At 9:44 a.m. Joseph Peter Drennan (Counsel for the Defendant) began his cross-examination of the Plaintiff. His questioning first focused on an answer that the Plaintiff had given to the seventh interrogatory answered in 2005. While he had testified yesterday that he had

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been put in the MiG position at least twenty times (although he could not remember the exact number), his interrogatory answer was that he had been tortured that way six to nine times. Plaintiff responded that he had actually said *sixteen* to *nineteen* times, and that the interpreter could have misinterpreted his response. Drennan then asked if Plaintiff recalled signing the verification page of the interrogatories, where it stated that the answers had been read back to him in Somali and signed under the penalty of perjury. Plaintiff said that he did recall signing the page, but that the translation could still have been faulty.



Courtroom Sketch of Mohamoud Tani Warfaa Testifying

Drennan then asked about the Defendant’s nickname, “Tukeh,” which the Plaintiff had used in his prior testimony. Plaintiff said that he called the Defendant that because people who knew the Defendant had told him that’s what the Colonel went by.

The next subject of the cross-examination was who, besides his lawyers, Plaintiff had talked to about the content of his testimony. Plaintiff stated that he discussed his testimony with his lawyers and their “representatives.” Drennan asked who these “representatives” were, and Mr. Warfaa said they were human rights advocates in Somaliland. Asked if they were members of the War Crimes Commission in Hargeisa, Plaintiff responded that they were “facilitators” of

his contact with his lawyer. Judge Brinkema interjected that the discussion was drawing perilously close to privileged discussions, and Drennan moved on.

After this, Drennan turned his questioning to details of Plaintiff's prior testimony. The first was Plaintiff's mention that he had been in a restaurant where people went to chew khat just before he saw the Defendant for the first time. Drennan asked the Plaintiff if he had ever chewed khat. The Plaintiff responded that he had, but long ago.

The second detail that Drennan focused on was the seventeenth man whom the Plaintiff had said was with the group of detainees under the tree before they were taken to the military base. This man had, Plaintiff stated, been released after his father asked the soldiers to let him go because he was an old man and his wife had died. Drennan highlighted that the Plaintiff had not mentioned this man during his December 2018 deposition.

Third, Drennan asked about the words that the Plaintiff had reportedly heard before becoming unconscious after being shot by the Defendant—**"take him away."** Mr. Drennan directed the witness's attention to the expert report of Dr. Keller, who noted that the Plaintiff reported losing consciousness and not regaining it until he was in the hospital. Dr. Keller also reported that people had filled the Plaintiff in on the words, as well as the details of his ransom. The Plaintiff maintained that, as he had said on direct, he became unconscious after hearing the words **"take him away,"** and later regained consciousness while on top of the truck.

Fourth, Drennan brought up the one million Shilling figure that the Plaintiff had put as his ransom in the interrogatory, but not in his direct testimony. He said that he could not be sure of the exact figure paid for his ransom. Drennan asked if the Plaintiff might have learned this amount and most of his allegations from other people. Mr. Warfaa did not agree.

Next, Drennan returned to his suggestion that the Plaintiff had formulated his testimony with other witnesses in the case and members of the Isaaq community. The questions focused particularly on the occasion of several depositions taken in Djibouti in December 2018, some of which were played later in the courtroom. Drennan asked if the Plaintiff had discussed his testimony with these other witnesses during the trip, which the Plaintiff denied.

Finally, Drennan asked if the Plaintiff would say where he was *really* tortured and shot. Plaintiff said yes, it happened in the Defendant's office. Mr. Drennan asked if the National Service of Somalia (NSS) had been the ones who tortured the Plaintiff. Mr. Warfaa professed to be ignorant of the role of the NSS, although he had heard of them.

Drennan ended his cross-examination by asking if the Plaintiff was suing Mr. Ali just because the Defendant was subject to the jurisdiction of United States courts. The Plaintiff said he sued because Mr. Ali was the one who subjected him to torture.

Roberts began her redirect examination of the Plaintiff at 11:04 a.m. She asked first if the Plaintiff could understand English. He said that he couldn't; he is dependent on interpreters to understand English-language documents.

Next, Roberts asked the Plaintiff to explain the Somali custom of nicknaming. Plaintiff explained that they are very common; people will give them based on physical traits or deeds, but they are not considered offensive. Plaintiff noted a Somali proverb: "**A man is he who has a nickname.**"

Roberts then asked if the Plaintiff could name the sixteen men with whom he was imprisoned. The Plaintiff said he could name all but two or three, and then listed the names of all those he could remember: Mohamed Ali Bare, Abib Awaf Magan, Farkhad Adan Allamagan, Farhan Muhamed Ali Warfaa (the Plaintiff himself), Omar Tukale Warfaa, Hassan Tukale

Warfaa, Awdahir Jama Rodle, Salemun Jama Rodle, Mohamud Awyusuf Magan, Sayid Haji Nur, Mohamed Riiraash Hows, Ibrahim Obsiye Awad, Arab Awahmed Amir. He said that he could remember these names so well because they were part of a “historical event” and he was the “chief” where some of them still lived.

Plaintiff then said that as an elder, he could not order people to give false testimony. He testified that, at the time, he knew about the SNM only what he had heard on the radio. And he also said that although he lost consciousness, it happened long enough after he was shot for him to hear what Mr. Ali said.

Drennan re-cross-examined the Plaintiff from 11:38 a.m. to 11:46 a.m., focusing on whether he had spoken with people in his community about the abuses alleged in his testimony. The Plaintiff held the rail of the witness box with his right hand while responding that he had not discussed these events with others in his community. When asked why he described these experiences as “historical events,” the Plaintiff responded, **“There are two kinds of history—good one and bad one. Whatever happened on the earth, it is history whether it’s good history or bad events.”**

Ramos (DLA Piper) then read several of the parties’ agreed stipulations into the record, establishing that the Defendant commanded the Fifth Brigade in Gebiley including from May 1987 to July 1988, and as the commander was responsible for the Tog Wajaale and Gebiley regions.

