


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: 1 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



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

OARDEC/Ser:
30 September 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

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

FOR OFFICIAL USE ONLY

30 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 #5 of 17 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 made a sworn statement at the Tribunal.
- 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-5 and R-6 was redacted. The FBI properly certified in exhibits R-2 and R-3 that the redacted information would not support a determination that the detainee is not an enemy combatant. Also note that enclosure (2) of the Tribunal Decision Report was not signed by the Tribunal President. This was a simple administrative oversight.
- d. The detainee request that two witnesses be produced to testify on his behalf. He claimed that these witnesses would testify that the detainee attempted to bribe Yemen officials to take some action that would prevent him from being allowed to travel to Afghanistan to join his parents. The detainee never posited that he did not go to Afghanistan. His position was that he only went reluctantly at the behest of his parents. The Tribunal President properly noted that such testimony, even if accepted as true, would not be relevant to the question of the detainee's enemy combatant status, the only purpose of the Combatant Status Review Tribunal. Under the factual circumstances present here, the witnesses' testimony was irrelevant to the Tribunal's determination. If the detainee's proffer was that he had not gone to Afghanistan at all, the witnesses might have been relevant as tending to prove that he did not go. That was not the detainee's position however. His purpose in requesting the witnesses was merely to show that he

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

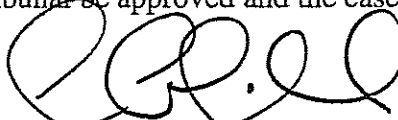
went to Afghanistan reluctantly. In my opinion, the Tribunal President's decision was correct. The detainee made no other requests for evidence.

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

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

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

24 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: #5

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #5 of 17 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/Witness Testimony (U)
(4) (U) Copies of Documentary Evidence Presented (S//NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 20 September 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 20 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 al-Qaida 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, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #5
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 is a member of al-Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of evidence presented to the Tribunal by the Recorder indicated that the detainee is a member of al-Qaida. The summary stated that the detainee admitted that he traveled from Yemen to Afghanistan to help fight in the war during the middle of 2001. It was further alleged that the detainee stated that he attended the Al-Farouq training camp in late August 2001. The summary stated that the detainee stated that he traveled to Tora-Bora Mountains in late 2001. In the unclassified summary of evidence, the Recorder alleged that the detainee participated in military operations against the United States or its coalition partners. The summary stated that the detainee stated that he was trained with and carried the AK-47 rifle while at Al-Farouq training camp. The summary stated that the detainee stated that he was arrested by Pakistani Army soldiers and was sent to Peshawar prison prior to being taken to prison in Kandahar by US Forces. The detainee chose to participate in the Tribunal process, he called two witnesses, requested no unclassified or classified documents be produced, made an oral written sworn statement. The Tribunal President found the requested witnesses not relevant, and accepted into evidence a letter from the detainee's brother discussing the detainee's presence in Afghanistan. The detainee, in his oral statement, denied being a member of Al-Qaeda and denied the veracity of most allegations made against him in the unclassified summary; however, the detainee admitted to attending Al-Farouq training camp and admitted that he trained with the AK-47 rifle, other small arms and light infantry tactics. After all matters were considered, the preponderance of evidence clearly showed that the detainee has been properly classified as an Enemy Combatant. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, D-b and R-1 through R-13
- b. Testimony of the following person: Declaration by [REDACTED] dated April 11, 2004 (exhibit R-4).
- c. Sworn written statement of the detainee: Exhibit D-b.

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

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

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Salah Hassan	Not relevant*	No
Omar Al-Hamily	Not relevant*	No

* The request for the witnesses was denied on the basis that the witnesses would testify that the detainee attempted to bribe Yemen officials so that he would not be allowed to travel to Afghanistan to join his family. The Tribunal President agreed that the witnesses would testify to this; however, due to the limited scope of this Tribunal the request was denied. The Tribunal President ruled that the witnesses testimony would not be relevant to the determination as to whether or not the detainee is properly classified as an Enemy Combatant.

The Detainee requested no additional evidence be provided.

5. Discussion of Unclassified Evidence

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

- a. The recorder offered Exhibits R-1 through R-4 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 and R-3 are FBI Redaction Requests and provided no usable evidence. Exhibit R-4 is a declaration from the detainee's brother, [REDACTED] declaring his intention to act as the detainee's "next friend" and designating Micheal Ratner, Joe Margulies, Clive Stafford Smith or their associates to act on behalf of the detainee and to take whatever legal action necessary in consideration of the detainee's best interests. Although this letter is clearly intended for Habeas Corpus proceedings and not for the determination of the detainee's enemy combatant status, it did prove useful in stating the detainee's family did not know the whereabouts of the detainee from sometime in August 2001 to April 2002. Accordingly, the Tribunal had to rely the detainee's sworn testimony, the detainee's written statement, the letter drafted by the detainee's brother, and looked 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, the detainee's written testimony, and the declaration of "next friend" letter drafted by the detainee's brother. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that most accusations made against him alleging his status as an enemy combatant were false. He denied being a member of al-Qaida, but confirmed that he attended weapons training at Al-Farouq and trained with the AK-47 and other light infantry weapons and tactics. During his sworn testimony the detainee stated that he was forced to travel from Yemen to Afghanistan to be with his parents that had previously moved there. The detainee testified that he did not want to go to Afghanistan and tried to prevent his travel there by intentionally bribing Yemeni travel officials so that he would be prevented to travel to Afghanistan. The detainee testified that the bribe attempt failed and he traveled from Yemen to Afghanistan via Bahrain and Pakistan. The detainee denied that he traveled to Afghanistan as a member of Al-Qaida and or to fight the Northern Alliance or US Forces. The detainee testified that he stayed in several guest and safe houses in Pakistan and Afghanistan, paid an unidentified Afghani to help cross the border from Pakistan into Afghanistan and traveled to Kandahar; however, he denied staying in Al-Qaida or Taliban controlled guest houses or knowing or associating with Al-Qaida members. The detainee further testified that he traveled to Al-Farouq and attended small arms weapons training and light infantry tactics courses because his father and older brother wanted him to attend. The detainee testified that he only went to Al-Farouq because his father said that he could leave Afghanistan after he attended training and believed that to be his way back to Yemen. He stated that he only attended Al-Farouq for four days and left on 9/11 because he was told that the buildings at the camp were crumbling. The detainee denied leaving Al-Farouq with his AK-47 and denied traveling to the front line to fight the Northern Alliance or US Forces, although he admitted to traveling from Al-Farouq to Kabul. The detainee testified that he was not an Al-Qaida fighter, Taliban fighter, or ever participated in combat operations while in Kabul, but was sick and stayed in a hospital. The detainee testified that he decided to leave Afghanistan and traveled with the company of several Arabs and an Afghani guide via the Tora-Bora Mountains to Pakistan. The detainee testified that he was arrested in Peshawar, Pakistan without a weapon, passport and other identification. He was arrested by Pakistani authorities and believed that he would be turned over to the Yemeni Embassy but was handed over to US Forces. The letter written by the detainee's brother was persuasive in that it conflicted with the detainee's stated purpose to travel to Afghanistan and his whereabouts while in Afghanistan. In testimony, he stated that he saw his family once before attending training in Al-Farouq and yet he failed to either maintain contact or stay with his family throughout the duration of his time in Afghanistan. The Tribunal concluded that the detainee's intention to travel to Afghanistan was not to be with his family, but to participate in weapons training at Al-Farouq a known Al-Qaeda training facility. Although the Tribunal did not find the detainee's testimony regarding his purpose to traveling to Afghanistan persuasive, the Tribunal turned to classified sources for further clarification.

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

6. Consultations with the CSRT Legal Advisor

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

7. Conclusions of the Tribunal

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

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings.
- c. The detainee is properly classified as an enemy combatant, he is a member of the Taliban and has affiliations to al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, USAF

Tribunal President

Summarized Sworn Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the detainee stated, "yes."

When asked by the Tribunal President if the detainee had any questions concerning the Tribunal process the detainee asked, "Like what." [The Tribunal President asked if he had any questions about what we were doing here today.] [The Detainee answered:] I don't know how to answer your question. [The Tribunal President stated]: If you have a question about the process as we go along you may ask it and we will answer it.

When asked by the Tribunal President if the detainee wanted to make a statement the detainee stated yes and had his Personal Representative provide a written statement to the Tribunal. [The Personal Representative read the following statement]:

Regarding the allegation 3. A 1. [The detainee admitted that he traveled from Yemen to Afghanistan to help fight in the war during the middle of 2001.]

I did not want to leave Yemen for Afghanistan. My parents were already in Afghanistan and forced me to come there. I tried to bribe an official with \$50.00 to not allow me through the customs at the airport. Something went wrong and I was not stopped. If I had been stopped by legal authorities, I could have told my parents that the government would not let me leave. My friend Salah Hassan is the one who found an officer who knew the customs people. We met with this officer (Omar Al-Hamily) about an hour prior to the departure of my plane. He took the money and copied down my passport number. They can prove that I did not want to leave the country. Salah Hassan will be easy to find as he has written to me here and you have his address. Both of them live in Sanaa, Yemen.

Regarding the allegation 3. A 2. [The detainee stated that he attended the Al-Farouq training camp during late August 2001.]

Yes, I did go to the Al-Farouq training camp. How I got there is important. My parents went first to Afghanistan. They sent for me and when I got there I told them I did not want to stay. My father said just stay for two months and attend this camp and then I will send you home to Yemen. Both my father and older brother told me this, so I had to do it. I accepted going to the Al-Farouq camp as it was my ticket home.

Regarding the allegation 3. A 3. [The detainee stated that he traveled to the Tora Bora Mountains during late 2001.]

The statement is essentially correct. However, I was leaving Afghanistan to go the Pakistan and was taking the only route available. I was traveling without a weapon of any kind. The reason I was traveling was to leave Afghanistan to go through Pakistan to

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get home in Yemen. I did not know the name of the mountains; I learned they were the Tora Bora Mountains when I arrived in Pakistan.

Regarding the allegation 3. B 1. [The detainee stated that he was trained on and carried an AK-47 while at the Al-Farouq training camp.]

Yes, I trained some on the AK-47, even in Yemen we were familiar with this weapon, it is very common. I only learned to take it apart, clean it and put it back together. I was only in the camp for four days when 9/11 occurred and the training stopped and the camp was shut down.

Regarding the allegation 3. B 2. [The detainee stated that he had an AK-47 when he left the Al-Farouq training camp.]

This statement is not true, when I left the camp; I had no weapon at all. The weapons in the camp were for training only, they were taken away every day after training.

Regarding the allegation 3. B 3. [The detainee stated that he was arrested by the Pakistani Army and was sent to the Peshawar prison prior to being taken to the prison in Kandahar by the American forces.]

This statement is essentially true. I intended to turn myself over to the Pakistani authorities. With no money, friends or relatives they would be obligated to send me back to my home in Yemen. Instead they turned me over to the Americans.

[The Tribunal President asked the Detainee if he had anything else he would like to say.] The Detainee stated, yes I want to add something.

