

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMIN ULLAH,)
)
)
Petitioner,)
)
v.) Civil Action No. 05-1237 (ESH)
)
GEORGE W. BUSH, *et al.*,)
)
Respondents.)
_____)

DECLARATION OF DAVID N. COOPER

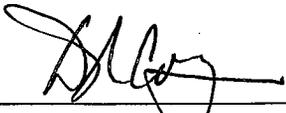
Pursuant to 28 U.S.C. § 1746, I, Lieutenant Colonel David N. Cooper, Judge Advocate General's Corps, United States Air Force Reserve, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Amin Ullah that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 16 August 2006



David N. Cooper
Lt Col, JAG Corps, USAFR



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0402
18 NOV 2004

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From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 848

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #848 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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Department of Defense
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #11

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Air Force; President

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member
(JAG)

[REDACTED] Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy

2 Nov 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 848Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #11 of 29 September 2004
(2) Record of Tribunal Proceedings

1. A legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the Tribunal process and actively participated in the unclassified portion of the Tribunal proceeding. Note that although the "Unclassified Summary of the Basis for Tribunal Decision" (enclosure (1) of the Record of Tribunal Proceedings) states that the detainee made a sworn statement, there is no evidence in the transcript of his statement (enclosure (3) of the Record of Tribunal Proceedings) to indicate that the detainee actually took an oath either before or after he gave his oral statement.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-3, R-4, and R-5 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant. Exhibit R-2 does not cover exhibit R-6, a heavily redacted FBI sitrep, but that does not appear to be a problem since the redacted portions are likely related to anticipated interviews of other detainees.

d. The detainee requested two witnesses. The President initially approved the requests, but the State Department could not locate the witnesses. Therefore, the President properly determined the witnesses were not reasonably available.

e. The Tribunal's decision that detainee #848 is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and affirmatively declined to submit comments.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 848

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



T. A. McPALMER
CDR, JAGC, USN

UNCLASSIFIED



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

15 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 848

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED].


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #11

(U) ISN#: 848

Ref: (a) (U) Convening Order for Tribunal #11 of 29 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U//FOUO) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 9 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #848 is properly designated as an enemy combatant as defined in reference (c).
3. (U//FOUO) In particular, the Tribunal finds that this detainee is a member of, or affiliated with the Taliban, as more fully discussed in the enclosures.
4. (U//FOUO) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

[REDACTED] Colonel, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: #11
ISN #: 848

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of evidence presented to the Tribunal by the Recorder indicated that the detainee is a member of, or affiliated with the Taliban. The detainee chose to participate in the Tribunal process. He requested two witnesses and made a verbal statement. The Tribunal President found the requested witnesses not reasonably available, because they could not be located by the U.S. State Department. The detainee, in his verbal statement, admitted to being a soldier for the Taliban. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-18.
- b. Sworn statement of the detainee

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested two witnesses be produced for the hearing:

| <u>Witness</u> | <u>President's Decision</u> | <u>Testified?</u> |
|------------------------------------|-----------------------------|-------------------|
| Rahmat Ullah Detainee's brother | Not reasonably available | no* |

Haji Sher Mohammad
Village elder

Not reasonably available

no*

* The detainee requested two witnesses; the Tribunal president initially approved the request and the witness names were submitted to the State Department. The State Department was unable to locate either of the requested witnesses. The Tribunal president then found the requested witnesses not reasonably available.

The Detainee requested no additional evidence be produced; no rulings were required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that he served under the Taliban and was in charge of ten armed men. The detainee waited until the U.S. planes were bombing and the Taliban forces were defeated before joining the coalition forces. The detainee claims that after the U.S. forces defeated the Taliban in Konduz and went to Mazar he joined the coalition forces and fought against the Taliban. The detainee claimed that after Khanabad was captured he was released from service and went home. Four or five months after the fighting stopped in his area and the defeat of the Taliban, he went to the government of Afghanistan and turned in the ten weapons he had, and received a receipt for this. One year after the detainee turned in the weapons Afghani forces came to his house and arrested him.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Colonel, USAF
Tribunal President

Summarized Sworn Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the Detainee answered, "Yes."

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: No sir, but if you have any questions ask them.

[While the Recorder was reading the unclassified summary the Detainee asked if he could respond to the accusations.]

Tribunal President: You will have an opportunity to speak in just a moment.

Detainee: When you are finished?

Tribunal President: Yes.

Tribunal President: Do you wish to make a statement to this Tribunal?

Detainee: Yes.

Tribunal President: Would you like to make your statement under oath?

Detainee: First I must I explain about the charges against me, whether I committed them or not and then I will swear that I told the truth.

Tribunal President: Very well, please make your statement.

Detainee: Before when I was interrogated, I swore to them I would tell them nothing but the truth. I told the interrogators everything since I was ten years old up to the time I served as a soldier for President Dahoud in Afghanistan. When the Taliban came to our area I had a half-brother. I had one brother that left my house. I have three small children that I worked hard for to provide food. I was a poor person. When the Taliban arrived I had a brother-in-law named Najib. They took Najib by force; he was just recently married and had a new baby girl. They took him by force, put him in jail and he was lost. Forty days later we found his dead body. They told me to join them and if I didn't they would kill me also. I told them my children were very young and I needed to take care of them. I told them I wouldn't go with them and they could not recruit me. They then took me by force and put me in jail. Another individual approached them and told them I was an old man and to let me go. This same individual then told me there was no one in my household and asked why I didn't go with them and join them. I then decided to go with them.

I am presenting this information to you and you can decide and find out if I have lied to you.

After that I joined them and they provided me with ten individuals with weapons. At night I would go home and take care of my family. Then they arrested me again. The providence of Konduz and Bairan, providences in Afghanistan, everybody there knows they arrested me and put me in jail. They then pushed me again to serve them. I asked them how was I suppose to provide food for my family and told them I would not go with them again. I then heard rumors and news on the radio that American forces were coming to my land. I was happy because I knew I would be freed and able to go back to my family. When your forces reached Kabul, they had not reached Konduz yet; I took my ten men with their weapons and went to one of the commanders by the name of Bahg. Then your forces reached Konduz. I was fighting between the Taliban forces and the United States forces. When the United States forces defeated them they left Konduz and went to Mazar. I then joined the coalition forces. I fought against the Taliban with the American forces. There were men and woman journalist there, taking pictures. I went to the American compound and they took me to a room with a video camera. He was taking pictures of some kind of paperwork. I asked him what he was doing and he told me he was sending a report that we had captured these areas. The planes were bombing and I joined your forces. We captured Khanabad and I was released. Four to five months after the fighting was over in my area and the defeat of the Taliban, I went to the government of Afghanistan and turned in the ten weapons that I had. I turned them into a Sergeant Abdul Basir. I then went back home. I like the current government in Afghanistan and I like the Americans because they sent two of my children to school. One year after that, Interim Afghani forces came to my house and arrested me. I have told you the truth. The accusations are wrong, please help me. I have a wife and kids and no one to take care of them. You are the leaders and I am the detainee, what ever you decide, you decide.

Tribunal President: Will you state now that everything you just told us is the truth?

Detainee: Sure, first I will swear and then you can ask. You have your forces in Afghanistan they can go and ask. I was told in the beginning not to lie and I promised them I would not lie.

Tribunal President: That's good.

Detainee: I will swear and then you can ask.

Tribunal President: Your word that you have told the truth is what I wanted to hear.

Tribunal President: Personal Representative do you have any questions for the Detainee?

Personal Representative: Yes I do.

Summarized Answers in Response to Questions by the Personal Representative

- Q. You stated, you were arrested by the Taliban after you joined them.
- A. First they captured me.
- Q. Why were you put in prison by the Taliban forces?
- A. The first time I was captured and put in prison I was serving the Rabani. When the Taliban took me they asked why I served Rabani, they said I had to serve them. At that time Rabani was the President and I was a soldier. I had to go to the compound and learn how to walk like a soldier.
- Q. Were you imprisoned by the Taliban just that one time, or more often?
- A. No, twice.
- Q. When were you in prison the second time?
- A. I cannot recall the time and date the first time I was put in jail. The second time when they killed my brother-in-law, they told me I had to join them and I did. The two times I was put in jail was because I wouldn't join them.
- Q. How long were you in jail?
- A. First time 40 days, the second time 16 or 17 days. Maybe 19 days, it was Ramadan.
- Q. When you turned in your weapons to Sergeant Basir did you get anything in return?
- A. Yes, he gave me a receipt.
- Q. What was the date you turned in your weapons?
- A. I turned in my weapons four to five months after the defeat of the Taliban.

Summarized Answers in Response to Questions by the Tribunal Members

- Q. One of the accusations against you is that you assembled a team to hijack a United Nations aircraft. Do you know anything about that?
- A. The only airplanes I have seen are in the sky. When I was captured I traveled on a plane from Konduz to Baghram. I traveled from there to here. Those are the only times I have been in a plane. I was blindfolded and didn't know what the

plane looked like. Yes, I have seen your planes in the sky. In Afghanistan all we have is this much bread and we have to work hard for it.

Q. So the Taliban never asked you to try and hijack a U.N. airplane?

A. Who am I for them to ask me to do this kind of thing? They should contact some one bigger than me. I fought with your forces against them.

Q. I understand when you were captured, but do you know what year it was they killed your brother-in-law and forced you to join the Taliban?

A. To be honest I don't remember no times or dates. All I have is one and three quarters of an acre of property and work hard to serve my family. We are two brothers and in the same house.

Tribunal President: Do you have any other evidence you wish to present to this Tribunal?

Detainee: I asked you to present my two witnesses. I have my districts and providences and you could not bring them here. I have the receipt that I gave up my weapons. It is not with me but everybody knows it. I was three years old when my father died and six years old when my mother died. My older sister raised us and we had to work hard. My children are very young and have nothing to eat. I don't have money to buy another house and that is why we had to live together.

Tribunal President: Is there anything else you would like to say?

Detainee: All I ask you, our leaders, is to ask. Because of some one else's accusations, don't keep me here.

Tribunal President: Personal Representative do you have anything else to present to the Tribunal?

Personal Representative: No sir.

[As the Tribunal President was reading the instructions on the Tribunal decision the Detainee stated.]

Detainee: I am not an enemy of America I am a friend. The things I told you are the truth and you can find this out. And now my children are very happy.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

[REDACTED]

[REDACTED], Col, USAF

Tribunal President

DETAINEE ELECTION FORM

Date: 13 Sep 04

Start Time: 1550

End Time: 1640

ISN#: 848

Personal Representative Comments:

Detainee has now requested 2 witnesses:

Witness #1 – Rahmat Ullah (detainee’s brother) – Khanabad District, Chogha Area, Nowabad Village, Brother will verify that detainee fought with US Forces after they arrived in AF.

Witness #2 – Haji Sher Mohammad (village elder) – Khanabad District, Chogha Area, Daghra Bekhkalai Village, Individual will also verify that detainee fought with US Forces after they arrived in AF.

Detainee received a receipt from Khanabad District Commissioner (Zabit Abdul Basir), post-Taliban government when he turned in his weapon which he used to fight alongside US Forces. After turning in his weapon, he returned to his village to farm the land on property own by the District Commissioner listed above.

Combatant Status Review Board

TO: Personal Representative

4 September 2004

FROM: OIC, CSRT

Subject: Summary of Evidence for Combatant Status Review Tribunal - ULLAH, Amin

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.

2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."

3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he associated with the Taliban and engaged in hostilities against the United States or its coalition partners.

a. The detainee is a member of the Taliban.

1. The detainee admitted serving in the Taliban.

b. The detainee engaged in hostilities against the U.S. or its coalition partners.

1. The detainee assembled a team to hijack a United Nations aircraft in order to detonate the aircraft with a suicide bomber.

2. The detainee commanded ten Taliban soldiers at a post in Bangi, Afghanistan for one year. The soldiers were issued rifles and charged with guarding the post.

3. After 11 September 2001, the detainee surrendered the soldiers under his command at Bangi to Northern Alliance forces.

4. The detainee was arrested by Afghan soldiers at his home in October of 2002.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

To : Department of Defense Date 09/03/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
(ISN 848)

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 848 have been redacted by the FBI and provided to the OARDEC:

- FD-302 dated 05/28/2003
- FD-302 dated 06/06/2003
- FD-302 dated 06/19/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Personal Representative Review of the Record of Proceedings

I acknowledge that on 11 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #848.

I have no comments.

My comments are attached.

Name



Signature

Maj  USAF

11 OCT 04
Date

ISN #848
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDUL NASIR,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 06-1676 (RJL)
Civil Action No. 06-1689 (RMU)

DECLARATION OF DAVID N. COOPER

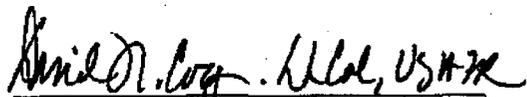
Pursuant to 28 U.S.C. § 1746, I, Lieutenant Colonel David N. Cooper, Judge Advocate, Judge Advocate General's Corps Reserve, United States Air Force, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

1. I am a Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdul Nasir that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 15 February 2007


DAVID N. COOPER, Lt Col, USAFR
Staff Judge Advocate
DOD, HQ OARDEC
Washington, DC



**Department of Defense
Director, Combatant Status Review Tribunals**

OARDEC/Ser: 779

27 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 874**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # 874 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).

2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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UNCLASSIFIED

22 Jan 05

MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *JRC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 874

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal # 26 of 9 December 2004
(2) Record of Tribunal Proceedings

1. *Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:*

a. The detainee was properly notified of and actively participated in the Tribunal process. The detainee provided a sworn oral statement at the Tribunal hearing.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal substantially complied with all provisions of references (a) and (b).

d. The detainee requested one witness, Qari Enahmullah. The detainee proffered that this witness, a fellow student at Farouqia Madrasa, would testify that detainee was a student, not a fighter, and had no ties to the Taliban or al Qaida. The Tribunal President determined that this witness was relevant. Attempts were made to contact this witness through the Government of Afghanistan. The Government of Afghanistan did not respond. Later, when it was learned that the witness was a Pakistani national, the Department of State was requested to contact the Pakistani government. However, the Department of State determined that they did not have sufficient information to locate the witness. (See enclosure (6) to the Record of Proceedings). Under these circumstances, the Tribunal President determined that the witness was not reasonably available. In my opinion, this decision was within the discretion of the Tribunal President and no corrective action is needed.

The witness did not request any other evidence.

e. The Tribunal's decision that detainee # 874 is properly classified as an enemy combatant was unanimous.

UNCLASSIFIED

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UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 874

2. The proceedings and decision of the Tribunal as reflected in enclosure (2) are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.


BREE A. ERMENTROUT
CDR, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

9 Dec 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #26

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Commander, U.S. Navy; Member (JAG)

[REDACTED], Major, U.S. Air Force; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

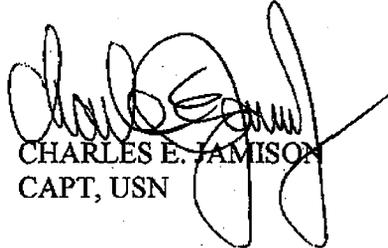
14 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 874

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED]


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #26

(U) ISN#: 874

Ref: (a) (U) Convening Order for Tribunal #26 of 9 December 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/FOUO)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/FOUO)
(6) (U) Email traffic regarding witness request (U/FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 17 December 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #874 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, the Taliban or associated forces, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).