At 11:50 a.m., the video deposition of **Mohamoud Hassan Tukale Warfaa** was played. The Deposition was taken in Djibouti on December 13, 2018 by Nushin Sarkarati (Center for Justice & Accountability) and Defendant’s counsel, Mr. Drennan. On direct examination, Mr. Tukale provided identifying information including that he is a farmer and the Plaintiff’s cousin.

When he was asked if he had ever seen a soldier from the SNA, he reported that he had seen some when they came to arrest his father, his uncle, and the Plaintiff. Sarkarati asked him a series of follow-up questions about this incident. Mr. Tukale recounted the following narrative over the course of his answers to these questions: he was asleep outside by where the goats were kept when the soldiers arrived. He kept his head down to avoid being seen. He saw them take his father, who was on his way to do his morning ablutions (wadu), under a tree, where a group of other men was gathered. He put their number at thirteen, three of whom were members of the 6 Gadabuursi clan, and the rest of the Isaaq clan. He saw the soldiers beat the men with sticks and drive them away **“like a camel.”** He reported further that all efforts to see the men and secure their release were unsuccessful.

Sarkarati next asked about what the witness did after the arrests. He said that he had stayed in Jifo for two months before going with the rest of the villagers to the refugee camp at Dula'd, Ethiopia. They took only their livestock, he said. He also said that there were only Isaaq people in the refugee camp. Sarkarati then asked if he knew anyone who had been involved in the theft of the water truck. Mr. Tukale responded in the negative.

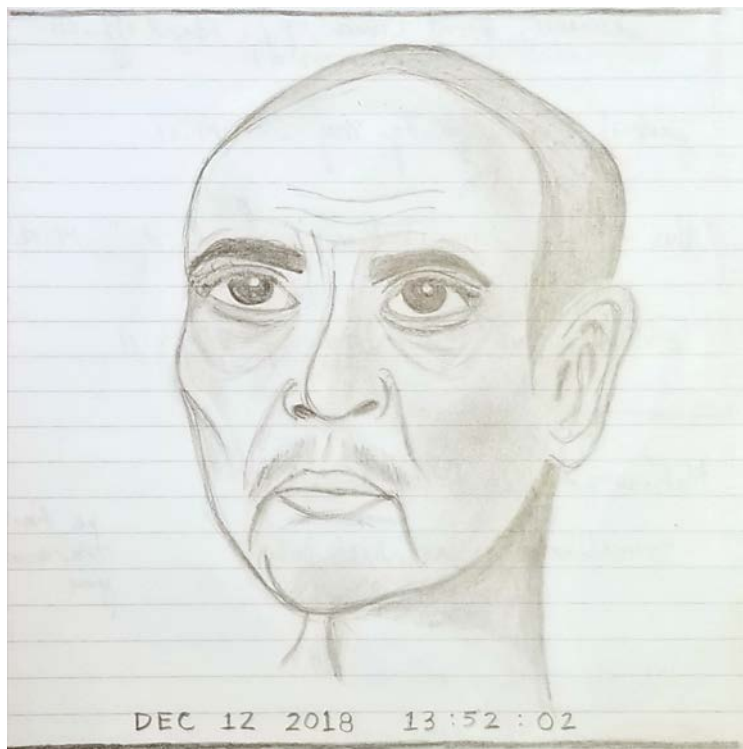
Returning to the subject of the camp at Dula'd, Mr. Tukale said that the next time he saw his father and the Plaintiff was at the camp, when they arrived about two-and-a-half or three years after his family first arrived. Mr. Tukale recalls that both of them arrived very weak, especially the Plaintiff, who was injured. He said that he never saw his uncle again because he died in jail.

At 12:11 p.m., Drennan began cross-examination. He asked most of his questions about what contact Mr. Tukale had had with Mr. Warfaa leading up to his testimony. Mr. Tukale testified that, although he lives in the same territory as the Plaintiff, and sees him regularly the

two have never discussed the case. Drennan also asked if Mr. Tukale considered the case to be important to the Isaaq clan, and Mr. Tukale said yes.

On redirect, beginning at 12:18 p.m., Sarkarati asked if the Plaintiff could, drawing on his authority as an elder, instruct Mr. Tukale to give false testimony. Mr. Tukale said no; he wouldn't do anything that the Plaintiff said to do if it were wrong. He also said that he had only talked to his lawyers about his testimony.

The video deposition of the Plaintiff's fourth witness, **Abdi Abdilahi Ahmed**, began at 12:21 p.m. He was examined by Ramos (DLA Piper). Mr. Ahmed said that he was born in 1954 in Gebiley, and is currently a major in the armed forces of Somaliland. He reported having met the Defendant who was his commanding officer in the SNA. Mr. Ahmed said he served in the Fifth Brigade until he deserted the SNA to join the SNM in 1988. He then said that he met the Plaintiff when he was an elder in Gebiley in 2005.



Courtroom Sketch of Abdi Abdilahi Ahmed

Mr. Ahmed then discussed the training he received as part of the SNA, including on the chain of command, the duties of soldiers towards civilians, and the responsibilities of commanding officers who violated those duties. He mentioned also that the Defendant was commander of the Fifth Brigade from 1987 to 1988.

He reported having interactions with the Defendant, but not receiving any particular orders. He also reported that he, as a member of the Isaaq clan, was excluded from a large number of the operations of the Brigade because they were against Isaaq people, including operations to round up suspected SNM members.