Just to clarify, the officer Omar Al-Hamily he is not the customs officer, he knew the customs officer. My intentions were to go to my friends at the customs office and they would stop me and prevent me from leaving Yemen. I use to work in customs so I have friends there. When I got to the Al-Farouq camp I got sick, so I went back to Kandahar. After I got well I came back to the camp for 24 days.

[The detainee was told he was not given a chance to take an oath. He was asked if he would like to do it at this time. To swear to everything he had already stated.] The Detainee stated he would like to take the oath. [After the Detainee took his oath the Tribunal stated:] Then the Tribunal will consider everything you said so far to be your sworn testimony. The Detainee agreed.

Summarized Answers in Response to Questions by the Personal Representative

Q. Before the Tribunal came in we showed you the letter from your brother and his story is a little different than yours. I would like you to explain the difference.

A. Not all of my brother's testimony is wrong. The part about me being in school is true, but there are two differences. [The Translator asked the detainee what the differences were.] The detainee stated he didn't remember but if asked he would respond. [The Personal Representative looked at the letter and asked about the part where his brother said he disappeared] [The Translator read that part of the letter to the Detainee] [The Detainee stated]: I didn't consider this when I was given you my responses to the charges. It is true, I disappeared in Afghanistan and my family didn't stay there. They didn't see me. I told them during the interviews, I didn't see my father. We had no communication or contact. When I got here to Cuba, I sent them letters.

Q. About the Yemen mission that came here, you told them one story and this is a different story.

A. [The Translator read that part of the letter to the Detainee] [The Detainee stated]: When I first got here there was a delegation from Yemen with Americans. I told them a story and after they left I changed my story. The second version is the true story.

Summarized Answers in Response to Questions by the Tribunal Members

Q. You say you went to Afghanistan to join your parents, can you tell me how you got there?

A. I left from Yemen to Karachi and stayed about a month. I then went to Quetta for a day or less and after that I went to Kandahar.

Q. Did your family pay for that or did you receive it from somebody else? Where did you get the funds to travel?

A. They left me about \$100.00. I bought some things I needed, gave \$50.00 to the officer for a bribe, and had \$40.00 left.

Q. Did you take an airplane?

A. I already had the plane ticket. My father left it before he departed.

Q. When you stopped in Quetta, how did you get across the border?

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A. I crossed the border on a bike.

Q. Were you by yourself or in the company of other people?

A. There were two people with me in the car, but we all took motorcycles across the border.

Q. Do you know if those people traveling with you were Al-Qaida or Taliban?

A. No.

Q. When you got to Kandahar where did you stay?

A. I stayed at a safe house with some Arabs.

Q. And then from Kandahar you went to Al-Farouq?

A. No I went home.

Q. Home with your parents?

A. Yes.

Q. When did you go to Al-Farouq?

A. I left home and went back to the safe house where the Arabs were staying. I left there and went to Al-Farouq.

Q. What did you learn at Al-Farouq?

A. I didn't learn a lot, just how to take the rifle apart and put it back together.

Q. After you left Al-Farouq where did you go?

A. We went to Kandahar and then to Kabul.

Q. Did you engage in any fighting when you were in Kabul?

A. No, I was sick and at the house clinic.

Q. When you were in Afghanistan, after you got well, did you engage in any fighting?

A. I tried to go home, I couldn't get in touch with my father, so I went to Pakistan.

Q. You went to the Tora Bora Mountains first and then to Pakistan, correct?

ISN # [REDACTED]
Enclosure (3)
Page 4 of 9

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992

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A. I didn't know they were the Tora Bora Mountains. This was the only way to go, so I took it. When I got to Pakistan they told me I came through the Tora Bora Mountains.

Q. When you were arrested by the Pakistanis did you have weapons with you?

A. No, I was arrested in the city. I was in a car. I left a small village with a Pakistani guy and didn't have a weapon. I never had any weapons.

Q. Do you know who Al-Qaida is?

A. No.

Q. I want to ask a few background questions. Your family is from Yemen?

A. Yes.

Q. Did your parents move to Afghanistan?

A. Yes.

Q. But you remained in Yemen?

A. Yes.

Q. How old were you at this time?

A. Between 17 and 18 years old.

Q. Did you live in Yemen by yourself for a time?

A. I had Uncles.

Q. Why did your parents move to Afghanistan?

A. I don't know.

Q. Why did they want you to come and join them in Afghanistan?

A. I don't know. They wanted the whole family to be with them, so I had to go.

Q. Did they bring your brothers and sisters to Afghanistan when they moved? Or did they bring them later?

A. They went first, then my brothers, then me. My sisters didn't go.

Q. Did your sisters stay in Yemen?

A. Yes, I have only one sister and she is married.

Q. So, when you got to Afghanistan you moved into your parent's house?

A. Yes.

Q. How long did you live there, until you went to Al-Farouq?

A. Less than a week.

Q. Why did your father and your brother want you to go to Al-Farouq?

A. I don't know, but it was the only way I could go back to Yemen. They said if I went, I could go back to Yemen. I already had a job at a restaurant and wanted to go back.

Q. But you have no idea why your father wanted you to go to Al-Farouq?

A. No.

Q. Did he send your brothers to Al-Farouq also?

A. No.

Q. Just you?

A. Yes, because I requested to go back to Yemen and this was the condition for me to go back.

Q. What does your father do in Afghanistan?

A. I don't know. I only stayed with them for less than a week.

Q. What is your father's normal occupation, does he have a trade, or run a store, or what does he do for a living?

A. He is a contractor, he does his own jobs, like construction, in Mosque, paints houses, he fixes things, he works in a bakery, what ever.

Q. When you went to Al-Farouq, you were there for only four days, the second time?

A. When I first went I stayed in the safe house for three days, then went to the camp. I stayed there for a while and then got sick. They took me back to Kandahar and then I came back and trained for four days. After the four days they closed the camp.

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Q. Who owns the safe house that you stayed in?

A. Which safe house are you talking about? The one I stayed in when I first came or the second one.

Q. When you came first?

A. I don't know.

Q. Okay, how about when you came the second time?

A. The second time I went straight to the house clinic. I stayed there for about four days and then went to the camp.

Q. Was it a Taliban clinic?

A. I don't know, the only people there were Afghans.

Q. Why did they close the camp?

A. I didn't know at first, they just told us to go. When we were in the car, on the road, we heard there were bombings in the United States.

Q. Where were you going in the car when you left the camp?

A. We were going back to Khandahar.

Q. And what happened when you got to Khandahar?

A. We stayed there had dinner and left early the next morning to Kabul.

Q. And after Kabul that's when you tried to get to Pakistan?

A. Yes, I went to Pakistan.

Q. Did you walk from there? How did you get through the mountains?

A. You have my story; I went with one Afghani and two of my friends.

Q. How long were you in Pakistan before you were arrested?

A. I'm not sure, 2, 3, or 4 days. We left the village and went to the city. My friends succeeded but I was captured.

Q. Trying to enter the city?

A. My friends had money and succeeded getting into the city but I couldn't. Our goal was to get into the city where the embassies are and go back. My friends had no problems because they had their passports, visas, and money. But, because I didn't have any of these, I was told my best bet was to go to the embassy and surrender myself. This is what I was planning to do when I was captured. They captured me before I got to the embassy.

Q. So, you didn't have your passport with you?

A. No, my passport was with my family.

Q. When exactly were you captured?

A. I don't know the Christian calendar; it was four or five days after Ramadan. It was fifteen days before Christmas.

Q. So, you left Al-Farouq on the eleventh day of September and 10 December is when you were captured when you first entered into Pakistan. What were you doing immediately before Ramadan?

A. I was in the clinic in Kabul.

Q. No, you were in the clinic before you went to Al-Farouq the second time, weren't you?

A. The trip was really difficult and long, so when I got there I was really weak and sick.

Q. Do you have any other evidence to present to this Tribunal?

A. No.

Q. Personal Representative do you have any other evidence to present to this Tribunal?

A. No.

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AUTHENTICATION

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

[REDACTED]

Col, USAF

Tribunal President

ISN # [REDACTED]
Enclosure (3)
Page 9 of 9

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MEMO FOR RECORD

TO: PR-52

SUBJECT: WITNESS REQUEST FROM ISN # [REDACTED]

DATE: 17 SEP 2004

ISN # [REDACTED] has requested 2 witnesses who are expected to testify that Detainee # [REDACTED] did not want to follow his family to Afghanistan. Specifically that he tried to bribe Yemen officials so that he would not be allowed to travel to Afghanistan with his family. For the purpose of this Tribunal, I will agree that the witnesses would testify to this. However, due to the limited scope of this Tribunal, this information is not relevant to the determination as to whether or not he is properly classified as an Enemy Combatant. The request for witnesses is therefore denied.

However, if the Tribunal determines the Detainee to be properly classified as an Enemy Combatant, these witnesses could be determined to be relevant during the Administrative Review Board and should be reconsidered at that time.

[REDACTED]
[REDACTED], Colonel, USAF
Tribunal President

DETAINEE ELECTION FORM

Date: 16 Sep 04

Start Time: 0820

End Time: 0930

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? Y 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 will submit a written statement and provide oral comments along with it. He also has two potential witnesses to attest to his attempt to not travel with his family from Yemen to Afghanistan. Detainee insists that he did not want to follow his family to AF. As evidence he has listed two persons in Yemen who would know that he tried to bribe customs personnel to ensure that he was not allowed out of the country. "I did not want to leave Yemen for Afghanistan. My parents were already in Afghanistan and told me to come there. I tried to bribe an official with \$50.00 to not allow me through the customs at the airport. Something went wrong and I was not stopped. If I had been stopped by legal authorities, I could have told my parents that the government would not let me leave. My friend Salah Hassan is the one who found an officer who knew the customs people. We met with this officer (Omar Al-Hamily) about an hour prior to the departure of my plane. He took the money and copied down my passport number. They can prove that I did not want to leave the country. Salah Hassan will be easy to find as he has written to me here and you have his address. Both of them live in Sanaa, Yemen."

Personal Representative: [REDACTED]

UNCLASSIFIED

Recorder Exhibit List
For
ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	FBI Redaction Memo dtd 8-SEP-04	UNCLASSIFIED
R3	FBI Redaction Memo dtd 14-SEP-04	UNCLASSIFIED
R4	Declaration by [REDACTED]	UNCLASSIFIED
R5	FBI FD-302 20-MAY-02	FOUO/LES
R6	FBI FD-302 05-MAY-02	FOUO/LES
R7	CITF-CDR Memo dated 08-MAR-04	SECRET//NOFORN
R8	JTF GTMO-CG Memo dated 14-APR-04	SECRET
R9	JTF GTMO Baseball Card dated 25-AUG-04	SECRET//NOFORN
R10	Knowlegdeability Brief 17-MAY-02	SECRET
R11	OSD SO/LIC Assessment 1-MAY 02	SECRET//NOFORN
R 12	IIR 2 340 6765 02	SECRET
R 13	CITF Intel Report dtd 24-Feb-98, pgs 2,3, 28,29	SECRET//NOFORN

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (02 SEP 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal - AL RAIMI, Ali Yahya Mahdi

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 he is a member of Al Qaeda and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is a member of Al Qaeda:
 1. The detainee admitted that he traveled from Yemen to Afghanistan to help fight in the war during the middle of 2001.
 2. The detainee stated that he attended the Al Farouq training camp during late August 2001.
 3. The detainee stated that he traveled to the Tora Bora Mountains during late 2001.
 - b. The detainee participated in military operations against the United States or its coalition partners.
 1. The detainee stated that he was trained on and carried an AK-47 while at the Al-Farouq training camp.
 2. The detainee stated that he had an AK-47 when he left the Al-Farouq training camp.
 3. The detainee stated that he was arrested by the Pakistani Army and was sent to the Peshawar prison prior to being taken to the prison in Kandahar by the American 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.

