

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SAID MUHAMMAD HUSYAN QAHTANI,)

Petitioner,)

v.)

GEORGE W. BUSH, *et al.*,)

Respondents.)

Civil Action No. 05-2384 (RWR)

DECLARATION OF TERESA A. McPALMER

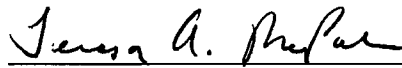
Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

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 Said Muhammad Husyan Qahtani 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: 24 May 2006



Teresa A. McPalmer
CDR, JAGC, U. S. Navy



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 903
E O FEB 2005

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 200**

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 #200 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)
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OARDEC (Fwd)
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1235

25 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 #200

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 #12 of 29 Sep 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 in the CSRT by attending the CSRT, and providing a sworn statement, which consisted of responses to the allegations set forth in Exhibit R-1 to Encl. (2). In addition, the detainee responded to questions posed by his personal representative and by Tribunal members. ~~See Enclosure (3) to Encl. (2).~~
- 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. Note that some information in Exhibits R-13 through R-15 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.
- e. Exhibits R-4 through R-6, R-13 and R-15 contain handwritten notes in the margins. These notes appear to be aids in directing the Tribunal to the source of information contained in the Unclassified Summary provided to the detainee. These notes do not alter the evidence, nor do they affect the legal sufficiency of the evidence.
- f. The detainee did not request that any witnesses or documentary evidence be produced.
- g. The Tribunal's decision that detainee #200 is properly classified as an enemy combatant was unanimous.
- h. The detainee's Personal Representative was given the opportunity to review the

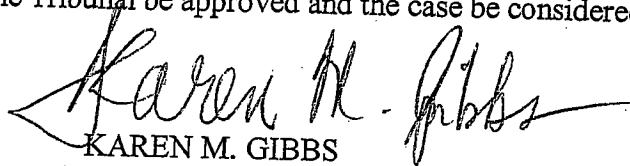
UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 200

record of proceedings and declined to submit post-tribunal comments to the Tribunal.

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.



KAREN M. GIBBS
CDR, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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 Reserve; President

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

[REDACTED] Lieutenant Colonel, 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

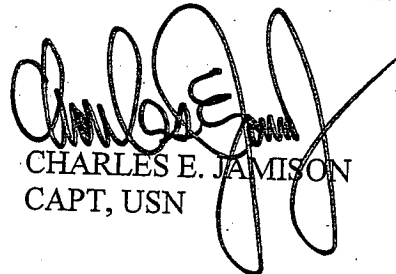
MEMORANDUM FOR DIRECTOR, CSRT

21 January 2005

FROM: OARDEC FORWARD Commander ICO ISN 200

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: #12

(U) ISN#: 200

Ref: (a) (U) Convening Order for Tribunal #12 of 29 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

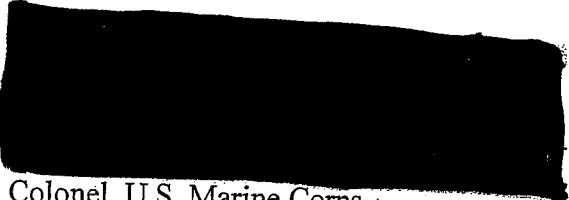
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 23 October 2004 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 23 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #200 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, both Taliban and al Qaida forces that are engaged in hostilities against the United States and its coalition partners, 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. Marine Corps
Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION

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

TRIBUNAL PANEL: #12
ISN #: 200

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 because he is a member of, or affiliated with, both Taliban and al Qaida forces that are engaged in hostilities against the United States and 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 23 October 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), alleged, among other things, that the Detainee is associated with al Qaida and the Taliban; the Detainee traveled from Saudi Arabia to Afghanistan multiple times during the period between 2000 and 2001 and received training on the Kalashnikov assault rifle, PK machine gun, and Rocket Propelled Grenades (RPG) at the Kubah training camp; the Detainee returned to Afghanistan in April 2001 after hearing a fatwa concerning assisting the Taliban; the Detainee admitted spending 7-10 days with a high ranking al Qaida official at a safe house located in Rawalpindi, Pakistan in May 2000; the Detainee participated in military operations against the coalition; the Detainee received military training in small arms, armor, and tactics at Taliban training camps; the Detainee served with a Taliban unit on the front lines near Kabul, Afghanistan; and, after fleeing through the Tora Bora region, the Detainee was captured by Pakistani Forces on 18 December 2001 near Parachinar, Pakistan.

The Detainee, after starting the Tribunal using the Arabic translator, elected to respond in English for a majority of the questioning phase of the Tribunal. While the Detainee's proficiency in English was very good, all formal portions of the proceeding were conducted through the translator in Arabic. The Detainee noted that he learned most of his English (maybe 80%) while in Cuba. The Detainee, both through his Personal Representative and by himself, admitted to responding to the fatwas to support the Taliban and felt there was nothing wrong with doing so. He disagreed with several portions of the Unclassified Summary of Evidence and provided clarification;

specifically, 1) the Kubah training camp was in Pakistan, 2) initial travel to Afghanistan was not for training; rather, training was initially conducted in Pakistan, 3) while the Detainee stayed at a safehouse in Rawalpindi, Pakistan, he had no idea that the operator and owner of the house was a high ranking al Qaida official, 4) while serving on the front lines, he stated that he only performed guard duty and never had to fire a shot or protect himself and 5) in leaving Afghanistan for Pakistan, he was not running away; but, basically leaving with a group of people that were no longer fighting, and (6) he was not captured by Pakistani forces but turned himself in to what he described as a police station. He admitted to supporting the Taliban.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, R-1 to R-18.
- b. Testimony of the following persons: 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 and no additional evidence to be produced; therefore, no rulings on these matters 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. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.
- b. Essentially, the only unclassified evidence the Tribunal had to consider was the Detainee's sworn verbal testimony. A summarized transcript of the Detainee's sworn testimony is attached as Enclosure (3) to the CSRT Decision Report. In sum, the Detainee testified that he did support the Taliban and associated with al Qaida personnel.

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

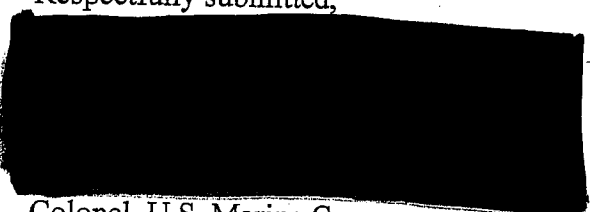
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or 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 because he is a member of, or affiliated with, both Taliban and al Qaida forces that are engaged in hostilities against the United States and its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps
Tribunal President

Detainee's Preliminary Comments

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

Detainee: I asked two previous questions to my Personal Representative. First, how trustworthy is this Tribunal? Is it trustworthy?

Tribunal President: Yes, it is very trustworthy. You witnessed the swearing in of the Tribunal members.

Detainee: Previously, some people were released without having a Tribunal. They were worse than the people that are still here.

Tribunal President: I understand what you are saying. Our responsibility today is to convene this Tribunal and make a determination on your classification as an enemy combatant. I cannot speak to what has occurred prior to this, about other cases.

Detainee: I'm ready.

Tribunal President: Very well, thank you. If at anytime you have questions feel free to ask. Again to clarify, we have no control over other Detainees or why they may have been released. There may be other reasons we are not aware of. Today we are going to focus on determining the classification of enemy combatant status in your particular situation.

After the Recorder provided a summarized version of the Unclassified Summary, the Personal Representative made the following comment.

Personal Representative: Sir, I would like to make a clarification on the Unclassified Summary.

Tribunal President: On what?

Personal Representative: On one of the pieces of the unclassified evidence to help you understand it when you read it as to a location to the activities.

Tribunal President: Go ahead.

Personal Representative: When you read point 3.a.1, where it states Detainee traveled from Saudi Arabia to Afghanistan multiple times between these periods to receive a particular training at the Kubah training camp. One may lead us to believe that camp is in Afghanistan, that camp is actually in Pakistan. I am not disputing any of the training the Detainee received; I just want you to be certain as to the location; it is in Pakistan.

Tribunal President: We've got it. Thank you.

Detainee's Sworn Statement

The Detainee provided the following statement after electing to be sworn:

Personal Representative to Detainee: Would you desire that we read each of the points individually and allow you to comment?

Detainee: Yes. Regarding point 3a.

Personal Representative: The clarification that the training camp was in Pakistan and the Detainee did travel to Afghanistan but not to go to that camp.

Detainee: That is not all I wish to say.

Personal Representative: Please continue.

Detainee to Personal Representative: When we were talking about 3.a, and I told you it was just one thing.

Personal Representative: Detainee admitted he spent a day with an al Qaida official at this house in Pakistan. I believe the Detainee's point was: just because somebody stays at someone's house, who may not be the best person in the world, does that make the people who stayed at that house bad people?

Detainee: Yes, that is what I wanted to say.

Personal Representative to Detainee: That you did stay at the house.

Detainee: Yes, I stayed with him for about seven to ten days and just because I stayed with him, that doesn't make me one of them. Yes, I was with the Taliban. Everything on the Unclassified Summary is information I have given. I was trying to be truthful and honest. That's all.

Personal Representative: The other point the Detainee and I talked about during our meeting was that Saudi Arabia, Pakistan, and the United Arab Emirates recognized the Taliban government in Afghanistan just about up until 11 September 2001. The Detainee's travels were in the year 2000. The Detainee and many other people received different types of weapon training. That is what people did.

The point on paragraph 3.a.1 is that the Detainee did go to Afghanistan, but that was when it was a recognized government by his own government, and it was prior to the 11 September 2001 attacks.

Detainee: There is something I want to correct. Regarding 3.a.1, the training camp was not in Afghanistan it was in Pakistan. I told them about it before. I have traveled from Saudi Arabia three times. The first time I traveled to Pakistan. It isn't mentioned here and for that reason, I wanted to mention it. The other two times I traveled, it was to Afghanistan.

Paragraph 3.a.2, I returned to Afghanistan in April 2001 after hearing a fatwa concerning assisting the Taliban. That is correct. I went to Saudi Arabia and talked to Islamic scholars and talked to them about what was happening and they advised me to go to Afghanistan.

Paragraph 3.a.3, yes, I said I was with one of the persons in Rawalpindi, but at that time I didn't know he was from al Qaida. Someone had sent me there, and that doesn't mean I am al Qaida, just because I saw him and visited with him.

Paragraph 3.b.1, yes, I went to the training camp. The military training and small arms is correct but it wasn't at a Taliban camp. I did receive armor training at a Taliban camp.

Paragraph 3.b.2, yes, I was with the Taliban and I was in the front lines. I will talk about this later.

Paragraph 3.b.3, I already discussed this with my Personal Representative and he can explain it to you.

Personal Representative to Detainee: Yes, I would like your help because I think the way this is worded, the person that looked at the information may not have worded this properly. It states that after fleeing through Tora Bora region, the Detainee was captured by Pakistani forces on 18 December 2001 near Parachinar, Pakistan. From what I understand, that implies the Detainee was fleeing and to the point where they overcame him and he was captured, and that is not the case. Correct?

Detainee: Yes, because the situation in Afghanistan was such that no one could stay there. I went to Pakistan and I didn't have my thing that helps me get back to my country (passport). I went to the Pakistani police station by myself. They didn't capture me. This isn't correct. I went by myself.

Personal Representative: The point of clarification for the record is the Detainee voluntarily went to the Pakistani police station and because of all the trouble that was occurring, he said, here is who I am, I need your help.

Detainee: I asked them to take me to the Saudi Embassy so I could go back to my country.

Personal Representative: When you look at the details of the record and the details of the file, please take that into consideration the Detainee's side to why some of these

paragraphs of the Unclassified Summary may be misleading from the Detainee's perspective. And when you do, please look at it from this perspective.

Tribunal President: Certainly. That is why we welcome participation from individuals, so we can hear their story and have them provide us their interpretation of their activities during the time period in question. We come in here with an open mind, and we haven't seen any evidence pertaining to you until now. We also receive your statement with an open mind. We take all that and give it serious consideration as we make our determination of your enemy combatant status.

Detainee: I would like to say something. Even if you say I am right or wrong, I don't think I did anything wrong. At the time I didn't think I did anything wrong, and I still don't. I didn't do anything illegal or bad to anyone. I want you to understand this.

Tribunal President: We will take that into serious consideration. Does this conclude your statement at this time?