The jury was dismissed for lunch at 1:01 p.m.; court remained in session while the judge expressed concern that Mr. Ahmed's deposition had included some cumulative evidence. Court recessed for lunch at 1:04 p.m. and resumed at 2:02 p.m. with further direct examination by Ramos. Mr. Ahmed described how prisoners at the Gebiley base were tortured, including by keeping them in darkness and playing loud sounds in their cells and subjecting them to the MiG position. Describing the MiG position, he said the soldiers declared they looked like airplanes and **"would tell them, you are an airplane, now you need to fly."**

At 2:31 p.m., Drennan began his cross-examination. His line of questioning emphasized that the witness had deserted and subsequently fought the SNA. Drennan asked if he was sent to Djibouti to give testimony by his Superior, General Tani, asking, **"he wants you here today, doesn't he?"** Mr. Ahmed responded that, **"he gave me permission to come here. I am here on my own."** Mr. Ahmed stated that he spoke about the roundup of civilians from personal knowledge, he did not meet the Plaintiff until 2005, and he did not consider the Plaintiff a friend. When asked why he wasn't in uniform, Mr. Ahmed replied that it was because he was on leave.

On re-direct Mr. Ahmed stated that if he did not leave the SNA in 1988, he believed the Fifth Brigade would capture him as they did the other soldiers. On re-cross-examination, Drennan asked how he knew the captured soldiers were Isaaq, and Mr. Ahmed stated the uniforms did not identify the soldiers' tribe. On the second re-direct, Mr. Ahmed clarified that he knew the soldiers on the base, and personally knew the majority of the Isaaq soldiers captured.

The video deposition of Plaintiff's fifth witness, **Mohamed Areye Ali Sugale** began at 2:47 p.m. Mr. Sugale testified to the following details: he was a member of the Somaliland National Police and had previously served under the Defendant in the SNA. He stated that as the highest Commander in Gebiley, the Defendant gave orders, and said that, **"[y]ou cannot ask him what the superiors above him told him."** He added that Isaaq soldiers were excluded from normal orders out of a fear that they would join the people whom the army was persecuting. The Defendant would only order the people he had confidence in to conduct "wrong operations": i.e., going armed to slaughter Isaaq livestock and detain Isaaq people.



Courtroom Sketch of Ahmed Musse Madar

When asked about the water truck incident in 1987, Mr. Sugale stated that the Defendant ordered the Somali border with Ethiopia closed. He then recounted how he left the SNA in June 1988 because, after the Defendant discovered some Isaaq soldiers to be missing, he ordered the remainder of the assembled Isaaq soldiers to lay down their weapons and run. As their superior, Mr. Sugale stayed with the weapons, and refused to leave. He stated that the Defendant told Mr. Sugale's commanding officer that **“this guy is going to escape, and don't tell me later that he escaped from here.”** He added that all of the approximately seventy five Isaaq soldiers of the Fifth Brigade **“are still missing as of today.”** Mr. Sugale also accused the SNA of killing civilians, claiming he saw bodies and that the SNA put civilians in cars and some soldiers would tell the Isaaq soldiers that **“[t]hey are going to kill some people.”**

Defense began cross-examination by asking if Mr. Sugale's testimony was motivated by his desire for Somaliland to receive state recognition, which the witness denied. Mr. Sugale stated that he indeed fought against the SNA after defecting from it, and that his accommodation, airfare, and meals during the travel for the deposition were paid for by the Plaintiff's attorneys.

On re-direct, Mr. Sugale stated that he chose to testify because he was present and knew what had happened. On re-cross-examination, he clarified that he did not see what happened to Mr. Warfaa. Mr. Sugale's deposition concluded at 3:11 p.m.

Plaintiff's Counsel Sarkarati read several stipulations into the record, establishing that, as the commander of the Fifth Brigade, the Defendant had had authority over the Fifth Brigade headquarters at Gebiley where his responsibilities included command and control of his units, training, and health, and welfare.

At 3:12 p.m. the video deposition of the Plaintiff's final fact witness, **Ahmed Aw Musse Madar**, began. In his direct examination by Ramos, taken on December 11, 2018, Mr. Madar

testified that he is of the Isaaq clan and lives in the town of Arabiyso, which is 37 kilometers from Hargeisa and within the region controlled by Defendant in the 1980s. He claimed that his brother, Abdi Muse Madar, was **“captured, tortured, burned, and, at the end, he was shot to dead,”** along with seven others in 1988. Abdi Ahmed was a member of the SNA from 1976-1988. According to Mr. Madar, in either late 1987 or early 1988, he, his brother, and five other family members were arrested by the Defendant’s forces and spent over two months separated from his brother in various overcrowded jails in the area. When he saw his brother again for the first time, Mr. Madar claimed Abdi was ostensibly tortured, with burns on his face, hands, arms, and legs, and expressed fear and knew he would be killed. **“They already beat him, and there’s nothing left [...] What he’s been through, death would be better.”** Mr. Madar stated he and his family were questioned without a lawyer and declared innocent and released in Arabiyso, but his brother Abdi was declared guilty, tied to a wall, and shot in front of his family. At the end of direct examination, Mr. Madar identified the Defendant from a photo (this positive identification was confirmed in a stipulation).

During cross-examination beginning at 3:47 p.m., Drennan expressed skepticism over the specificity of Mr. Madar’s claims given that he never wrote anything down. When asked about whether he knew of the Commission for Grievances against the SNA in Hargeisa, Mr. Madar said that he had heard of them, but had no relationship with the organization. Finally, when asked about if he personally saw or heard the Defendant give the orders to kill his brother, Mr. Madar said that he did not, but that he knew the Defendant ordered his soldiers **“released to the community”** to commit these acts. Mr. Madar’s deposition concluded at 3:52 p.m.