Memorandum



To : Department of Defense Date 09/08/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
ALI YAHYA MAHDI AL RIMI (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 [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 05/20/2002

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

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/08/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

Memorandum



To : Department of Defense Date 09/14/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
ISN [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 at GTMO:

FD-302 dated 05/05/2003
FD-302 dated 05/14/2003

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

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/14/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

DECLARATION BY [REDACTED]

I, [REDACTED] of Sana'a, Yemen under oath makes the following declaration:

1. I am the younger brother of Ali Yahya Mahdi.
2. Ali is 21 years old and is the second oldest in our family of eight. We all live together with our mother and father in a small house in Sana'a.
3. Ali is my favorite brother. He always looks out for me, protecting me from getting in to trouble and such. Not having him around leaves a really big hole in my life. Ali got along well with all the family but would occasionally fall out with our father over his refusal to pray and go to the mosque regularly. Ali wasn't a very strict practicing Muslim.
4. He wasn't the best of students either in fact he hated study and would often bunk off classes to hang out with his friends most of whom had left school and were working in the area. This was another point of contention between my father and Ali. He had one really good friend in Sana'a, who everyone knew as Uncle Saleh. Uncle Saleh had a restaurant business and Ali used to skip classes and work there instead. Ali left school in 2000 after completing Grade six.
5. Around August 2001, Ali disappeared. I'm not quite sure why but around this time he had a few problems with our father. My father loved Ali but thought him lazy at times and would reprimand him, sometimes quite severely.
6. My father made some investigation into where he might have gone, but was unsuccessful in this endeavor. None of us knew where he had gone.
7. To our great shock, in April 2002, we received a message from Ali via the International Committee of the Red Cross. The message was postmarked Guantanamo Bay, Cuba. We now knew where Ali was; a prisoner in Guantanamo.
8. The letter said that he was safe and well and asked that we pray to God to save both him and his fellow inmates from the place they were held.
9. Since this letter, my family as well as Ali's friends has received about 15 letters from him. The last message we received was dated August 2003. In one of them he asked us not to send him any more letters as he found reading them very sad.

Annexed hereto marked "AYM 1" are copies of some of them together with English translations.

10. Upon learning that Ali was a prisoner, we all felt an overwhelming sense of sadness. We are all afraid of what might happen to him especially now after reading the reports of how detainees are treated at Guantanamo in newspapers and seeing interviews with detainees who were released from the facility. These reports give us a very black picture of what might be happening to him.
11. My mother has been very badly affected by Ali's imprisonment. She was in poor physical health before she received the news and her condition has become progressively worse ever since.
12. As well as feeling depressed about Ali's imprisonment, we feel a sense of shame in our small community. Because he is in prison, our neighbors think he has done something wrong and is some sort of a criminal.
13. Ali is not a member of Al Qaeda, nor was he ever a member of the Taliban government armed forces. We have no idea who arrested him or the reasons for his arrest. We have no idea why he is now being held at Guantanamo.
14. Neither myself, nor any other member of our family have contacted either the United States Embassy in Yemen or the Yemen Government authorities to find out more about Ali's arrest and detention in Guantanamo. We don't think that such approaches would be fruitful and besides we are too afraid to do so.
15. To the best of my knowledge no charges have been laid against Ali. Nor has he been brought before a judicial officer of any properly constituted court or tribunal since his detention.
16. From my brother's messages and my knowledge of his nature I know that Ali wants me to take legal proceedings on his behalf to challenge the lawfulness of his detention. To this end I wish to act as his "next friend".
17. I hereby instruct, request and authorize, Michael Ratner, Joe Margulies, Clive Stafford Smith, or their associates, to act on behalf of my brother and to take whatever legal steps they consider be in my brother's best interests including filing proceedings in U.S. and international fora.
18. I know the facts herein to be true of my own knowledge, except where otherwise appears.

At Sana'a on this 11th day of April, 2004



Witnessed By:



A handwritten signature in black ink, consisting of several overlapping loops and a horizontal stroke.

DETAINEE STATEMENT

16 September 2004

A.

1. I did not want to leave Yemen for Afghanistan. My parents were already in Afghanistan and forced me to come there. I tried to bribe an official with \$50.00 to not allow me through the customs at the airport. Something went wrong and I was not stopped. If I had been stopped by legal authorities, I could have told my parents that the government would not let me leave. My friend Salah Hassan is the one who found an officer who knew the customs people. We met with this officer (Omar Al-Hamily) about an hour prior to the departure of my plane. He took the money and copied down my passport number. They can prove that I did not want to leave the country. Salah Hassan will be easy to find as he has written to me here and you have his address. Both of them live in Sanaa, Yemen.

2. Yes, I did go to the Al-Farouq training camp. How I got there is important. My parents went first to Afghanistan. They sent for me and when I got there I told them I did not want to stay. My father said just stay for two months and attend this camp and then I will send you home to Yemen. Both my father and older brother told me this, so I had to do it. I accepted going to the Al-Farouq camp as it was my ticket home.

3. The statement is essentially correct. However, I was leaving Afghanistan to go the Pakistan and was taking the only route available. I was traveling without a weapon of any kind. The reason I was traveling was to leave Afghanistan to go through Pakistan to get home in Yemen. I did not know the name of the mountains, I learned they were the Tora Bora mountains when I arrived in Pakistan.

B.

1. Yes, I trained some on the AK47, even in Yemen we were familiar with this weapon, it is very common. I only learned to take it apart, clean it and put it back together. I was only in the camp for four days when 9/11 occurred and the training stopped and the camp was shut down.

2. This statement is not true, when I left the camp; I had no weapon at all. The weapons in the camp were for training only, they were taken away every day after training.

3. This statement is essentially true. I intended to turn myself over to the Pakistani authorities. With no money, friends or relatives they would be obligated to send me back to my home in Yemen. Instead they turned me over to the Americans.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 20 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.

Date: 21 Sep 04

[REDACTED]

[REDACTED], USA
Personal Representative

ISN # [REDACTED]
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

REDOUANE KHALID, *et al.*)
)
)
 Petitioners,)
)
 v.) Civil Action No. 04-CV-1142 (RJL)
)
)
 GEORGE W. BUSH,)
)
 President of the United States, *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 Redouane Khalid that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify other detainees, members of the detainee's family, and certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers

with other information become classified under applicable classification guidance.

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

Dated: 15 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0216
15 October 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

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

FOR OFFICIAL USE ONLY

14 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 #8 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 made a sworn statement 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-5 and R-6 was redacted. The FBI properly certified in exhibits R-2 and R-3 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested five witnesses. One, a detainee at Guantanamo Bay Naval Base, was found by the Tribunal President to be reasonably available and testified at the tribunal. The other four witnesses requested by the detainee were former detainees who had been released from detention and repatriated to France. The Tribunal President determined that these four witnesses were not reasonably available. The President also determined that the testimony of these four witnesses would be almost identical to that of the witness who was reasonably available. Therefore, the President determined that their testimony would be cumulative with that of the first witness and not helpful to the Tribunal.

In my opinion, the Tribunal President did not abuse his discretion in determining that the testimony of the four repatriated witnesses would have been cumulative with the testimony of the witness who testified. Documentation regarding the President's determination of their reasonable availability is lacking, however. The Personal Representative, in comments attached to the Record of Proceedings, states that the Tribunal failed to undertake adequate efforts to locate the witnesses. Paragraph G(10) of enclosure (1) of reference (b) requires the Tribunal President to document the basis for his decisions on reasonable availability; to include efforts undertaken to procure the

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

presence of the witness and alternatives considered or used in place of in-person testimony. Since the Tribunal did not document what efforts were made to locate these individuals, if any, I cannot render an opinion, as required by paragraph I(7) of enclosure (1) of reference (b), as to the sufficiency of the decision. Nonetheless, since the President found their expected testimony to be cumulative, he did not need to reach a finding on whether they were reasonably available and there is no prejudice to the detainee from the poor documentation.

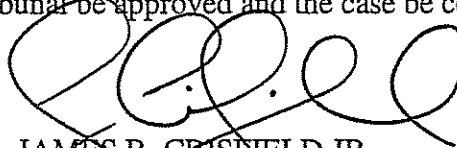
The detainee also requested that additional evidence be produced, including his passport, visa, and a return airline ticket from Afghanistan to England that had been taken from him at the time of his capture. The Tribunal searched for the documents, but they could not be located. In my opinion the Tribunal was correct in determining that these documents were not reasonably available.

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

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and submitted comments to the Tribunal. Those comments are addressed in paragraph 1(d), above.

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 #8

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], Colonel, U.S. Army; Member

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

8 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

1. Pursuant to Enclosure (1), paragraph (D)(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.

A handwritten signature in black ink, appearing to read "D.L. Taylor", is written over the typed name.

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: #8

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #8 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) Summary of Detainee/Witness 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 25 September 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 25 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, a force associated with Al Qaeda and the Taliban 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).

[REDACTED SIGNATURE]

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: #8
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 because he is part of a force associated with Al-Qaeda and the Taliban, which is 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 unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee was captured with a weapon in Afghanistan in late 2001 and is a member of the Taliban. The Detainee chose to participate in the Tribunal process. He called one witness, requested no unclassified or classified documents be produced, and made an unsworn verbal statement. The Tribunal President found the requested witness reasonably available and permitted him to testify, which he did. The Detainee, in his verbal statement, denied all of the allegations in Exhibit R-1, and denied being a member of the Taliban or Al-Qaeda. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a through D-c and R-1 through R-18.
- b. Testimony of the following persons: ISN [REDACTED], [REDACTED]
- c. Unsworn statement of the Detainee.

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

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

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED]	Reasonably available	Yes*
Nizar Sassi	Not Reasonably Available	No*
Mourad Benchelalli	Not Reasonably Available	No*
Ibrahim Yadel	Not Reasonably Available	No*
Imad	Not Reasonably Available	No*

* The witness testimony of [REDACTED] was consistent with that of the Detainee. His testimony is included at Enclosure (3). Although Exhibit D-a indicates that the Detainee requested five witnesses, only one, a fellow detainee, was reasonably available. The other four witnesses were also detainees but they had previously been released to their home country of France. The Tribunal President determined they were not reasonably available and communicated this orally to the Personal Representative.