Detainee: If you want to ask me anything, but now, I have nothing else to say.

Personal Representative to Detainee: They will give you an opportunity to answer questions to help them further clarify.

When asked by the Tribunal President if the Personal Representative had anything else to add, the Personal Representative made the following remark:

Personal Representative to Detainee: Related to the statement you made and to help us all understand the point on the Unclassified Summary 3.a.3, you said to me and you relayed to the Tribunal that you did stay at an al Qaida person's home. You admitted that. The question I have for you (Detainee): when you made this admission, did you admit staying at a high ranking al Qaida home, or that you stayed at somebody's home but you didn't know what rank they were?

Detainee: I met him there and it was his home. At the time, I didn't know who he was. He has a different name than the one given by the Americans. His name is Tariq. I didn't know him or anything about him at that time.

Personal Representative to Detainee: So, you didn't know he was a high-ranking al Qaida official.

Detainee: I didn't know anything about him. When they (interrogators) showed me his picture, I told them I knew who he was and that I had met him at his home, and I told them what had happened. They told me his name was Abu Zubaydah and he was one of the famous people of al Qaida.

Personal Representative to Detainee: The point I want to make clear, it says you admitted staying seven to ten days with a high ranking al Qaida official.

Detainee: I just said I was with the guy in his home.

Personal Representative: The interrogators and people that wrote the Unclassified Summary, once they found out who it was, said he was a high-ranking official.

Detainee: Yes.

Tribunal Member to Personal Representative: Did you want to clarify 3.b.2, with the Detainee?

Personal Representative: Did I want to clarify 3.b.2?

Tribunal Member to Personal Representative: the Detainee said you were going to explain that to us.

Personal Representative to Detainee: Did you need me to explain something regarding 3.b.2, that you served with a Taliban unit on the front lines near Kabul?

Detainee: Did I say that?

Tribunal Member: Yes, you said I told my Personal Representative and he will tell you later.

Detainee: I told my Personal Representative I would talk about it.

Personal Representative to Tribunal members: Yes, the Detainee told me he would tell you. The Detainee told me some things in the interview, but there were things he wanted to tell you directly, and that was one. Yes, he did serve there.

Detainee: Yes, I was with the Taliban in Afghanistan. I didn't think anything was wrong with that at the time and I still don't. I went to the front lines, but I didn't stay there for very long. I can't remember exactly how long I was there. I saw everything with my own eyes and I was smart enough to know what was going on over there.

Questions to Detainee by Tribunal Members

Q: How long were you fighting in the war?

A: I never mentioned I was fighting.

Q: Did you see conflict when you were over there at all?

- A: Maybe, but it was another side that I saw. (Inaudible)
- Q: What did you do before you went to Afghanistan?
- A: I was a student.
- Q: What were you studying?
- A: Islamic law.
- Q: After speaking with the Sheik and scholars, you decided it was the right thing to do, your duty to go to Afghanistan?
- A: They didn't say it was my duty, they said they saw nothing wrong with me going to help the Taliban.
- Q: What kinds of things were you intending to do for the Taliban, military support or other things?
- A: I was thinking about training. It wasn't on my mind to go to the front line or anything like that, but sometimes when you are at a place (I'm not going to say interesting) you want to see what is going on.
- Q: Did you ever receive any training before you left Saudi Arabia? Or was the first time when in Pakistan?
- A: What do you mean by training?
- Q: Military.
- A: No. I am from the Saudi region and everyone knows how to use the Kalashnikov.
- Q: Did you receive any injuries?
- A: No.
- Q: You were never taken prisoner in Afghanistan? The first time you were captured was when you turned yourself in?
- A: Yes.
- Q: Did you have your passport when you made it to Pakistan?
- A: No.

- Q: Where was your passport?
- A: I gave it to a Pakistani guy. I told him I would meet him at the first place when we came from Saudi Arabia, but unfortunately I didn't make it.
- Q: That was from Saudi Arabia to Pakistan?
- A: Yes.
- Q: You left your passport in Pakistan?
- A: No. It was with me for most of the time, and then I gave it to someone to hold. I told him I would return to (inaudible), a city in Pakistan. Now, I am here.
- Q: In helping the Taliban, it appears that your form of help was going to be physical support or military support for the Taliban?
- A: I didn't say that.
- Q: I am asking. You went to Afghanistan to help the Taliban?
- A: Yes.
- Q: Did you donate money?
- A: No, I didn't have money. I just wanted to go and see. The first time I went to Pakistan, I didn't know anything about the Taliban. I didn't agree about the fighting between them and the Northern Alliance. For this reason, I went from Pakistan to Afghanistan to see what was happening there. I went back to Saudi Arabia and the Imam, and explained everything I had seen. They were already briefed about what had happened in Afghanistan. After I finished explaining to them, I was told I could go and help. They were at war for a long time and it is time for them to be at peace. They have been at war for about twenty-five to thirty years. After they finished fighting the Russians, there was the civil war. Then, after that, when the Taliban arrived, they brought peace to ninety-five percent of the country, except the places the Northern Alliance were at the time. I don't think there was anything wrong with helping to make peace after thirty years of fighting.
- Q: In 3.b.3 of the Unclassified Summary, you turned yourself in to the Pakistani police station on 18 December. When did you begin to leave Afghanistan? Was it December first or sometime before that or after that?
- A: Of course it was before, but I can't remember the dates because we use a different calendar.

Q: Can you tell me how many weeks before this date?

A: I don't know. About a month, and three to five days. Thirty to forty days.

Q: Explain to me how you were hoping to help the Taliban? I understand you went to Afghanistan twice. You went back to Saudi Arabia and told about what you had observed. Then you went back to Afghanistan?

A: The first time it was to Pakistan. While I was in Pakistan, I learned what was happening in Afghanistan. I went back to Saudi Arabia before I got the Fatwa. The second time I traveled, I didn't have time to get the Fatwa. I went back to Pakistan and with people from Pakistan went to Afghanistan to see what was happening. I spent about seven to eight months there.

Q: While you were in Afghanistan, how did you help the Taliban?

A: To be honest, nothing.

Q: You were just an observer?

A: Yes. Not just an observer, but I had nothing in my hands to do. Going from place to place was something for me to do. It was for my own (I'm not quite sure how to put it) knowledge.

Q: Did they offer you a weapon? Did they want you to carry a weapon at any time in Afghanistan?

A: I had a weapon in Afghanistan, but not all the time. I bought it myself.

Q: When you were with the Taliban unit, were you actually on the fighting lines of the front line?

A: I went to guard the front line, but at the time, there wasn't any fighting. There wasn't any fighting during the time I was in Afghanistan.

Q: Did you help out with guard duty or anything like that?

A: Yes.

Q: And you would have had a weapon at that time?

A: Yes.

Q: Why did you give up your passport? Why didn't you keep it yourself? Wouldn't it have helped you in getting across the border and into Pakistan?

A: One way or another I knew at the time I wasn't going to cross the border with or without a passport. I knew at the time the Pakistani government was gathering people whether they were involved in anything or not. The American government had said if anyone catches anyone they would pay five thousand dollars.

Q: Still, don't you think you would have a better chance by retaining your passport?

A: No. Not at that time. Now if I think about it, it's too late, it's already gone. Maybe I would have made a different choice but at that time, that was the choice I made. I thought if I didn't have my passport or money they wouldn't think I was Afghani and they would let me pass.

Q: You thought maybe you would have a better chance if you didn't have your passport?

A: (inaudible) Detainee laughs.

Q: You were hoping to link up with the person you gave your passport to?

A: Yes. We were going to meet up. I gave him my family phone number and I asked him to tell them to send me money so I could get back to Saudi Arabia, but nothing happened.

Q: You never saw him again?

A: No.

Q: When you crossed the border into Pakistan, back from Afghanistan into Pakistan, were there others with you?

A: Yes.

Q: How many?

A: Some of them are here.

Q: How many in the group were with you when you crossed the border?

A: I can't remember. Two of them are with me in Camp 4. There are some people in the other camps.

Q: Were there fifteen in your group?

A: Maybe less.

Q: Less?

A: Maybe.

Q: Once you crossed the border, you separated? You said you turned yourself in.

A: We went together. We discussed what we should do now. We decided to go to the Pakistani police so they would turn us over to our embassies.

Q: You went as a group to the police department?

A: Yes.

Q: Were you the leader of this group, or were you following?

A: We were together. There wasn't any leader.

Q: There was no leader?

A: We just walked together.

Q: Trying to save yourself and get out of Afghanistan?

A: Yes.

Q: Where did you learn to speak English so well?

A: Seventy-five percent here.

Q: Did you study at all in Saudi Arabia?

A: Yes.

Personal Representative to Detainee:

Q: You had stated here that there were people that were with you when you turned yourselves in, that are in this camp. I am interested as to when you had the opportunity to call witnesses?

A: Yes, they were with me but they didn't know anything about where I was. For this reason, I didn't think they would benefit me.

Q: They couldn't say we all voluntarily turned ourselves in?

A: I'm one hundred percent sure they could say it and I am sure they told the interrogators that. I told my interrogator they were with me.

Personal Representative: I just wanted to know why you didn't want to bring them here as witnesses.

Detainee: I don't have a problem if you want them to come here. They will say the same thing.

Q: The Fatwa that was issued that had you decide to go to Afghanistan, what did that Fatwa say?

A: It talked about what was happening with the war in Afghanistan and the Afghan leaders. They explained what the Taliban did. The Taliban made mistakes, but in general everything was acceptable.

Q: The Fatwa did not say come and fight the Northern Alliance and bring arms against the enemy?

A: I don't know exactly, but it supported the Taliban. I don't know if it mentioned fighting or not. I am sure they mentioned helping or supporting Taliban. I'm not sure if they mentioned fighting. I don't think they said that.

Q: You had the rifle and you were on the front lines. You didn't fire, you were guarding. The question I have is, what if the forces came? What if they started shooting at you? I know it's hard to answer what if. You had to go there thinking I might have to fire my weapon?

A: Of course if you are fighting, everything is acceptable. You think if someone comes to you, they will shoot you. Something like that.

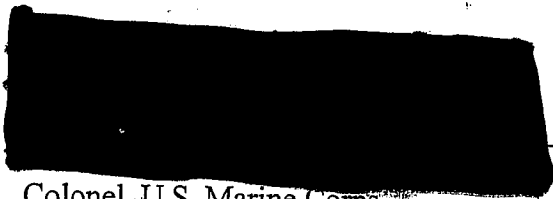
Q: You left before the fight started. Did you leave because either you were afraid for your life or you realized it was wrong?

A: I left because everybody else left.

UNCLASSIFIED//~~FOUO~~

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. Marine Corps
Tribunal President

DETAINEE ELECTION FORM

Date: 18 October 2004

Start Time: 1030 hrs

End Time: 1140 hrs

ISN#: 0200

Personal Representative: [REDACTED], MAJOR, USAF
(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:

Detainee desires to participate in the Tribunal. Detainee will address the Tribunal himself and will respond to tribunal questions. No witnesses or documentary evidence are required. No Follow-up interview is required—CANCEL FOLLOW-UP INTERVIEW. A Final Interview is still required. Detainee speaks and reads English, but Translator is still required. Detainee was very cooperative, respectful, asked questions, and responded to all of my questions.

Personal Representative: [REDACTED]

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (21 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – QAHTANI, Said Muhammed Husyan.

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.
 - a. The detainee is associated with al Qaida and the Taliban:

1. The detainee traveled from Saudi Arabia to Afghanistan multiple times during the period between 2000 and 2001 and received training on the Kalashnikov assault rifle, PK machine gun, and Rocket Propelled Grenades (RPG) at the Kubah training camp.
 2. The detainee returned to Afghanistan in April 2001 after hearing a fatwa concerning assisting the Taliban.
 3. The detainee admitted spending 7-10 days with a high ranking al Qaida official at a safe house located in Rawlbandy, Pakistan in May 2000.
- b. The detainee participated in military operations against the coalition.
 1. The detainee received military training in small arms, armor, and tactics at Taliban training camps.
 2. The detainee served with a Taliban unit on the front lines near Kabul, Afghanistan.
 3. After fleeing through the Tora Bora region, the detainee was captured by Pakistani Forces on 18 December 2001 near Parachinar, Pakistan.