Colonel, USAF
Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION**(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL: #26
ISN #: 874 **1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Tribunal held this hearing on 17 December 2004. The Recorder presented Exhibit R-1 during the unclassified portion of the Tribunal. That Exhibit, the Unclassified Summary of Evidence, indicates, among other things, that: the detainee is associated with the Taliban; the detainee engaged in hostilities against the United States or its coalition partners; the detainee was part of a group that attacked the Shkin firebase with AK-47 rifles, PK machine guns, grenades, and rocket-propelled grenade launchers; and the detainee was armed for this attack with grenades and an AK-47 rifle. The Recorder called no witnesses.

The detainee participated actively in the Tribunal proceedings. He began by responding to each of the allegations on the Unclassified Summary of Evidence and answered questions from the Personal Representative and the Tribunal members. The detainee's sworn testimony and his answers to the questions posed to him are summarized in Enclosure (3) to the CSRT Decision Report.

The detainee called one witness, Qari Enahmullah. The Tribunal President ruled that the requested witness not reasonably available, and that alternative means of producing the witness's testimony were also not reasonably available. The detainee presented no other evidence nor requested any document be produced. The Tribunal President's evidentiary and witness rulings are explained in paragraph 4, below.

During the classified session of the Tribunal, the Recorder presented Exhibits R-2 through R-11, identifying those exhibits that directly addressed the allegations in the Unclassified Summary of Evidence and those that provided amplifying information. The Personal Representative neither presented classified documents nor commented on the classified evidence.

After considering all of the classified and unclassified evidence, the Tribunal determined that the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-11.
- b. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested the following witnesses be produced for the hearing:

| <u>Witness</u> | <u>President's Decision</u> | <u>Testified?</u> |
|-----------------|-----------------------------|-------------------|
| Qari Enahmullah | not reasonably available | no* |

* The Tribunal President explained to the detainee, on the record, that he had determined this witness' testimony would be relevant, and asked the U.S. Government attempt to produce him. The CSRT legal advisor then used standard CSRT procedures to request that the U.S. Department of State attempt to contact this individual through the Afghan Government. The Department of State subsequently informed the CSRT legal advisor that they had made a formal request on or about 27 October 2004 to the Government of Afghanistan to locate this individual. The Government of Afghanistan did not respond to the request. Later, when it was learned the witness is actually a Pakistani national, the CSRT legal advisor again used standard CSRT procedures to request the U.S. Department of State attempt to contact this individual through the Pakistani Government. The Department of State subsequently informed the CSRT legal advisor on 10 December 2004 that they did not have sufficient information on the witness requested to locate him (see enclosure 6). Moreover, no individual with the name the detainee provided was in U.S. custody. Therefore, lacking sufficient information to locate the requested witness, the Tribunal President ruled that this witness not reasonably available.

The detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

- a. The recorder offered Exhibit R-1 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Accordingly, the Tribunal had to look to classified exhibits and to the detainee's statement for support for the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that he was tricked into joining a group that engaged in an attack against the Shkin firebase. He stated he met Qari Enahmullah at his Madrassah, who invited him to a different Madrassah in Pakistan. He waited several weeks for Qari to arrive, and eventually a man he had not met before called his name and said to join him. He got into a truck with several other people, and drove into Afghanistan. On the way, he learned the group had weapons with them. They asked the detainee to take a bag of bullets and grenades with him. The detainee stated he waited at the bottom of a hill, while Qari and others launched a rocket attack against a target from the top of the hill. Everyone in the attacking party ran, but the detainee got separated from the group, leaving him with the bag of bullets and grenades. He found some Afghan soldiers, and told them everything. U.S. personnel approached him, and took him into custody.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

The CSRT Assistant Legal Advisor was consulted regarding the witness issue discussed above.

The Tribunal consulted the CSRT Assistant Legal Advisor regarding allegations made by the detainee in his testimony that U.S. personnel had physically abused him in a U.S. facility in Bagram, Afghanistan. The OARDEC Forward Officer in Charge and the OARDEC Liaison to the Criminal Investigation Task Force were notified of the matters on 17 December 2004.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. He indicated that he understood the proceedings, fully participated in his hearing, asked relevant questions, and provided helpful information during his sworn statement.

c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, the Taliban.

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8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large black rectangular redaction box covering the signature of the Tribunal President.

Colonel, USAF

Tribunal President

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ISN #874
Enclosure (1)
Page 4 of 4

3997

Summarized Sworn Detainee's Statement

The detainee confirmed that he understood the process and had no questions.

The Personal Representative provides the Tribunal with the Detainee Election Form labeled exhibit D-a.

The Recorder presented Exhibit R-1 into evidence and gave a brief description of its contents. The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Detainee elected to participate.

Tribunal President: I would like to confirm that the witness you requested was Qari Enahmullah. You described him as a Pakistani and gave us his age, height and other characteristics. You told us that the last you saw him was at Bagram, Afghanistan apparently in U.S. custody.

Detainee: No, I didn't say that.

Tribunal President: Could you verify that last time you saw this witness?

Detainee: I saw him half an hour before I was arrested. Since then, I have not seen him.

Tribunal President: I understand. I had determined that your witness request would provide testimony relevant to this Tribunal. I requested that the United States government attempt to locate your witness for this Tribunal. The United States government contacted the Afghanistan government on 27 October 2004. The Afghan government did not respond to our request. Since November we directed our attention to investigating if he is in U.S. custody in any location. I have received a report from the United States government that no person with this name, or similar to his characteristics, is in U.S. custody. As the Tribunal President I am satisfied that the government has made reasonable efforts to locate this witness. This also includes attempts by the United States Department of State to locate him via the Pakistani government. While the description you gave us of the witness was thorough, is not sufficient to formally request the Pakistan government attempt to locate him. So, I am forced to make the ruling that after all reasonable efforts by the United States Government, we are unable to locate your requested witness, and I find that the witness is not reasonably available. I will ask the Personal Representative to remind this hearing, and the Detainee to state for the record, what the Detainee had wished this witness would testify to.

The detainee wants to present an oral presentation. The detainee would like to take the Muslim oath. Recorder administers the Muslim oath.

Detainee: For the last two years the American government got all the necessary information and placed it in my file. If they are talking about the Taliban from the government of Afghanistan, I am not this Taliban. I live close to Afghanistan and the Afghans captured me close to Kabul. I lived there in our house. If you ask anyone around there if I am Taliban or if I was Taliban I will

accept all allegations. Just a few years ago I grew a beard. At the time the Taliban came I was a very little boy or teenager and I did not have a beard. Anyone who did not have a beard would not be accepted in the Taliban. Also, I only studied at [my] school, [a] madrassa, which I told my interrogator a long time ago. The only thing I can think of is that I went to some of the same schools that the Taliban went to. What is my fault? When the people were fighting against America, they fooled me. They told me they would take me to a school. My books were with me as well as my sleeping bag. I was to go to the madrassa to study. I had no choice to go in the middle of the night or suffer from them. I had to follow them wherever they went. That was the only reason I went, because I was scared. I did not know the area. About the Kalashnikov bullets and the grenades that I had: I had it because they gave it to me to take care of it. At the time those people were fighting the American I sat in the corner far away from them. I did not fire one bullet and I didn't throw anything at anybody. I didn't try to escape. I was walking down the main street. I went directly to the Afghan military because there were people there that spoke Pashtu like me and I told them everything. Then they handcuffed me and told me to go with them and tell the whole story, and we will release you and you go your own way. Then I told them from A to Z. I told them everything I know and everything I saw. I told them the whole story. All the information I had from those people including the kind of weapons they had, who they were. Everything I know I told them. Then after that they put me in a plane and took me to Bagram. I was interrogated and abused physically. They did not let me sleep all the way to this island. Maybe it was because they could not catch or arrest other people. I am the only one [caught] in this incident and they are still keeping me. I have no other knowledge. The person that does is Qari Enahmullah. I didn't ask for my brother or father as witnesses because they have no knowledge of this incident. He is the only person who knows. He was the one doing the fighting. I want that witness to tell the whole thing and clear the whole thing up. You guys have the knowledge and the power and the time. Ask around in my village, my family members, my brother, my father if I ever did anything in my entire life like fighting or gathering with other people [to fight]. The only thing I did was go to school and study. Also you know that in Afghanistan for the past 20-25 years it has been in a war, fighting and going through terrible things. There are all kinds of people that just try to find someone and arrest them as a business. That is all that they have going on over there, a terrible thing. I think there is no evidence on me and also the last two a half years if you found something or you researched something, I have nothing to do with it. He was the only person who knows the whole story. I hope you can find him and he will clear everything about me or the incident. If you put me as an enemy combatant because I study my religion, that is no problem. That is a different story. I am going back to school to study. All I do here is study the holy book. You have the power and the knowledge. I will tell you that I never did anything wrong against you or against Americans or anybody. I am just a student that belongs to you guys. I ask you for knowledge and good judgment. If I did any fighting or planned to fight, I would tell you. I would not keep it in my heart. I would tell you, just the same, but I didn't. We are very poor people. My brother works hard daily to support our family. I was a student. We never belonged to any group; we just worked to support our family. We did not belong to anybody.

Tribunal President: Abdul Nasir, I believe that concludes your statement?

Detainee: Yes.

The Tribunal President asks the Personal Representative to review the notes and help clarify what the witness may have testified to.

Personal Representative: Sir, the witness would have been able to say that he was a fellow religious student at Be-row-kia (ph) Madrassa in Haraba. And would testify that the Detainee was a student and not a fighter nor does he have any other ties with Taliban or Al Qaeda.

Personal Representative Questions for the Detainee

Personal Representative: One of the allegations was that the Detainee was part of a group that attacked the Shkin Firebase with AK-47 rifles, PK machine guns, grenades and a grenade launcher. Could you address that?

Detainee: I already told the interrogator the whole story about the incident. I told him how many people were there, who was there and what they did.

Tribunal President: I would like to clarify for you. This panel has not seen any of your other information. We may see it later. We also recognize that you may have provided this information in another time at another place under other conditions. As you know, this is your chance to tell us in the way you wish what matters or what relates to these unclassified items. If you want us to look for that description you gave earlier, we can obtain that from the written evidence, or you can tell us again today. It is your choice.

Detainee: I will tell you again. I thought you already knew my file.

Tribunal President: The only purpose for these officers to be here is to review your information. We are not intelligence officers or combat officers.

Detainee: The gentleman whose name I gave you, Qari Enahmullah, was with me at Be-row-kia (ph) school located in Peshawar. We went to the school and studied. There were not too many students there and we hung around together. Qari was a member of Taliban. Sometimes he studied and sometimes he went to the Taliban. He pushed me hard to join the Taliban and I told him I would not because I am not allowed in the first place, and my family, my father and my brother would not let me do it. I am going to finish my studies. After this school year, I think he left and went to the Taliban and I went to another school to continue my studies. At this point I think two or three years passed. Then I went to another madrassa at Peshawar to study. Qari Enahmullah came to that school to visit and he saw me there, and knew me from the previous school. He said "good morning" to me and we talked. We were at the last semester of the school year. When I told him that the school year had almost ended and that I was thinking I might go to a different school, he told me that in Wana there were other schools teaching the same studies as here. He suggested I go there and gave me the address. He told me that when I get to Wana he would be waiting for me. He left around two weeks after and at the store there was a phone and he called there asking me to go to that school in Wana because it was getting ready to start. He said he would wait for me at the city bazaar. I went to the bazaar. I looked for him the first day but I could not find him. I stayed overnight in a motel. The next morning I found him. He told me to stay where I was because he was busy and he would come back to see me. Each time he came he would tell me just to wait because he was busy and that he would be

back. I waited like a month and a half. He paid for my hotel stay, like 2,000 caldo (ph). I think that was because for Muslim people if someone has wealth, they share their wealth with the poor people. Maybe that is why he gave me the money since I didn't have the money at that time. After a month and a half, I was sitting in the hotel and another person came and called my name and told me to go with him. We walked through the city. After [walking through] the city there was a car waiting with other people out there, and I saw Qari Enahmullah sitting in the front seat. He spoke Pashtu and told me to get in to the car, and I did. He speaks two languages, Pashtu and Urdu. I was only thinking that I was going to the school since I brought my books and my sleeping bag. We drove for some time and then I saw another car come together with our car. We drove for a while and finally we got to the desert somewhere and they turned the car in to the desert and stopped the car there. I am sorry to say, but at that time I went to the restroom and I saw them take out my clothes, my suitcase, everything from the car. When I came back I saw that there were weapons as well as suitcases. They took the suitcases back to the car and left the weapons on the floor. I asked him repeatedly where the school was. It was the middle of the night then. He said that we were not going to the school, and to get in. I asked myself what I should do at that time. Should I go with them or not? If I don't go with them I am in the middle of the desert; anything can happen to me. I can be killed. Or I can be arrested. I had no choice. It was the middle of the night and I was scared so I went with them. After a while, the whole group was about thirty people and they split us into groups of ten, including Qari Enahmullah. They also brought the weapons bag. He told me that he had brought one of them for me and I had to carry it; you have no choice. You have to carry the one with the grenades and the bullets. Then we walked for about half an hour or forty minutes somewhere. We got to a hill and we walked through the hill to the top. They left two people with me who had Kalashnikovs and told them not to come up to the top of the mountain but to stay in the middle. Those who had the rockets went up to the top of the mountains. I think they started fighting from there. After they had launched the rockets they came down and walked. I think that they were strong, or they were experienced to go from one mountain to another, but I told them I couldn't and they took the Kalashnikov from me and ran. I couldn't run anywhere. I walked slowly because I was not familiar with the area. At that time I only had the bullets and the grenades. When I walked, I found the main street, and I kept walking and I saw Afghan military people who spoke Pashtu. They were on the side of the street. I walked up to them and I gave the bullets and the grenades to them. I told them the whole story. After a while the Americans showed up. At that time the Afghan soldiers took my hands and they put something over my head. They put me in the car and took me to the central office or location. Then an American showed up who was in charge of the area, with an interpreter. I told them from A to Z. I told them the whole story. They assured me that if I gave them all the information I would be released to go home. Before that they tied my hands with small handcuffs. They left me with Afghan soldiers and they put me in the room and closed the door. I stayed for two days and then they brought the (inaudible) helicopter and took me to Bagram, Kabul. I think that was the holy month of Ramadan and they left me standing for ten days. I was not allowed to sit or sleep and they interrogated me every single day. They told me that I wasn't telling the truth, that I lied. I stayed in Bagram for three months after and now [I have been] here for two years. That is the whole story and the whole truth.

The Personal Representative has no further Questions. The Recorder has no Questions.

Tribunal Members' Questions for the Detainee

Q: I understand that you were abused while at Bagram detention facility?

A: *I had to stay standing up for ten days, twenty-four hours a day. Sometimes because I am human and I get tired I might have done something and they handcuffed me and they tied me up there with my hands over my head. **

* [Numerous translators reviewed the tape recording of the Detainee's literal statement. During the course of the hearing, the translator appeared to say that the Detainee's hands were tied either "to the roof" or "in the room." This prompted the Tribunal to review the tape with additional translators who by consensus agreed to the literal translation stated above.]

Q: This occurred in [the] Bagram detention facility?

A: Yes.

Q: The people who were doing this were Americans?

A: Yes, American.

Q: Where were you apprehended?

A: In Paktia, a province close to (Peshawar).

Q: Is that where this attack took place?

A: Yes, I was arrested in Paktia but I was abused in Bagram.

Q: But, you were studying in Peshawar, right?

A: Yes.

Q: So these people took you over the border?

A: Yes, they took me from Peshawar to Wana. Wana is close to the border. After Wana, these people came and they took me in the car.

Q: Were there any Afghans or Pakistanis at the border that you had to go through to get across?