The Detainee requested additional evidence be produced, in the form of his passport, visa, and return airline ticket from Afghanistan to London, England taken at the time of capture. A search was conducted for these items on Guantanamo Bay but they could not be located. The Personal Representative submitted Exhibits D-b and D-c to indicate which items the Detainee had upon arrival at Guantanamo Bay.

5. Discussion of Unclassified Evidence

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

a. The Recorder offered Exhibits R-1 through R-4 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 and R-3 provided no usable evidence. Exhibit R-4 was an affidavit from the Detainee's brother, which was informative in parts but not persuasive because it does not address Exhibit R-1 and neglects to mention any of the circumstances surrounding the Detainee's journey to and from Afghanistan and his activities there (interestingly, Exhibit R-18 contains relevant information about the affiant as well). 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 witness' sworn testimony. A summarized transcript of the Detainee's and witness' testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he was not a member of Al-Qaeda or the Taliban and that all the allegations included in Exhibit R-1 were false. All the allegations are false, and any admissions attributed to the Detainee are the result of incorrect translation on the part of the translator. The witness testified in pertinent part that he was always

together with the Detainee when both of them were in Afghanistan, that neither of them ever engaged in any weapons training, and never had any contact with members of Al-Qaeda or the Taliban.

c. The Personal Representative offered Exhibits D-b and D-c into evidence to show that the Detainee had money on him at the time of his arrival at Guantanamo Bay. The Detainee claimed that this money had been stolen from him. While this exhibit persuaded the Tribunal that the Detainee did have funds in his name upon arrival at Guantanamo Bay, it did not address whether or not he was properly classified as an enemy combatant and was therefore unpersuasive as to that question.

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 part of a force associated with Al-Qaeda and the Taliban that is 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

Summarized Sworn Detainee Statement

The Personal Representative made the following statement on behalf of the Detainee.

Before commenting on the unclassified evidence he [Detainee] wants you to know he is innocent.

- **3(a) (1) Detainee is a French citizen who traveled to Afghanistan from London on 22 July 2001.**

The Detainee did this for the sole purpose of living in a Muslim lifestyle and society. Detainee made this trip to investigate immigrating to Afghanistan, which was under Sharia law. Detainee understands his religious obligation to find the correct Muslim lifestyle for himself and his family.

Detainee initially looked at Pakistan, but ended up choosing Afghanistan because it was a cheaper place to live and he could get a house for under \$3,000.00. The remarks by Detainee's brother in his affidavit, marked R-4 state this also.

- **3(a)(2) The Detainee trained with Kalashnikov rifles in Afghanistan.**

This is false. Detainee once watched someone assemble and disassemble an AK-47. This was strictly out of curiosity because everyone in Afghanistan had an AK-47.

Items 2, 4, 5, and 6, [of the Unclassified Summary]. These items refer to statements by Detainee and the translator that the Detainee dealt with prior to this tribunal and [according to the Detainee] did not give a correct translation. Therefore anything attributed to the Detainee in these statements must be questioned, due to that fact.

- **3(a)(3) The Detainee stayed at a safehouse in Kabul in the Akbar Khan Mina neighborhood, a known Taliban and Al Qaeda occupied territory.**

This is not true. The Detainee stayed at a house, not a safe house. This was just a house in Jalalabad that the Detainee stayed in on his way to Kandahar to look for potential places to live.

Concerning the statement about "known occupied territory," the Taliban occupied all of Afghanistan and it has nothing to do with the Detainee. The Detainee never had any dealings with Taliban or Al Qaeda. The first time he heard of the existence of Al Qaeda was on the radio after the 9/11 attack.

Again, on items 4, 5, and 6, [of the Unclassified Summary], each reference statements made by the Detainee and the translator used in the initial interview

who [according to the Detainee] had problems with the translation. We uncovered many of these problems with our new translator today during the final interview.

- **3(a)(4) The Detainee stated that he traveled to a Taliban camp in Kandahar for training and also carried weapons into the mountains when Jalalabad fell to the Northern Alliance.**

This is false. The Detainee was at a house in Kandahar, not a camp. The reason he went to different houses is because he heard about the 9/11 attacks and was attempting to get to Jalalabad, and then exit the country to France. At one time, when he was in a house, he was told to leave quickly, empty everything in the room he was in, and throw it in the back of the truck.

In the room, there was a broken AK-47. The Detainee did put that in the back of the pickup truck. He did not keep it with him and it was not his weapon. The Detainee was doing a favor for Jafar, the individual that was helping him escape the violence that was coming. Jafar was going to help them get out of Afghanistan.

- **3(a)(5) The Detainee stated he arrived in Jalalabad in August 2001 and stayed at an Algerian safe house.**

That is correct, but it was a guesthouse, not a safe house. The Detainee stayed for 3 weeks and looked for a house to buy. The reason he went to several different places is that he was looking for a house to buy and then later to try to flee the country.

The Detainee had the money to pay for a hotel room, but because of the chaos when he was leaving the country, he was forced to stay in many guesthouses.

The Personal Representative states that he entered into evidence documents from the evidence custodian showing that the Detainee had currency with him that would have been sufficient to pay for hotel rooms for a prolonged period while the Detainee searched for a house.

- **3(a)(6) The Detainee stated that, after September 11, 2001, he met two fellow detainees at the same Algerian safe house that was located in Jalalabad.**

The Detainee remembers the young lady who translated his statements that day. He tried to correct her bad translation when he could. Despite that, the statement is false. The Detainee met the 2 people in question prior to 9/11. The first person came with him from France, through London to Afghanistan. The second person he met in London, as he was enroute to Afghanistan. The first person died in the mountains from sickness and cold when they were trying to flee the country.

Overall, the evidence tries to portray the Detainee as a fighter and because he has hepatitis C, scoliosis (which prevents him from standing for a prolonged period of time), and herniated disks in the C vertebrae of his neck, the combination of these things would prevent him from being a threat to anyone, let alone engaging in hostile actions.

The Detainee saw his travel documents, which include his visa, passport and airline ticket here in the camp shortly after his arrival.

The Detainee interrupted and stated that the documents were not presented to him here; they were presented to him in Pakistan by FBI agents.

The Tribunal President commented, understanding why we could not find the documents here [in Guantanamo Bay].

The Detainee was offering these documents as proof that he was house hunting for a short period in Afghanistan. The documents show he had a visa for 3 months time, not enough to train and engage in any hostilities.

The Detainee specifically remembers his airline ticket because the interrogator incorrectly looked at his time of departure, 2000 hours and thought it was the year of departure. They [interrogators] initially accused the Detainee of lying and later apologized.

Questions by the Tribunal Members

Q: Prior to traveling to Afghanistan, you lived in London for a time?

A: A few days, yes.

Q: Only a few days?

A: Yes, only a few days.

Q: Prior to that, where were you?

A: In France.

Q: What was the purpose of going from France to London? To facilitate your trip to Afghanistan?

A: Exactly. I can tell you the reason, if you want.

Q: Please.

A: As I mentioned earlier, Abdul Aziz knew a lot about Afghanistan, and he told me that there was a person in London who would give us addresses and phone numbers for a point of contact when we got there [Afghanistan].

Q: You received that information and then traveled to Afghanistan afterward?

A: Yes.

Q: Are you also Algerian by heritage, or only French?

A: My Algerian heritage is only language, which I share with my parents.

Q: So, your parents are Algerian, but you were born in France?

A: My parents are considered French citizens because they were born and during the French (inaudible) [occupation].

Q: Have you ever lived in Algeria?

A: No, but I spent my National Service there.

Q: Under conscription for the French military?

A: We had the possibility to choose if we were going to stay in France to do it or go to Algeria. People choose to go wherever they want.

Q: How long a time period was that?

A: 24 months.

Q: How did you serve while you were in Algeria?

A: Civil Engineering.

Q: Did you receive any military training while you were in Algeria?

A: Just for parade. It might sound funny, but it's true. That's all my military training.

Q: Only to march and drill in ceremonies?

A: Exactly.

Q: Not weapons, or anything of that nature?

- A: Yes, we had to use. We shot 3 bullets with a weapon that is called Seminov (phonetic). Everybody has to go through that.
- Q: Besides your parade and ceremonies, what other training did you receive, besides what you just said?
- A: None.
- Q: Please tell us again about your exposure to the Kalashnikov rifles in Afghanistan.
- A: I was in a house in Jalalabad. As mentioned earlier, a person named Idious (phonetic). He dismantled it in front of us. That was it. That is what happened. There was no firing and we didn't even touch the weapon.
- Q: Why were you even present?
- A: Just curiosity, that's all. As you know, everybody there has a Kalashnikov.
- Q: How many people were there at the time he did this?
- A: Three, four, maybe five.
- Q: Were there any other weapons you were exposed to while in Afghanistan?
- A: No, none.
- Q: Were you captured in Afghanistan or Pakistan?
- A: In a mosque in Pakistan.
- Q: How many other people were you captured with at the time?
- A: I don't know exactly. It was the French group and other people. I would say 20, or so.
- Q: Were there weapons present at the mosque, even if they were not yours?
- A: No, I didn't see any.
- Q: Did you have any relationships with any individuals in Afghanistan that you knew to be affiliated with the Taliban?
- A: No, not at all.

- Q: Even though your purpose for going to Afghanistan was your desire to live in an Islamic state?
- A: I don't understand.
- Q: You stated the reason you wanted to go to Afghanistan was because you wanted to see what it was like to live in an Islamic state.
- A: Yes, that was my biggest reason.
- Q: It would seem logical that you would seek out people who would teach you what it was like to live in an Islamic state, which Afghanistan was at the time.
- A: In Pakistan, not Afghanistan.
- Q: You wanted to live in Pakistan? I thought you wanted to live in Afghanistan.
- A: Yes. The purpose was to live in Jalalabad, which is a border city, so it's close to both. Islamabad in Pakistan has a big religious school. This is one of my main reasons.
- Q: All right, I'll ask it a different way. During the time you were in Afghanistan or Pakistan, you did not meet anybody associated with the Taliban?
- A: We met Taliban in the roads, but nobody that is really associated with me. They have checkpoints all over the country.
- Q: What I'm getting at, is people who would be in a position to help you.
- A: The only people that could help me were the French. I didn't speak Pashtu, so I couldn't communicate with people over there. The only person that was helping us was Jafar, who spoke Algerian, just like me.
- Q: As I understand what your Personal Representative said, you deny any association with Al Qaeda?
- A: Absolutely. All association.
- Q: Did you know any Al Qaeda fighters while you were in Afghanistan?
- A: No, absolutely not.
- Q: In Pakistan also?
- A: I didn't stay long in Pakistan. I stayed only 1 week, just to continue the trip.

Q: You were in Afghanistan for approximately 5 months or so?

A: It was from August to September 11th, when the catastrophe happened in the United States. After that, we wanted to leave immediately, going through Jalalabad again. When we got to Jalalabad, Jafar told us we could not go. All of the borders were closed. He advised us to be patient and just wait there and maybe we could go later.