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Exhibit R-1

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1 OF 2

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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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Memorandum

UNCLASSIFIED



To : Department of Defense Date 10/06/2004
Office of Administrative Review
for Detained Enemy Combatants,
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division,
Office of General Counsel,
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 200 have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 02/07/2002
FD-302 dated 02/09/2002
FD-302 dated 02/11/2002

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

²See Executive Order 12958

1 OF 2

UNCLASSIFIED

Exhibit R-2 1259

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/06/2004

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

[REDACTED]
or IA [REDACTED]

- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - 315N-MM-C99050
- 1 - 315N-MM-C99102-AA117

RAG:rag


2 of 2-

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Personal Representative Review of the Record of Proceedings

I acknowledge that on 18 January 2005 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #200.

 have no comments.

My comments are attached.

, Lt Col, USAF

Name PERSONAL REP TEAM LEAD

18 Jan 05
Date



Signature

FOR MAJ 

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AHMAD TOURSON,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-2370 (EGS)

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 Ahmad Tourson 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:

4 January 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: 689

16 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 201**

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 #201 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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13 Jan 05

MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN #201

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 Sept 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 by attending the CSRT, and by providing a sworn statement to the board that was read by his personal representative. In addition, the detainee provided additional statements, and responded to additional questions posed by his personal representative and by the CSRT. See Enclosure (3).
- 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. Note that some information in exhibit R-3 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.
- e. Exhibit R-3 contains handwritten notes in the margins. These notes appear to be aids in directing the Tribunal to the source of information contained in the Unclassified Summary provided to the detainee. These notes do not alter the evidence, nor do they affect the legal sufficiency of the evidence.
- f. The detainee did not request that any witnesses or documentary evidence be produced.
- g. The Tribunal's decision that detainee #201 is properly classified as an enemy combatant was unanimous.

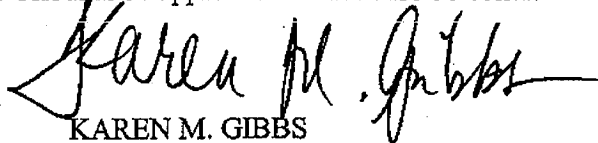
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UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 201

- h. The detainee's Personal Representative was given the opportunity to review the record of proceedings, and declined to submit post-tribunal comments to the Tribunal.
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.



KAREN M. GIBBS
CDR, 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

02 December 2004

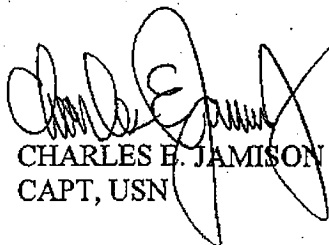
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 201

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#: 201

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 5 November 2004, the Tribunal determined by a preponderance of the evidence that Detainee #201 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: _____ #7
ISN #: _____ 201

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 Tribunal held this hearing on 5 November 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates, among other things, that: the detainee is an Al Qaida fighter; the detainee stated that he left China during September, 2000, and traveled to Kabul, Afghanistan, by way of Kyrgyzstan and Pakistan; the detainee stated that he was a member of the East Turkistan Islamic Movement (ETIM) AKA Sharq (East) Turkistan Islamic Partiyisa (STIP); ETIM is an extremist Islamic organization operating in the eastern region of China; the detainee was captured near Mazir-E-Sharif, Afghanistan, by General Dostum's troops, taken to the Qalai Janghi Prison, and later turned over to U.S. forces; the detainee participated in military operations against the United States or its coalition partners; the detainee stated that he was trained to use an AK-47 rifle; the detainee stated that he traveled to Konduz, Afghanistan, and then on to Mazir-E-Sharif to fight against General Dostum's troops; the detainee was a prisoner at the Qalai Janghi/Mazir-E-Sharif Prison during the Mazir-E-Sharif prison riot. The Recorder called no witnesses.

The detainee participated actively in the Tribunal proceedings. He responded to each of the allegations on the Unclassified Summary of Evidence with the assistance of his Personal Representative. He also answered questions posed by the Personal Representative and the Tribunal members. In sum, he stated he went to Afghanistan to flee religious persecution in his homeland of China. He denied being a member of Al Qaida or the Taliban. 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.

During the classified session of the Tribunal, the Recorder presented Exhibits R-3 through R-10 without comment. The Personal Representative presented no classified exhibits but did make comments on the classified evidence submitted by the Recorder. 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-10 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 be produced for the hearing.

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 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, the FBI redaction certification, provided no usable evidence. 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. In sum, he stated he traveled to Afghanistan from China in September 2000. The detainee claims that he left China because he had no religious freedom. Once the detainee had established himself in Kabul, Afghanistan, he sent for his wife and family, who came to live with him. After the U.S. bombing of Kabul started, the detainee claims that he left his family behind and went to see what the war was like in Konduz (in case he

had to fight the Chinese government) and to determine whether northern Afghanistan would be a good place for his family to live. Fifteen to twenty days later, the detainee was captured by General Dostum's forces at Mazir-E-Sharif after having to flee Konduz. The detainee denies being a member of al Qaida. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). When considered in conjunction with the classified evidence, the detainee's testimony was not persuasive. A discussion of the classified evidence is found in Enclosure (2) to the CSRT 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 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: Ahmad, 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 and would you like to take a Muslim oath?

Detainee: Yes.

Tribunal President: Recorder, please administer the Muslim oath.

The Detainee was sworn using the Muslim oath.

The Personal Representative read the allegations to the detainee, and also read the detainee's responses to each allegation. The detainee added comments, as he deemed appropriate.

3.a. The detainee is an Al Qaida fighter.

3.a.1. The detainee stated that he left China during September 2000 and traveled to Kabul, Afghanistan, by way of Kyrgyzstan and Pakistan.

Personal Representative on behalf of the detainee: True, I went to Afghanistan by way of Kyrgyzstan and Pakistan. I went to Afghanistan for independence. I passed through the borders legally. I had a passport and a visa. That does not mean that anyone who travels this way is Al Qaida. There is no religious freedom in China. That is why I brought my family to Afghanistan. Now, would you like to say something further?

Detainee: I want to clear up one thing that he said. I was asking a question, "If any persons pass through those borders legally, with a passport and a visa, does it mean that all those people are a members of Al Qaida or fighters?"

Tribunal President: No, it does not mean that.

Detainee: Because, they claim I am an Al Qaida fighter, and then, in number one, they say I passed through those borders, then into Afghanistan, then I become an Al Qaida fighter. What I am trying to say is, they are blaming me for being an Al Qaida fighter. Then they have evidence here that I passed through those borders into Afghanistan. This is the evidence?

Tribunal President: You have anything else you'd like to say?

Detainee: No.

3.a.2. The detainee stated that he was a member of the East Turkistan Islamic Movement (ETIM) AKA Sharq (East) Turkistan Islamic Party (STIP).

Personal Representative on behalf of the detainee: I don't accept this. I never said I was a member of any of these organizations. I never talked to anyone about this. On early interrogations, I told them I was not a member of those organizations. Now, would you like to add more?

Detainee: Are you saying that you think this Turkistan Islamic Party is part of Al Qaida? Is that what you are looking for?

Tribunal President: I don't know, this information is just given to us and we are asking you to respond to these. I don't know what the assertion is.

Personal Representative: If he remembers during our meeting, I had told him that the United States had recognized the ETIM as a terrorist organization that was associated with Al Qaida. Would you like to add anymore, other than what I said?

Detainee: No.

3.a.3. ETIM is an extremist Islamic organization operating in the eastern region of China.

Personal Representative on behalf of the detainee: I am not a member; I have nothing to do with this organization. This region of the country was invaded by the Chinese. For all 30 million Uighur people, this region is called northwestern, not eastern region.

Detainee: It's the Chinese government who calls it the northwestern region.

Personal Representative on behalf of the detainee: No Uighur people are part of the Islamic movement. Uighur people are trying to get their independence from the Chinese government. We fight against the Chinese government. That does not mean I am a member of Al Qaida. We fight against the Chinese government for independence.

Detainee: Independence for my country.

Personal Representative on behalf of the detainee: If all 30 million Uighur people fight against the Chinese government, that does not make them Al Qaida.

Personal Representative: Would you like to say more?

Detainee: If the members have a question about this issue, I will answer, but I have nothing more to add.

Tribunal President: We will have an opportunity to ask you questions after we go through the Unclassified Summary. Ahmad, let me just ask you one question. Are your cuffs on too tight?

Detainee: Yes.

Tribunal President: Let's take a brief recess to allow the guards to come in and loosen the cuffs on him. Personal Representative, please track where we are on the Unclassified Summary.

Personal Representative: Yes, ma'am. We just finished 3.a.3. We will be starting 3.a.4. when we reconvene.

Tribunal President: Okay.

The Tribunal recessed to have the detainee's handcuffs loosened.

The Tribunal reopened with all persons once again present.

Tribunal President: Personal Representative, will you continue please?

3.a.4. The detainee was captured near Mazir-E-Sharif, Afghanistan, by General Dostum's troops, taken to the Qalai Janghi Prison, and later turned over to U.S Forces.

Personal Representative on behalf of detainee: On our way to find a safe place, we had to pass through Mazir-E-Sharif. Then we were captured by General Dostum's troops. We were following lots of people in that area.

Personal Representative: Would you like to say more?

Detainee: I want to make a point. I want to say more about the whole accusation.

Personal Representative: You want us to finish all first, or would you like to say that now? You may.

Detainee: I will tell my story at the end of all these accusations.

Personal Representative: Would you like to say anything more about number four?

Detainee: My going through Mazir-E-Sharif, then being captured by General Dostum's troops; does it explain that I'm an Al Qaida member? Do you have any evidence to prove that I am an Al Qaida member?

Tribunal President: There is supporting evidence that says you are a member of Al Qaida, but this is your opportunity to tell us your story and to rebut any of the government's evidence.

Detainee: Everybody passed through on the streets and walked. Foreigners, bad people, good people, soldiers, fighters. Everybody walks through the street and I am passing through the road, then I am captured by General Dostum's troops. It does not explain that all those people are Al Qaida. It is kind of funny looking. Everybody walks in the street, everybody walks.

3.b. The detainee participated in military operations against the United States or its coalition partners.

3.b.1. The detainee stated that he was trained to use an AK-47 rifle.

Personal Representative on behalf of the detainee: True, I did tell them I was trained about 2 hours on a weapon. I am not sure if it was an AK-47. I trained to use the rifle, not to fight against coalition or U.S. forces. I trained to use the rifle for future fighting against the Chinese government. I thought the training might be useful if I had to ever fight the Chinese government. Because I was trained in the use of a rifle does not mean that I was going to use it against the coalition or the American forces. Would you like to say more?

Detainee: No.

3.b.2. The detainee stated that he traveled to Konduz, AF, and then on to Mazir-E-Sharif to fight against General Dostum's troops.

Personal Representative on behalf of the detainee: I went to Konduz, Afghanistan, to find a safe place to go. I went through the Mazir-E-Sharif on the way to a safe place. I never went to go and fight against General Dostum's troops. When I was captured and traveling to safety, I had no weapon, I am not a soldier. I had a family in Kabul, Afghanistan. I was trying to get to my family because the war started. I wanted to get them to some safety in another country, where Uigher people live peacefully. Do you want to add to that, say more?

Detainee: No.

3.b.3. The detainee was a prisoner at the Qalai Janghi/Mazir-E-Sharif Prison during the Mazir-E-Sharif Prison Riot.

Personal Representative on behalf of the detainee: I was taken there when captured; I did not participate in any riot. They dropped bombs and I was injured. I was not a soldier. I have nothing against the Americans. Why would I participate in the riot? All Uighurs, have one enemy, the Chinese. We have no other enemies. Now, would you like to say anything else?

Detainee: I want to remind you of one thing. Until I was captured in Afghanistan, I was captured by General Dostum's troops and then they took me to the Qalai Janghi prison,

then they turned me into the American prison at Kandahar. During that time, I did not see any American soldiers or any coalition forces or any other people. And then they come back for the accusations. They accused me of being an Al Qaida fighter, then they put evidence in here, but it does not relate to any Al Qaida fighter or anything like that. All these accusations don't really explain anything. If you are accusing me of being an Al Qaida fighter or something else, then prove this. Bring some evidence. But this evidence doesn't really prove that I am a member of Al Qaida or something like that. I want to ask one question, for all these accusations that are on me; do you have any real proof?

Tribunal President: There is some classified information that has evidence, but I guarantee you we will consider the unclassified information, your statement, your answers or responses to the unclassified information and the classified information before we make a decision.