A: Yes, we passed three checkpoints. The soldier just spoke to the guy in the front seat and let us go.

Q: Why do you think these people wanted you to come with them?

A: Like I said before in Afghanistan there are businesses with people trying to fool one person to their personal business. Everyone is just looking to grab someone and take someone. I could've been somewhere else having a good time and relaxing but look at me handcuffed here.

Q: How old are you?

A: I am twenty-three now, and when they arrested me I was 20 or 21.

Q: Are you Pakistani or Afghani?

A: I am from Afghanistan.

Q: Regarding your physical abuse in Bagram, have you ever reported this before?

A: This is the first time I see you and I tell you my story. I told the interrogators and they get upset with me. They called me a liar and I stayed quiet because they gave me a hard time.

Q: You told interrogators where? Here in Cuba or other locations?

A: I didn't say anything in Bagram because they knew in Bagram who had done it. Once when an interrogator came, [the] Bagram [incident] came up in our conversation and I told the story and the interrogator got upset with me and said that I lied to them. He told me that they would punish me since I was lying. He told me not to put that allegation on us (Americans).

Q: Was that interrogator here in Guantanamo?

A: Yes, across the street in the next building.

Q: You had mentioned, or the translator used the word "car," and this car joined another car when you took off to the attack.

A: No, we were in the same car. We drove for a while, and out of a small street I saw another car come and join us. They were waiting there to join us.

Q: That's fine. My question is, you said that there almost thirty people in this group in the end. Is the description of the vehicle more like a flying coach or a van or a mini bus, or a mini coach or a car like a Sedan?

A: It was a Datsun (the translator explains that it is a pickup truck).

The Personal Representative has no further evidence to present to the Tribunal.

The Tribunal President explains the remainder of the Tribunal process to the detainee and adjourns the Tribunal.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

 Colonel, USAF

Tribunal President

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (06 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – NASIR, Abdul.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with the Taliban and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is associated with the Taliban:
 1. The detainee is associated with the Taliban.
 - b. The detainee engaged in hostilities against the United States or its coalition partners:
 1. The detainee was part of a group that attacked the Shkin firebase with AK-47 rifles, PK machine guns, grenades, and rocket-propelled grenade launchers.
 2. The detainee was armed for this attack with grenades and an AK-47 rifle.
 3. The detainee was captured fleeing from the Shkin firebase attack and in possession of seven grenades and ammunition for an AK-47 rifle.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Exhibit 4004

L.F.1

DETAINEE ELECTION FORM

Date: 23 Oct 04

Start Time: 0805

End Time: 0900

ISN#: 874

Personal Representative: LTCOL [REDACTED] / [REDACTED], MAJOR
(Name/Rank)

Translator Required? YES Language? PASHTO

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? NO

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Off GTMO witnesses. Calm and polite

Will take Muslim oath.

Requests PR read each piece of evidence one at a time so detainee can respond to each.

Detainee requested 1 witness last seen at Bagram, AF.

Witness:

Qari Enamulah

Pakistani

Height: 5'10"

Age: 30-35

Eyes: Black

Hair: Black, medium length

Build: Thin

Last seen at Bagram, AF in US custody.

Testimony: Fellow religious student at Farouqia Madrasa in Hyadabad. Will testify that the detainee is a student and not a fighter nor any ties to Taliban or al Qaida.

Detainee requested no documentary evidence.

Update 15 DEC 04: Detainee turned over to new PR. He was also told that his witnesses were not reasonably available and that the Tribunal would continue. Detainee agreed.

Personal Representative: [REDACTED]

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Personal Representative Review of the Record of Proceedings

I acknowledge that on 28 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #874.

I have no comments.

My comments are attached.


Major, USAF

28 Dec 04
Date

ISN #874
Enclosure (5)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RAFIQ BIN BASHIR BIN JALUD)
AL HAMI,)
Petitioner,)
v.) Civil Action No. 05-0359 (GK)
GEORGE W. BUSH, *et al.*,)
Respondents.)
_____)

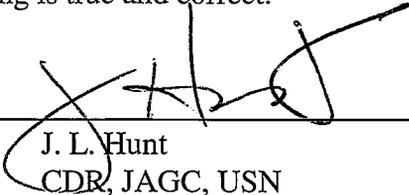
DECLARATION OF J. L. HUNT

Pursuant to 28 U.S.C. § 1746, I, Commander J. L. Hunt, Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.
2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Rafiq Bin Bashir Bin Jalud Al Hami that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or are redacted. An OARDEC staff member has redacted information that would personally identify certain U.S. Government personnel and foreign nationals in order to protect the personal security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 25, 2005



J. L. Hunt
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 69
3 September 2004

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 892**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #892 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. MCGARRAH
RADM, CEC, USNR

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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4009

1 Sep 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 892Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #2 of 2 August 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the Tribunal process and was present for the unclassified portions of the Tribunal proceedings.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal complied with all provisions of references (a) and (b). Note that some information in exhibits R-2 and R-3 was redacted. Based on the location and extent of the redactions we can be certain that the redacted information would not support a determination that the detainee is not an enemy combatant. Additionally, the Recorder mistakenly presented an unclassified exhibit that contained classification markings. The Tribunal President confirmed that the document was not, in fact, classified and a properly marked version of the document was subsequently inserted into the Record. As can be seen by comparing the two documents (R-1 and R-1-A), they are identical other than the spurious classification markings.

d. The detainee did not request the production of witnesses or other evidence.

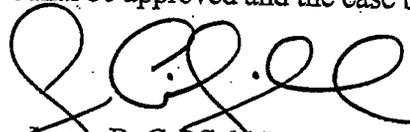
e. The Tribunal's decision that detainee # 892 is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 892

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



James R. Crisfield Jr.
CDR, JAGC, USN

UNCLASSIFIED



Department of Defense
Director, Combatant Status Review Tribunals

2 August 2004

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #2

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Marine Corps; President

[REDACTED] Lieutenant Colonel, U.S. Army; Member (JAG)

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
U.S. Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

18 August 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 892

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED]

[REDACTED]
Colonel, USAF

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #2
ISN #: _____ 892

1. Introduction

As the Combatant Status Review Tribunal Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee was a fighter for Al-Qaeda because he attended the [REDACTED] training camp in Afghanistan in 2000 or 2001 (although the Detainee denied this in his oral statement at the Tribunal on 7 August 2004). At the [REDACTED] training camp, the Detainee allegedly was trained how to use a Kalashnikov rifle, as well as heavy artillery and heavy weapons (the Detainee denied this as well in his oral statement). The unclassified evidence supported the Government's proposition that the Detainee freely chose to support Al-Qaeda through his actions. After an initial reluctance, the Detainee chose to participate in the Tribunal process. He did not request any witnesses be produced on his behalf. The detainee made an oral, sworn statement, in which he denied being a fighter as well as being a member or supporter of Al-Qaeda or the Taliban.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, R-1 through R-8.
- b. Sworn statement of the detainee.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses or additional evidence be produced; therefore, no rulings on these matters were required to be made.

5. Discussion of Unclassified Evidence

The Tribunal found the following unclassified evidence persuasive in making its determinations: Exhibits R-2 (21 Feb 03) and R-3 (13 Mar 03), respectively. Exhibit R-2, in pertinent part, indicates that the Detainee admitted, after an initial reluctance, receiving free weapons training at the [REDACTED] training camp in Afghanistan for 10 days. This training included instruction on the Kalashnikov rifle, heavy artillery, and some type of anti-aircraft weapon. Upon being questioned further about his reasons for attending the [REDACTED] training camp, the Detainee could not provide an answer. Exhibit R-3 provides a detailed summary of the Detainee's account of how he got to Afghanistan (though his assertion of never having heard any discussion of "jihad" while studying at the Islamic Law institute in Kandahar is not credible, given the environment at that time in 2000-2001). The Tribunal notes that the Detainee also denies being a member of Al-Qaeda in Exhibit R-3.

In reviewing the evidence, the Tribunal was guided by Paragraph G-11 of Enclosure (b), and assigned a rebuttable presumption of genuineness and accuracy to the Government Evidence.

The Tribunal found the following unclassified evidence unpersuasive in making its determinations: the Detainee's sworn statement (even though during deliberations, the Tribunal considered the fact that the statement was sworn and weighed this evidence accordingly).

After changing his mind as to his decision to participate and his method of participating, the Detainee eventually chose to make a sworn statement. He claimed that he was tortured into initially making the admissions of military training (as reflected in Exhibit R-2) while being questioned in Afghanistan. He claimed that this information should have been in his file (it was not present in any information submitted to the Tribunal). He claimed not have been tortured after his arrival in Cuba. When reminded that he had made his statement as reflected in Exhibit R-2 after he arrived in Cuba and that it made no mention of previous torture, the Detainee asserted that he didn't change his story because he thought he would be tortured in Cuba as he had been in Afghanistan. The detainee claimed to have "recanted" the information provided as reflected in Exhibits R-2 and R-3 although there was no evidence presented that he had made any attempt to do so since February or March 2003.

The Tribunal also relied heavily on the classified evidence presented in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

One issue arose during the course of this hearing that required consultation with the CSRT legal advisor. One of the pieces of evidence as indicated in paragraph 3a3 of Exhibit R-1 was marked as SECRET/NOFORN. Observing that classified evidence is

not supposed to be provided to the Tribunal during the unclassified portion of the hearing, the Tribunal inquired as to whether the information really was classified. Upon review of Exhibit R-2, the Tribunal President noted that the information referenced in paragraph 3a3 was actually contained in R-2, an unclassified exhibit. The Tribunal President therefore found that the information referenced in paragraph 3a3 was actually unclassified, and therefore no improper release of classified information had occurred. The Deputy Legal Advisor considered the matter and advised that the Tribunal should reconvene on the record to resolve the issue. The Tribunal did so (in a closed session, as the discussion concerned classified information) and clarified this matter on the record.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or deemed necessary.

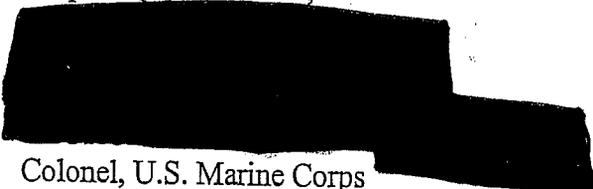
b. The detainee understood the Tribunal proceedings. He asked questions regarding his rights, appeared satisfied with the answers provided by the Tribunal President, and otherwise actively participated in the hearing.

c. The detainee is properly classified as an enemy combatant.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Colonel, U.S. Marine Corps
Tribunal President

UNCLASSIFIED

Summarized Detainee Statement

If it is possible can you please turn down the air conditioner? How come I am not comfortable sitting right here? It is a little bit chilly and I am still handcuffed. This is too tight on my hands. I cannot be comfortable like this. The handcuffs are cutting into my hands. I cannot talk like this. You talk about rights. *(Air conditioning unit was turned off; two military police guards were permitted in the Tribunal room to loosen hand restraints on detainee)*

Information like what. I did not fight. I don't understand. Can you please repeat. I do not have any information to provide. I did provide all the information I have earlier on. The lady who is sitting to my right did give me a choice yesterday of coming here to attend or if I would decline that. I expressed to her my interest in attending. I wanted to be present for this hearing. That is what she told me. Everything you have is recorded and is documented. That is correct. I have no further comment.

Answers in response to questions by the Tribunal Members:

No, I did not train on weapons while I was in Afghanistan. I have one question. Does it include or does it say in my file that I was a fighter or I fought? If I did not fight, why am I being labeled an enemy combatant? I recanted information that I attended a weapons training camp. What is your question? What additional information did you want me to provide? I did recant this information about a year ago. If there are some ambiguities you need to know about please ask me. It is incorrect, not true; I never attended the [REDACTED] training camp. I have never been to this place. I did tell the interrogator I had been there. I did mention this back in Afghanistan and I did mention this when I arrived in Cuba. I was very scared being here and I thought there was no difference whether I said I did or did not attend training. When I heard that maybe I would attend court or I would be tried, I thought it was better for me to correct this information.

I did not see any rights in Afghanistan when we were being interrogated. We were tortured. But it was different here. I first thought Cuba was identical to Afghanistan so I continued with the same story. I experienced better treatment here. Everything was different here. That's how it was. Back in Afghanistan I would be tortured. I was threatened. I was left out all night in the cold. It was different here. I spent 2 months with no water, no shoes, in darkness and in the cold. There was darkness and loud music for 2 months. I was not allowed to pray. I was not allowed to fast during Ramadan. These things are documented. You have them. How could you expect me to during interrogation knowing all this? That is why I tell the truth here. Of course not! I am not a member of Al Qaida or the Taliban.

What will I swear on and what is the form of the oath? You will have to explain to me before I will swear. Do I swear by God? I am a Muslim. I do not swear by anything but The Koran or by God.

In the name of Allah, the most compassionate, the most merciful, I swear by almighty God that my testimony before this tribunal shall be the truth.

Answers in response to questions by the Personal Representative:

Yes we discussed the Tribunal when we met. Did I say to you yesterday I would make a sworn statement to the Tribunal? I don't really recall. Maybe you talked to me and I was not paying attention; or the linguist did not translate it clearly. I did say and it is in my file I was tortured. I don't understand why it is not written. I am pretty sure that it is written because I have had interviews before. I think it is written. I am certain it is written.

Answers in response to questions by the Recorder:

I was not a member of Al Nadah. When Al Nadah was a party, I was a very little kid. How could I have been a member when I was only seven years old? No, Mr. [REDACTED] did not encourage me to receive weapons training.

Answers in response to questions by the Tribunal Members:

I did not train. I did not fight. How could I have trained? If you look at my hands, I am injured. My hand is only 35% functional. This is an old wound, an old injury back from when I was a carpenter in Tunisia. I have all of my fingers except one. How could I have done that? I could not have trained. As far as combat, I have never participated in that.

I wanted to go to Pakistan not Afghanistan. Yes I was in Afghanistan but the reason for my travel to go to Pakistan. I was in Pakistan for a while. I was staying with an individual from Tunisia. During this time there was a campaign. People were under duress. My friend in Pakistan told me it would be a good idea to go through Afghanistan and then return afterwards. There was a crack down from the Government on foreigners. I was in Afghanistan, but I did not go to [REDACTED] camp.

Answers in response to questions by the Recorder:

I have not been tortured while I have been in Cuba. That is correct. I was tortured in Afghanistan. I did not change my statement the first two months I was here. I already told you why I did that 10 minutes ago.

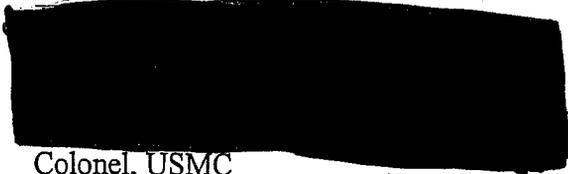
Summarized Detainee Statement

I have nothing else.

UNCLASSIFIED

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, USMC
President, CSRT

UNCLASSIFIED

Detainee Election Form

Date/Time: 6 AUG 04
START: 0818
END: 0833

ISN#: B9Z

Personal Representative: (#2) [REDACTED]
[Name/Rank]

Translator Required? yes Language? ARABIC

CSRT Procedures Read to Detainee or Written Copy Read by Detainee? yes

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

DETAINEE DESIRES ATTENDANCE ONLY TO
TRIBUNAL. DOES NOT DESIRE TO PROVIDE
WRITTEN OR ORAL STATEMENTS. DOES
NOT DESIRE PERSONAL REPRESENTATIVE
TO SPEAK FOR HIM.