At 4:12 p.m., the Plaintiff called his second expert witness, **Dr. Allen S. Keller** of New York University and Bellevue Hospital. Dr. Keller is accepted by the parties and the Court as an

expert witness in the medical evaluation and treatment of victims and survivors of torture. In his direct examination by Benjamin Klein (DLA Piper), Dr. Keller described his analysis of the physical, psychological, and social harm the Plaintiff has suffered as a result of the abuses he alleged. In his more than twenty-five years of experience evaluating and treating torture victims and survivors, including as the founding director of the NYU/Bellevue Program for Survivors of Torture, Dr. Keller estimates that he has assessed about 4,000 individuals from more than ninety countries. He typically follows an internationally recognized standard called the Istanbul Protocol, which is the procedure he applied during his assessment of the Plaintiff and that formed the basis of his expert report.

Dr. Keller evaluated the Plaintiff over two days—for approximately ten or twelve hours total—in December 2018, and also re-evaluated him last week. Dr. Keller’s examination first sought to establish a baseline describing the Plaintiff’s condition before the abuses alleged. At this baseline the Plaintiff was in **“excellent health,”** socially outgoing, **“the life of the party.”** During much of Dr. Keller’s evaluation, however, Plaintiff’s demeanor was flat and distant.

Dr. Keller described the Plaintiff as generally **“friendly and gregarious,”** but was struck by the **“flat affect”** the Plaintiff **“assumed . . . when describing his trauma.”** The Plaintiff had a very short attention span, Dr. Keller said, requiring frequent breaks and being easily distracted. **“His memory, with the appropriate prodding and questioning, was quite, quite impressive,”** Dr. Keller recounted, though the Plaintiff was often reluctant to speak about traumatic memories and experiences.

Dr. Keller **“diagnosed [the Plaintiff] with severe Post Traumatic Stress Disorder,”** which **“is a severe form of anxiety, often debilitating,”** characterized by intrusive thoughts, avoidance of disturbing memories, variations in mood and cognition, and hyperarousal.

According to Dr. Keller's evaluation, the Plaintiff has had disrupted sleep for decades and has experienced dissociative symptoms so severe that he can no longer drive. He added that the Plaintiff has difficulty praying, because kneeling causes muscle aches that trigger flashback memories of torture. The Plaintiff sleeps separately from his wife because of his frequent nightmares, and told Dr. Keller, **"I have dreams and nightmares a lot. Sometimes I can't count them. Sometimes I can go a couple days without them, but not more than a week."**

Dr. Keller's evaluation found that **"[Plaintiff] had some the most marked symptoms of avoidance that I have seen in my over twenty-five years of conducting these evaluations."** When the Plaintiff was describing his trauma to Dr. Keller, **"it was as if he was looking around like something bad was about to happen."** Plaintiff had such difficulty recounting his trauma that Dr. Keller suggested they continue their conversation on a walk. **"I actually had to take a part of the trauma history on the National Mall,"** Keller testified.

"In my opinion, his PTSD is debilitating. It is severe. He suffers from a wide range of symptoms which impede and impair his everyday life [...] He suffers immensely." In Dr. Keller's **"professional opinion . . . [Plaintiff's] moderately severe depression, along with his PTSD, is the direct result of the torture, imprisonment and attempted killing he experienced at Gebiley."** Among the depressive symptoms Dr. Keller assessed was Plaintiff's preoccupation with death. Quoting from an interview with the Plaintiff, Dr. Keller read, **"I am not able to feel emotions, but I think about death a lot. It's like I got used to death."**

In his physical analysis, Dr. Keller noted several consistencies between Plaintiff's scarring and bullet wounds. Using photographs and X-Rays of Plaintiff's body, Dr. Keller identified for the jury the well-demarcated, hyperpigmented scars on Plaintiff's right wrist and right leg consistent with scars from entry wounds. On the top of Plaintiff's right wrist, Dr. Keller

identified a scar with a large depression, consistent with an exit wound; and on the back of Plaintiff's right calf, the witness identified a much larger scar where he believes two bullets exited. Dr. Keller also noted bullet shrapnel in the Plaintiff's limbs.

Dr. Keller also noted two lighter scars on the Plaintiff's hand which the Plaintiff had readily explained as unrelated to the torture he alleges, one of which was caused by a camel bite. When Klein asked whether Dr. Keller found it important that the Plaintiff had volunteered this information, the witness replied positively.

Dr. Keller's testimony ended at 5:28 p.m. when the jury was dismissed. Court remained in session while the judge sought further information about the nature of the Plaintiff's third and final expert witness. The trial will resume at 9:30 a.m. with continued testimony from Dr. Keller. Defendant Yusuf Abdi Ali is expected to testify by tomorrow afternoon.

Warfaa v. Ali Legal Monitoring, Day 3

Wednesday, May 15, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

This account summarizes what occurred on the third day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial has concluded and the jury is set to deliberate, continuing tomorrow, in the Federal Courthouse in Alexandria, Virginia. The Center for Justice & Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.³

Court was called to order at 9:31 a.m., when Judge Brinkema settled several procedural matters and advised the Plaintiff's counsel regarding their final witness, Dr. Daryn Reicherter of Stanford Medical School. She instructed that his testimony be limited to portions of two sections of his expert report, and suggested the Plaintiff's attorneys reconsider whether they would seek his testimony on intergenerational trauma. The jury then entered and confirmed they had not been exposed to media coverage of the case.

Benjamin Klein (DLA Piper) resumed his direct examination of the Plaintiff's second expert witness, Dr. Allen S. Keller, at 9:40 a.m. Klein began by reviewing several exhibits Dr. Keller described yesterday, consisting of photographs and X-Rays of the Plaintiff's scars. Dr. Keller's evaluation found that **“[the Plaintiff] had significant weakness in his right leg compared to his left,”** and that the Plaintiff's gait favored his left side. These symptoms are **“highly consistent with the injuries and the disability”** that resulted from them, said Dr.