Detainee: I don't know anything about the classified evidence, because I can't prove, I can't make statements for the evidence in here, accusations, but I can't make any proof. I can't bring any evidence for the classified. Then you are just going to make a decision on those classified accusations.

Tribunal President: No, again, I said we will make our decision based on your responses to the Unclassified Summary, your responses to our questions, and any other comments that you have, and we will consider the classified information. Now, Ahmad, do you have any other comments that you would like to add to the unclassified information?

Detainee pauses.

Tribunal President: Ahmad, we can ask you some questions and maybe that will assist you in coming up with some additional information you would like to provide to us.

Detainee: Okay.

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

Personal Representative: Yes, I do. Why did you not have any witness?

Detainee: Because the person that traveled with me, who helped me to leave, the road stopped when we were captured and then the prison riot, when they dropped the bomb, he was dead. And, also because the person is dead and I have my wife in Afghanistan, Kabul, I have no information about her now. I have been here three years and I don't know where she is at, I can't call for a witness for my wife. I don't have any close person.

Personal Representative: When captured, did you have your passport and papers? What happened to them?

Detainee: I left my passport, all the documents at home. And in Afghanistan, when you travel, you don't really need it, the passport to take with you.

Personal Representative: Thank you. I have no further questions.

Tribunal President: Do any Tribunal members have any questions for the detainee?

Member: Yes, ma'am. When you traveled to Kabul in 2000, did you take your family with you then?

Detainee: My family was not with me. I went to Afghanistan first for a while, and then my family came to Afghanistan.

Member: Okay, when did they arrive in Afghanistan?

Detainee: Approximately, after five, six months.

Member: When did you leave Kabul?

Detainee: I left Kabul before, like 15 or 20 days before I was captured by General Dostum's troops.

Member: Okay. Where were you when you heard of the attacks on the United States, in New York?

Detainee: I heard about the attacks in New York, I was in here.

Member: You said that you had a few hours of rifle training or weapons training, who gave you the training?

Detainee: I want to make a correction on this question. I never had training on how to shoot a gun, but I looked at a gun and then I learned how to split the parts and bring it back, put it back. I learned that in Kabul. Probably 1 hour and 40 minutes.

Member: Okay, but you never shot the gun?

Detainee: No.

Member: Do you remember who gave you the training?

Detainee: The person who took me to that place. That person is also dead in the prison riots.

Member: Is that person another Uighur, or was that person an Afghani or Taliban?

Detainee: He was a Uighur.

Member: Have you ever had any other military or weapons training?

Detainee: No, I have never been in those kinds of training places.

Member: That's all I have right now, ma'am. Thank you.

Detainee: Your welcome.

Member: When you were in Konduz, when was that?

Detainee: It took two days to get to Konduz , as I said to the other gentleman right before, like fifteen to twenty days before I was captured by General Dostum's troops.

Member: When were you captured by Dostum's troops?

Detainee: Fifteen to twenty days after I left my home, because I cannot remember exactly the day or month. That's why I could not tell you the time. If you look at my file, then you would find the exact date.

Member: Had the bombing already started in Kabul?

Detainee: I heard about it in some parts.

Member: So, when you went up to Konduz, the bombing had already started in some parts of Kabul?

Detainee: I heard it in one or two places in Kabul, but I did know if any other places had been bombed, started or not.

Member: Okay, but you did know that the bombing had started in Kabul?

Detainee: I heard the noise.

Member: Heard noise? Why did you go to Konduz?

Detainee: I have told this during interrogations and also I will tell the one thing that has never been asked during interrogations, I would like to tell you now. First, in Afghanistan, Kabul, there started some kind of bombing. Then another person led me to go north. I told them, if there are more people staying in the Northern part of Afghanistan that are Uzbek people, they understand my language, that might be better for me to live in that area. Then that person took me to the Konduz. Secondly, earlier that person mentioned to me, that there was war going on up North. Then if you go there, you

can see how is it. You can have some idea, then it might help you. When he said that, I was kind of interested to go up there see what it looks like. Because they were fighting each other and there was a war going on, I had some kind of interest, if in the future war is going on, and I mean in China, then I would like to go up there to see what it looks like, because I've only seen war at the movies. Then I would have some idea. That's why I went up.

Member: So I want to make sure I understand. The first point you said is that you were looking to see if it was a safe place, maybe for your family. But the second point you said that there was a war going on and you wanted to see it. I don't understand.

Detainee: It is understandable because the reason (sic). First, I said I tried to find a safe place for my family to go. Up there are a lot of Uzbek people, and they can communicate with each other and we can understand the culture and all this stuff. You can get help from the Uzbek people. Secondly, they also told me they're just fighting each other. It is not a big war. Then they told me that there would be one bombing in one month and there is no bombing in another month. I just wanted to look at from a far distance. I wasn't there to go out and fight with anybody or anything like that. I had nothing to do with the fight, and I had no interest in those fights. If you think I went to that place for fighting, it does not make sense, because I would never leave my family behind, then go for fight. I would never do that.

Member: But you did leave them behind, even though Kabul was being bombed.

Detainee: You are right, I did leave my family behind. I went there because they told me Kabul city is not good for foreign people to live in this city. You cannot get along with the people. Then I was interested in going to see the Northern part of Afghanistan because there were Uzbek people we can communicate with, and we can get along. I was trying to see with my own eyes how it looks. That's the reason I went.

Member: You were taught how to assemble and disassemble the weapon. Where was that? Was that in a camp or some type or a school? What was the location?

Detainee: It was not a camp. It was not a school. The place I was staying.

Member: How many people were staying with you? Was it just your family or was it a group of Uighurs? Give me an idea.

Detainee: I was staying with my family. There were no other people besides me.

Member: If there was no one else there, how did the person instruct on the weapon?

Detainee: The person that led me up north, that's the person who came to my house in the past, one or two times. That person taught me, instructed me in my house. He came

to my house by car. One time he had a car and he has a rifle in his car and he showed it to me.

Member: What did you do in Afghanistan? What was your job?

Detainee: First my goal was go somewhere, where people have their freedom to live in peace. Then, after some other people give me some kind of advice or something, or give me some kind of idea, unfortunately, I ended up in Afghanistan.

Member: What was your job in Afghanistan?

Detainee: When I ended up in Afghanistan, I had someone give me the address, then I followed the address in Afghanistan. That place has some other people at that place. Then I stayed there a while, then I don't have any more money left. They asked me what I wanted to do, then I said I would like to do some kind of business. That's the reason I left my country, that is the one reason I left my country. Then they told me business is not really that good in that place right now, we need someone to type. You do a typing job for us. Then I typed for those Uighur people. A typing job.

Member: Who were those Uighur people? What was the organization or the group or the company? Who did you work for?

Detainee: There was like three or four people. They published books. Then they brought stuff and I just typed and put it in the computer. All that kind of work.

Member: I don't have any other questions. Thank you.

Tribunal President: Who was it that gave you the address for the place in Afghanistan, in Kabul?

Detainee: The person from Pakistan.

Tribunal President: Who was that person?

Detainee: There are some people in Turkistan that made me interested in going to Pakistan. Then the person in Pakistan looked at me, that's the person that gave me—I believe his name Alim Jhon.

Tribunal President: Did you know Alim Jhon?

Detainee: No, I did not know that person.

Tribunal President: So someone told you in Kyrgyzstan to meet with Alim Jhon?

Detainee: The person told me from Turkistan. I want to make sure everything is clear here. I got the phone number from Turkistan. Someone gave me a phone number in Turkistan. They told me when you come to Pakistan, call this person. That person will come and pick you up. Then I went to Pakistan and called that person and he showed up. And then I found out his name was Alim Jhon. But I have no knowledge about that person.

Tribunal President: Who is the person in Kyrgyzstan?

Detainee: When I came to Kyrgyzstan, the people look at your face and they will recognize you're a foreigner. Then the person asks me if I was looking for a motel or someplace to stay. And there is a person that told me the place. It is like an apartment or something, then you can stay there. He got my trust, then I followed him and I went to that place. I told those Uighurs, I explained exactly what I wanted. I wanted to do some business, I wanted to go somewhere to live in peace, and then they told me that if you go to Pakistan, it would be better. That's why I went to Pakistan.

Tribunal President: So was there someone assisting you with your travel from your country to Pakistan and then into Afghanistan?

Detainee: When I left my country nobody assisted me. When I came to Pakistan and Afghanistan, then I realized that all these people led me wrong, led me this way to Afghanistan. My first goal was I wanted to go somewhere, a place to live and do some business.

Tribunal President: How did you travel from your country to Pakistan and then to Afghanistan? By plane? By car?

Detainee: From my country to Kyrgyzstan I traveled with a car. Then from Kyrgyzstan to Pakistan I flew.

Tribunal President: And who paid for that trip?

Detainee: I spent my own money.

Tribunal President: What types of business were planning to go into when you arrived in Afghanistan?

Detainee: When I came to Afghanistan, they showed me the store and the market, because I came here to do some business. Then it was some kind of grocery store business, like some kind of Chinese goods or things most people usually use for their personal life, for the house or this kind of stuff.

Tribunal President: Where were you and family staying in Kabul? Was it a house? Was it an apartment? A guesthouse?

Detainee: It was a big house. There was a front yard and a backyard. Then, when my family arrived, these people gave me a job typing, and then they prepared the house for my family and for me.

Tribunal President: So originally you were staying in a house or an apartment?

Detainee: There was one room that belonged to those publishing people.

Tribunal President: Earlier, you discussed that bombing had started in Kabul. Why did you not go back for your family then?

Detainee: That's why I was trying to get back, I wanted to get my family, and on the way I was captured.

Tribunal President: Why did you choose Kabul to live?

Detainee: Because that person gave me the address to Kabul, then I went there. Then I started working, doing the typing and I stayed with that job.

Tribunal President: So Kabul was a place that was recommended to you?

Detainee: They did not recommend anything. They just gave me the address. I followed the address and I ended up in that place.

Tribunal President: Did you know anybody in Afghanistan before you moved there?

Detainee: No.

Tribunal President: You said you left your country for independence. Was it your intention to go back to your country at one point or another?

Detainee: I can't say clearly about this, because if I find a place to stay and I can do the business, then I would stay there. If it does not work for me, I might go back to my home country.

Tribunal President: If you were released from here, would you like to go back to your country?

Detainee: No.

Tribunal President: Why not?

Detainee: Because I left that country. There is one reason. I have been tortured by the pressure from the Chinese government. We do not have freedom, nothing. Now, a lot of

pressure, a lot of bad things are happening in my home country. I have been here 2 years now. I don't know what is going on all over the world and I have no idea. Also, the Chinese delegation comes here, they also accuse me of being an Al Qaida fighter or other kinds of blame. If I go back to my home country, I'm pretty sure they will kill me. Even if they don't kill me, they will never let me go. Lots of bad things. The government is torturing a lot of people.

Tribunal President: You indicated at one point the reason you wanted to received some of the training on the AK-47, the Kalashnikov, was that you could learn to fight against your country.

Detainee: Yes, if I stayed abroad. If something happened in China against the government, then I will go back to fight against the Chinese government.

Tribunal President: I don't have any other questions. Do any of the Tribunal members have questions?

Members: No, ma'am.

Tribunal President: Personal Representative, do you have any questions or comments?

Personal Representative: I have no further questions or comments ma'am.

Recorder: No, ma'am.

Tribunal President: Ahmad, does that conclude your statement or any comments?

Detainee: I want to mention one more thing. My personal story is almost all included in here now. One more thing. The Chinese invaded our country. It's been a long time. Also, me in here, and any other Uighur people in this prison, I did not know them until I got here. All those Uighur people against the Chinese government in order to get their independence, their country's independence, and their own freedom. If that is a crime, if they are part of the Al Qaida members, if this government punishes me with the same kind of punishment with Al Qaida or other people, then I will have no problem. I will accept this punishment. This is the reason. We wanted to live free and independently like any other nation, and that's the reason they are fighting, to try to get their/our independence and our freedom back. If those people during those kind of moments try to get back our independence and country, if those people are counted as terrorists or part of Al Qaida or against the coalition or this government, then I have nothing to say. We only have one enemy in this world and we don't have any problems with any other people. We have nothing against any other country or any other people.

Tribunal President: Does that conclude your statement Ahmad?