At this time, we went to the 2nd house in Jalalabad, called the House of the French.

Q: You were captured in November, December 2001?

A: I think it was December.

Q: The places you were in Afghanistan were Kabul, Kandahar, Jalalabad...anywhere else?

A: No.

Q: How did you fund your trip to Afghanistan?

A: With my own personal money.

Q: You went from France to London to Afghanistan. You left your family there in France?

A: I would never take my wife with me to a place I don't know yet, especially when we hear on the radio that there might be a little danger involved there.

Q: If everyone is carrying a Kalashnikov in Afghanistan, why would you want to move your wife and children there?

A: For me, I didn't know that. I wanted to see with my own eyes. On top of that, all that we heard about was mainly about the north and Jalalabad, as you know, is in the south, near the Pakistan border. That's why, if there were any problems, I would just go to Pakistan because that city is on the border.

The Personal Representative wanted to clarify one of the questions regarding how the trip was funded. Looking at R-4, the affidavit of the Detainee's brother, it discusses, in length, that the Detainee was fully employed before he left and owned his own business.

The witness, [REDACTED] was called and took the Muslim oath.

Questions by the Personal Representative to the Witness

Q: Can you tell us why the two of you went to Afghanistan?

A: Of course. I would like to know if Redouane Khalid asked for me as a witness.

The Tribunal President advised the witness that the Detainee did request him as a witness.

Q: Can you tell us why both of you traveled to Afghanistan?

A: I personally went to visit Afghanistan with my own eyes if it is [was] convenient and the right Islamic country to live in. It is the same for the Detainee. He told me he wanted to go see Afghanistan and eventually immigrate.

Q: Could you tell us where you met for the first time?

A: At his wedding, in Paris.

Q: Could you tell us the length of time you were both in Afghanistan?

A: If I recall correctly, it was August 2001. As far as I remember, we left 1 ½ months after the problems of September 11th in the United States, the beginning of the war.

Q: Were you both together most of the time you were in Afghanistan?

A: Yes, we were almost always together.

Q: Did either of you engage in any weapons training?

A: No, never.

Q: Can you tell us the circumstances under which you left the country?

A: We left the country in the beginning of the war. We didn't have the possibility to leave Afghanistan on our own, so we waited for a guide. We stayed for 1 ½ months because we were waiting for a guide.

Q: Did you ever have any contact with members of the Taliban or Al Qaeda?

A: No.

Questions by the Tribunal Members to the Witness

Q: Were you captured with Redouane Khalid?

A: Yes.

Q: Please explain the circumstances of your capture.

A: We left Afghanistan with no problem. We wanted to enter Pakistan to get to France. We wanted to go the legal way, with our own passports and our own papers. As you know, [along] the roads between Afghanistan and Pakistan, there are a lot of villages to go through. We arrived in Pakistan in a village. The people of this village gave us a place to stay. They told us we had to go to the police station or the police representative. They said the police would take us to our Embassy. That is when we were arrested, without incident.

Q: Where was the police station where you were arrested?

A: The police came to the village to take us. They told us to come with them.

Q: You were in the village in Pakistan when the police arrested you?

A: Yes.

Q: How many were among you when you were arrested?

A: It wasn't a huge number, 10 more or less.

Q: All of the French speakers together, or other nationalities?

A: I was only with the French. I didn't visit the whole village to see who was there, but I know it was only French.

Q: Are these the people you traveled with all the way from Afghanistan to this place in Pakistan?

A: Yes.

Q: When you were captured by the police in the village, please explain what happened there.

A: As I said before, there was no incident. It was without handcuffs. They came and explained to us that they had to interrogate us and then they would release us to our Embassies to be released to our countries. When we went to the police station they put us in prison.

Q: When the police first came to seek you, were you guests in someone else's home?

A: Yes. First we were in a house and then we went to the village mosque.

Q: That is the place they came?

A: Yes, the cars came within 5 meters of the mosque.

Q: Was there ever a time, during your time in Afghanistan, where you and Redouane Khalid were separated?

A: No, we were always together. He might have gone to the market and came back, but that's it.

Q: Did you receive any training on weapons while you were in Afghanistan?

A: No. I saw weapons there, but we never received any training on weapons.

Questions by the Tribunal President to the Witness

Q: When you were captured, or taken into custody by the Pakistani police, did you have any money with you?

A: Yes, I had some money, but it was stolen from me.

Q: It was stolen when you were arrested by the police?

A: Yes, the police took it.

Q: How much money?

A: Not a whole lot, but I personally had about \$1,000 French Francs.

Q: Did you have, in your possession, either a visa or a passport?

A: I had with me my passport, my ID, my visa, everything was in order.

Q: Did you or anyone in your group have weapons when you were arrested?

A: No. We were captured without incident. We went with no problems. No one had weapons.

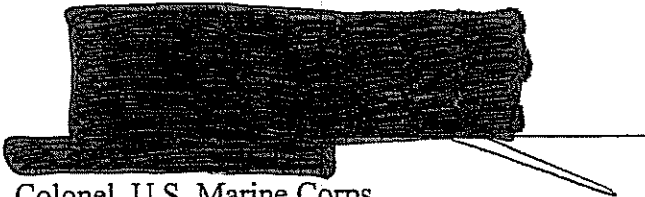
The Tribunal President asked the Detainee if he had any additional information to present to the Tribunal.

The Detainee stated that he would love to show the Tribunal President his documents to show that he was legal.

The Personal Representative stated he had no further witnesses, but points out that the witness also stated their documents were legal.

AUTHENTICATION

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

A large, dark, rectangular redaction covers the signature of the Colonel. A thin horizontal line extends from the right side of the redaction.

Colonel, U.S. Marine Corps
Tribunal President


DETAINEE ELECTION FORM

Date: 14Sep04

Start Time: 17:45

End Time: 19:02

ISN#: 

Personal Representative: LTCOL 
(Name/Rank)

Translator Required? YES Language? FRENCH

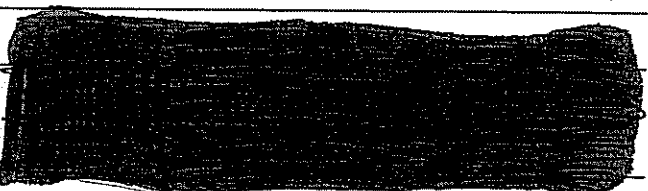
CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

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

Personal Representative Comments:

Calm and polite. 5 witnesses; 4 previously released and 1 still at GTMO. Documentary evidence consisting of passport, visa and return ticket from AF to London taken at time of capture. Will take Muslim oath.



Personal Representative

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (02 September 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal - KHALID, Redouane.

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 an Al Qaeda fighter:
 - a. The detainee is an Al Qaeda fighter:
 1. The detainee is a French citizen who traveled to Afghanistan from London on 22 July 2001.
 2. The detainee trained with Kalishnikov rifles in Afghanistan.
 3. The detainee stayed at a safehouse in Kabul in the Akbar Khan Mina neighborhood, a known Taliban and Al Qaeda occupied territory.
 4. The detainee stated that he traveled to a Taliban camp in Kandahar for training and also carried weapons into the mountains when Jalalabad fell to the Northern Alliance.
 5. The detainee stated he arrived in Jalalabad in August 2001 and stayed at an Algerian safe house.
 6. The detainee stated that, after September 11, 2001, he met two fellow detainees at the same Algerian safe house that was located in Jalalabad.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum

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To : Department of Defense Date 09/08/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[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 04/14/2002

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, 09/08/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

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-2-

Memorandum

unclassified



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

Date 09/13/2004

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED] 9/13/04

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, GTMO:

FD-302 dated 05/16/2002

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, 09/13/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

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-2-

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AFFIDAVIT OF [REDACTED]

I, [REDACTED] of [REDACTED], France, being duly sworn, depose and state as follows:

1. I am the brother of Ridouane Khalid.
2. I have four brothers and one sister, Ridouane is the youngest. He was born at Villemomble, France on the August 16, 1967. He was born a French citizen and has been French all his life.
3. Our parents live in Aulnay sous Bois, a suburb of Paris. Our father has been retired for about 10 years. Our parents are both Muslim but they have never required their children to be Muslim. We were given the opportunity to decide whether we wanted to be Muslim or not. My parents are very tolerant. For example, my sister was never required to wear the Burka. During our teenage years, our parents let us go out with friends and girlfriends. Ridouane enjoyed going out dancing and having fun with friends. He even used to drink alcohol and smoke cigarettes from time to time.
4. During our childhood and teenage years, we all played sports, such as football, swimming, and handball. My brothers and I have always been into sport. Ridouane was especially keen on football. He also enjoyed watching football on television.
5. Ridouane went to the Victor Hugo High School in Aulnay sous Bois. He was always a diligent and hard working. He never repeated a year. After his secondary school education, he studied and qualified in accountancy in 1987. Between 1990 and 1992 he completed his qualification as an electro-technician. He was an excellent technician who distinguished himself at his work. In addition he became a skilled plumber. After his qualifying as an electro-technician, he began working as an electro-technician in Aulnay sous Bois. In 1996, Ridouane established his own company with one of his other brothers. I was in charge of a building yard where Ridouane worked as an electrician. We worked together from 1996 to 1999. The year before Ridouane left for Pakistan, he worked as a butcher in Aulnay sous Bois. Ridouane was in full time employment until his departure for Pakistan in August, 2001.
6. Ridouane met his future wife, [REDACTED], in 2000. [REDACTED], like Ridouane is a French citizen by birth. A few months after they met, [REDACTED] and Ridouane "married" in accordance with the Muslim faith. They planned to have a full civil marriage ceremony at a future date. Annexed hereto marked "MK1" are two copies of "letters of congratulation."