³ This report is the product of the students of the Human Rights & Conflict Resolution Clinic and is not attributable to the Center for Justice & Accountability or Stanford Law School.

Keller. **“There’s not a day that goes by that he’s not aware of the weakness in his arm, his hand, and his leg,”** Dr. Keller testified, paraphrasing an interview with the Plaintiff. **“In total, I believe I identified five gunshot injuries,”** said the witness: three to the Plaintiff’s right leg, one to his right arm, and one where a bullet grazed his right hip. These injuries matched the Plaintiff’s description of the position he was bound in when the Defendant allegedly shot him. The Plaintiff’s scars are **“highly consistent with what [the Plaintiff] reported, arguably to the point of being diagnostic.”**

Dr. Keller was then asked to discuss several of the other lasting injuries the Plaintiff sustained. The scars on the Plaintiff’s head, Dr. Keller testified, were the result of repeated trauma. Dr. Keller then testified to the Plaintiff’s frequent headaches, some of which he determined to be stress-induced. When he looks into the sunlight, the Plaintiff is reminded of the blindness in his right eye and develops a headache from the stressful and painful reminder of his injury. Dr. Keller determined Mr. Warfaa’s **“blindness in his right eye [to be] a direct result of repeated beatings and head trauma he suffered when imprisoned at Gebiley.”** Lastly, the witness described the Plaintiff’s musculoskeletal pain; ever since the injury, he reports being generally weaker and tiring easily. He reminded the Court that this is a man who sleeps four hours each night; **“he basically has had few or no good nights’ sleeps in decades.”** The sum of his injuries is **“a recipe for fatigue and musculoskeletal disaster.”**

On cross-examination, Drennan emphasized that Dr. Keller recounted several statements by the Plaintiff apparently contrary to details in the Plaintiff’s testimony at trial, specifically where he was when he regained consciousness after being shot.

The Plaintiff’s final witness, **Dr. Daryn Reicherter** of Stanford University and the Center for Survivors of Torture, was sworn in at 10:25 a.m. to testify as an expert in cross-

cultural trauma psychology and the long-term effects of torture. Dr. Reicherter described the serious–sometimes permanent–biological changes in the brain which often follow events sufficiently significant to cause post-traumatic stress disorder (PTSD). These changes, through which certain areas of the brain atrophy and others activate, are linked to fight-or-flight responses, sleep disturbances, and heightened memory loops experienced by trauma survivors. These survivors often experience elevated levels of cortisol, the stress hormone that regulates one’s capacity for relaxation and excitement, said the witness.

The court did not allow Dr. Reicherter to answer a question from Nushin Sarkarati (Center for Justice & Accountability) regarding the social effects of torture. After an objection from Drennan and lengthy bench conference, Sarkarati ended her direct examination of Dr. Reicherter. On cross-examination, Drennan clarified only that Dr. Reicherter had not personally examined the Plaintiff. At 10:46 a.m., the Plaintiff rested his case.

The Defendant was sworn in to testify at 10:47. The Plaintiff, who had been leaning toward his interpreter beside him, turned in his seat to face the witness stand. The Defendant began his testimony with his personal history. He said that he started in the Somali National Army (SNA) as a cadet officer in 1973 after graduating high school. He described various trainings over the early part of his career, notably including two stints at military bases in the United States, where he studied the Geneva Conventions and received other training. After returning to Somalia from the second of these training trips to the United States, he took control of the Fifth Brigade in Gebiley in 1987 as a Colonel.

His United States training in low-intensity combat was important, the Defendant said, because his major assignment was to counter the Somali National Movement (SNM) insurgency in the area. Drennan, in his questions, emphasized the fact that the SNM had received training

and munitions from Ethiopia, a client state of the Soviet Union. The Defendant also took issue with Ambassador Gosende's characterization of the SNM as "ragtag," asserting that they were very well organized and well trained, and that they had their headquarters in London and that they received training in communist Ethiopia. The Defendant said that the **"SNM destroyed our country and made it like that—without a government—for twenty-five years"** and was backed by communist Russia and Cuba. He also claimed that one major function of his Brigade was to dig up the Soviet-sourced mines that the SNM was planting in the region. He was successful in this and other operations against the SNM, he said, because he had informants within the organization.

His testimony then turned to the Fifth Brigade and its facilities in Gebiley. He testified that his headquarters on the base was much larger than the building depicted in the photos tendered by the Plaintiff. The Defendant claimed to have never seen the buildings in those pictures before. He further testified that there was no jail on the base; the only people who were detained there were insubordinate soldiers, who would only be detained for a couple of days before being transferred to Hargeisa for court martial. He said the soldiers the Plaintiff described could not have been his; he never ordered his soldiers to detain civilians. He stated that his soldiers did not detain civilians and that they did not detain the Plaintiff. Further, he stated the SNM frequently crossed back and forth from Ethiopia into Somalia, and attacked Isaaq villagers.

The Defendant further testified about the disappearance of the water truck. He said his SNM informants told him it was located across the border in Ethiopia. He claimed, **"[m]y soldiers did not question people in hamlets about the truck, it is against the law."** Moreover, he clarified that he could not target Isaaqs in his ranks because it was illegal to inquire about clan identities within the army. He also noted that the Isaaq were not the only clan in the ranks. There

were also, he said, members of the Gadabuursi and Akisho clans, among others. There were also other clans in the area, including Ogdani refugees who had fled across the border from Ethiopia to escape the Mengistu regime. Drennan then asked if there had been a tank battalion in Gebiley at that time, as one of the Plaintiff's fact witnesses had testified. The Defendant said that he never commanded a tank battalion. Asked about the discrepancy between his testimony and that of the Plaintiff's fact witnesses, the Defendant said, **"They're all lying."**

Questioning then turned to the legal system in Somalia at the time. He testified that other parts of the Somali government, including the National Security Service, would be concerned with investigations into civilians. And he said that there were courts, both military and civilian, to try defendants. The NSS, the military intelligence agency, and the Criminal Investigation Department would handle the investigations and detain suspects before they were tried in the federal court system, the Defendant reported. Drennan asked if the Defendant, as a combat officer, could deal with civilians in this way, and the Defendant responded that he dealt with defending the country and the civilians.