Detainee: We were hoping that we would get some kind of help from the U.S. government. In our country, we were still hoping that the U.S. government will help people who are suffering because of other people. But unfortunately, when we got here, then this government calls us Al Qaida or Taliban. We were kind of disappointed then, but we still hope the U.S. government will help us in the future.

Tribunal President: Continue.

Detainee: We are just disappointed in the U.S. government, but we are still hoping that the U.S. government will help because the U.S. government respects other people's rights.

Tribunal President: All unclassified evidence having 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

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (18 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal - TOURSON, Ahmad

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 Qaeda 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 al Qaeda, and participated in military operations against the United States or its coalition partners.
 - a. The detainee is an al Qaeda fighter:
 1. The detainee stated that he left China during September, 2000 and traveled to Kabul, Afghanistan, by way of Kyrgyzstan and Pakistan.
 2. The detainee stated that he was a member of the East Turkistan Islamic Movement (ETIM) AKA Sharq (East) Turkistan Islamic Partiyisa (STIP).
 3. ETIM is an extremist Islamic organization operating in the eastern region of China.
 4. The detainee was captured near Mazir-E-Sharif, Afghanistan by General Dostum's troops, taken to the Qalai Janghi Prison and later turned over to U.S. Forces.
 - b. The detainee participated in military operations against the United States or its coalition partners.
 1. The detainee stated that he was trained to use an AK-47 rifle.
 2. The detainee stated that he traveled to Konduz, AF and then on to Mazir-E-Sharif to fight against General Dostum's troops.
 3. The detainee was a prisoner at the Qalai Janghi/Mazir-E-Sharif Prison during the Mazir-E-Sharif Prison Riot.
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

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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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Memorandum



To : Department of Defense Date 09/16/2004
Office of Administrative Review
for Detained Enemy Combatants,
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division,
Office of General Counsel,
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
ISN [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 201 have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 03/28/2002

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

²See Executive Order 12958

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/16/2004

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

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Personal Representative Review of the Record of Proceedings


I acknowledge that on 08 November 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #201.

I have no comments.

My comments are attached.


Name

08 NOV 04
Date

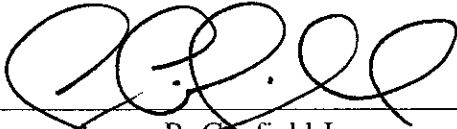

Signature

ISN #201
Enclosure (5)

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: 24 Sep 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 104
19 September 2004

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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.

A handwritten signature in black ink, appearing to read "J. M. McGarragh".

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 Sep 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 #4 of 6 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. Information described as "law enforcement sensitive" by originating agencies was handled the same as classified evidence pursuant to direction from the Secretary of the Navy.
- 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 through R-9 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 made no requests for witnesses or other 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 declined to submit comments to the Tribunal.

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

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

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



James R. Crisfield Jr.
CDR, JAGC, USN

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Department of Defense
Director, Combatant Status Review Tribunals

6 August 2004
Ser0038/ajs

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #4

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:

████████████████████ Colonel, U.S. Army; President

████████████████████ Commander, JAGC, U.S. Navy; Member (JAG)

████████████████████ Lieutenant Colonel, U.S. Marine Corps; Member

A handwritten signature in cursive script, reading "J. M. McGARRAH".

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

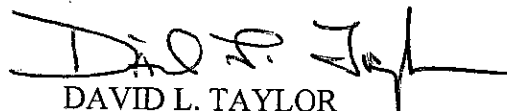
13 September 2004

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: #4

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #4 of 6 August 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)
(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)

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 27 August 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] 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 forces, or associated forces that are engaged in hostilities against the United States or its coalition partners, 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).

[REDACTED]

COL, USA
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #4 _____

ISN #: _____ [REDACTED] _____

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, Taliban forces, or associated 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 Recorder presented Exhibit R-1, the Unclassified Summary of Evidence, during the unclassified portion of the Tribunal. It indicates the detainee admitted to affiliation with the Taliban and admitted to traveling to Afghanistan to fight with the Taliban. It states he received weapons training in the use of hand grenades and the Kalashnikov rifle on the Karabatt line in Afghanistan. The Unclassified Summary of Evidence also asserts the detainee engaged in hostilities against the United States or its coalition partners. It states the detainee fought against Northern Alliance forces on the Karabatt line for six months and on the Kawajaqaar line for four months. The summary adds the detainee carried a Kalashnikov rifle and two grenades while on the front lines, and relinquished his weapon and surrendered to Northern Alliance forces at Mazar e-Sharif. Finally, the summary indicates the detainee was injured in the Qala-I-Jenghi prison uprising and eventually surrendered to Northern Alliance forces. The Recorder called no witnesses.

The detainee participated actively in the Tribunal process. He made a sworn statement addressing each of the points on the Unclassified Summary of Evidence. He denied being associated with the Taliban, stating the lines he served on were open to everyone and people serving on them could come and go as they pleased. He also denied traveling to Afghanistan to fight with the Taliban, stating instead he traveled for religious preparation, known as Rabat. The detainee admitted he carried a Kalashnikov rifle on the Karabatt line, but indicated all he did was clean, disassemble, and reassemble it. The detainee denied engaging in hostilities against Americans. He stated he went to Afghanistan and served on the lines about one year before the 11 September 2001 attacks, so he did not know who the U.S. allies were. He also stated that while he served on the Karabatt and Kawajaqaar lines, it was not to fight, but was for the purpose of Rabat. He admitted carrying the Kalashnikov rifle and grenades on the lines, but stated

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they were standard issue to men serving on the lines and they were not necessarily for fighting. He also stated he did turn in his weapons at Mazar e-Sharif, but not for the purpose of surrender. It was instead part of an agreement between [all those with] him and Northern Alliance forces, which stated if he turned in his weapon, he would be permitted to go on his way. Finally, the detainee indicated he was injured by accident in the courtyard of the Qala-I-Jenghi prison, and he surrendered to Northern Alliance forces after eight days because it was the only thing left to do. The detainee also elected to answer questions posed by the Personal Representative, the Recorder 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 called no witnesses, but the Personal Representative did offer extensive notes of his interviews with the detainee as Exhibit DB to further explain the detainee's position.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: DA through DB, R-1 through R-19
- 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 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. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony and the Personal Representative's notes of his interviews

with the detainee. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3), and the Personal Representative's notes of his interviews with the detainee are attached as Exhibit DB. The detainee began his sworn statement by responding to each of the points raised in the Unclassified Summary of Evidence. In sum, he denied being associated with the Taliban or traveling to Afghanistan to fight with the Taliban, stating instead he traveled for religious preparation, known as Rabat; he admitted he carried a Kalashnikov rifle on certain defensive lines, but indicated all he did was clean, disassemble, and reassemble the weapon; he denied engaging in hostilities against Americans and, because he went to Afghanistan about one year before the 11 September 2001 attacks, he did not know who the U.S. allies were; he stated that while he served on the Karabatt and Kawajaqaar lines, it was not to fight, but was for the purpose of Rabat; he admitted carrying the Kalashnikov rifle and grenades on the lines, but stated they were standard issue to men serving on the lines and were not necessarily for fighting; he stated he did turn in his weapons at Mazar e-Sharif, but only to secure safe passage as part of an agreement with the Northern Alliance; and he indicated he was injured by accident in the courtyard of the Qala-I-Jenghi prison, and he surrendered to Northern Alliance forces after eight days because it was the only thing left to do.

c. The detainee then answered questions posed by the Personal Representative. During the course of this questioning, he clarified the meaning of Rabat, indicating it means waiting and is a form of worship – a kind of practice. He stated there is a great reward in his religion for doing Rabat, and if someone dies while on one of the lines while doing Rabat, they are considered a martyr and go to heaven. He said Rabat is the opposite of Jihad because Rabat would be defending the line while Jihad would be attacking. He also explained his typical day on the line involved standing guard duty in one-hour shifts, eating, sleeping and praying. He indicated he did not take part in any of the fighting, but he did see some shooting where the Afghans were. He added when you go for Rabat, you are not doing it for a certain person, organization or country. You just go do it and return home. He said he was on the line in the north of Afghanistan when he heard about Massoud's injury and the 11 September 2001 attacks. Then the bombing started in Kabul, and eventually, close to where the detainee was stationed. Once that started, those doing Rabat decided to return to their home countries, so they went to Konduz, because most other places had fallen to Dostum or Massoud's forces. There were also Taliban in Konduz, as were the people who were doing Rabat. Then they reached an agreement with Dostum to allow them to go to Mazar e-Sharif. That was one of only two options given to them – Mazar e-Sharif or Bamiyan. Both of those were enemy locations, but Bamiyan was more dangerous because it involved Shiites, so they chose to go to Mazar e-Sharif. The condition was they had to turn in their weapons, which they did. They were then taken to the Qala-I-Jenghi prison, instead of being given the safe passage they were promised.

d. The detainee also agreed to answer questions posed by Tribunal Members (the Recorder had no questions). In response to these questions, the detainee reaffirmed he was not affiliated with either the Taliban or Al Qaida, and added the weapons training he received was given by an Arab leader. He said in choosing where to go for his Rabat, he

was given a paper in Kuwait telling him where to go. He said there were Pakistanis, Arabs and Afghans with him in Kabul, and in the north, there were also Uzbeks and Tajiks. The detainee stated the Afghans on the lines to which he was assigned were Taliban, but he was not affiliated with them. He said people on his line could come and go as they pleased, and the Taliban would go with the Taliban. The detainee also stated when he went to Konduz, he went with people doing Rabat. He said Konduz belonged to the Taliban, and it was the only place that hadn't fallen during the war. The detainee again clarified Rabat, indicating Rabat's purpose is not to defend something. He said scholars in Saudi Arabia said people fighting in Afghanistan – the Taliban and Massoud's people – were going outside the religion by fighting and that was not good. They are all Muslim brothers, and the scholars want peace. The detainee said he would have considered doing Rabat for Dostum's forces if there was a large group of people doing that, but Dostum didn't have a lot of allies – all he had was a small group of Afghans with him, so he didn't join Dostum.

e. The Personal Representative also submitted the detailed notes of his interviews with the detainee as Exhibit DB. The notes are generally consistent with the detainee's sworn testimony; the following points warrant mention. The detainee understood the people doing Rabat would discourage anyone from attacking, similar to U.S. forces in Kuwait, which keep the peace and prevent conflict. The detainee also indicated Rabat is considered an honorable deed and is encouraged because it brings one closer to Allah. He noted at the time he went to Afghanistan, the Taliban was the lawful government of Afghanistan and Dostum and Massoud were considered outlaws. He said the Taliban controlled 95% of Afghanistan, and most of the people followed them. He said the Saudi and Kuwaiti governments recognized the Taliban. He said if he knew Massoud and Dostum were allied with the U.S., he would not have gone to Afghanistan, because the United States helped Kuwait during the Gulf War and is a friend to Kuwait. Before 11 September 2001, the detainee was not aware of any problems between the United States and the Taliban. He was only aware of problems between the United States and Al Qaida, of which he is not a member. After 11 September, he thought the United States would only strike at Al Qaida in Afghanistan, not all of Afghanistan. He did not know Al Qaida was allied with the Taliban. As soon as he realized the United States was entering the fight against the Taliban, he did not want anything to do with that fight and tried to go home.

f. While the Tribunal understands the detainee's motives for going to Afghanistan and recognizes he arrived there well before 11 September 2001, it is clear he actively supported Taliban forces after 11 September 2001. By his own admission, he served in northern Afghanistan in lines with or near Taliban forces, and his positions were meant to support the Taliban forces in their fight against the Northern Alliance. Furthermore, when he withdrew from those lines, he withdrew to a Taliban controlled city, Konduz, because all of the other cities had fallen to forces opposing the Taliban. He remained armed until a deal was brokered with the Northern Alliance to allow him to leave Konduz – only then did he lay down his weapons. Finally, when choosing where to go, he noted both Bamiyan and Mazar e-Sharif were enemy locations, but Mazar e-Sharif was considered less dangerous. The detainee's own testimony made it clear he had cast

his lot with the Taliban, even after the 11 September 2001 attacks. Accordingly, the Tribunal concluded the detainee meets the definition of an enemy combatant.