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7. Around the time of Ridouane met [REDACTED] he had become more interested in his religious faith. He began to study Arabic at this time so that he could learn more about his faith. He studied Islam through books dealing with Islam and the Koran. His religious focus was always a very peaceful one. One of Ridouane's favourite Islamic principles is that when you kill someone, you kill the entire humanity. He was very strongly against violence.
8. In August 2001, Ridouane travelled to Pakistan for an intensive course in the Arabic language. He had been planning such a trip for some time. For any French person interested in Islam, it is very important to learn the Arabic language, principally because the understanding of the Koran is different in the Arabic text than it is in the French text. This is why Ridouane and many of my Muslim friends want to study Arabic. As it less expensive to study Arabic in Pakistan than it is in France or other Arabic speaking countries, a large number of our French friends have travelled to Pakistan to study.
9. In Pakistan it is possible to learn Arabic in an intensive program in a few months. Ridouane learned about Islamic schools in Pakistan from friends and in books. The internet also provides addresses of schools in Pakistan. At one point I myself wanted to study Arabic in Pakistan but family commitments prevented me from doing so at this time.
10. Ridouane intended that his stay in Pakistan would be a brief one. One week before leaving, he and [REDACTED] had signed the lease on a new apartment. He also signed a proxy, giving his wife power of attorney over his affairs for the two month duration of his trip to Pakistan. He was also keen to return to his young wife, whom he loved very much and who was waiting for him in France. They had talked about having children together before he left and had made plans together for their civil marriage service upon his return. There was also the possibility of work to return to and he has always considered France his home. Annexed hereto marked "MK2" is copy of the lease signed by Ridouane Khalid.
11. Before leaving for Pakistan, Ridouane had suggested to his wife that she take a vacation to visit friends in Algeria and to purchase clothes for the wedding. While they were apart, [REDACTED] did not speak with Ridouane, but this was only because of the poor communications between Algeria and Pakistan.
12. Ridouane went to language school when he arrived in Pakistan. He was arrested and detained there, but I don't know by whom or why. Since his arrest in Pakistan, there has been very little contact between Ridouane and our family or the French authorities.
13. From the little information we do know, we understand that at some point after his arrest Ridouane came in to the custody of agents of the United States government. My parents first heard of Ridouane's arrest in late 2002, when two French government officials called around to their house to advise them, that their son was being held by the United States military.
14. Presently, I know that Ridouane is being held in the custody of the United States military at Guantánamo Bay, Cuba (Guantánamo). Since his incarceration there, our

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family has received some letters from him via the International Committee of the Red Cross (ICRC). It is clear that these letters are censored, so we have not been able to gain a full understanding from him of the circumstances of his initial arrest and detention or the conditions under which he is currently held.

- 15. As members of Ridouane's family we have also been allowed to send letters to him via the ICRC. Recently, however, we have been told that letters should be written in English. This makes communication with Ridouane extremely difficult. In France, we can get help translating letters, but Ridouane is not able to read English.
- 16. In early 2002, Ridouane wrote a short note via the ICRC to say that he had been told by the United States military that its investigation into his status would soon be completed and that he would soon be allowed to go home. That was many months ago, now. Annexed hereto marked "MK 3" is a copy of this letter.
- 17. In all his letters Ridouane has expressed how much he loved his wife, and how much he wanted to be back with her. He also said how much he misses us all. In one such letter dated March 4, 2003, he expressed his love to all his family and their children. He also said that he was concerned about the education of his nephews because for Ridouane education has always been a priority. Annexed hereto marked "MK 4" and "MK 5" are copies of two letters sent by Ridouane.
- 18. On September 18, 2003, [REDACTED] received a letter from Ridouane, the first in seven months. In this letter, Ridouane told her that he had lost a significant amount of weight. Annexed hereto marked "MK 6" is a copy of this letter. I am also very concerned about his general health as at one point he wrote to say that he had contracted Hepatitis C.
- 19. To the best of my knowledge no charges have been laid against my brother. Nor he has been brought before a judicial officer of any properly constituted court or tribunal since his detention.
- 20. A year and a half after Ridouane's incarceration at Guantánamo Bay, I decided to find a solicitor to represent him. From my brother's correspondence and my knowledge of his nature, I know that Ridouane would want me to take legal proceedings on his behalf and to challenge the lawfulness of his detention. I contacted the president of the Paris Bar Association, Mr Paul-Albert IWEINS, who I had learned was already involved in the representation of three other French national detained by the United States at Guantánamo Bay, Mr [REDACTED], Mr [REDACTED] and Mr [REDACTED].
- 21. On August 2003, Mr Paul-Albert IWEINS agreed to represent the interests of my brother Ridouane here in France.
- 22. It is my belief based on the messages I have received, and from everything I know about him, that my brother is seeking my assistance and support and would want me to take appropriate legal action on his behalf. Consequently, I wish to act as his "next friend." In this capacity, I have retained and hereby request and authorize Paul-Albert IWEINS, solicitor, or his associates, and Michael Ratner, attorney, of the Center for Constitutional Rights (CCR) in New York, and any lawyers associated with CCR, to

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act on my own and my brother Ridouane's behalf and to take whatever legal steps they consider to be in our best interests.

23. I know the facts deposed to herein to be true of my own knowledge, except where otherwise appears.

Sworn by the Deponent at Paris on this 12 day of January, 2004



Before me:



Solicitor of the Paris Court of Appeal

Paris

12 January 2004



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Haet

INTTEL



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

Terrorist Organization Reference Guide

January 2004

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Strength

Unknown.

Location/Area of Operation

Turkey, primarily Istanbul. Raises funds in Europe.

External Aid

Unknown.

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

Description

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

Activities

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

Strength

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

Location/Area of Operation

Algeria.

External Aid

UNCLASSIFIED

UNCLASSIFIED

Algerian expatriates and GSPC members abroad, many residing in Western Europe, provide financial and logistic support. In addition, the Algerian Government has accused Iran and Sudan of supporting Algerian extremists in years past.

35. Sendero Luminoso (Shining Path, or SL)

Description

Former university professor Abimael Guzman formed SL in Peru in the late 1960s, and his teachings created the foundation of SL's militant Maoist doctrine. In the 1980s, SL became one of the most ruthless terrorist groups in the western hemisphere. Approximately 30,000 persons have died since Shining Path took up arms in 1980. The Peruvian Government made dramatic gains against SL during the 1990s, but reports of a recent SL involvement in narco-trafficking indicate that it may have a new source of funding with which to sustain a resurgence. Its stated goal is to destroy existing Peruvian institutions and replace them with a communist peasant revolutionary regime. It also opposes any influence by foreign governments, as well as by other Latin American guerrilla groups, especially the Tupac Amaru Revolutionary Movement (MRTA).

In 2002, eight suspected SL members were arrested on suspicion of complicity in the 20 March bombing across the street from the US Embassy that killed 10 persons. They are being held pending charges, which could take up to one year. Lima has been very aggressive in prosecuting terrorist suspects in 2002. According to the Peruvian National Police Intelligence Directorate, 199 suspected terrorists were arrested between January and mid-November. Counterterrorist operations targeted pockets of terrorist activity in the Upper Huallaga River Valley and the Apurimac/Ene River Valley, where SL columns continued to conduct periodic attacks.

Activities

Conducted indiscriminate bombing campaigns and selective assassinations. Detonated explosives at diplomatic missions of several countries in Peru in 1990, including an attempt to car bomb the US Embassy in December. Peruvian authorities continued operations against the SL in 2002 in the countryside, where the SL conducted periodic raids on villages.

Strength

Membership is unknown but estimated to be 400 to 500 armed militants. SL's strength has been vastly diminished by arrests (including its founder Abimael Guzman) and desertions, but appears to be growing again, possibly due to involvement in narco-trafficking.

UNCLASSIFIED

EVIDENCE/PROPERTY CUSTODY DOCUMENT

For use of this form see AR 190-45 and AR 195-5; the proponent agency is US Army Criminal Investigation Command

MPR/CID SEQUENCE NUMBER
ISN [REDACTED]
CRD REPORT/CID ROI NUMBER

RECEIVING ACTIVITY Criminal Investigation Task Force	LOCATION Guantanamo Bay, Cuba FPO AE 09593
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input type="checkbox"/> OWNER CW4 [REDACTED], JTF-160 <input checked="" type="checkbox"/> OTHER	ADDRESS (Include Zip Code) JTF-160 Guantanamo Bay, Cuba FPO-AE 09593
LOCATION FROM WHERE OBTAINED From the hand of CW4 [REDACTED] while at the JTF-160 Property Room.	REASON OBTAINED Evidence
	TIME/DATE OBTAINED 1045-1047 22 JUL 02

ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES <i>(Include model, serial number, condition and unusual marks or scratches)</i>
1	1	50 French Franc currency notes. Serial Numbers: "U036557488". Notes placed in white envelope, which was marked for ID with <u>1045, 22 JUL 02, TAH.</u>
2	4	500 French Franc currency notes. Serial Numbers: "D009882731", "R024429773", "R011461588", "S026204336". Notes placed in white envelope, which was marked for ID with <u>1046, 22 JUL 02, TAH.</u>
3	1	5 English Pound currency notes. Serial Numbers: "ED72435545". Notes placed in white envelope, which was marked for ID with <u>1047, 22 JUL 02, TAH.</u>
//////////////////////////////////////LAST ITEM//////////////////////////////////////		

CHAIN OF CUSTODY				
ITEM NO.	DATE	RELEASED BY	RECEIVED BY	PURPOSE OF CHANGE OF CUSTODY
1 thru 3	22 JUL 02	[REDACTED]	[REDACTED]	Seized as evidence
1-3	22 JUL 02	[REDACTED]	[REDACTED]	Released to EVIDENCE CUSTODIAN
1-3	31 JUL 02	[REDACTED]	[REDACTED]	change of primary custodian
1-3	24 OCT 02	[REDACTED]	[REDACTED]	CHANGE OF PRIMARY CUSTODIAN
1-3	7 DEC 02	[REDACTED]	[REDACTED]	Change of Primary Custodian

DA FORM 4137
1 Jul 76

Replaces DA FORM 4137, 1 Aug 74 and DA FORM 4137-R Privacy Act Statement 26 Sep 75 Which are Obsolete.

LOCATION Tahiti

DOCUMENT NUMBER 209-02
1047

Exhibit D-b

DP -

102

EVIDENCE/PROPERTY CUSTODY DOCUMENT		MPR/CID SEQUENCE NUMBER
For use of this form see AR 190-45 and AR 195-5; the proponent agency is US Army Criminal Investigation Command		CID REPORT/CID ROI NUMBER
RECEIVING ACTIVITY 65TH MP Co		LOCATION KAW, AF
NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED <input checked="" type="checkbox"/> OWNER <input type="checkbox"/> OTHER R. DJOVANE KHALID		ADDRESS (include Zip Code)
LOCATION FROM WHERE OBTAINED KIA STHE	REASON OBTAINED SEARCH	TIME/DATE OBTAINED 31 0243 DEC 01
ITEM NO.	QUANTITY	DESCRIPTION OF ARTICLES (include model, serial number, condition and unusual marks or scratches)
1	7	\$100 BILLS. SN: AB7879002K ✓ B2 AD72226100 ✓ B4 AB42972195J ✓ B2 AB44605739Q ✓ B2 AB18367444R ✓ B2 AB19640438N ✓ B2 AF17405021B ✓ F6
2	1	500 FRANC, SN U436557488
3	4	500 FRANC, SN DV0982731, R424429773, R411461588, S426204336
4	1	5 POUND, SN E072435548
5	1	SPIRIT STICK
6	1	Book brown in color, Arabic writing
CHAIN OF CUSTODY		
RECEIVED BY		PURPOSE OF CHANGE OF CUSTODY

Personal Representative Review of the Record of Proceedings

I acknowledge that on 08 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]

Lt Col, USAF

8 OCT 04
Date

[REDACTED]
Signature

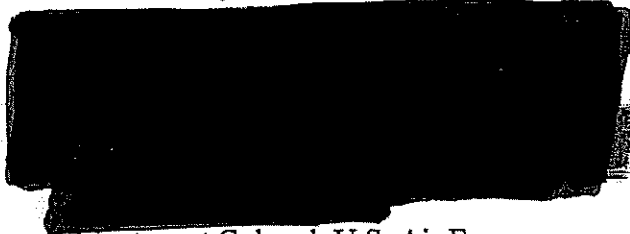
ISN # [REDACTED]
Enclosure (5)

Comments on Tribunal Results for ISN [REDACTED]

Four French detainees that had knowledge of the activities of ISN [REDACTED] during the time he is being accused of being an enemy combatant were never contacted to serve as witnesses or provide statements. Prior to the Tribunal for ISN [REDACTED], these 4 witnesses were released from Guantanamo Bay, Cuba to the French government and appeared on CNN. The French government may well have been able to provide their contact information. The Tribunal did not coordinate with the French government to ascertain whether the witnesses were available, but simply determined that they were not reasonably available.