Drennan's questioning then turned to the human rights situation in Somalia, generally, and in Gebiley in particular. The Defendant insisted that while Somalia generally had human rights problems, there were none in Gebiley; there was nothing remarkable about the human rights situation there at the time. He claimed that he has never seen anyone in the MiG position, but that he heard that the SNM used it on their captives, and that there were no human rights abuses in Gebiley from December 1987 to March 1988. The Defendant testified that the situation became dire when the SNM took Burao and Hargeisa. He claimed that the SNM were the ones killing civilians. He reported that the SNM had only been able to capture civilian portions of the cities while the government areas never fell, and that the SNM had fired indiscriminately at

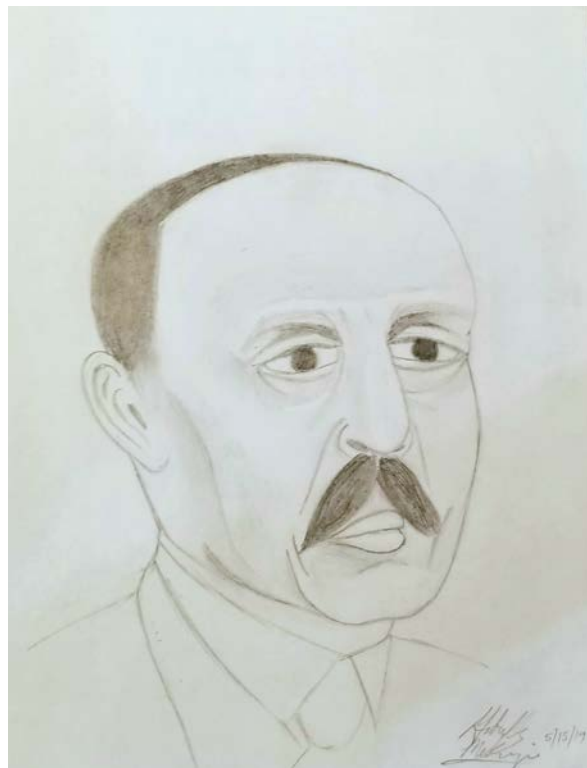
civilians there. The Defendant said that there were no reprisals from the government. He said that any civilians who died were merely caught in the crossfire between the **“very, very strong”** SNM and the government.

The Defendant asserted that he was relieved of his command in Gebiley because he is from the north and his mother is Isaaq; that the government doubted his loyalty and suspected him of helping the SNM. Asked if he witnessed any human rights abuses he said, no, the war was over in the north, although violence continued elsewhere as other armed groups sought to topple the Barre regime. He said that he went briefly to a town east of Burao, for two months, before being assigned as a Second Division commander in a minefield east of Hargeisa. He then went to Mogadishu, he said. After that, the Defendant reported, he was sent to the United States for further training at Keesler Air Force Base in Biloxi, Mississippi.

He said that he was not able to finish his assigned course of study there because the Gulf War mobilization led to a shortage of instructors on the base. He further claimed that he no longer received orders from the Secretary of Defense. He then reportedly heard that the government collapsed and thought it was unwise to return to Somalia. And so, he said, he decided to go to Canada with his wife to seek asylum.

He reported that he lived there for six to eight months, working in security for Burns International. He was later deported because of **“false complaints”** by the Isaaq community in Toronto to the Canadian government that he was a human rights violator. He said that he was kicked out without being given a chance to respond to the allegations. At this point he decided to live in northern Virginia because his wife used to live there and they had friends there. The Defendant stated that, despite initially being received with open arms, moving to Virginia with his wife, and receiving a work permit, he **“wound up in removal proceedings.”** In 1994, he left

the United States for Ethiopia, he said, to attend a conference about the potential formation of a new Somali government. He returned to the United States after two years in Ethiopia, and has been living in Virginia ever since. He noted that he was again put in removal proceedings in 1998, but that these were resolved in his favor. Throughout this time, he stated, he never took public assistance and remained employed. He claimed the first time he ever saw the Plaintiff was at the deposition in Alexandria in 2018. Looking at the Plaintiff, the Defendant said, **“I feel pity for him, but as commander of the Fifth Brigade I never did anything to him. I am innocent.”**



Courtroom Sketch of Yusuf Abdi Ali

At 12:02 p.m., Louis Ramos (DLA Piper) began cross-examining the defendant. During his direct examination, the Defendant had mentioned that he was given several certifications and commendations from his training in the United States. Ramos asked if he would be surprised that there was a Department of Defense document noting he lacked professionalism and motivation.

The Defendant responded that was untrue. Ramos asked if the Defendant recalled his testimony that he was relieved of his command because his mother was Isaaq, and the defendant said he did. Asked if he had brought this detail up in his deposition or either of the sets of pre-trial interrogatories, the Defendant admitted that he hadn't. He said that he was saying it now.

Ramos then turned his questions to the Defendant's actions against the SNM in Gebiley. The Defendant said that the SNM was made up of Isaaqs. Ramos asked if Isaaqs were the predominant clan in the Gebiley district, and the Defendant responded that there was also a "friendly" clan, the Gadabuursi. Ramos asked if he used the word "friendly" to distinguish the Gadabuursi from the Isaaq. The Defendant replied that he meant to distinguish the Gadabuursi from the SNM.