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 Tribunal consulted the CSRT Assistant Legal Advisor and the OARDEC Forward Chief of Staff regarding certain matters raised by Exhibit R-19, which are more fully discussed in paragraph 1.e. of Enclosure (2) to the CSRT Decision Report. As per instructions, the OARDEC Liaison to the Criminal Investigation Task Force and JTF-GTMO was notified of the matters on 30 August 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 had no questions regarding his rights and actively participated in the hearing.

c. The detainee is properly classified as an enemy combatant because he is a member of, or affiliated with, Taliban forces, or associated 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,



COL, USA
Tribunal President

Summarized Detainee Sworn Statement

Tribunal President: Nasir Najr Nasir Balud Al Mutayri, 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: In response to the evidence, I just want to defend myself.

Tribunal President: Okay. Would you like to make your statement sworn or unsworn?

Detainee: I would like to swear.

Tribunal President: The Recorder will swear in the detainee.

The Recorder swore in the detainee.

Tribunal President: Nasir Najr Nasir Balud Al Mutayri, you may begin your statement.

The detainee was handed a translated copy of the Unclassified Summary of Evidence to use during the presentation of his statement. He then addressed each point on the Unclassified Summary of Evidence in order. To put his comments into context, the points from the Unclassified Summary of Evidence are provided below in italics. The detainee's comments follow each point (summarized).

3.a. Detainee is associated with the Taliban.

1. The detainee admitted to affiliation with the Taliban.

I am not associated with the Taliban. The line that I was in was open to anyone, it wasn't just for Taliban. Anyone could come and go as they pleased. And no one in that line was related to the Taliban.

2. Detainee admitted to traveling to Afghanistan to fight with the Taliban.

That is not true. I traveled to Afghanistan for what is called preparation. It is called Rabat. That is why I traveled to Afghanistan.

3. Detainee received weapons training in the use of hand grenades and the Kalashnikov rifle on the Karabatt line in Afghanistan.

That is true. I did have a Kalashnikov and I was on that line, but all I did with the weapon was clean, disassemble, and reassemble it.

3.b. Detainee engaged in hostilities against the US or its coalition partners.

That is not true, I did not engage in hostilities against the Americans. I was there in Afghanistan on the Karabatt and Kawajaqaar lines about a year before the September 11th attacks. I did not know who were allies with the US.

1. Detainee fought against Northern Alliance forces on the Karabatt line for 6 months and on the Kawajaqaar line for four months.

I was on both of those lines for approximately one year, give or take two months. It was not to fight, but to do Rabat.

2. Detainee carried a Kalashnikov and two hand grenades while on the front lines.

They were standard issue on the front lines; they were not necessarily to use in hostilities or to fight. If you didn't get them, you left.

3. Detainee relinquished his weapon and surrendered to Northern Alliance forces at Mazar e-Sharif.

I did relinquish my weapon for peace and that was one of the conditions to be able to leave. But it was not a surrender; it was an agreement between me and the Northern Alliance forces to surrender my weapon and go on my way. It was not a surrender. It was an agreement.

4. Detainee was injured in the Qala-I-Jenghi prison uprising and eventually surrendered to Northern Alliance forces.

I was injured by accident in the courtyard of the prison. I was in the courtyard and people were shooting everywhere, and I was injured. After I was in the prison for 8 days it was normal to surrender. It was the only thing left to do. I was told I could leave and that's when I left.

The detainee then provided additional details regarding how he was injured, summarized as follows:

The other prisoners and I were outside in the courtyard with our hands bound. There was shooting all around, so I started running to the right of the building with a group of people who were fleeing in that direction. Then we all decided it would be safest to run back inside the prison. Between the area where I was and the prison, there was an open area, an area that provided cover, and an open area. While running across the first open area I was injured. After I was injured, they started shooting at the place where I was, and the bushes and stuff around me caught fire from the shooting. There was a person hiding in the bushes and he was burned. I knew I had the choice of dying right there or

continuing toward the house. There was a group of people who told me to lay low so I would not be shot, and then another round of shooting began. I fell to the ground and the group of people picked me up and took me inside. I was there for eight days and then I left. I was injured the second day before the uprising.

The detainee then agreed to answer questions, indicating he would do so truthfully. The Personal Representative began the questioning, which is summarized as follows:

Personal Representative: Nasir, can you explain for us please what Rabat is and what does it mean as a Muslim?

Detainee: Rabat means waiting. It's a form of worship, a kind of practice. There is a great reward in my religion for doing Rabat. If someone dies while on the line while doing Rabat they are considered martyrs and go to heaven. Rabat is the opposite of Jihad because Rabat is defending the line and Jihad is attacking the line.

Personal Representative: When you went to Afghanistan on the line, did you do any Jihad on the line, or was it only Rabat?

Detainee: It was only Rabat. When I got to the line it was during wintertime and it's known that in winter there is no fighting, no Jihad. It is the opposite of the summer because in the summer it is known for fighting. All I was doing was Rabat.

Personal Representative: When you were on the line on Rabat, what was a typical day like? What did you do on the line?

Detainee: My daily schedule. There was program to defend, like guard duty. In the morning we would have breakfast. We would check the schedule to see who was on guard duty for the day. There was someone responsible for us on guard duty. We would modify our schedules based on the duty schedule to know whether to go to bed early or late. There were two shifts of guard duty, a morning and a night shift. And that is the basic thing a person on Rabat does, guard duty. That is what their schedule revolves around. Usually it was one-hour shifts unless there was a shortage of people and I would do three or four-hour shifts. Anything else we did outside of guard duty was praying eating, sleeping, things like that. That was our typical day.

Personal Representative: Can you explain to me why you did Rabat on the line? You mentioned that is was a good deed for a Muslim to do, why were you there on that line for Rabat? What was your purpose?

Detainee: It says in Islam to go do Rabat and I wanted to do something that was considered good in my religion and also to earn wages.

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Personal Representative: So you are saying this is defensive and not offensive?

Detainee: No, there was no fighting or anything offensive. It is known there is little fighting in Afghanistan. It is a known fact.

Personal Representative: Did you observe any fighting in Afghanistan?

Detainee: Not directly, but I saw another line where I saw some shooting where the Afghans were.

Personal Representative: But you did not participate in that shooting?

Detainee: No, I did not.

Personal Representative: Did you go for Rabat for the Taliban? Were you serving for the Taliban while you were there?

Detainee: No. When you are doing Rabat, you are not doing it for a certain person or organization or country, you just go there, do Rabat, and return to your home. You do not do that for anybody in particular.

Personal Representative: Were you aware of any links between al Qaida and the Taliban?

Detainee: No, I was not aware.

Personal Representative: How long were you in Afghanistan before the September 11th attacks?

Detainee: Approximately one year.

Personal Representative: Were there any restrictions or anything when you traveled to Afghanistan from your own country?

Detainee: No, there were no travel restrictions.

Personal Representative: How did you hear about the news of 9/11?

Detainee: I was in the north of Afghanistan in a line directly opposite of Massoud's group. I heard from the people in Massoud's group the news that Massoud had been injured. And we started listening for more news from others. If I remember correctly, it was a Sunday and they said he was injured. So after a day or two, I heard about the news of September 11th. After that, all I heard was about the events of 9/11 and there was no more talk of Massoud.

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Personal Representative: What did you hear about who was behind September 11th?

Detainee: During the first week, they accused al Qaida.

Personal Representative: Were you expecting a big war?

Detainee: I did not know what was going to happen. I am not involved in politics, so I do not know, but I heard it on the news.

Personal Representative: What happened after the news of 9/11, approximately a month later?

Detainee: I heard the news that Kabul had been bombed and we were surprised and wondered why they bombed Kabul. After a few days there were more bombings.

Personal Representative: Where you were, were you bombed?

Detainee: Close to where I was, but not exactly. There were bombs every day, morning and night, different planes.

Personal Representative: What did you do when you realized they were bombing?

Detainee: During the first days, I dug a ditch to hide in.

Personal Representative: Did you stay on the line?

Detainee: We thought of leaving the line.

Personal Representative: Did you continue to stay and do Rabat on the line?

Detainee: They wanted to leave.

Personal Representative: Where did you want to go?

Detainee: Everyone was going to their own country.

Personal Representative: So you were going to stop doing Rabat and leave?

Detainee: It was over. There was no more Rabat, so I was going to go home.

Personal Representative: So what happened when you tried to go home?

Detainee: I went to Konduz, because most places had fallen to Dostum or Massoud. When we went there, we were surrounded and confined to that area. There was an agreement between Dostum and the people who were surrounded.

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Personal Representative: These people were the ones that were on Rabat?

Detainee: Everyone who was in that area. There was an agreement between them and Dostum. The Taliban was there in Konduz while we were there and were still there when we left. So all the people who left were people doing Rabat. Afghans, Arabs, Pakistanis.

Personal Representative: Were you able to leave Konduz? What happened?

Detainee: We got in cars and left and went to Mazar e-Sharif. Those were the terms of the agreement.

Personal Representative: Explain the agreement. You were surrounded by Massoud?

Detainee: One of the Afghans came to the group and talked to one of the Arabs doing the Rabat and said there were two options: a place called Bamiyan or Mazar e-Sharif. Both were enemies, but one was worse than the other. The first option involved Shiites. The second involved Dostum's people, and they were a better option than the Shiites to our group because they were less dangerous. So that is where we decided to go, but under the condition that we give up our weapons. We gave up our weapons and they took us to the prison.

Personal Representative: So they were going to give you safe passage if you gave up your weapons?

Detainee: That was the agreement for everyone.

Personal Representative: You said they took you to the castle?

Detainee: Yes.

Personal Representative: And that was the Qala-I-Jenghi prison?

Detainee: Correct.

Personal Representative: You were there for one day?

Detainee: I spent the night there and the second day we started leaving. The first day we were treated badly.

Personal Representative: Were you aware of any plans for an uprising at the prison?

Detainee: No, not at all.

Personal Representative: Did you have any weapons?

Detainee: No, we had already relinquished the Kalashnikov and the two hand grenades we had.

Personal Representative: Do you know what caused the commotion, how it started?

Detainee: No, I did not know.

The Personal Representative had no more questions, and the Recorder had no questions. The Tribunal then questioned the detainee as summarized below.

Tribunal Member: In regards to the unclassified summary, just to confirm, you were not a member of the Taliban or affiliated with the Taliban?

Detainee: No, never.

Tribunal Member: And that also applies to Al Qaida?

Detainee: No, never.

Tribunal Member: On point 3.a. of the Unclassified Summary of Evidence, it talks about the weapons training. From whom did you receive the weapons training?

Detainee: Just individual Arabs. There was a leader of the Arabs who were on that line, and he was the one giving that training.

Tribunal Member: When you went for your Rabat, how would you decide which side you would defend?

Detainee: I was originally coming from Kuwait and I had a paper telling me where to go. When I got to Afghanistan, I met an individual at the airport at Kabul and he took me to where I ended up.

Tribunal Member: Were there any Taliban on the lines with you?

Detainee: There were Pakistanis in Kabul. There were Arabs and Afghans too. And in the north, there were also Uzbeks and Tajiks, other groups.

Tribunal Member: But no Taliban?

Detainee: There were. The Afghans are the Taliban.

Tribunal Member: So when you were talking about Afghans before, you were talking about Taliban?

Detainee: Yes, the Afghans on the line were Taliban.

Tribunal Member: So on the lines you were assigned, there were Taliban as well?

Detainee: Yes. But I was not affiliated with them. Like I said before, anyone could come and go as they pleased. And whoever was with the Taliban would go with the Taliban, and whoever wasn't wouldn't.

Tribunal Member: Earlier, you mentioned when you when to the lines it was winter and you did not expect fighting in the winter.

Detainee: Yes, and it's known that in the nature of the Rabat that its during the wintertime.

Tribunal Member: But you said that you were on the lines for 10 months, so you must have known that there was fighting in the summer, why did you not leave?

Detainee: They were in Kabul during the winter and during the summer they went to the north. And the fighting that was happening in the summer did not concern me, that was between the Taliban and whoever was fighting. Me being an Arab, I can only take instruction from the leader of the Arabs.

Tribunal Member: When you went to Konduz, you went with the group of people who were also doing Rabat?

Detainee: Yes, that was the same group.

Tribunal Member: And that was from the lines in the north?

Detainee: Yes, Konduz was the closest place to the north.

Tribunal Member: Did Taliban also come with you to the north?

Detainee: Konduz belonged to the Taliban and it was the only place that hadn't fallen in the war.

Tribunal President: You stated that one month after 9/11, you were on the line with guard duty, but the fighting was close enough that you could see it.