08 OCT 04

Date



Lieutenant Colonel, U.S. Air Force
Personal Representative

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FAHD SALIH SULAYMAN AL JUTAYLI,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-1669 (TFH)

DECLARATION OF TERESA A. McPALMER

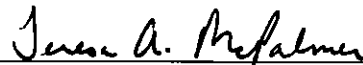
Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

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 Fahd Salih Sulayman al Jutayli 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: 22 December 2005



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



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

OARDEC/Ser: 756

23 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 177**

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 # 177 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. 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~~

18 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 # 177

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 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 and actively participated in the Tribunal process. The detainee provided an unsworn oral statement at the Tribunal hearing.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit 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 did not request that any witnesses or evidence be produced.
- e. The Tribunal's decision that detainee # 177 is properly classified as an enemy combatant was unanimous.

2. The proceedings and decision of the Tribunal as reflected in enclosure (2) are legally sufficient and no corrective action is required.

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


BREE A. ERMENTROUT
CDR, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

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

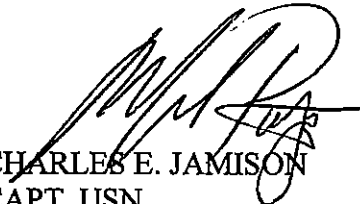
27 December 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 177

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].

for 
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#: 177

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

1. (U) This Tribunal was convened on 7 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 7 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #177 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 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 #: _____ 177 _____

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, al Qaida and was also part of, or supporting, Taliban forces 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 unclassified evidence presented to the Tribunal by the Recorder alleged that the Detainee is a member of, or supported, al Qaida and was supposedly recruited to fight in Kashmir and Chechnya. The Detainee joined the Taliban and received training at the [REDACTED] training camp in Afghanistan on the Kalashnikov rifle, PK machine gun and a Russian pistol. His name was also discovered on a computer hard drive associated with a senior al Qaida member. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no documents be produced and made an unsworn verbal statement with the assistance of his Personal Representative. The Detainee denied the allegations against him, stating that they were not true, although he did say that he trained with a handgun. He was captured after crossing into Pakistan.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-16.

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

The Detainee requested no witnesses for the hearing or that any additional evidence 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, the Request for Redaction of its documents by the Federal Bureau of Investigation, provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. The Tribunal considered the Detainee's unsworn testimony. A summarized transcript of the Detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he did not agree with the Unclassified Summary of Evidence which states that he was recruited to fight by a Jihadist recruiter in Saudi Arabia, in Kashmir and Chechnya, that he joined the Taliban after receiving a fatwa from Sheikh [REDACTED] at the Imam Muhammad Bin Saud College in Saudi Arabia, that he received training at [REDACTED] training camp in Afghanistan on the Kalashnikov rifle, PK machine gun and Russian pistol, and that one of the Detainee's aliases appeared on a computer hard drive associated with a senior al Qaida member. Notwithstanding the Detainee's testimony that he did not agree with the Unclassified Summary, he did admit that portions of it were true (e.g., he trained with a handgun).

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.

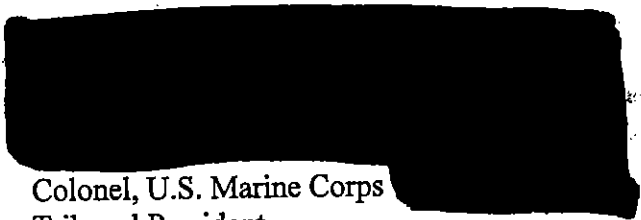
b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. The Detainee is properly classified as an enemy combatant and was part of, or supporting, both al Qaida and Taliban forces, which 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,

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

Colonel, U.S. Marine Corps
Tribunal President

Summarized Unsworn Detainee Statement

The words that you said are not true. The accusations you presented are not true. I don't understand what you want me to do. Do you want me to talk to the Personal Representative? What should I tell him?

The Tribunal President advised the Detainee it was his opportunity to tell the Tribunal his story.

I did not go to Chechnya or Kashmir. I never met that [REDACTED] that was mentioned and I never fought with the Taliban or Al Qaeda. I never fought against the coalition. I never trained on the machine guns.

The name that you mentioned that was captured, I don't know anything about that name. The [REDACTED] training camp - I didn't know it was the [REDACTED] training camp. I didn't know anything about Al Qaeda. All this I knew after I came here.

The Personal Representative asked the Detainee if he would like to review the notes from their meeting. The Detainee said yes.

Statement on Behalf of Detainee by Personal Representative

The Personal Representative addressed each bullet on the Unclassified Summary.

- 3(a) The Detainee is associated with Al Qaeda and is a Taliban fighter.

That's not true.

- 3(a)(1) Detainee was recruited to fight in Kashmir and Chechnya by a Jihadist recruiter in Saudi Arabia.

That's not true. Detainee was not recruited.

- 3(a)(2) Detainee joined the Taliban after receiving a Fatwa from Sheik [REDACTED] at the Imam Muhammad Bin Saud College in Burayda, Saudi Arabia.

Not true. Detainee went alone and made decision to go alone.

- 3(a)(3) Detainee trained at [REDACTED] training camp in Afghanistan during September 2001.

Detainee does not know [REDACTED] Detainee was at a camp, but doesn't know if it was called [REDACTED] or not.

- 3(a)(4) Detainee was trained on the Kalashnikov rifle, Pakistan machine gun, and a Russian pistol at the [REDACTED] training camp.

Detainee was only trained on the handgun.

- 3(a)(5) One of Detainee's known aliases was on a list of captured Al Qaeda members that was discovered on a computer hard drive associated with a senior Al Qaeda member.

Detainee has no knowledge of this hard drive. The first time I learned of the existence of Al Qaeda was here at Guantanamo Bay. The Detainee is not even sure what alias they are referring to.

- 3(b) The Detainee participated in military operations against the coalition.

This is not true. Detainee was only in Afghanistan 2 months and that was only enough time to train.

- 3(b)(1) Detainee was a fighter at Tora Bora.

Not true. Detainee was in Tora Bora and was captured in Pakistan after he crossed the border. Detainee was never near any fighting with the Taliban in Tora Bora.

The Personal Representative stated that this information summarized what was discussed between the Detainee and him.

Summarized Unsworn Detainee Statement

The 2 months I was in Afghanistan, I wasn't training the whole time. It wasn't enough [time] for training or fighting or anything like that. I just wanted to get out [of Afghanistan].

I was only in Tora Bora because it was the way to get out. I was told if I wanted to get out I had to go through Tora Bora.

I got out [of Afghanistan] and was captured by the Pakistani authorities.

Questions by the Tribunal Members

Q: You said you decided on your own to go to Afghanistan. Can you tell us why that was?

A: For training.

Q: What training did you desire?

A: Just light training. I didn't know what kind of training it was.

Q: Why did you need to go all the way to Afghanistan to get light training? Could you not have received it in your home country?

A: I didn't know there were problems in Afghanistan.

Q: What made you decide to go to Afghanistan at the time you did?

A: No reason. It was just a vacation I had.

Q: It had nothing to do with receiving a Fatwa from a Sheik?

A: No.

Q: Why did you desire to have this light training?

A: Just normal.

Q: How long were you planning to stay in Afghanistan?

A: I would come back before school started. Maybe 2 months.

Q: You had no desire to fight in Kashmir or Chechnya?

A: No.

Q: How did you make your trip to Afghanistan? How did you know how to get there?

A: Normal. Travel from country to country doesn't require knowledge.

Q: Who funded your travel to Afghanistan?

A: I have money.

Q: You took enough money to sustain yourself for your entire time in Afghanistan?

A: That's what I thought.

Q: You got to Afghanistan and went to [REDACTED] for a while and you also spent time in Tora Bora trying to get out? What else did you do?

A: I didn't stay in [REDACTED] for 2 months.

Q: Your total time in Afghanistan was 2 months, then?

A: Approximately, yes.

Q: Where else did you go besides [REDACTED] and Tora Bora?

A: I passed by Kabul and Jalalabad and Tora Bora.

Q: Was there any time there that you helped the Taliban fight against the Northern Alliance?

A: No.

Q: What did you do when you were in Kabul and Jalalabad?

A: I didn't stay there. It was just to get out.

Q: So, you went through Tora Bora to Pakistan. The Pakistan authorities captured you at the border, or where?

A: A little while after the border.

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

A: No.

Q: Can you explain why not?

A: I didn't have it with me. I left it.

Q: Why would you leave it and not take it with you?

A: Before I went to receive training, I left it in a place so I would not lose it.

Q: You thought you were going to be able to travel through Pakistan with no passport?

A: I was going to the Saudi Embassy.

Q: Please explain the circumstances of your capture in Pakistan.

A: The Pakistani police saw me and captured me.

Q: Were you going to say something else?

A: They captured me on the basis that they would take me to the embassy. Suddenly I found myself in prison.

Q: Were you by yourself or with a group of people?

A: By myself.

Q: So, they captured you and put you in a prison in Pakistan for a while?

A: Yes.

Q: Do you remember how long you were there?

A: I don't remember.

Q: A long time or short time?

A: Short, not long.

Q: Eventually you came into American custody?

A: Yes. After that, they took me to the American authorities.

Q: You said, when you were captured you didn't have your passport. Did you have any money or weapons with you?

A: No.

Q: Can you explain why your name or alias is associated with Al Qaeda?

A: I don't know about this. This is something the interrogator talked to me about. I told him I didn't know anything about it.

Q: Were you a student prior to leaving your home country for Afghanistan?

A: Yes.

Q: Did you have any other occupation or source of income?

A: I worked for a short while.

Q: That's how you saved up enough money to travel to Afghanistan?

- A: No, I had money from school and this work.
- Q: What happened to the money you took with you to Afghanistan?
- A: It was with my passport.
- Q: So, you lost the money and your passport also?
- A: Yes.
- Q: Who did you give your money and passport to?
- A: A person I do not remember.
- Q: Where did you give it to them and why?
- A: So that he could take care of it for me and it would not get lost.
- Q: Did you choose to do this or did this person persuade you to do this?
- A: He suggested it to me.
- Q: The light training, I assume it is military training?
- A: Did I know it was military?
- Q: Yes. Was it military training that you received?
- A: Just physical training...body...that gun...that's it.
- Q: The handgun?
- A: Yes.
- Q: You actually practiced with and fired the handgun?
- A: Just a little bit.
- Q: Were you ever issued a handgun?
- A: No.
- Q: You never took one away from training?