Ramos asked if the SNM was recruiting from villages, including those in Gebiley. The Defendant said it was. Ramos asked if it was the Defendant's mission to make sure that the SNM's efforts were not successful. The Defendant said it was. Ramos then asked if it was important for the success of the Defendant's military mission to prevent men of the district from joining the SNM. The Defendant responded that although he was not pleased that men would join the SNM, he could not prevent it, he could only fight them when they returned.

Questioning turned to the human rights situation in northern Somalia. Ramos asked if Ambassador Gosende was incorrect that the SNA attacked Isaaq civilians and committed other human rights abuses. The Defendant said, "[i]ncorrect, yes. I was there, he was not there." Ramos then asked if all of the reports on the subject that said there were abuses, by the United States government, the GAO, and Amnesty International, were wrong. The Defendant insisted that these organizations had not come to Gebiley. "If they were in Gebiley personally, fine. But if they write reports—how did they get their reports?" At this point, Ramos asked if the Defendant

had used informants to get intelligence on the SNM from over the border in Ethiopia. The Defendant admitted he had.

When asked about the last time he left Somalia, the Defendant responded he left in 1990. Ramos then asked if the Defendant had been deported from Canada for reported human rights violations, and the Defendant said that it was part of the Somaliland plot against him: **“They were all lying . . . all this is conspiracy.”** Ramos then asked about the forms that the Defendant had filed to immigrate to the United States. The form asks for the last five years of residences. The Defendant’s form didn’t list that he had lived in Canada in that period. Asked about this, the Defendant said that his wife had filled out the form after he signed it. Ramos asked if he signed with a pen. The Defendant assented. Ramos asked why he didn’t fill out the rest of the form. **“The reality is I just signed.”**

Ramos asked if the Defendant’s theory of the case amounted to a conspiracy theory between the United Nations, NGOs, the Plaintiff, the Plaintiff’s witnesses, and the United States Government. The Defendant agreed with this characterization. Similarly, Ramos pointed out how the Defendant’s claims that Gebiley was peaceful while Hargeisa, only fifty-three kilometers away, was engulfed in violence. **“Nothing happened. Nothing. . . . I took care of it.”** The Defendant characterized the SNA and SNM as **“two war machines”** both guilty of abuses: **“when two elephants fight, the grass will suffer. That’s what happened in Hargeisa.”**

The Defendant contradicted a portion of his earlier testimony, conceding that the Somali government committed abuses under the Barre regime. But, he insisted, **“one thing is for fact: I have never seen anybody in MiG position, period.”** Ramos confirmed with the Defendant that the allegations against him are serious. Drennan offered no redirect examination.

After 12:55 to 1:55 p.m.; before the jury was called in, the Plaintiff's attorneys said they would offer no rebuttal to the Defendant's case. **"You've got, in my view, a very strong case of direct liability,"** the judge said to the Plaintiff's team, asking whether they were certain they should present various alternative theories of liability. Drennan reflected that the case could be reduced to **"one person's word over the other."** The parties then began closing arguments.

Presenting for the Plaintiff, Kathy Roberts (Center for Justice & Accountability) opened by reminding the jury that, when the Defendant first came to Jifo Uray, the Plaintiff wasn't worried. Roberts stated that, despite thinking he had nothing to fear, the Plaintiff was arrested, subjected to brutal torture, and **"shot almost carelessly, like it was nothing."** Roberts then addressed the elements of the torture claim before the jury, arguing that the Plaintiff had alleged by a preponderance of the evidence that he suffered severe mental and physical pain, that was inflicted with a sufficient prohibited purpose, and that the Defendant was responsible. Stating that each witness the Plaintiff brought forward corroborated the Defendant's responsibility, Roberts explained how any one of five different forms of liability (direct, ordering, joint criminal enterprise, "command and control"/command responsibility, aiding and abetting) would be sufficient for a finding of liability. For command and control liability, Roberts emphasized that Abdi Abdilahi Ahmed and Mohamed Areye Ali Sugale both testified that the Defendant promoted a **"command culture"** of excessive violence against civilians. Raising the testimony of Ahmed Muse Madar, Roberts contended the Plaintiff's torture was part of a common plan to treat **"the civilian population as the enemy,"** and to **"control, repress, or eliminate the Isaaq"** that culminated in the strafing of civilian areas by aircraft.

Roberts closed by contending that Dr. Keller's testimony about the Plaintiff's wounds and **"debilitating and severe"** PTSD corroborated the Plaintiff's own account. Roberts then

turned to the subject of damages, and proffered that she might value 31 years or about 11,000 sleepless nights and chronic pain at \$1 million per year. Roberts then reminded the jury that the Defendant violated his duty to protect the people entrusted to his security as a military officer. Roberts concluded, “[h]e thought he could get away with it. Please don’t let him.”

Drennan began his closing argument by agreeing that the Somali government’s primary objective was to protect the government and people. “**You heard a professional soldier defend himself,**” Drennan argued, reminding the jury that the Defendant had been confronted by these claims for over fourteen years. “**This is a case about clan vengeance,**” Drennan contended. Rather than commit the alleged acts, the Defendant served his country and cleared SNM landmines, keeping Gebiley safe while Hargeisa was besieged.

Drennan proceeded to characterize the Plaintiff and Plaintiff’s witnesses as unbelievable and “**hellbent**” on achieving international recognition for Somaliland. Drennan noted several inconsistencies in the Plaintiff’s prior interrogatories, depositions, and trial testimony about the number of arrestees, the number of times the Plaintiff was tortured, and the amount of the ransom paid by the Plaintiff’s father. Drennan claimed the jury should follow the logic of “*falso unius, falso omnibus* [sic]” (false in one respect, false in every respect) and reject all the Plaintiff’s testimony. Drennan concluded by arguing that there is a larger agenda at play, as the Isaaq community cares about the trial, and that the Plaintiff’s role as an elder who adjudicates disputes is inconsistent with Dr. Keller’s testimony that he shies away from social situations.