Detainee: The fighting between who?

Tribunal President: You didn't say. You simply said the fighting was not on your line, but you could see the fighting on the other line.

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Detainee: The fighting between the Taliban and Massoud's group is the fighting I could see. Occasionally they would attack each other. It had nothing to do with my group.

Tribunal President: If the fighting would have proceeded to your line, would you have shot your weapon?

Detainee: Of course, it's natural to defend myself. I want to clarify the difference between fighting and Rabat. There is a big difference between an Afghan Jihadist and an Arab Rabatist.

Tribunal President: The group that you were defending against - your opponent, was that the Northern Alliance?

Detainee: They didn't have any stations directly opposite where I was. The Northern Alliance had stations opposite the Taliban on the line, but not where I was.

Tribunal Member: If forces were to come your way that would have caused you to defend yourself, would they have been Northern Alliance forces?

Detainee: I do not understand.

Tribunal Member: For the Rabat in Afghanistan, who or what were you defending Afghanistan from?

Detainee: Rabat is not defending something. You go there, earn your wages, learn how to meditate, pray and learn patience. It is not your purpose to be defending something. The scholars in Saudi Arabia said that the people who were fighting from the Taliban and Massoud's people were going outside the religion by fighting and it was not a good thing, it was a bad thing. They still consider them all brothers because they are all Muslim, so they wanted to have peace. Rabat wasn't to be there to defend against someone. They didn't want the Taliban to be fighting against Massoud's people, because they are Muslim as well.

Tribunal Member: The piece of paper that you had from Kuwait going to Afghanistan for Rabat, if that had you do Rabat for Massoud, the Northern Alliance forces, would you have had a problem doing that?

Detainee: If there was a large group of people doing it, I would have joined. Dostum's people did not have a lot of allies, so there was only a small number of Afghans with him, that's why I didn't join him. If he had a large number of people following him, I would have joined him.

The Tribunal members had no further questions.

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Tribunal President: Nasir Najr Al Mutayri, do you have any other evidence to present now that the Tribunal is completed?

Detainee: There is no evidence, but are my words clear? Is everything that I said understood?

Tribunal President: Do you think there is a miscommunication based on the questioning?

Detainee: No, I just want to make sure that everything is clear.


Tribunal President: I believe it is clear.

A brief discussion followed with the detainee regarding how he would be notified of the findings. That concluded the statement of the Detainee.

AUTHENTICATION

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


COL, USA
Tribunal President

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DETAINEE ELECTION FORM

*Ready
for final
interview
11 Aug 04*

Date: 11 Aug 2004

Start Time: 1353 hrs

End Time: 1525 hrs

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? MODERN 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:

Detainee will make a sworn oral statement and will not call any witnesses. The detainee indicated that he understood the CSRT process.

Personal Representative: [REDACTED]

UNCLASSIFIED

**Recorder Exhibit List
For
ISN [REDACTED]**

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	Request for Redaction for National Security Information	UNCLASSIFIED
R3	FM 40 [REDACTED] Sep 02	FOUO//LES
R4	FM 40 [REDACTED] Sep 02	FOUO//LES
R5	FM 40 [REDACTED] 02 Jan 03	FOUO//LES
R6	FM 40 [REDACTED] 09 Jan 03	FOUO//LES
R7	FM 40 [REDACTED] 06 Oct 03	FOUO//LES
R8	FM 40 [REDACTED] 05 Jan 04	FOUO//LES
R9	FM 40 [REDACTED] 10 Mar 04	FOUO//LES
R10	ECRC [REDACTED]	SECRET//NOFORN
R11	CITF Commander Memo 10 Mar 04	SECRET//NOFORN
R12	JTF GTMO CG Memo 24 Jan 04	SECRET
R13	IIR 6 034 1XXX 03	SECRET//NOFORN
R14	IIR 6 034 1557 03	SECRET//NOFORN
R15	Analyst Support Package	SECRET//NOFORN
R16	MFR [REDACTED] 19 Mar 02	SECRET
R17	MFR [REDACTED] 16 Mar 02	SECRET
R18	JTF GTMO Baseball Card	SECRET//NOFORN
R19	Detainee Mail Review	SECRET//NOFORN

Combatant Status Review Board

9 August 2004

TO: Personal Representative

FROM: Recorder

Subject: Summary of Evidence for Combatant Status Review Tribunal – Amtiri, Nasser Najiri

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.
 - a. Detainee is associated with the Taliban.
 1. The detainee admitted to affiliation with the Taliban.
 2. Detainee admitted to traveling to Afghanistan to fight with the Taliban.
 3. Detainee received weapons training in the use of hand grenades and the Kalashnikov rifle on the Karabatt line in Afghanistan.
 - b. Detainee engaged in hostilities against the US or its coalition partners.
 1. Detainee fought against Northern Alliance forces on the Karabatt line for six months and on the Kawajaqaar line for four months.
 2. Detainee carried a Kalashnikov and two hand grenades while on the front lines.
 3. Detainee relinquished his weapon and surrendered to Northern Alliance forces at Mazar e-Sharif.

4. Detainee was injured in the Qala-i-Jenghi prison uprising and eventually surrendered to Northern Alliance forces.

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.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 6, 2004

REQUEST FOR REDACTION OF NATIONAL SECURITY INFORMATION

ISN [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.

¹Redactions are marked by means of pink/blue highlighter on the OARDEC provided FBI document.

²See Executive Order 12958

EXHIBIT R2

FINAL INTERVIEW NOTES

13 and 26 August 2004

0755-0950 hrs

Name: Nasser Najiri Amtiri

Pronunciation: Nah-Sir Nah-Jeer El-Mit-Terry

Detained asked that these notes be submitted to the Tribunal and included in the record. They are a summary of what he said during our meetings on 13 and 26 Aug 2004 in response to the unclassified summary of evidence.

A: Detainee is associated with the Taliban

A1: The Detainee admitted to affiliation with the Taliban

- He did not go to Afghanistan for Jihad (to fight), he went there for Re-batt (waiting)
 - In Islam Re-batt is encouraged to prevent the enemy from attacking. He and others went to the Karabatt line in large numbers to mass on the boarder and wait
 - The intent was to discourage anyone from attacking
 - During Re-batt, Muslims learn patience and how to use weapons, Re-batt is akin to Defense, where as Jihad is Offensive
 - Detainee claims, "Mohammed said that people who die waiting (Re-batt) are martyrs also and go to heaven."
 - Detainee stated that Re-batt is like the US bases in Kuwait, the soldiers are sent there to wait and train to keep the peace and prevent conflict
 - In Islam, Re-batt is an honorable deed and is encouraged
 - Re-batt brings you closer to Allah, similar to fasting but better – 1 hour of Re-batt is like several days of fasting
- He was in Afghanistan for Re-batt approximately one year before the 9/11 attacks
 - At that time, the Taliban was the legal government of Afghanistan, Dostum and Mossoud were considered outlaws
 - Taliban controlled 95% of Afghanistan, the majority of the people followed them
 - The Taliban was recognized by the Saudi and Kuwaiti governments along with other countries
 - Where the Taliban ruled, it was safe and there was justice, people attested to that there was peace
 - When he left for Afghanistan, the Kuwait government did not have any restrictions on travel to Afghanistan, it was allowed. They never said anything.
- He went to Afghanistan for Re-batt and to help keep the peace for his fellow Muslims
 - His purpose for Re-batt was to help his fellow Muslims, not because he was a member of the Taliban, or wanted to join the Taliban, but because he loves Allah and wanted to do a good deed
 - He was told that Re-batt was only available for Afghanistan and that Mossoud and Dostum were criminals

- If he knew Mossoud and Dostum were allied with the United States, he would have not gone, the United States helped Kuwait in the Gulf War and is a friend to Kuwait
- Arabs participating in Re-batt were not obligated to participate in Jihad
- Detainee asked why can't there be peace between the Farsi (Mossoud), Uzbek (Dostum) and Pastu (Taliban)
 - Mossoud and Dostum did not have a lot of allies, just their tribes
 - Mossoud had kicked out the Russians, so he believed he was better to rule Afghanistan, the Afghanistan people wanted the Taliban and they were more popular
 - Mossoud told the Arabs and the Pakistani's to get out of Afghanistan, this was a fight between him and the Taliban
 - No one paid attention to Mossoud because he was considered a criminal
- The Taliban respected the Arabs and Pakistanis and welcomed them to stay and help, but they were not obligated

A2: Detainee admitted to traveling to Afghanistan to fight with the Taliban

- He did not admit to traveling to Afghanistan to fight (Jihad), he went there for Re-batt. He claims the translators have been misinterpreting.
- Before 9/11, he wasn't aware of problems between the Taliban and the United States
 - Only aware of problems between Al Qaida and the United States
 - He does not belong to Al Qaida, he is not a member
- After 9/11, he wanted to get out of Afghanistan
 - He tried to flee, but was caught by Dostum's (Northern Alliance) group
- The Sunday before 9/11, he heard the news in the media that Mossoud was killed
 - This was very big, because he was one of the Taliban's main enemies (i.e., Dostum and Mossoud)
- He was following the news about Mossoud's death when he heard the news about the 9/11 attacks
 - Media reports said that the United States threatened to fight UBL and Al Qaida in Afghanistan
 - He thought the United States would just fight against Al Qaida, not everywhere
 - He thought it would be like when he heard the news that Al Qaida blew up the US embassies in Africa, he thought the US would only strike Al Qaida, not all of Afghanistan
 - He was not aware of any connection between Al Qaida and the Taliban
- Approx 1 month after the 9/11 attacks, the United States began attacking everywhere in Afghanistan -- all the lines and borders
 - He realized that this was going to be a big war against all of Afghanistan and he did not want to participate in it and decide it was time to flee country
- He did not know the Taliban were allied with Al Qaida

A3: Detainee received weapons training in the use of hand grenades and the Kalashnikov rifle on the Karabatt line in Afghanistan

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- These were standard issue weapons on the front line. He was issued them 1 year before the 9/11 attacks
 - He was taken to the front lines in the north (Kawajagaar line).
 - There they gave him very basic training on the Kalashnikov (how to shoot it, and how to take it apart and clean it)
 - He never fired the weapons or used the hand grenades
- He only guarded the lines, he didn't fight
 - On the line there was Arabs, Afghans and Pakistani
 - The fighting was between the Afghans and Dostum/Mossoud
 - He witnessed the fighting, but did not participate, he just guarded the line (Re-batt)
 - On the line, there was a lot of praying and learning, no news about who was allied with who – he didn't know Mossoud's allies
- Did you attend Al Qaida training camps?
 - No, I never attended any training camps

B: Detainee engaged in hostilities against the US or its coalition partners

B1: Detainee fought against the Northern Alliance forces on the Karabatt line for six months and on the Kawajagaar line for four months

- He did not participate in Jihad, he participated in Re-batt
- These are not exact times, but approximations – give or take a few months. He guarded these two lines for 1 year, before the 9/11 attacks as discussed above.
- When he realized the United States was entering the fight against the Taliban, his Re-batt was over
 - He wanted nothing to do with this fight and tried to go home.