A: For me?

Q: Yes.

A: No.

Q: For anyone else?

A: No.

Questions by the Tribunal President

Q: Was it at the training camp that you turned over your passport and money?

A: No.

Q: When was that; before the training camp?

A: Before that there was a small house. As soon as I arrived there they put me in this house.

Q: They? Who are they?

A: The Afghan driver that brought me.

Q: Did you make arrangements for this training before you traveled to Afghanistan?

A: No.

Q: How did you find out about this training facility?

A: The Afghan took me straight there.

Q: You did not know this Afghan?

A: No.

Q: But you trusted your passport and money with him?

A: It's a normal thing. I didn't know anything was wrong.

Q: When you decided to leave Afghanistan, why didn't you try to recover your passport and money before starting your trek to Pakistan?

A: Time would not allow.

Q: Why?

A: Because I just wanted to leave. I didn't have time to look for it. I just went straight to Kabul.

Q: From Kabul, you went to Tora Bora and then across the mountains into Pakistan?

A: Yes, I passed through Jalalabad.

Q: You were alone all this time?

A: No.

Q: You traveled with companions that provided assistance for your departure?

A: I had 10 with me.

Q: Were these the 10 that helped you find your way through the mountains into Pakistan?

A: No. They were just traveling normal. I didn't know where they were going.

Q: When you entered Pakistan, you were by yourself?

A: The first time? When I was leaving?

Q: When you were attempting to leave Afghanistan and trying to get into Pakistan, were you by yourself?

A: Yes.

Q: How did you find your way through a mountainous terrain you had never been through before into Pakistan?

A: I had the Afghani with me. He told me. But I didn't have any of the 10 people with me.

Q: I'm starting to get confused. You said you traveled into Pakistan by yourself and you were captured by yourself. Now you're saying you had the Afghani help you cross the border into Pakistan.

A: You asked me if anyone was with me. I said yes, there were 10 people with me and then you asked me directly if there was anyone with me when I went into

Pakistan. I thought you were talking about any of the 10 people who were with me before, so I said no. What is strange about that?

Q: Was there anyone with you when you crossed the border into Pakistan?

A: Yes, just the Afghan guide.

Q: Did he stay with you as you traveled into Pakistan?

A: Did not travel. As soon as they [Pakistani police] saw me they captured me. I didn't see him [the Afghan man] after that. I don't know if they caught him or if he left before.

Q: So, you don't know if they captured him as well?

A: I don't know if they captured him, arrested him or if he left.

Q: Why would he help you find your way to Pakistan? If you had no money, how could you pay him for his services?


A: I didn't pay him. I met someone before him who wanted to help me get out. He introduced me to this Afghani and said he would help me get out.

Q: I find it unusual that an individual would risk his safety and take the chance of getting captured to help someone that did not pay him.

A: Maybe the person I met before is the one that paid him. I don't know.

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: 05 Oct 04

Start Time: 08:16

End Time: 09:02

ISN#: 177

Personal Representative: LTCOL [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:

No witnesses. Polite and calm.

Personal Representative: [REDACTED]

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL JUTAYLI, Fahd Salih Sulayman.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida and participated in military operations against the United States and its coalition partners.
 - a. The detainee is associated with al Qaida and is a Taliban fighter:
 1. Detainee was recruited to fight in Kashmir and Chechnya by a Jihadist recruiter in Saudi Arabia.
 2. Detainee joined the Taliban after receiving a Fatwa from [REDACTED] at the Imnam Muhammad Bin Saud College in Burayda, Saudi Arabia.
 3. Detainee trained at [REDACTED] training camp in Afghanistan during September 2001.
 4. Detainee was trained on the Kalishnikov rifle, PK machine gun, and a Russian pistol at the [REDACTED] training camp.
 5. One of Detainee's known aliases was on a list of captured al Qaida members that was discovered on a computer hard drive associated with a senior al Qaida member.
 - b. The detainee participated in military operations against the coalition.
 1. Detainee was a fighter at Tora Bora.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum



To : Department of Defense Date 09/20/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

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

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

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

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

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

The following documents relative to ISN 177 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 05/24/2003

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

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/20/2004

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

Personal Representative Review of the Record of Proceedings

I acknowledge that on 12 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #177.

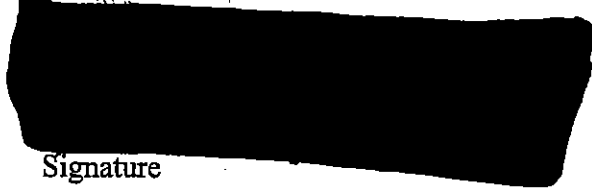
I have no comments.

My comments are attached.

 Lt COL, USAF

Name

Date 12 OCT 04



Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MAJI AFAS RADHI AL SHIMRI,

Petitioner

v.

GEORGE WALKER BUSH,

Respondents.

Civil Action No. 05-0551 (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 Maji Afas Radhi al Shimri that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or have been redacted. An OARDEC staff member redacted information that would personally identify U.S. Government personnel in order to protect the personal security of those individuals. This individual also redacted the names of internee serial numbers because certain combinations

of internee serial numbers with other information relates to sensitive internal and intelligence operations that is not suitable for public release.

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

Dated: 12 May 05

Teresa A. McPalmer
Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 688

10 JAN 2005

[REDACTED]
From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

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

13 Jan 05

MEMORANDUM

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

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 2004

Encl: (1) Appointing Order for Tribunal #15 of 12 Oct 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:

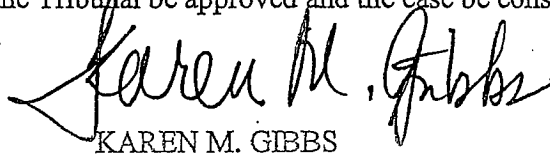
- a. The detainee was properly notified of the Tribunal process, and voluntarily elected not to participate. Detainee affirmatively declined to attend the CSRT, and affirmatively declined to participate. *See* Exhibit D-a. In addition, he did not provide the Personal Representative with statements or evidence to present to the Tribunal on his behalf.
- 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. The detainee did not request that any witnesses or evidence be produced.
- f. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- g. 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.

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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.



KAREN M. GIBBS
CDR, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

12 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #15

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

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

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

MEMBERS:

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

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

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

A handwritten signature in cursive script, reading "J. M. McGARRAH", is positioned above the typed name.

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

19 November 2004

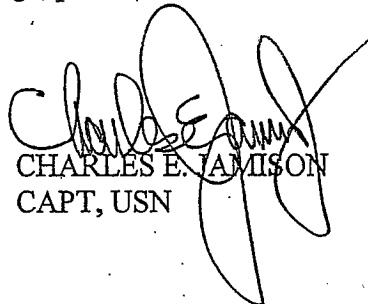
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

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

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


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 (3).

(U) TRIBUNAL PANEL: #15

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #15 of 12 October 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/[REDACTED])
(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/[REDACTED])

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 # [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 the Taliban and affiliated with, al Qaida, 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, USAF

Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #15
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 the Taliban and affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the detainee ISN # [REDACTED] is a member of the Taliban and affiliated with, al Qaida. The detainee chose to not participate in the Tribunal process. He did not call a witness, did not request any documents be produced, and he did not provide a statement.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-12.
- b. Testimony of the following persons: none

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

The Detainee requested no witnesses be produced for the hearing: no rulings were required.

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

5. Discussion of Unclassified Evidence

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

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

b. The most significant piece of unclassified evidence the Tribunal had to consider was exhibit D-a presented by the Personal Representative (PR). The PR read the definition of an Enemy Combatant in Reference (b) to the detainee. The detainee told the (PR) he was an Enemy Combatant based on the definition. The detainee also said he had no relationship with al Qaida.

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

6. Consultations with the CSRT Legal Advisor

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

7. Conclusions of the Tribunal

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

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

b. The detainee understood the Tribunal proceedings. The detainee chose not to participate in the Tribunal process, as indicated in Exhibit D-a.

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

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Tribunal President

Colonel, USAF

DETAINEE ELECTION FORM

Date: 3 Nov 2004

Start Time: 0810

End Time: 0850

ISN#: [REDACTED]

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 # [REDACTED] was briefed on the CSRT process and he affirmatively elected to not participate in his Tribunal. The detainee was respectful and courteous but he was distrustful of the CSRT process. When I explained the definition of Enemy Combatant to # [REDACTED] he admitted to me that under that definition, he was an Enemy Combatant and if he went to the Tribunal he would tell them so. However, he wanted to make it clear that he had no relationship with Al Qaida. He said that he went to the [REDACTED] camp (in the year 2000) but did not know that it was associated with Al Qaida and that after Sep '01 he did not go to any camps. He stated that he did not carry an AK47 on the battlefield and that he did not fight in Tora Bora although he was there and that he did not have any weapons when he surrendered to the Pakistani authorities. He stated that he had no animosity toward Americans and that he had fought along side the Allies during the Persian Gulf war when he was in the Saudi army fighting for Kuwaiti freedom. After the war, he joined the Kuwaiti army and stayed there for eight years. He went to Afghanistan because it was cheaper to live there than Kuwait.

Personal Representative: [REDACTED]

UNCLASSIFIED// [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (19 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL SHIMRI, Maji Afas Radhi

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with the Taliban and al Qaida, and participated in military operations against the United States and its coalition partners.
 - a. The detainee is associated with the Taliban and al Qaida:
 1. The detainee traveled from Saudi Arabia to Afghanistan via Jordan and Iran circa 2000.
 2. The detainee received training at the [REDACTED] camp in light arms; topography; urban warfare; grenades; flares, and land mines.
 3. The detainee received training at the [REDACTED] Camp on the PK machine gun; AK-47; Mowuse; RPG 2; RPG 7; a shrapnel type grenade launcher, and the DOSHKA anti-aircraft gun.
 - b. The detainee participated in military operations against the United States and its coalition partners:
 1. The detainee carried an AK 47 on the battlefield.
 2. The detainee served on the front lines in the vicinity of Shakardara.
 3. The detainee participated in the battle of Tora Bora.
 4. The detainee retreated to Pakistan where he surrendered to Pakistani authorities.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Ex 11085

page 1 of 1
R1

UNCLASSIFIED

Memorandum



To : Department of Defense Date 10/21/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Juno Jamison, OIC, CSRT

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

Subject: REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

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

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

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

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

FD-302 dated 6/04/2002

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

²See Executive Order 12958

UNCLASSIFIED

page 1 of 2
Exhibit 1086 R2

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/21/2004

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

or Intelligence Analyst [REDACTED]

[REDACTED]
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 # [REDACTED]

[REDACTED] have no comments.

My comments are attached.

[REDACTED] Major, USAF
Name

08 NOV 2004
Date

[REDACTED]
Signature

ISN # [REDACTED]
Enclosure (4)