[REDACTED]

Personal Representative

UNCLASSIFIED

Recorder Exhibit List
For



| # | Title | Classification |
|----|-------------------------------------|----------------|
| R1 | Unclassified Summary | UNCLASSIFIED |
| R2 | FBI 302 dtd 13 Mar 03 | UNCLASSIFIED |
| R3 | FBI 302 dtd 21 Feb 03 | UNCLASSIFIED |
| R4 | 000892 KB 0 JTFGTMO para. 5(H) | SECRET/NOFORN |
| R5 | Enemy Combatant Review Checklist | SECRET/NOFORN |
| R6 | Baseball Card | SECRET/NOFORN |
| R7 | CITF CDR Memorandum dtd 23 Feb 04 | SECRET/NOFORN |
| R8 | JTF GTMO CG Memorandum dtd 6 Mar 04 | SECRET/NOFORN |

Combatant Status Review Board

TO: Personal Representative

FROM: Recorder

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL HAMI, Rafiq Bin Bashir Bin Jalud

1. Under the provisions of the Department of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he was a fighter for the al-Qaida and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is an al-Qaida fighter:
 1. ~~(FOUO/LES)~~ The detainee admitted he voluntarily attended the [REDACTED] training camp in Afghanistan.
 2. ~~(FOUO/LES)~~ At the [REDACTED] training camp, the detainee was trained on the Kalishnokov, heavy artillery and antiaircraft weapons.
 3. ~~(S/NF)~~ The detainee attempted to flee Afghanistan and hired a smuggler to guide him into Iran. Subsequently, he was arrested by Iranian authorities.
4. The detainee has the opportunity to contest his determination as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Combatant Status Review Board

TO: Personal Representative

FROM: Recorder

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL HAMI, Rafiq Bin Bashir Bin Jalud

1. Under the provisions of the Department of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he was a fighter for the al-Qaida and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is an al-Qaida fighter:
 1. The detainee admitted he voluntarily attended the [REDACTED] training camp in Afghanistan.
 2. At the [REDACTED] training camp, the detainee was trained on the Kalishnokov, heavy artillery and anti-aircraft weapons.
 3. The detainee attempted to flee Afghanistan and hired a smuggler to guide him into Iran. Subsequently, he was arrested by Iranian authorities.
4. The detainee has the opportunity to contest his determination as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

[REDACTED] LTC (L)

From: [REDACTED] LTC (L)
Sent: Monday, August 16, 2004 7:47 AM
To: [REDACTED] COL (L); [REDACTED] COL (L); [REDACTED] TC (L); [REDACTED] (L); [REDACTED] COL (L); [REDACTED] LTC (L); [REDACTED] A. CDR (L)
Cc: [REDACTED] CPT (L); [REDACTED] CIV (L); [REDACTED] LTC (L)
Subject: FW: CALL BACK

Team,

FYI. There was discussion earlier last week about reconvening a tribunal (892) to change out a document that was mismarked. The OIC decided to administratively correct the record. Please note below e-mail from legal advisor that discusses how to correct the record.

r/

Lt [REDACTED]

-----Original Message-----

From: Crisfield, James R (N3N5LD) [mailto:[REDACTED]]
Sent: Friday, August 13, 2004 6:27 PM
To: [REDACTED] (L) (E-mail)
Cc: [REDACTED] (E-mail)
Subject: CALL BACK

[REDACTED]

Sorry I didn't get back to you. I tried right after you left your message but I couldn't get through. Then I got yanked in three directions at the same time and didn't try again until 1820. It's possible that you were calling about the same thing [REDACTED] talked to me about this afternoon. If it is I think the solution is pretty simple, provided that the unclas summary with the classification markings was exactly the same as the unclas summary without the markings. Then we can substitute one for the other and simply have the Tribunal President record the reason for the substitution in his Tribunal Decision Report.

V/R,

[REDACTED]

Jay Crisfield
CDR, JAGC, USN
Legal Advisor
Combatant Status Review Tribunals
2000 Navy Pentagon, Rm 1B336
Washington, DC 20350-2000
Tel: [REDACTED]
SIPRNET email: [REDACTED]

Personal Representative Review of the Record of Proceedings

I acknowledge that on 16 August 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #892.

I have no comments.

My comments are attached.


Name

16 Aug 2004
Date


Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMMED ABDUL RAHMAN,)
)
)
 Petitioner,)
)
 v.) Civil Action No. 05-0359 (GK)
)
)
 GEORGE W. BUSH,)
)
)
 et al.,)
)
)
 Respondents.)
 _____)

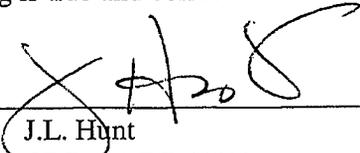
DECLARATION OF J. L. HUNT

Pursuant to 28 U.S.C. § 1746, I, Commander J. L. Hunt, Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals
2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Mohammed Abdul Rahman that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or are redacted. I have redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 9, 2005



J.L. Hunt
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 612
13 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 894

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #894 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

~~FOR OFFICIAL USE ONLY~~

13 Jan 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor *sec*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 894

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

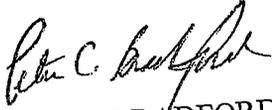
Encl: (1) Appointing Order for Tribunal #7 of 13 September 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and elected to participate.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-4 through R-6 was redacted. The FBI properly certified in exhibits R-2 and R-3 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee did not request that any witnesses or evidence be produced.
- d. The Tribunal's decision that detainee #894 is properly classified as an enemy combatant was unanimous.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.


PETER C. BRADFORD
LT, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #7

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Army; President

[REDACTED], Commander, JAGC, U.S. Navy; Member (JAG)

[REDACTED], Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

08 December 2004

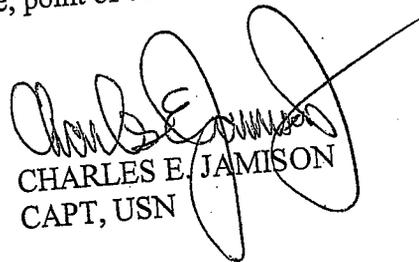
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 894

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED].


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

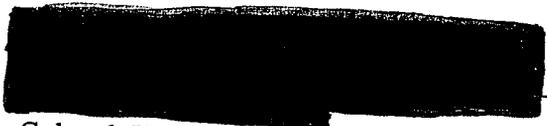
(U) TRIBUNAL PANEL: #7

(U) ISN#: 894

Ref: (a) (U) Convening Order for Tribunal #7 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 6 November 2004, the Tribunal determined by a preponderance of the evidence that Detainee #894 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, Taliban and Al Qaida forces, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #7
ISN #: _____ 894

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and was part of or supporting Taliban and Al Qaida forces that are engaged in hostilities against the United States or its coalition partners. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Tribunal held this hearing on 6 November 2004. The Recorder presented Exhibits R-1 through R-3 during the unclassified portion of the Tribunal. Exhibit R-1, the Unclassified Summary of Evidence, indicates, among other things, that: the detainee is associated with Al Qaida and the Taliban; the detainee traveled to Afghanistan in 1998 and remained living in Afghanistan until 2001; the detainee stayed at an Algerian guesthouse on multiple occasions in Jalalabad, Afghanistan; the detainee stayed at a guesthouse that is associated with individuals who have trained at Al Qaida camps; and, the detainee associated with several terrorists. The Recorder called no witnesses.

The detainee participated actively in the Tribunal proceedings. He stated under oath that the allegations on the Unclassified Summary of Evidence are untrue and that he did not want to respond to them because he has no relation to them. He then answered questions posed by Tribunal members. The detainee's sworn testimony and the answers to the questions posed to him are summarized in Enclosure (3) to the CSRT Decision Report. The detainee presented no other evidence and called no witnesses.

During the classified session of the Tribunal, the Recorder presented Exhibits R-4 through R-15, and the Personal Representative presented no classified exhibits. Both the Recorder and the Personal Representative commented on the classified exhibits. After considering all of the classified and unclassified evidence, the Tribunal determined that the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-15 and D-a.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The detainee requested no witnesses.

The detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The Recorder offered Exhibits R-1 through R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibits R-2 and R-3 are FBI redaction statements, which provided no useful information. Accordingly, the Tribunal had to look to other evidence to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions.

b. As noted in paragraph 2, above, the detainee made a sworn statement at the hearing. When provided the opportunity to respond to each of the allegations on the Unclassified Summary of Evidence, the detainee declined, simply stating that the accusations were untrue and that he had no relation to them. Afterwards, he answered questions posed by the Tribunal members. In sum, the detainee stated that he traveled from Italy to Pakistan to find a wife and get off of his drug habit. He then went to Afghanistan, for only about one month, when conditions in Pakistan became dangerous for Arabs. He stated that he never stayed at a guesthouse, but instead rented his own residence while in Afghanistan. He also stated that he had never received any weapons training, and that he was not a member of the Taliban or Al Qaida. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In weighing all of the evidence, the Tribunal found the detainee's testimony unpersuasive when considered together with the classified evidence. A

discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

None.

7. Conclusions of the Tribunal

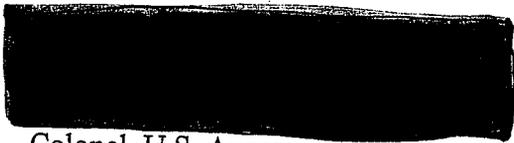
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings and actively participated throughout the hearing.
- c. The detainee is properly classified as an enemy combatant because he was part of or supporting Taliban and Al Qaida forces that are engaged in hostilities against the United States or its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Army
Tribunal President

Summarized Unsworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

The Recorder presented Exhibits R1 through R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: Muhammad, you may now present any evidence you have to the tribunal. You have the assistance of your Personal Representative in doing so. Do you want to present any information to this Tribunal?

Detainee: What has been said is not true.

Tribunal President: Mohammad, would you like to answer or respond to the allegations that are in the Unclassified Summary of Evidence?

Detainee: I have nothing to say. All that has been said is not true. I have told my story five hundred times. I went to Pakistan for drugs. I was sick and I wanted to heal myself, so I went to Pakistan.

Tribunal President asked the detainee if he would like to make his statement under oath. The detainee replied he would and the Recorder administered the Muslim oath to the detainee. The Personal Representative then asked if the detainee wanted him to read the accusations so that he could respond to each one.

Detainee: I really don't want to respond to each one. All that I am saying is this. I went to Pakistan to get married and relax and to get out of what I was in.

Tribal President: Mohammad, is there anything else?

Detainee: That is all. This is my story.

Personal Representative: I could read the allegation and you can respond, or you can say what you would like to. Yes or No.

Detainee: I cannot respond to this because I have not relation to this evidence. So how could I respond to this?

The Personal Representative and the Recorder had no further questions.

Tribunal Members' questions

Q. You said you went to Pakistan to find a wife?

A. Yes.

Q. Do you speak Pashtu?

A. No, I don't. I can speak a little bit.

Q. Where were you living before you went to Pakistan?

A. I was living in Italy.

Q. Did you get a Pakistani visa in order to travel?

A. Yes, I did.

Q. Have you ever traveled to Afghanistan? Why?

A. Yes, I did. There was a campaign against Arabs in Pakistan. I was a little scared, and so I went to Afghanistan for a little bit, then came back.

Q. When you came back into Pakistan, is that when you were captured?

A. No. I stayed there for a while. I was planning on going back to Europe, but I was unsuccessful.

Q. Where in Afghanistan did you stay?

A. In the place you just said, Jalalabad.

Q. When you were captured, did you have your passport with you?

A. No. I didn't have it.

Q. Where was it?

A. It was in another place and I couldn't get to it, so you can say that I lost it.

Q. While you were in Afghanistan, did you have any weapon training?

A. No.

Q. When did you go to Afghanistan?

A. I don't remember.

Q. Was it after the attacks on the World Trade Center in 2001?

A. I really don't know if it was before or after. All that I can tell you is that I was there just a short time.

Q. When were you captured? Where?

A. I don't remember. It was a border town. I don't remember the name.

Tribunal President's questions.

Q. Can you give us a general idea of how long you stayed in Afghanistan?

A. I didn't stay long.

Q. Was it one day, one week, one month?

A. Around one month, or more than that.

Q. How did you pay for you trip back and forth from Pakistan to Afghanistan?

A. I had my own money.

Q. Were you working in Pakistan?

A. No.

Q. Are you a member of Al Qaida or the Taliban?

A. No.

Q. Have you ever fought with Al Qaida or the Taliban?

A. No, I didn't fight with the Taliban or Al Qaida.

Q. Did you stay in a guesthouse when you were in Afghanistan?

A. No.

Q. Where did you stay while you were in Afghanistan when you were there for a month?

A. I was renting a house.

Q. You paid to stay in this house?

A. Yes, of course.

Q. Were there any soldiers or fighters at the house?

A. How could somebody stay in my house? My wife was there.

Q. You had your family there with you?

A. Yes.

Q. Were there other people staying there?

A. No. There was nobody.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal. The Tribunal President explains the remainder of the Tribunal process to the detainee and adjourns the unclassified session of the Tribunal.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

A large black rectangular redaction box covers the signature of the Tribunal President.

Colonel, U.S. Army
Tribunal President

DETAINEE ELECTION FORM

Date: 2 Nov 2004

Start Time: 1000 hrs

End Time: 1020 hrs

ISN#: 894

Personal Representative: MAJOR [REDACTED]
(Name/Rank)

Translator Required? YES Language? Arabic

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Wants to participate and make an oral statement. Denied all charges but doesn't wish to elaborate. May answer questions.

Witnesses Requested : 0

Follow-up Required: No

Personal Representative: [REDACTED]

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (19 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – RAHMAN, Mohammed Abdul

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that detainee is associated with al Qaida and the Taliban.

The detainee is associated with al Qaida and the Taliban:

1. Detainee traveled to Afghanistan in 1998 and remained living in Afghanistan until 2001.
 2. Detainee stayed at an Algerian guest house on multiple occasions in Jalalabad, Afghanistan.
 3. Detainee stayed at a guest house, which is associated with individuals who have trained at al Qaida camps.
 4. The detainee associated with several terrorists.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum



To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

Date 10/14/2004

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 894 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 02/12/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/14/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED],
[REDACTED] or Intelligence Analyst
[REDACTED]
[REDACTED] Intelligence Analyst [REDACTED]

Memorandum



To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

Date 11/05/2004

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 894 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 02/10/03
FD-302 dated 02/13/03

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Memorandum from [REDACTED] to Capt. Charles Jamison
Re: REQUEST FOR REDACTION, 11/05/2004

If you need additional assistance, please contact Asst.
Gen. Counsel [REDACTED],
[REDACTED] or Intelligence Analyst (IA)

IA

Personal Representative Review of the Record of Proceedings

I acknowledge that on 9 November 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #894.

I have no comments.

My comments are attached.


Name

9 Nov 2004
Date


Signature

ISN #894
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDUL LATIF EL BANNA,
et al.

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,
Respondents.

Civil Action No. 04-CV-1144 (RWR)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdul Latif El Banna that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify other detainees and certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee

serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 18 Oct 04


James R. Casfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0220
17 October 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

16 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #6 of 13 September 2004
(2) Record of Tribunal Proceedings

1. A legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibit R-10 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested that two witnesses be produced to testify at the Tribunal. According to the detainee the first witness would testify that an electronic device the detainee was alleged to have been carrying actually belonged to the witness. The second witness would testify that the detainee worked as a financial assistant to poor people. According to the detainee, this testimony would rebut an allegation in the unclassified summary.