B2: Detainee carried a Kalashnikov and two hand grenades while on the front lines

- This is true, the Kalashnikov and grenades were standard issue for the front lines. However, he went there for Re-batt and was there a year before 9/11. He never intended to fight against Americans.
- Did you know the Taliban were allied with Al Qaida?
 - No never, for the month after the 9/11 attacks, he thought the fight would be between Al Qaida and America, not all over and not against the Taliban
 - He did not know the Taliban were allied with Al Qaida

B3: Detainee relinquished his weapon and surrendered to Northern Alliance forces at Mazar-e-Sharif

- True, he withdrew from Kawajagaar line in the north when he realized the US was fighting in all of Afghanistan, he withdrew to Konduz
- While in Konduz, he was surrounded by Mossoud and Dostum's troops and he was air attacked by US aircraft
- He only had two directions to flee

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- Bamian, this was control by a Shia group that was an enemy of the Taliban
- Mazar e-Sharif, which belonged to Dostum
- The group he was fleeing with made an agreement with Dostum, Dostum would allow them to flee the country if they surrendered their weapons.
 - Although Dostum was considered to be an outlaw, he was known to be a man of his word
 - He surrendered his weapon because he wanted peace and wanted to go home
 - Instead of taking him to the boarder, Dostum's forces took him to Qala-i-Jenghi castle and put him in a basement

B4: Detainee was injured in the Qala-i-Jenghi prison uprising and eventually surrendered to Northern Alliance forces

- He was at Qala-i-Jenghi castle for 1 day, Dostum's forces took him there after he surrendered his weapons at Mazar-e-Sharif so he could go home
- Dostum's people at the prison took everything (money, shoes) and tied his hands behind his back
 - The conditions were bad and the food was bad
 - People in his group began to think that Dostum was going to betray them
- At the prison he was taken outside to a yard, they were taking people there 1 at a time
 - He does not know why they took him outside, there were a lot of people outside in the yard
- When he had been outside for approximately 5 minutes, he heard a loud commotion (gunshots, yelling, etc) and Dostum's security began to fire upon the people outside in the yard
 - That was confirmation that Dostum's had betrayed the group of Arabs trying to flee -- he wasn't going to take them to the boarder.
 - He tried to run and hide with a group of young people that were in the yard
 - At first he ran away from the castle, but quickly decide it would be better reverse direction and attempt to find cover in the castle.
 - While running to hide in the castle, he was shot twice in the leg, that was how he was injured
 - After he was shot, he was carried into the castle by someone in the yard
- He had no prior knowledge of the uprising at the castle, and he had no weapons while he was at the castle, he had voluntarily surrendered them
- To this day, he is not sure how it started

If you are returned home, will you go back to Afghanistan? What will you do?

- No! I want to get married and live a normal life and have children and raise them
- Should he go back to Kuwait, they will restrict anyone from traveling to Afghanistan and he will gladly agree

Personal Representative Review of the Record of Proceedings

I acknowledge that on 30 August 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

30 Aug 2004

Date

[REDACTED]

Signature

ISN # [REDACTED]
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KHALID BIN ABDULLAH MISHAL)
THAMER AL HAMEYDANI, *et al.*,)
Petitioners,)
v.) Civil Action No. 04-CV-0828 (CKK)
UNITED STATES OF AMERICA, *et al.*,)
Respondents.)
_____)

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 Khalid Bin Abdullah Mishal Thamer Al Hameydani 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 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: 12 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



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

OARDEC/Ser: 0196
11 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.

A handwritten signature in cursive script, appearing to read "J. M. McGARRAH".

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

8 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. 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 voluntarily elected not to participate at the Tribunal.
 - 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-12 and R-13 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 made no requests for witnesses or other 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 declined to submit comments to the Tribunal.
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

MEMORANDUM FOR DIRECTOR, CSRT

02 October 2004

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 (3).

(U) TRIBUNAL PANEL: #6

(U) ISN#: [REDACTED]

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)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Copies of Documentary Evidence Presented (S/NF)
(4) (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 29 September 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee [REDACTED] 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 or Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners, 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).

[REDACTED]

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 Taliban or Al Qaida forces, or associated 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 29 September 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates, among other things, that the detainee is associated with the Taliban and Al Qaida; that the detainee worked for Al Wafa, an Al Qaida associated organization; that the detainee received training at Lashkar e-Taiba (sic); that the detainee fought against the Northern Alliance at Tora Bora and Talaqoun; and that the detainee was among 84 Mujahidin fighters captured by the Pakistani government in the Nangarhar Province. The Recorder called no witnesses.

The detainee did not attend the Tribunal and refused to acknowledge the Personal Representative during their meeting prior to the Tribunal as indicated on the Detainee Election Form (Exhibit D-A). The detainee's failure to respond to the Personal Representative's invitation to participate in the Tribunal process was treated as a declination and the Tribunal proceeded without the detainee. The Personal Representative presented no evidence and called no witnesses on behalf of the detainee.

During the classified session of the Tribunal, the Recorder presented Exhibits R-3 through R-14. The Personal Representative presented no classified evidence. The Recorder commented on the classified exhibits; the Personal Representative did not.

After the Tribunal read all of the classified exhibits, the Tribunal requested additional information. In response to the Tribunal's request, the Recorder offered into evidence Exhibit R-15 after giving the Personal Representative an opportunity to review the document. Neither the Recorder nor the Personal Representative had any comments on

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ISN _____
Enclosure (1)
Page 1 of 3

the additional document. After considering the unclassified and the classified 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. Statement of the detainee: None.

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 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, the FBI redaction certification, provided no usable evidence. Because there was no other unclassified evidence for the Tribunal to consider (other than Exhibit R-15, which is discussed below), the Tribunal had to look to the classified exhibits to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

The Recorder presented Exhibit R-15 in response to a question during the classified session regarding Lashkar e-Tayyiba. The exhibit indicates Lashkar e-Tayyiba is a terrorist organization and not a training camp, as is suggested by item 3.a.3 on the Unclassified Summary of Evidence. The Tribunal considered this information in reaching its decision.

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 chose not to participate in the Tribunal proceeding. No evidence was produced that caused the Tribunal to question whether the detainee was mentally and physically capable of participating in the proceeding, had he wanted to do so. Accordingly, no medical or mental health evaluation was requested or deemed necessary.

b. As indicated in Exhibit D-A, the detainee made a conscious decision not to acknowledge the Personal Representative's invitation to participate in the Tribunal process. Because the Personal Representative fully explained the Tribunal process to the detainee, the Tribunal finds the detainee made a knowing, intelligent and voluntary decision not to participate in the Tribunal process.

c. The detainee is properly classified as an enemy combatant because he was part of or supporting Taliban or Al Qaida forces, or associated 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

DETAINEE ELECTION FORM

Date: 28-Sep-04

Start Time: 0800

End Time: 0815

ISN#: [REDACTED]

Personal Representative: [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:

Detainee unresponsive. Sat in chair with head down did not speak at any time. Tribunal process explained and Unclassified Summary of Evidence translated to detainee. Explained to detainee that his unresponsiveness would be considered that he does not want to participate in the Tribunal.

Personal Representative: [REDACTED] LCOR, USN

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**Recorder Exhibit List
For
ISN [REDACTED]**

#	Title	Support	Classification
R1	Unclassified Summary		UNCLASSIFIED
R2	FBI Request for Redaction of National Security Information 22 SEP 04		UNCLASSIFIED
R3	MFR dtd 11-MAR-02	3.a.1	SECRET
R4	IIR 2 340 6122 02 dtd 09-JAN-02	3.a.2	SECRET
R5	IIR 6 034 0677 03 undtd	3.a.3	SECRET//NOFORN
R6	IIR 6 034 1267 03 dtd 02-JUL-03	3.b.1, 3.b.2	SECRET//NOFORN
R7	IIR 7 739 3396 02 dtd 27-SEP-02	3.b.3	CONFIDENTIAL
R8	JTF GTMO Baseball Card	Summary	SECRET//NOFORN
R9	CITF-CDR Memo dtd 10-MAR-04	Summary	SECRET//NOFORN
R10	JTF GTMO-CG Memo dtd 24-JAN-04	Summary	SECRET
R11	Tier Assessment Memo	3.a.1	SECRET
R12	FBI 302 dtd 12-MAR-03	3.a.3	FOUO//LES
R13	FBI 302 dtd 05-MAY-03	3.b.1, 3.b.2	FOUO//LES
R14	JTF GTMO Baseball Card [REDACTED]	R4	SECRET//NOFORN

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – Al Hameydani, Khalid Bin Abdullah Mishal Thamer

1. Under the provisions of the Department of the Navy Memorandum, dated 16 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 al Qaida and engaged in hostilities against the United States or its coalition partners.
 - a. Detainee is associated with the Taliban and al Qaida.
 1. The detainee worked for al Wafa, an al Qaida associated organization.
 2. Detainee's name and phone number were known to an al Qaida leader.
 3. Detainee received training at Lashkar e-Taiba.
 - b. Detainee engaged in hostilities against the US or its coalition partners.
 1. The detainee fought against the Northern Alliance at Tora Bora and Talaqoun.
 2. Detainee operated an anti-aircraft gun at Talaqoun.
 3. Detainee was among 84 Mujahidin fighters captured by the Pakistani government in Nangarhar Province.
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

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an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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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 03/12/2003
FD-302 dated 05/30/2003

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

²See Executive Order 12958

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EXHIBIT A338

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

If you need additional assistance, please contact

[REDACTED] or Intelligence Analyst [REDACTED]

[REDACTED]
Intelligence Analyst [REDACTED]
[REDACTED]

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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

EXHIBIT 1340-15

19. Lashkar-e-Tayyiba (LT) (Army of the Righteous)

Description

The LT is the armed wing of the Pakistan -based religious organization, Markaz-ud-Dawa-wal-irshad (MOI) - a Sunni anti-US missionary organization formed in 1989. The LT is led by Abdul Wahid Kashmiri and is one of the three largest and best-trained groups fighting in Kashmir against India; it is not connected to a political party. The United States in October 2001 announced the addition of the LT to the US Treasury Department's Office of Foreign Asset Control's (OFAC) list - which includes organizations that are believed to support terrorist groups and have assets in US jurisdiction that can be frozen or controlled. The group was banned, and the Pakistani Government froze its assets in January 2002.

Activities

The LT has conducted a number of operations against Indian troops and civilian targets in Kashmir since 1993. The LT claimed responsibility for numerous attacks in 2001, including an attack in January on Srinagar airport that killed five Indians along with six militants; an attack on a police station in Srinagar that killed at least eight officers and wounded several others; and an attack in April against Indian border-security forces that left at least four dead. The Indian Government publicly implicated the LT - along with JEM - for the 13 December attack on the Indian Parliament building. The LT is also suspected of involvement in the 14 May 2002 attack on an Indian Army base in Kaluchak that left 36 dead. Senior al-Qaeda lieutenant Abu Zubaydah was captured at an LT safehouse in Faisalabad in March 2002, suggesting some members are facilitating the movement of al-Qaeda members in Pakistan.

Strength

Has several hundred members in Azad Kashmir, Pakistan, and in India's southern Kashmir and Doda regions. Almost all LT cadres are foreigners - mostly Pakistanis from madrassas across the country and Afghan veterans of the Afghan wars. Uses assault rifles, light and heavy machineguns, mortars, explosives, and rocket-propelled grenades.

Location/Area of Operation

Based in Muridke (near Lahore) and Muzaffarabad. The LT trains its militants in mobile training camps across Pakistan-administered Kashmir and had trained in Afghanistan until fall of 2001.

External Aid

Collects donations from the Pakistani community in the Persian Gulf and United Kingdom, Islamic NGOs, and Pakistani and Kashmiri businessmen. The LT also

maintains a Web site (under the name of its parent organization Jamaat ud-Oaawa), through which it solicits funds and provides information on the group's activities. The amount of LT funding is unknown. The LT maintains ties to religious/military groups around the world, ranging from the Philippines to the Middle East and Chechnya through the MOI fraternal network. In anticipation of asset seizures by the Pakistani Government, the LT withdrew funds from bank accounts and invested in legal businesses, such as commodity trading, real estate, and production of consumer goods.

20. Lashkar I Jhangvi (LJ) (Army of Jhangvi)

Description

Lashkar I Jhangvi (LJ) is the militant offshoot of the Sunni sectarian group Sipah-I-Sahaba Pakistan (SSP). The group focuses primarily on anti-Shia attacks and was banned by Pakistani President Musharraf in August 2001 as part of an effort to rein in sectarian violence. Many of its members then sought refuge with the Taliban in Afghanistan, with whom they had existing ties.

Activities

LJ specializes in armed attacks and bombings. The group attempted to assassinate former Prime Minister Nawaz Sharif and his brother Shabaz Sharif, Chief Minister of Punjab Province, in January 1999. Pakistani authorities have publicly linked LJ members to the kidnap and murder of US journalist Daniel Pearl in early 2002. Police officials initially suspected LJ members were involved in the two suicide car bombings in Karachi in 2002-against a French shuttle bus in May and the US Consulate in June - but their subsequent investigations have not led to any LJ members being charged in the attacks. Similarly, press reports have linked LJ to attacks on Christian targets in Pakistan, including a grenade assault on the Protestant International Church in Islamabad in March 2002 that killed two US citizens, but no formal charges have been filed against the group.

Strength

Probably fewer than 100.

Location/Area of Operation

LJ is active primarily in Punjab and Karachi. Some members travel between Pakistan and Afghanistan.

External Aid

Unknown.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 30 September 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]

30 SEP 04
Date

[REDACTED]

Signature

ISN [REDACTED]
Enclosure (5)