Given six minutes to rebut the Defendant’s closing, Ramos spoke for the Plaintiff, contending that the Defense’s closing argument was a “classic attempt to distract.” He referenced the Defendant’s willingness to falsify information on his immigration paperwork as an example

of how the Defendant was willing to say anything—even under oath—**“to paint himself as a victim when in fact, he is a perpetrator.”**

With the closing arguments presented, the case was placed in the hands of the jury. The Honorable Judge Leonie Brinkema instructed the jury on the relevant laws and legal standards to apply during their deliberation. The jurors were told to maintain their impartiality, remember that they were co-equal in their decision, and to use their good judgement to evaluate all of the evidence that was presented.

The jury will be determining first whether the defendant suffered the harms of torture and attempted extrajudicial killing, and second whether the defendant was either directly or indirectly responsible for this harm. If they find in the affirmative for both, they then move to the question of compensatory and punitive damages. If the jury finds neither charge to be true, the Defendant prevails. Trial will reconvene once the jury of eight has reached its final decision.

Warfaa v. Ali Legal Monitoring, Day 4

Thursday, May 16, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

This account summarizes what occurred on the fourth day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial has concluded and the jury is deliberating continuing tomorrow, in the Federal Courthouse in Alexandria, Virginia. The Center for Justice & Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.⁴

After a full day of deliberations, the jury has yet to return a verdict. At 5:55 p.m. Judge Brinkema scheduled the continuation of deliberations throughout tomorrow and adjourned court at 6:02 p.m. The jury will resume deliberations tomorrow at 9:30 a.m.



Courtroom Sketch of Judge Leonie M. Brinkema

⁴ This report is the product of the students of the Human Rights & Conflict Resolution Clinic and is not attributable to the Center for Justice & Accountability or Stanford Law School.

Warfaa v. Ali Legal Monitoring, Day 5

Friday, May 17, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

This account summarizes what occurred on the fifth day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial concluded on Wednesday afternoon and the jury is deliberating, continuing Monday, in the Federal Courthouse in Alexandria, Virginia. The Center for Justice & Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.⁵

After a second full day of deliberations, the jury has yet to reach a verdict. The parties and their attorneys waited today in the anterooms and hallway outside Judge Brinkema's courtroom. The jury announced at 3:55 p.m. that it would be unable to meet over the weekend, but would continue its work on Monday. Judge Brinkema adjourned court at 4:01 p.m. The jury will resume deliberations on Monday at 9:30 a.m.



The Albert V. Bryan United States Courthouse in Alexandria, Virginia

⁵ This report is the product of the students of the Human Rights & Conflict Resolution Clinic and is not attributable to the Center for Justice & Accountability or Stanford Law School.

Warfaa v. Ali Legal Monitoring, Day 6

Monday, May 20, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

This account summarizes what occurred on the sixth day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial has concluded and the jury is deliberating, in the Federal Courthouse in Alexandria, Virginia. The Center for Justice & Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.⁶

After a third full day of deliberations, the jury has yet to return a verdict. At 2:55 p.m. the jury sought a new verdict form because the one given to them erroneously listed the date as 2018, not 2019, and they did not want their decision to be rendered void by submitting an incorrectly dated form. Court adjourned at 5:14 p.m. without a verdict. The jury will resume deliberations on Monday, May 20, at 9:30 a.m.



Sketch of Judge Brinkema's Courtroom

⁶ This report is the product of the students of the Human Rights & Conflict Resolution Clinic and is not attributable to the Center for Justice & Accountability or Stanford Law School.

Warfaa v. Ali Legal Monitoring, Day 7

Tuesday, May 21, 2019

Stanford Law School International Human Rights & Conflict Resolution Clinic

Stanford Law School International Human Rights & Conflict Resolution Clinic

This account summarizes what occurred on the seventh day of trial in the case of *Farhan Mohamoud Tani Warfaa v. Yusuf Abdi Ali*, No. 1:05cv701 (LMB/JFA). The trial has concluded in the Federal Courthouse in Alexandria, Virginia. The Center for Justice & Accountability invited the Stanford Law Human Rights & Conflict Resolution Clinic to conduct neutral trial observation and produce daily reports of the proceedings for interested parties, including the Somali diaspora.⁷

After three and a half days of deliberation, the Honorable Judge Leonie Brinkema called Court to order at 12:43 p.m. The Judge warned both parties and everyone in the courtroom that there should be no outbursts or reactions, and that there should be no interaction between the parties or their supporters either inside or outside of the courthouse. At 12:45 p.m., the jury handed their verdict to the Judge. The Deputy Court Clerk read the jury found partially in favor of the Plaintiff, finding the Defendant liable for torture but not liable for attempted extrajudicial killing. Mr. Warfaa will receive \$500,000 in damages; \$400,000 in compensatory damages and \$100,000 in punitive damages. Joseph Peter Drennan, Counsel for the Defense, asked for the jury to be polled, and each juror affirmed that the stated decision was unanimous and correct. Judge Brinkema gave both sides fourteen days to file post-trial motions, then dismissed the jury at

⁷ This report is the product of the students of the Human Rights & Conflict Resolution Clinic and is not attributable to the Center for Justice & Accountability or Stanford Law School.

12:49 p.m. Court adjourned at 12:50 p.m. The Center for Justice & Accountability's press release can be found [here](#).



Plaintiff Mohamoud Tani Warfaa and his Attorneys