Both witnesses requested by the detainee were denied by the Tribunal President as being irrelevant. With regard to the first requested witness, the Tribunal President determined that who owned the electronic device was irrelevant to the Tribunal's determination. Additionally, the President determined that there was no prejudice to the detainee in not producing the witness because the Tribunal believed the detainee's rendition of facts concerning the electronic device. With regard to the second witness, the President determined that the witness's expected testimony was irrelevant because the assertion in issue in the original unclassified summary had been deleted from the

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

unclassified summary. Furthermore, there could have been no prejudice to the detainee because the Tribunal presumed that the detainee's rendition of facts concerning his employment as a financial assistant was true.

In my opinion, all the President's determinations are supported by the record and were not an abuse of discretion.

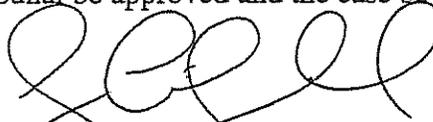
The detainee made no other requests for evidence.

e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and submitted comments to the Tribunal (attached to enclosure (6) of the Record of Tribunal Proceedings). The Personal Representative states that the record is insufficient to prove that the detainee is an enemy combatant. In my opinion, reasonable Tribunal members could determine that the detainee is an enemy combatant based on the evidence presented at the Tribunal. I can find no reason to disturb their determination.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #6

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Army; President

[REDACTED] Commander, JAGC, U.S. Navy; Member (JAG)

[REDACTED], Lieutenant Colonel, U.S. Marine Corps;
Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

14 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #6

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #6 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/FOUO)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Tribunal President's Response to Witness Request dated
25 September 2004 (U)
(6) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 9 October 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee #  is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, Al Qaida forces, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #6 _____

ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The initial session of the Tribunal hearing was held on 25 September 2004. The Recorder presented Exhibit R-1, the Unclassified Summary of Evidence, and other exhibits during the unclassified portion of the Tribunal. Exhibit R-1 indicates that the detainee is a member of Al Qaida; that he visited Abu Qatada, a known Al Qaida operative, while Abu Qatada was in hiding from the British police; that Abu Qatada was arrested in the United Kingdom as a danger to national security; that the detainee has been indicted by a Spanish National High Court Judge for membership in a terrorist organization; and that the detainee was arrested in Gambia while attempting to board an airplane with equipment that resembled a homemade electronic device. The Recorder presented several other unclassified exhibits, but called no witnesses.

The detainee participated actively in the Tribunal process and testified under oath. In sum, he denied being a member of or having any connection to Al Qaida. He admitted visiting Abu Qatada on one occasion, and stated it was simply to take Abu Qatada's family to visit him. He stated he has no knowledge of the Spanish indictment, and noted he was arrested in Great Britain, not Gambia, relating to the electronic device. He also noted that the electronic device was found in a traveling companion's luggage – not his – and that both he and his friend were released because the electronic device was simply a battery charger. The detainee also answered questions posed by the Personal Representative and Tribunal Members. The detainee's testimony, including his responses to the questions posed to him, is summarized in Enclosure (3) to the CSRT Decision Report. The detainee also requested 2 witnesses, both of which were denied. Explanations for the Tribunal President's decision appear in paragraph 4, below.

During the classified session of the Tribunal, the Recorder initially presented Exhibits R-5 through R-15 and commented on the evidence. The Personal Representative had nothing additional to offer and made no comments. After reading the exhibits, the Tribunal asked for additional information and recessed to permit the Recorder the opportunity to obtain the evidence.

The Tribunal reconvened in a classified session on 28 September 2004. In response to the Tribunal's request for additional evidence, the Recorder introduced Exhibits R-16 through R-18, all of which are classified. After reading these exhibits, the Tribunal again requested that the Recorder provide additional evidence. In response, the Tribunal reconvened on 2 October 2004 to allow the Recorder to present Exhibits R-19 through R-24. Because Exhibits R-23 and R-24 are unclassified, both exhibits were shown to the detainee prior to reconvening on 2 October 2004, and the detainee was given the opportunity to be present when the exhibits were offered into evidence. At the hearing on 2 October 2004, the Personal Representative informed the Tribunal that he had discussed both Exhibit R-23 and R-24 with the detainee, and the detainee elected not to attend the open session of the hearing where both exhibits were offered into evidence. The detainee did provide the Personal Representative with comments on the exhibits to bring to the attention of the Tribunal. These comments are discussed in paragraph 5, below. The Tribunal then closed for deliberations and, after considering both the unclassified and classified exhibits, as well as the detainee's sworn testimony and comments on Exhibits R-23 and R-24, the Tribunal concluded that the detainee is properly classified as an enemy combatant.

On 9 October 2004, the Tribunal reconvened to consider additional evidence made known to the Tribunal after 2 October 2004. At this session, the Recorder introduced Exhibits R-25 through R-35, all of which are classified and all of which had been shown to the Personal Representative prior to the Tribunal session. Neither the Recorder nor the Personal Representative had any comments on the additional exhibits. After considering the additional exhibits, the Tribunal reaffirmed its decision of 2 October 2004 that the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, and R-1 through R-35.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested two witnesses:

a. [REDACTED] (ISN # [REDACTED]). The detainee indicated that ISN # [REDACTED] would testify that the electronic device referred to in paragraph 3.a.4 of the Unclassified Summary of Evidence (Exhibit R-1) belonged to ISN # [REDACTED] and not to the detainee. The Tribunal President denied the request in writing (see Enclosure (5) to the CSRT Decision Report) and explained at the Tribunal hearing on 25 September that under the allegation, it did not matter who the device belonged to, as long as it was the detainee that tried to board the plane with it. In any case, the Tribunal considered the matter moot because the Tribunal believed the detainee's account relating to the allegation; that is, the device was a harmless battery charger being transported by the detainee's traveling companion, ISN # [REDACTED]. Furthermore, the Tribunal found that the incident with the battery charger took place as the detainee testified – in London, not Gambia – and that paragraph 3.a.4 of the Unclassified Summary of Evidence is not supported by the evidence.

b. Al Haj Abo Ali. This request related to an allegation on the original Unclassified Summary of Evidence indicating, in part, that the detainee was a financial assistant to the detainee. The detainee asserted that the witness would testify that the financial assistance was for poor people in Jordan. However, the entire allegation was deleted prior to the hearing because, although it was unclassified, it had not yet received formal clearance. Accordingly, the Tribunal President found the requested witness not relevant. As a result, the Tribunal presumed that money raised by the detainee was for poor people in Jordan, as the detainee asserted in his witness request. (The Tribunal President's written response to the detainee's witness request is included as Enclosure (5) to the CSRT Decision Report.)

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The Recorder offered Exhibits R-1 through R-4 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to other exhibits for support of the Unclassified Summary of Evidence.

b. Exhibit R-3 is an excerpt from an Internet article published by the Madrid *El Pais* indicating that the Spanish government has agreed to request the U.S. government to

extradite the detainee to Spain to stand trial for membership in a terrorist organization. The article further indicates that the detainee was indicted by Spanish National High Court judge Baltasar Garzon for the detainee's connection to the Spanish Al Qaida cell led by Imad Eddin Barakat Yarkas. When considered in conjunction with the classified evidence, the Tribunal did not find this article helpful in establishing the detainee's association with Al Qaida.

c. Exhibit R-4 is an Associated Press article dated 11 November 2002 that mentions Abu Qatada's use of the Internet to communicate with terrorist cells. The Tribunal did not rely on this news article in reaching its conclusions.

d. Exhibit R-23 is a CBS News interview with Abu Qatada dated 16 March 2004. When considered in conjunction with the classified evidence, the Tribunal found this article persuasive in establishing Abu Qatada's association with Al Qaida. At the Tribunal session held on 2 October 2004, the Personal Representative indicated the detainee's comments on the article were that the article is a nice article, but it has nothing to do with the detainee. He also called the Tribunal's attention to page 4 of 6, noting that the amount of money seized from Abu Qatada's home was exaggerated, and was in envelopes marked "to the poor," and "for needy families," and "for building a mosque." He also quoted a passage where Qatada asserts that the British government owes every poor Muslim and every Muslim in England some money because some of the money seized was to buy a place for prayer.

e. Exhibit R-24 is an excerpt from the Terrorist Organization Reference Guide dated January 2004. The excerpt describes the Armed Islamic Group (GIA) and the Salafist Group for Call and Combat. At the Tribunal session held on 2 October 2004, the Personal Representative indicated the detainee's comments on the excerpt from the Reference Guide were that the document has nothing to do with him because he does not belong to terrorist organizations. The Tribunal did not find Exhibit R-24 helpful in reaching its conclusions.

f. The Tribunal also considered the detainee's sworn testimony, given at the first session of the hearing on 25 September 2004. In sum, the detainee testified that Abu Qatada's status has nothing to do with the detainee, because the detainee is just one of hundreds of people that used to pray with Abu Qatada. He stated that if the British government had anything on him, he would have been arrested. He admitted visiting Abu Qatada once when Abu Qatada was in hiding in London, but claimed it was only to take Abu Qatada's wife and son to visit him. He said the British police raided Abu Qatada's house while the detainee was there, but allowed the detainee to take Abu Qatada's wife and son back to their home. The detainee denied knowing anything about his indictment by the Spanish court, and claimed he has never been a member of a terrorist organization. He also indicated he was not arrested in Gambia for possessing the electronic device – the arrest occurred in London and he was cleared of all wrongdoing. He stated he was arrested in Gambia for something else, but does not know what he is alleged to have done. He stated the Gambians turned him over to the United States and

now he is in Guantanamo Bay, Cuba. Finally, the detainee denies being a member of Al Qaida or having any contacts with senior Al Qaida leaders. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3).

The Tribunal also relied on certain classified evidence in reaching its decision, and found the classified evidence persuasive in establishing that the detainee is properly classified as an enemy combatant. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings and actively participated throughout the hearing.
- c. The detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Army
Tribunal President

Summarized Detainee Statement

Tribunal President: Abdul, you may now present any evidence you have to the Tribunal and you have the assistance of your Personal Representative in doing so. Do you want to present information to the Tribunal?

Detainee: I don't have any information.

Tribunal President: Personal Representative, do you have any questions for the Detainee?

Personal Representative: Yes, Ma'am. I do. [Speaking to the Detainee] Do you still wish to make an oral statement based on these facts? [Personal Representative hands the Detainee a translated copy of the unclassified summary of evidence.]

Detainee: Do you want me to comment about the four accusations against me?

Personal Representative: Yes.

Tribunal President: I'd like to ask you if you would like to make your statement under oath or not under oath?

Detainee: If you want, I can make it under oath.

Tribunal President: Recorder will you please present him the oath?

The Detainee was sworn using the Muslim oath. The Detainee testified to the Tribunal in substance as follows:

Detainee: My name is not Abdul Latif. Abdul Latif is my father.

Tribunal President: What is the correct name?

Detainee: Jamil.

Tribunal President: Can you spell that for me please?

Detainee: J-A-M-I-L.

Tribunal President: Is your name Abdul Jamil?

Detainee: Jamil Abdul Latif Elbanna. Elbanna is my family name.

Tribunal President: We have made the correction. Thank you. You may make your statement now.

In the following section of the summarized transcript, the Detainee addresses each point on the Unclassified Summary of Evidence in order. Because the Detainee does not indicate the text of the point being addressed, the points from the Unclassified Summary of Evidence are provided below in italics to put the detainee's statement into context.

3.a. The Detainee is a member of Al Qaida.

1. Abu Qatada is a known Al Qaida operative arrested in the United Kingdom as a danger to national security.

Detainee: What is my involvement in that? The man was arrested but what does that have to do with me? I was just one of the people out of hundreds that used to go pray with them. If I were any danger, then Great Britain would have put me in prison. I would not have gotten released officially when I went to Gambia. I don't have anything with the British Government.

2. Detainee visited Abu Qatada while Qatada was in hiding from the British police.

Detainee: Abu Qatada was living in an apartment away from his family. The newscast or report was given that anyone who was known as Al Qaida or accused of being Al Qaida was hiding at that time. I did not know where he was and I did not care where he was. After seven to eight months, a word came to me that he was arrested. The person that is arrested is here now [in Guantanamo Bay, Cuba,] asked of me to take the wife and the son of Abu Qatada to Abu Qatada because he missed his family and wanted to see them. I had a vehicle, so I took them in my vehicle. I took them to the house normally. Maybe the British Government was watching me, I don't know. The house was raided and I was told to take the wife and son back to their home. I went to that house and took the wife and son back home. That was the reason I visited Abu Qatada. I was trying to do something good by taking his wife to see him. Is that clear?

Tribunal President: Yes, thank you.

3. Detainee has been indicted by a Spanish National High Court Judge for membership in a terrorist organization.

Detainee: I have never heard of this until just now. In my whole life, I have never been a member of any terrorist organization or anything else to do with that. I have only prayed, worshipped God, and that is it. I was surprised that they have the court judging me for that. Maybe someone accused me when I wasn't there and gave my name up. I am not sure, I don't know. That's it.

4. *Detainee was arrested in Gambia while attempting to board an airplane with equipment that resembled a homemade electronic device.*

Detainee: I never tried to get on the airplane with an electronic device or all this that has been said. Before I traveled to Gambia, a week before, we were arrested because of that device. Even when we were arrested, I did not know anything about this device. I had not even seen it. The British Government can tell you that the owner of the device is here. The name of this person is [REDACTED] and he is here now. I have not seen this device, never. We were arrested for three days for this device. The court said that device was sold on the market. It was sold on the market. It was a battery generating device. The court cleared us for travel to Gambia. The following Friday, I went back and traveled to Gambia again. I had business there. If you will review my file, I have told them everything about my work there. Gambia did not arrest us because of that device. We were kidnapped in Gambia, not arrested. They wanted to know about the containers and our luggage we shipped from Britain. They wanted to know what our luggage contained. If we were cleared, we were to be released. I told them okay, fine. We stayed one month there. We were sitting at home, comfortable. There was nothing going on. If I had done something wrong, I would have escaped and run away but I stayed there. Then after two weeks, we were put on an airplane to Afghanistan. In Afghanistan, they put us in a dark place underground. I don't even know what I have done. That is kidnapping, not arresting. Is this justice? Is this how things are done here? This is what my lawyer stated in the letter for me. I will repeat, if I were any danger to anyone, Britain would have put me in jail. That's it and I thank you very much.

Tribunal President: Jamil, does that conclude your statement?

Detainee: Those are the things that I have. Yes. If you have any questions, I am ready.

Tribunal President: Personal Representative, do you have any questions for the Detainee?

Personal Representative: No, Ma'am.

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: No, Ma'am.

Tribunal President: Do any of the Tribunal Members have any questions for the Detainee?

Tribunal Member: Prior to the time that you took Abu Qatada's family to visit him, did you visit Abu Qatada any other times on your own?

Detainee: No.

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Tribunal Member: How did you know where he was?

Detainee: [REDACTED] told me. He gave me the address. He knew that address, but I did not know that address.

Tribunal Member: Who was [REDACTED] again?

Detainee: He was the one who was arrested with me and he is here. His number is [REDACTED]

Tribunal Member: [REDACTED] was arrested in Gambia?

Detainee: Yes.

Tribunal Member: [REDACTED] was your associate in London?

Detainee: He was a friend.

Tribunal Member: How did [REDACTED] know Abu Qatada's address?

Detainee: I swear to God, I do not know. He said he knew the apartment. You can ask [REDACTED] and he will answer you.

Tribunal Member: Did [REDACTED] go with you when you took Abu Qatada's family to visit him?

Detainee: Yes. He showed me the way.

Tribunal Member: Was [REDACTED] in the car with you?

Detainee: No, he was on a motorcycle. It was a long distance and I did not know the roads very well.

Tribunal Member: So you drove in a car and followed [REDACTED] on the motorcycle?

Detainee: Yes.

Tribunal Member: Prior to that time, once Abu Qatada disappeared for a while, you never had any contact with him at all?

Detainee: No, I was praying there in a mosque with him.

Tribunal Member: Did Abu Qatada stop going to the mosque?

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Detainee: Before he went into hiding, I did not see him for ten months. He did not pray in that mosque. I started praying in another mosque.

Tribunal Member: Did you talk to Abu Qatada on the telephone or send any emails to him? Did you communicate with him in any other way?

Detainee: Before I was arrested, or after I was arrested?

Tribunal Member: In those ten months when Abu Qatada disappeared.

Detainee: No. Never.

Tribunal Member: The electronic device, did you ever carry it yourself when you were trying to board the airplane?

Detainee: I have never seen it. I do not know what it looks like.

Tribunal Member: So it was not in your luggage? You never touched it or saw it or had anything to do with it?

Detainee: No. It was in [REDACTED]'s luggage. [REDACTED] will say it was with him and he brought it with him. He would not lie, he would tell you that the device was his.

Tribunal Member: The device was not in your luggage at all?

Detainee: Yes, it was not mine. The British police know this.

Tribunal Member: When were you arrested?

Detainee: In Gambia.

Tribunal Member: When?

Detainee: 7 – 11 two years ago.

Tribunal Member: So July 11th, two years ago?

Detainee: The eleventh month, November.

Tribunal Member: So November 2002?

Detainee: Maybe, I don't know exactly the date. This kind of situation I am in, I have even forgotten my phone number.

Tribunal Member: [REDACTED] was arrested with you at the same time?

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Detainee: Yes.

Tribunal Member: Did you have any weapons when you were arrested?

Detainee: No. Never.

Tribunal Member: Are you a member of Al Qaida?

Detainee: Never. No.

Tribunal Member: Do you know Usama Bin Laden?

Detainee: No.

Tribunal Member: Have you had any contacts with senior Al Qaida leaders?

Detainee: No. Never.

Tribunal Member: Do you have any idea what terrorist organization the Spanish High Court would charge you of being a member of?

Detainee: I don't know.

Tribunal Member: Have you ever supported or directed actions of those who support terrorist organizations?

Detainee: No.

Tribunal Member: You said you were kidnapped in Gambia. Who kidnapped you?

Detainee: The Americans.

Tribunal Member: Were they American soldiers or American civilians?

Detainee: Civilians from the embassy. That is what I was told.

Tribunal Member: Did they identify themselves to any further degree?

Detainee: They said they were from the embassy.

Tribunal Member: From the embassy?

Detainee: When they came and arrested and handcuffed me, they were wearing all black. They even covered their heads black.

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Tribunal Member: This was in your home?

Detainee: It was the last day. One day before they took us to Afghanistan.

Tribunal Member: Did these folks come into your home or were you already in Gambia?

Detainee: The embassy put us in a separate house by ourselves.

Tribunal Member: The American Embassy?

Detainee: Yes.

Tribunal Member: Thank you.

Detainee: You are welcome.

Tribunal President: What was your business in Gambia? What did you do in Gambia?

Detainee: There is a Sudanian company that belongs to [REDACTED]. It was an oil company. Not petroleum oil, but cooking oil.

Tribunal President: What did you do for that company?

Detainee: I was new to that company. We were shipping the equipment from India. Generators and vehicles from Great Britain. It was two containers shipped from Britain to the company that contained vehicles and equipment for the company.

Tribunal President: What exactly was your job or position in the company?

Detainee: I was a manager over the employees there so they would perform well. That is what I was told by the owner to do. The owner is [REDACTED]'s brother. The company has closed down. The embassy has taken the vehicles, the equipment, everything.

Tribunal President: Why has the business closed down?

Detainee: Because when we went to Gambia to open this new business, they took us and they closed us down. We went there during the season when it was time for the oil beans to be harvested.

Tribunal President: Who closed the business down?

Detainee: The embassy. The embassy took everything.

Tribunal President: Which embassy?

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Detainee: The American Embassy. Everything was taken.

Tribunal President: Do you know if the company was affiliated or associated with terrorist organizations?

Detainee: No. Never. There are documents proving where the company money comes from; where it goes. The money came from the bank officially. We took the money as a mortgage. There are official documents for everything. We are being accused that the money is for Al Qaida.

Tribunal President: When you say "they," are you referring to the American Embassy?

Detainee: Yes, and the investigators here. They have added a lot of accusations against me. I am going to get capital punishment.

Tribunal President: Explain again, how did you know Abu Qatada?

Detainee: I knew him from Pakistan. I was in Pakistan before, in 1992.

Tribunal President: How did you know Qatada?

Detainee: He used to teach at the university and he was a neighbor in the same neighborhood also.

Tribunal President: Did you attend the university?

Detainee: No.

Tribunal President: So you knew Qatada from the neighborhood?

Detainee: Yes, he was our neighbor.

Tribunal President: Is that the reason why you were chosen instead of [REDACTED] to take his family to visit him?

Detainee: [REDACTED] did not have a vehicle to take them. That is why they chose me, because I had a vehicle. Before I was arrested, there were communications between us.

Tribunal President: Before you were arrested?

Detainee: Before all these problems. Years before this. There were the holidays; when my wife had a child; when his wife had a child. Qatada trusted me, maybe that is why they asked me to take his wife there. Maybe because he is Jordanian and I am Jordanian.

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Tribunal President: You are Jordanian?

Detainee: Yes.

Tribunal President: But you live in Great Britain?

Detainee: Yes.

Tribunal President: What did you do in Great Britain before you started working for the company?

Detainee: My work in Britain?

Tribunal President: Yes.

Detainee: I used to take aid from the Government.

Tribunal President: You were not working?

Detainee: No. I worked, but under table without the Government's knowledge. The aid that the Government gave me was not enough. I have children and I needed to feed them.

Tribunal President: What type of work did you do under the table?

Detainee: I would fix and sell vehicles for car auctions. I was also a healer. I would pray over sick people and take away the bad spirits. They would give me money for that. Something like a witch doctor. I am telling you the truth.

Tribunal President: The one month you stayed in Gambia, why did you stay there for a whole month?

Detainee: They were checking the containers for explosives, weapons and so on for the security of that country. I told them fine, go ahead and check everything.

Tribunal President: Were these the containers for the business or your luggage?

Detainee: For the company. The luggage was checked on the spot when we arrived.

Tribunal President: Was this the same time your luggage was accused of having the electronic device.

Detainee: No, they never mentioned that.

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Tribunal President: So during that one month you were in Gambia, were you arrested or incarcerated?

Detainee: No, I was put in a house. I was given food and drinks.

Tribunal President: Was that similar to house arrest?

Detainee: No, we were just left alone in one house.

Tribunal President: So you were free to come and go?

Detainee: Yes. But after ten days of staying in that house, we were handcuffed. We weren't able to move from one place to another.

Tribunal President: Why were you handcuffed?

Detainee: I don't know. It was strange.

Tribunal President: Who handcuffed you?

Detainee: The Americans. They were in cooperation with the Gambian intelligence. They did not feed us well. They used to feed us chick peas everyday. The food that I brought with me from Britain. I was fasting for Ramadan.

Tribunal President: Can you tell me when that was? After the ten days you were handcuffed, when was that?

Detainee: Starting from 7-11, that was the first dates we were arrested there in Gambia. Twenty days we were free to walk around the house. We were able to leave and come in. We had our money with us. We were paying the Gambians to eat or they would bring us food. Then they took us to a house by ourselves and they were very tight on us there. There was interrogation, too.

Tribunal President: You were interrogated there?

Detainee: Yes.

Tribunal President: How many days were you handcuffed?

Detainee: About ten days. Not during the whole time. But when I wanted to go to the restroom or somewhere else, they would handcuff me. Or if I wanted to take a shower, they used the same shampoo that I brought with me from Great Britain; that is what I washed with.

Tribunal President: What happened to you after the ten days?

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Detainee: They took me, covered me, put me in a vehicle and sent me somewhere. I don't know where. It was at night. Then from there to the airport right away.

Tribunal President: An airport in Gambia?

Detainee: Yes. We were in a room like this with about eight men. All with covered up faces.

Tribunal President: Were you by yourself at that time?

Detainee: Yes. They cut off my clothes. They were pulling on my hands and my legs.

Tribunal President: When you went to the airport, did you board a plane at that time?

Detainee: They put me in an airplane and they made me wear the handcuffs that go around your body so I would not do anything on the airplane.

Tribunal President: Okay.

Detainee: They searched me. They checked my blood. They checked my sugar level. They put me on an airplane - handcuffed me.

Tribunal President: Is this the time you said you were kidnapped?

Detainee: This is all kidnapping. Yes. They took me underground in the dark. I did not see light for two weeks.

Tribunal President: Is that after you traveled to Afghanistan or Pakistan?

Detainee: After I got off of the airplane.

Tribunal President: In where?

Detainee: Bagram, Afghanistan. Right there in the dark. They put me in the dark. I was surprised. I did not know what I did wrong or what I did. They starved me; they handcuffed me, there was no food.

Tribunal President: And they are who?

Detainee: Americans. I was under their control. They are the ones who took me and they put me there. They know what they have done. I was surprised that the Americans would do such a thing. It shocked me.

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Detainee: The British Government said they stopped us because of that battery generating device.

Tribunal President: Do you know what that device did?

Detainee: The police asked me, "Does it generate batteries?" I told them I did not know, does it? Then they asked me which one was my luggage, my bag. I told them which one was mine. They told me they found the device in other luggage. That luggage belonged to [REDACTED]. They found it was just a battery generating device.

Tribunal President: Do any of the other Tribunal Members have any other questions?

Tribunal Members: No, Ma'am.

Tribunal President: Jamil, do you have any other evidence to present to the Tribunal?

Detainee: No, thank you.

Tribunal President: Personal Representative, do you have any other evidence, or does the Detainee have any previously approved witnesses to present to the Tribunal?

Personal Representative: No, Ma'am.

Tribunal President: All unclassified evidence having been provided to this Tribunal, this concludes this Tribunal session.

The open session of the Tribunal was re-opened on 25 September 2004 at 1617 hours. The Detainee was notified by the Tribunal of the reasons his request for witnesses was denied by the Tribunal President.

Tribunal President: Jamil, it is our responsibility to explain to you why your request for a witness was denied. I'd like to do that now. Your request for Detainee # [REDACTED] to testify that the electronic device was his - we found that not to be relevant in determining whether you were an enemy combatant or not.

Detainee: What?

Tribunal President: Your request for the witness to testify that the money that you were receiving or giving was for money to the poor. That accusation was taken away, or that item on the unclassified document was taken away off the document. Do you understand?

Detainee: Yes. They erased that one. The whole accusation?

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Detainee: Yes. They erased that one. The whole accusation?

Tribunal President: The one in reference to financial.....

Detainee: Okay, and the battery charger?

Tribunal President: No, that remains on there. That accusation, or that item, is still on the unclassified summary. However, we did not determine it to help us make a decision on whether you are an enemy combatant. We did not use that information. We did not think it to be relevant.

Detainee: Okay, so what are my accusations? An enemy combatant? That would mean I fought or had a weapon.

Tribunal President: That was not considered. We did not know if it was a weapon or not. It was told to us that it was an electronic device. That is why we asked you questions about it. It was not important whom it belonged to in determining if you are an enemy combatant or not. Do you understand?

Detainee: No, I do not. I swear to God. I am sorry but that is the truth.

Tribunal Member: Okay, maybe I can ask for the assistance of my Tribunal Members.

Detainee: Can you clarify this for me. This sounds very strange.

Tribunal Member: When the request was presented to us, you indicated that your associate would be able to testify that the device was his.

Detainee: Yes.

Tribunal Member: The allegation read that you were attempting to board an airplane with an electronic device. So if you were boarding with the device, it did not matter who it belonged to. But now we have your testimony, where you have said that the device was not in your luggage but in someone else's. So we will consider that. Does that answer your question?

Detainee: Yes. Now I understand. Thank you very much.

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Tribunal President: Now that all unclassified evidence has been provided to the Tribunal, this concludes this Tribunal session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, U.S. Army
Tribunal President

DETAINEE ELECTION FORM

Date: 24 Sept 2004

Start Time: 1800

End Time: 1910

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? ARABIAC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal**
- Affirmatively Declines to Participate in Tribunal**
- Uncooperative or Unresponsive**

Personal Representative Comments:

Detainee will participate in the Tribunal. Detainee request to witness:

1. [REDACTED] will testify that the electronic devise was his.
2. Al Haj Abo Ali He will testify that the financial assistance was for poor people in Jordan

Al Haj Abo

Country: Jordan

City: Oman

Neighborhood: Raas Al Aien

Restaurant: Al Tofeq

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal: ELBANNA, Abdul Latif.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of al Qaida.
 - a. The detainee is a member of al Qaida:
 1. Abu Qutada is a known al Qaida operative arrested in the United Kingdom as a danger to national security.
 2. Detainee visited Abu Qatada while Qatada was in hiding from the British police.
 3. Detainee has been indicted by a Spanish National High Court Judge for membership in a terrorist organization.
 4. Detainee was arrested in Gambia, while attempting to board an airplane with equipment that resembled a homemade electronic device.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Exhibit 4075

Memorandum



To : Department of Defense Date 09/24/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
[REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 03/07/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

pg 1 of 2

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Exhibit 4076
L2

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/24/2004

If you need additional assistance, please contact
Assistant General Counsel [REDACTED]
[REDACTED] or Intelligence Analyst [REDACTED]
Intelligence Analyst [REDACTED]
[REDACTED]

Pg -2-82



Document ID: EUP20040213000313

Version Number: 01

Region: West Europe, The Americas

Sub-Region: West Europe, North America, Caribbean

Country: Spain, United States, Cuba, United Kingdom

Topic: INTERNATIONAL POLITICAL, TERRORISM, CRIME

Source-Date: 02/13/2004

Spain approves extradition request for London Al-Qa'idah suspect

*EUP20040213000313 Madrid El Pais (Internet Version-WWW) in Spanish 1442
GMT 13 Feb 04*

[FBIS Translated Excerpt]

Spain approves extradition request for London Al-Qa'idah suspect

Excerpt from report in "Latest news" section of Spanish newspaper El Pais web site on 13 February

Madrid: The government, in the meeting of the Council of Ministers, has agreed to request of the US authorities the extradition of the three people held in Guantanamo who were indicted by National High Court judge Baltasar Garzon along with Spanish national Hamed Abderraman, who will arrive in Madrid tonight under Spanish police guard.

3a3
The three Guantanamo detainees with whom the Spanish government is concerned are [redacted], [redacted], alias [redacted] and [London businessman] [redacted] [alias] [redacted] Judge Garzon charges them all with membership of a terrorist organization. [passage omitted] Garzon based his extradition request on the connection between those charged and the Spanish cell of Al-Qa'idah, led by Imad Eddin Barakat Yarkas, alias Abu Dahdah, which was dismantled in November 2001. [passage omitted]

pg 1 of 2
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[Description of Source: Madrid El Pais (Internet Version-WWW) in Spanish -- center-left national daily]

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Unclassified

pg 2 of 2

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[REDACTED]

How Al Qaeda put Internet internet service of global jihad

By ANDREW HIGGINS in London,
The Associated Press
11/11/02 9:57 AM

KARBY LEGGETT in Guangzhou, China, and ALAN CULLISON in
Washington

The Wall Street Journal

In February 2000, an Egyptian merchant here in the commercial hub of southern China asked a local Internet firm for help in setting up a Web site. After lengthy haggling over the fee, he paid \$362 to register a domain name and rent space on a server.

Chen Rongbin, a technician at Guangzhou Tianhe Siwei Information Co., and an aide went to the Egyptian's apartment. They couldn't fathom what the client, Sami Ali, was up to. His software and keyboard were all in Arabic. "It just looked like earthworms to us," Mr. Chen says.

All he could make out was the site's address: "maalemaljihad.com." Mr. Chen had no idea that meant "Milestones of Holy War." Nor that China, one of the world's most heavily policed societies, had just become a launchpad for the dot-com dreams -- and disappointments -- of Osama bin Laden's terror network.

In the months that followed, Arab militants in Afghanistan, a radical cleric living on welfare in London, a textile worker in Karachi, Pakistan, and others pitched in, laboring to marry modern technology with the theology of a seventh-century prophet. Their home page, featuring two swords merging to form a winged missile, welcomed visitors to the "special Web site" of Egyptian Islamic Jihad, a violent group at the core of al Qaeda. A few clicks led to a 45-page justification of "martyrdom operations," jihad jargon for kamikaze terrorism. It explained that killing "infidels" inevitably caused innocent casualties because "it is impossible to kill them separately."

Since the Sept. 11 attacks, radical Islam's use of technology has stirred both scrutiny and fear. The White House has warned that video footage of Mr. bin Laden could hold encrypted messages. The Federal Bureau of Investigation has called for vigilance against hacking into the computers that control vital services. Some experts have wondered if terrorism might even lurk in pornographic Web sites, with instructions embedded in X-rated photos.

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Exhibit 24

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The Milestones of Holy War-site signals much more modest cyber-skills. Al Qaeda operatives struggled with some of the same tech headaches as ordinary people: servers that crashed, outdated software and files that wouldn't open. Their Web venture followed a classic dot-com trajectory. It began with excitement, faced a cash crunch, had trouble with accountants and ultimately fizzled.

But the project also illuminates the elusive contours of al Qaeda's strengths: far-flung outposts of support, a talent for camouflage and a knack for staying in touch using tools both sophisticated and simple. Though driven from Afghanistan, al Qaeda still has many hiding places, many channels of communication and -- boasts Mr. bin Laden's senior lieutenant, Egyptian Islamic Jihad chief Ayman al-Zawahri -- many means of attack.

Al Qaeda chiefs communicate mainly by courier, say U.S. officials. But their underlings make wide use of computers: sending e-mail, joining chat rooms and surfing the Web to scout out targets and keep up with events. Since late last year, U.S. intelligence agencies have gathered about eight terabytes of data on captured computers, a volume that, if printed out, would make a pile of paper over a mile high. The rise and eventual demise of maalemaljihad.com -- pieced together from interviews, registration documents and messages stored on an al Qaeda computer The Wall Street Journal obtained in Kabul -- provides an inside glimpse of this scattered, sometimes fumbling, but highly versatile fraternity.

Using Microsoft Front Page and other software, militants in Afghanistan devised graphics and assembled content, packaging hundreds of text, audio and video files for display on the Web. Because of primitive conditions there, they handed some technical tasks to confederates in China and later Pakistan. To upload content, they turned to an ally in Britain, using messengers to deliver compact discs to a shabby rented home in west London.

The Central Intelligence Agency and other security services have tracked Egyptian Islamic Jihad closely for nearly a decade, monitoring Dr. Zawahri's activities alongside Mr. bin Laden in Sudan, Yemen and Afghanistan. Egyptian Jihad's Web site, however, began far from any well-known bastion of Islamic militancy, and beyond the reach of the CIA. Mr. Ali, the Egyptian trader who registered the site in China, lived in Jingui Garden, an upscale complex on Liberation North Road, a few miles from Guangzhou's international airport and a short boat ride from Hong Kong.

A tall, heavysset man with thin, straight hair that dangles over his eyes, Mr. Ali, who also uses the name Mohammed Ali, arrived in China in 1997. To Chinese who met him, he was just another foreign businessman scrambling to cash in on China's vibrant economy. He was a Muslim but didn't seem

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particularly observant. He paid his rent on time, stayed out of trouble and socialized mainly with fellow Arabs.

Contacted by the Journal in August, Mr. Ali denied any knowledge of Egyptian Islamic Jihad or its Web site. But the site's registration records -- it is registered in Beijing -- name him as the registrant and give the fifth-floor apartment where he lived at the time as a contact address for maalemaljihad.com.

Chinese police say they began monitoring Mr. Ali's movements and phone calls after Jingui property managers told them of inquiries by the Journal. Three days after a reporter's visit, Mr. Ali cancelled his two mobile phones and disappeared. Police say he moved in with an Arab friend in Guangzhou but won't discuss his current whereabouts.

There's no evidence Mr. Ali was directly involved in terrorism. His role in the Web venture, however, suggests a hitherto-unknown jihad support network in southern China and shows how legitimate business can serve as a cover, even unwittingly, for al Qaeda activities.

Before he moved, Mr. Ali told the Journal that he ran his own machinery trading company called ZMZM General Trading. Officials at China's Industrial and Commercial Bureau say they have no record of a company under this name.

A housing rental agreement signed by Mr. Ali in 2000 names a different Guangzhou concern, Almehdhar Trading Co., as his place of work. Mr. Chen, the technician who helped set up maalemaljihad.com, says Almehdhar arranged his first meeting with Mr. Ali, and they met several times at its office. Almehdhar trades garments out of a cramped room in a downtown Guangzhou building. The firm's owner, a Yemeni named Abubakr Almehdhar, left China late last year, staff members say. Another Yemeni, Ayman Alwan, runs the office. He says Mr. Ali sometimes visited but wasn't an employee. Mr. Alwan says he knows nothing of the Web site.

In the spring of 2000, after negotiating a price with Mr. Ali, Mr. Chen's tiny Guangzhou firm contacted a big Beijing Internet company, Sinonets Information Technology Co., to arrange server space. Sinonets provided Mr. Ali with a facility that let him set up password-controlled mailboxes inside the Web site. "None of us even knew what 'jihad' meant," says George Chen, Sinonet's U.S.-educated president. "We never had any reason to be suspicious."

Nor, say Chinese officials, did China's vast security apparatus. Shortly after the Sept. 11 attacks, Guangzhou police made a sweep through Jingui Garden, checking the documents of foreign residents. Mr. Ali's were in

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order. China, though efficient at crushing Muslim separatists in its northwestern Xinjiang region as well as other dissent, has prickly relations with foreign intelligence services. In contrast to some Asian nations, China has uncovered no suspected al Qaeda activists, despite evidence militants have slipped in and out of China for years.

In the mid-1990s, a senior Egyptian Jihad operative made several trips to southern China posing as a businessman, according to documents seized by Russian police who arrested Dr. Zawahri and two confederates in late 1996 as they tried to enter Chechnya. Russian investigators found details of an account at the Guangzhou headquarters of the Bank of China. Still active, it belongs to an Arab friend of Mr. Ali.

Four months after its Chinese genesis, Egyptian Jihad's Web site put down roots in more-traditional Islamist terrain. In July 2000, maalemajihad1.com, a sister site, was registered in the Pakistan port city of Karachi, a hotbed of Islamic militancy.

Egyptian Jihad, a group that announced a united front with Mr. bin Laden against America in 1998 and whose operatives figured prominently in the upper echelons of al Qaeda's operational command, often faced technical troubles. It may have used two Web sites as a precaution, says Yasser al-Sirri, a London Islamist who recently revived his own site, after being cleared of helping arrange the murder of the anti-Taliban Afghan warlord Ahmed Shah Massoud days before Sept. 11.

Registration records show maalemajihad1.com was set up in July 2000 by a Karachi Web-design company called Advanced Learning Institute & Development Center. Its manager, Muhammed Ali Aliwan, says he registered the site on behalf of Ahmed Bakht, who worked in a local textile factory.

Reached by phone in Karachi, Mr. Bakht initially denied any knowledge of the jihad Web site. But later he said he had helped set it up on behalf of someone else, whom he wouldn't name. Soon after the call from a reporter, Mr. Bakht, too, vanished. His relatives say he left on a trip.

With technical foundations laid, militants in Afghanistan set about providing content for the Milestones of Holy War sites. The hard drive of the computer found in Kabul last winter contained the building blocks: statements by Mr. bin Laden and Dr. Zawahri, religious tracts, a photo album of "martyrs" and back issues of al-Mujahidoon, an often-vituperative Islamist newsletter.

The Kabul computer also contained news digests, including video recordings of bulletins from al Jazeera and other TV stations -- with the

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faces of unveiled female news readers blacked out. U.S. officials say Mr. bin Laden shut down his satellite phone following news-media reports that the CIA was listening to his calls to his mother.

While fiercely hostile to any religious or social norms tinged by modernity, Islamists "have no problems with technology," says Omar Bakri, a radical cleric from Syria who lives in Britain. "Other people use the Web for stupid reasons, to waste time. We use it for serious things." (U.S. officials say Islamists weren't always so earnest: Many computers the CIA recovered from suspected al Qaeda operatives in Afghanistan and elsewhere contained pornographic material.)

In the fall of 2000, someone using the computer the Journal obtained in Kabul drafted an e-mail to Abu Qatada, a Palestinian preacher who had lived in Britain since 1993. It said a computer disk would be sent to him and asked him to upload its contents onto maalemaljihad.com.

The unsigned message gave punctilious instructions. It notified Abu Qatada of a password and told him to create an internal mailbox under the name Aljihad. "It is extremely important to establish this mailbox," said the message. Abu Qatada -- also known as Omar Mohamed Othman -- was also asked to "please write to the brothers" via Hotmail.

Abu Qatada took pride in his computer skills, fellow Islamists say. Besides helping out with maalemaljihad.com, he ran his own Web site and frequently joined chat-room debates. He would spend hours each day tapping at his computer in the front room of his rented house on a quiet street in Acton, west London. Neighbors say he kept the curtains closed and rarely spoke to them but often received bearded visitors.

In an interview late last year, Abu Qatada denied any terrorist links, describing himself as an honest preacher with "a big mouth and a big belly." But messages on the Kabul computer to and from Abu Qatada indicate extensive contacts with operatives in Afghanistan. European investigators say Abu Qatada acted as both a spiritual guide and a liaison officer, passing messages between scattered al Qaeda cells.

Last December, shortly before Britain adopted a new antiterrorist law, Abu Qatada vanished from his Acton home, stiffing his landlord and owing \$700 on his cellphone service. He would turn up in London again later.

A few weeks after the drafting of the first e-mail message to Abu Qatada in late 2000, a militant in Kabul code-named Fat'hi wrote a follow-up note to be delivered to the cleric by courier. "The bearer of this message is a brother we trust," said Fat'hi, an alias used by Tariq Anwar al-Sayyid Ahmad, a veteran associate of Dr. Zawahri, the Egyptian Jihad leader and

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Mr. bin Laden's righthand man. "He will be the link between us and you. He has the CD we promised to send you containing our products. Please add some of the products to our site." Most important, he said, was transferring audio and video files to the site.

What these files contained wasn't specified. The Kabul computer held sermons and recruitment videos, including footage of militants taking potshots at a lifesize image of Bill Clinton. Clips from Walt Disney cartoons and wildlife films were spliced with hard-core jihad films, a technique apparently used to help conceal the content of al Qaeda videos and make it easier for traveling operatives to carry copies through customs.

Appended to Fat'hi's note was a shopping list for tools needed in Web-site construction, such as Ulead Cool 3D, for animation and three-dimensional effects, and WebPainter, for animation and graphics. "Please make sure you buy the latest," wrote Fat'hi, adding that the courier must return with them quickly to Kabul.

Relations were sometimes testy. "The Web site is OK until now, thank God, but it would have been better if you had done what I asked," said a message bearing the name of Abu Qatada in London, who complained of trouble uploading "the doctor's words," an apparent reference to statements by Dr. Zawahri.

Much of the software on the Kabul computer was pirated. This included a program that muttered Bism Allah ("in the name of God") each time the machine was booted up. Al Qaeda apparently ignored a request from the program's designers in Pittsburgh for a \$24.95 registration fee. The program had been unregistered for 81 days when Kabul fell last Nov. 13.

Also tight-fisted was Mr. Ali, the Egyptian who registered maalemaljihad.com in China. In February 2001, the Internet company hired the prior year informed Mr. Ali that his contract for server space would expire unless he paid an additional fee. Mr. Ali, says his Chinese translator, declined to pay.

His reluctance to cough up was motivated in part by dissatisfaction with the Chinese site's erratic operation, e-mail traffic stored on the Kabul computer indicates. "I want you to try to enter and use the site. If you are able to do so I will call the company and pay the renewal fees," says an unsigned message from the same Hotmail account Abu Qatada had been told to use to contact the "brothers." A few weeks later, Mr. Ali decided to renew the account after all, paying an additional \$120 to Chen Rongbin, the technician who visited his apartment earlier. Mr. Chen sent it to Sinonets in Beijing.

But now the bookkeepers messed up. Sinonets says the accounting

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department mislaid Mr. Ali's money. The renewal order was never processed. Maalemajihad.com crashed.

The site's Pakistan-registered twin staggered on for several months but then crashed in the summer of 2001 after Mr. Bakht failed to pay renewal charges. Islamists still had many communications outlets sympathetic to Mr. bin Laden and Dr. Zawahri, but not the "special Web site" supervised from al Qaeda headquarters in Afghanistan.

Fat'hi, the Egyptian Islamic Jihad veteran who helped organize the Web sites' content, died in a U.S. bombing raid in Afghanistan. Those who set up the Web sites vanished, but one figure stayed in touch. At a London gathering of Islamic radicals in July, the organizer read a statement of support he said he'd received via the Web from an absent champion of global jihad: Abu Qatada.

3a1

Late last month, British police raiding a south London public housing block seized the Palestinian cleric. He has not been charged but is being held as a terror suspect under a new British law introduced after the Sept. 11 attacks that permits the detention without trial of foreigners deemed a danger to national security.

Held in a high-security jail, he has not responded publicly to his arrest. But Islamist supporters denounced his detention, mostly via statements on the Internet such as "May Allah secure his rapid release."

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THE NATIONAL

The Recruiters

Reporter: Terence McKenna
 Producer: Alex Shprintsen
 Editor: Annie Chartrand
 Camera: Maurice Chabot
 March 16, 2004



[Read the transcript of the full interview with Abu Qatada](#)

Abu Qatada

Abu Qatada is a Palestinian who lives as a political refugee in London, UK. He says he is merely a religious leader and teacher. He is accused of being a key recruiter of mujahedeen (new soldiers for Jihad, Islamic holy war) for al-Qaeda.

Qatada believes it is the duty of every Muslim to support the Islamic holy war. He also says the United States is the enemy.

Abu Qatada: *"The role of mujahedeen is dictated by what the prophet said. Whoever fights to make the word of God supreme, then it is for the sake of God. Therefore, if the jihad is to make the word of God supreme, this is what we call Islamic jihad."*

CBC's Terence McKenna: *"Do you incite hatred against the U.S.?"*

Qatada: *"No doubt, if anybody asks me, 'Is the American, or are the Americans the enemy of our peoples?' my answer would be, 'Yes, they are the enemy.'"*

CBC: *"In 1998, Osama bin Laden issued this fatwa against the U.S. Did you agree with that fatwa?"*

Qatada: *"No doubt that my previous answer about promoting or inciting hatred towards America because of what they are doing to our peoples will explain that."*

"The relationship between me and those men is just that of a mufti, a religious person who gives sermons to other Muslims. It's only the relationship between a leader and his disciples."

Authorities in Britain can't prove Qatada has had any involvement in any terrorist activities. Other countries accuse him of participating in

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terrorism, but if no crimes have been committed on British soil, there is nothing the police there can do.

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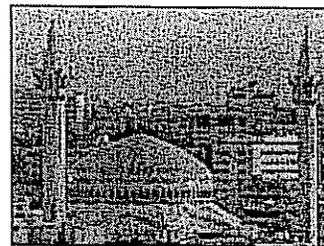
Gilles Kepel

Gilles Kepel, a leading academic expert on Islamic militants, says there are dozens of suspected terrorists like Abu Qattada living in London.

"Britain was perceived mainly as a sanctuary and no terrorist activity took place in Britain, probably for that reason," says Kepel.

"Britain was even nicknamed by the militants 'Londonistan,' meaning that people from Afghanistan, Pakistan, what you call in English 'The Stans,' had gathered in London where they found, for many of them, political asylum, and they were able to organize their networks. Probably the condition for the deal, but this was never made explicit of course, was that they would not have any activity against British interests on British soil."

The government of Jordan accuses Qatada of planning and funding terrorist activities there.



Jordan

In Amman in 1998, a bomb was discovered and disarmed at the American School and another bomb that went off in a car at the Jerusalem Hotel where many Americans stay.

Police interrogated a group of young Muslim militants who talked about a plan to blow up hundreds of American tourists at the Radisson Hotel and other tourist sites. They identified a man named Raid Hijazi as their immediate superior, who has since been found guilty of terrorism and sentenced to death.

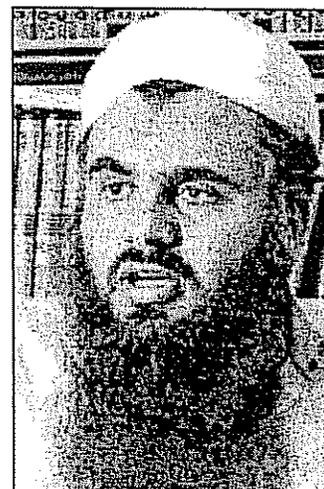
The prosecutor at the trial, Colonel Mahmoud Obeidat, says the mastermind of the plot was Abu Qatada. In Jordan, Qatada has been tried in absentia and found guilty of conspiracy to commit terrorism.

CBC: "The Jordanian government has accused you of planning and funding terrorist activities in Jordan. How do you respond?"

Qatada: "The Jordanian regime has got an art of making up and discovering things which may lead to the imagination. So I'm not really surprised of what they are saying."

CBC: "Do you approve of violent attacks against the Jordanian regime?"

Qatada: "I believe that these regimes, which exist in our countries, are



useless. They shouldn't exist."

Abu Qatada

Jordan is not the only country making allegations against Abu Qatada. Newspapers in Algeria regularly identify him as the mastermind of the GIA, the Algerian Armed Islamic group, which has committed numerous massacres in Algeria.

Qatada: *"This is an ongoing accusation. I was told that I was the spiritual father of the GIA, and now, I'm told that I'm the spiritual father of the al-Qaeda group. I have no connection between any organization or any group whatsoever."*

CBC: *"What is your opinion of Osama bin Laden?"*

Qatada: *"I believe that he's not evil. He's a human being, he's Muslim and he lives and feels the injustice, which is infringed upon our peoples. That's why he doesn't like the American regime."*



Osama bin Laden

Authorities have connected Abu Qatada with suspected terrorists in various parts of Europe. One of them, Sami Ben Khemais, was captured on a police listening device citing the instructions from his favourite religious leader, Abu Qatada.

Sami Ben Khemais: *"Abu Qatada can convert anyone because he knows all religions, sects and philosophies. Abu Qatada has ordered all Muslims to spend their money on the cause of Allah, no matter how much money they have – thousands, millions, it's not important. He says that money for God's cause should be given to the mujahedeen, and not to the mosques."*

"The relationship between me and those men is just that of a mufti, a religious person who gives fatwas, and gives sermons to other Muslims," says Qatada. "The relationship has not gone further. It's only the relationship between a leader and his disciples."



CBC's Terence McKenna

CBC: *"The police in France, Spain and Italy accuse you of planning and funding terrorist activities in those countries. How do you respond?"*

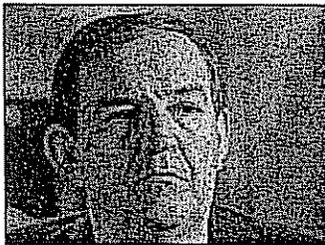
Qatada: *"I haven't heard those accusations. One of the guys planning some actions had visited me but I haven't heard these authorities directly accuse me of planning*

actions."

In February 2001, British police raided Abu Qatada's house in London and found more than \$200,000 in cash in various currencies.

CBC: "How do you explain this large amount of money that was found in your possession by the British police?"

Qatada: "Undoubtedly, the amount was exaggerated 10 times more than the actual value found in my house. You can ask the British government what they found written on the envelopes where the money was found in my house. It was written 'to the poor,' 'for the needy families,' 'for building a mosque.' These are the activities for which the money was raised. Therefore, the British government today owes every poor Muslim and every Muslim in England some money because some of this money was to buy a place for prayer."



Jean-Louis Bruguiere

In Paris, Judge Jean-Louis Bruguiere has long suspected Abu Qatada of planning and financing terrorist activities.

"We talk a lot about money laundering, but I would say that there are also reverse operations," says Bruguiere. "There is money that comes from legal sources, for example, money that is raised through mosques, but

which is going to be used for terrorist ends."

Qatada: "These are lies. Most of the money transferred was done by legal means and it is known where it goes. It goes to the families of people imprisoned, poor families and Muslims who need it."

CBC: "Did any of this money go to support jihad activities in other countries?"

Qatada: "Yes. The answer is yes - like the Chechens for example."

CBC: "Did you use money to support jihad activities in other countries as well?"

Qatada: "I don't remember. This did not happen."

After the attack on the World Trade Center in New York, police quickly established that the leader of the hijackers was an Egyptian named Mohamed Atta. When the police went to Atta's last-known apartment in Germany, they discovered 19 video cassettes of the teachings of Abu Qatada. Still, Qatada denies any responsibility for the September 11 attacks.



Mohamed Atta

Qatada: "First of all, there is no group that belongs to me. I am a Muslim who deals with all Muslims and there is no connection between me and any other group. But I think that the future will produce to the Western nations people and Muslims who are more violent than the ones existing now."

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CBC: "We spoke earlier about your hatred for America. What was your reaction to the events of September 11? Did you think America got what was coming to them?"



Qatada: "Until now, America did not ask itself, 'Why is this happening to us?' Do you think that by what the U.S. is doing now, it can stop what will happen to it in the future? Not only from Muslims, but there are lots of people in the world who hate the U.S. Is this going to end? Why doesn't the U.S. reconsider itself to find out the reason behind all this? The Americans never asked this question, in spite of the fact that it is a logical one, 'Why is this happening to us?'"

Abu Qatada defends the killing of civilians while conducting holy war.

"Islam prohibits the killing of women and children. But sometimes during jihad mistakes happen and non-combatants, women and children, do get killed," says Qatada. "The probability of non-fighters being killed does not prohibit jihad. This is an Islamic as well as a worldly principle."

CBC's Terence McKenna: "Are you surprised that a man like Abu Qatada has not yet been arrested?"

Bruguiere: "I can say that if he was in France he would already have been arrested in this business. This was not the case because he was in Britain, and Britain apparently permits this sort of activity."



Abu Qatada's home in London

Abu Qatada is on the American government's list of most wanted terrorists. His name also appears on terrorist lists in France and in Canada. But not in Britain.

Jordan has asked for the extradition of Qatada to face terrorism charges but because there is no extradition treaty between Jordan and the United Kingdom, he is safe.

[Go back to introduction](#)

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**U.S. Department of Homeland Security
U.S. Customs and Border Protection
Office of Border Patrol**

Terrorist Organization Reference Guide

January 2004

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EXHIBIT B-24
4093

pg 1 of 7

U. S. BUREAU OF CUSTOMS AND BORDER PROTECTION

Purpose: The purpose of the Terrorist Organization Reference Guide is to provide the Field with a who's who in terrorism. The main players and organizations are identified so the CBP Officer and BP Agent can associate what terror groups are from what countries, in order to better screen and identify potential terrorists.

Limitations (Gaps in Data): This Guide is based upon the information available to this office at the time that the report was prepared.

NOTE: This report is based upon information obtained from various open sources. No classified information was used in the preparation of this report.

For corrections, amendments, and suggestions, notify:

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Designated Foreign Terrorist Organizations

Designated Foreign Terrorist Organizations¹

The following descriptive list constitutes the 36 terrorist groups that currently (as of 30 January 2003) are designated by the Secretary of State as Foreign Terrorist Organizations (FTOs), pursuant to section 219 of the Immigration and Nationality Act, as amended by the Antiterrorism and Effective Death Penalty Act of 1996. The designations carry legal consequences:

- It is unlawful to provide funds or other material support to a designated FTO.
- Representatives and certain members of a designated FTO can be denied visas or excluded from the United States.
- US financial institutions must block funds of designated FTOs and their agents and must report the blockage to the US Department of the Treasury.

1. Abu Nidal organization (ANO)

a.k.a. Fatah - the Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organization of Socialist Muslims

Description

Has carried out terrorist attacks in 20 countries, killing or injuring almost 900 persons. Targets include the United States, the United Kingdom, France, Israel, moderate Palestinians, the PLO, and various Arab countries. Major attacks included the Rome and Vienna airports in December 1985, the Neve Shalom synagogue in Istanbul and the Pan Am Flight 73 hijacking in Karachi in September 1986, and the City of Poros day-excursion ship attack in Greece in July 1988. Suspected of assassinating PLO deputy chief Abu Iyad and PLO security chief Abu Hul in Tunis in January 1991. ANO assassinated a Jordanian diplomat in Lebanon in January 1994 and has been linked to the killing of the PLO representative there. Has not staged a major attack against Western targets since the late 1980s.

Strength

Few hundred plus limited overseas support structure.

Location/Area of Operation

Elements relocated to Iraq in December 1998, where the group maintains a presence. Has an operational presence in Lebanon including in several Palestinian refugee camps. Authorities shut down the ANO's operations in Libya and Egypt in 1999. Has demonstrated ability to operate over wide area, including the Middle East, Asia, and Europe. Financial problems and internal disorganization have reduced the group's activities and capabilities.

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4. **Armed Islamic Group (GIA)**

Description

An Islamic extremist group, the GIA aims to overthrow the secular Algerian regime and replace it with an Islamic state. The GIA began its violent activity in 1992 after Algiers voided the victory of the Islamic Salvation Front -the largest Islamic opposition party -in the first round of legislative elections in December 1991.

Activities

Frequent attacks against civilians and government workers. Since 1992, the GIA has conducted a terrorist campaign of civilian massacres, sometimes wiping out entire villages in its area of operation, although the group's dwindling numbers have caused a decrease in the number of attacks. Since announcing its campaign against foreigners living in Algeria in 1993, the GIA has killed more than 100 expatriate men and women - mostly Europeans -in the country. The group uses assassinations and bombings, including car bombs, and it is known to favor kidnapping victims and slitting their throats. The GIA hijacked an Air France flight to Algiers in December 1994. In 2002, a French court sentenced two GIA members to life in prison for conducting a series of bombings in France in 1995.

Strength

Precise numbers unknown, probably fewer than 100.

Location/Area of Operation

Algeria.

External Aid

None known.

5. **'Asbat al-Ansar**

Description

'Asbat al-Ansar - the League of the Followers - is a Lebanon-based, Sunni extremist group, composed primarily of Palestinians and associated with Usama Bin Ladin. The group follows an extremist interpretation of Islam that justifies violence against civilian targets to achieve political ends. Some of those goals include overthrowing the Lebanese Government and thwarting perceived anti-Islamic and pro-Western influences in the country.

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Strength

Unknown.

Location/Area of Operation

Turkey, primarily Istanbul. Raises funds in Europe.

External Aid

Unknown.

34. The Salafist Group for Call and Combat (GSPC)

Description

The Salafist Group for Call and Combat (GSPC), an outgrowth of the GIA, appears to have eclipsed the GIA since approximately 1998, and is currently the most effective armed group inside Algeria. In contrast to the GIA, the GSPC has gained popular support through its pledge to avoid civilian attacks inside Algeria. Its adherents abroad appear to have largely co-opted the external networks of the GIA, active particularly throughout Europe, Africa, and the Middle East.

Activities

The GSPC continues to conduct operations aimed at government and military targets, primarily in rural areas, although civilians are sometimes killed. Such attacks include false roadblocks and attacks against convoys transporting military, police, or other government personnel. According to press reporting, some GSPC members in Europe maintain contacts with other North African extremists sympathetic to al-Qaeda. In late 2002, Algerian authorities announced they had killed a Yemeni al-Qaeda operative who had been meeting with the GSPC inside Algeria.

Strength

Unknown; probably several hundred fighters with an unknown number of support networks inside Algeria.

Location/Area of Operation

Algeria.

External Aid

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MEMO FOR RECORD
TO: PR # [REDACTED]
FROM: TRIBUNAL # 6

25 September 2004

SUBJECT: ISN # [REDACTED] Request For Document

The Tribunal reviewed the request from Detainee # [REDACTED] to contact Detainee # [REDACTED] and Al Haj Abo Ali. Detainee # [REDACTED] stated Detainee # [REDACTED] would testify that an electronic devise discovered at the time Detainee # [REDACTED] was boarding a plane belonged to Detainee # [REDACTED]. Detainee # [REDACTED] stated Al Haj Abo Ali would testify that the financial assistance was for poor people in Jordan.

Due to the limited scope of this Tribunal, the testimony of Detainee # [REDACTED] is deemed not relevant in determining whether or not Detainee # [REDACTED] is properly classified as an Enemy Combatant. The request for Detainee # [REDACTED] testimony is denied. The Tribunal determined the unclassified summary item # 1 presented to the Detainee during the initial interview is not relevant. The testimony of Al Haj Abo Ali is deemed not relevant in determining whether or not Detainee # [REDACTED] is properly classified as an Enemy Combatant. The detainee's request to contact Al Haj Abo is denied.

[REDACTED]

COL, USA,
Tribunal President

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Enclosure (5) 4100

Personal Representative Review of the Record of Proceedings

I acknowledge that on 11 October 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]

Name

11 Oct 2004

Date

[REDACTED]

Signature

ISN # [REDACTED]
Enclosure (6)

After carefully reviewing the Tribunal Decision report, there is one question that remains unanswered: What did Detainee [REDACTED] do in Gambia that required the United States (rather than the United Kingdom or even Gambia) to take him in to custody?

Part of the definition of an enemy combatant states, "against the United States or its coalition partners..." Since the United Kingdom is a very strong coalition partner, not a disinterested party, it is doubtful that they are unable to prosecute actions that take place on their sovereign soil.

Abu Qatada is a dangerous person. Qatada was convicted in the United Kingdom's courts and is currently serving a prison sentence. The British government was well aware of the actions of Detainee [REDACTED] on their sovereign soil as they relate to Qatada. For this reason, this Detainee should have been subject to British (or even Gambian) authority for his actions in Gambia, rather than the authority of the USA. The record is insufficient to show Detainee [REDACTED] should be classified as an enemy combatant for his actions in Gambia.